Mothering in Europe

Feminist Critique of European Policies on Motherhood and Employment

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ABSTRACT This article looks at the role of the European Union in promoting substantive equality for men and women in the European labour market. For this purpose it looks at the assumptions about gender roles and gender divisions of labour enshrined by EU directives on maternity rights and parental leave. The article presents a theoretical discussion of the role of EU policies in protecting women's rights and thus promoting a socioeconomic model that allows men and women to reconcile work and family life. The main policies at the heart of this research are the 1992 Pregnant Worker Directive, the 1996 Parental Leave Directive, the 1992 Childcare Recommendations and the 2000 Council Resolution on Balanced Participation in Work and Family Life. The article thus assesses the gender biases of EU policies and the ensuing implications for the future of gender relations and socioeconomic trends in Europe.

KEY WORDS European Union ♦ gender politics ♦ maternity rights ♦ parental leave ♦ women and employment

INTRODUCTION

Since its conception in 1957, the European Union (EU) has played an important role in the development of European politics and policymaking, and is now a key actor in national and international politics. The progressive development of women's rights in Europe is also testament to the role played by the EU in promoting equal rights and equal opportunities at the national and transnational level. Despite the positive impact of such developments, most feminist literature in the field has argued that there are some inherent limitations in striving to achieve equality in a legal system that was developed predominantly to maximize the economic gains of its member states. Accordingly, it is now widely
accepted that the EU’s main achievement in the field of women’s rights has been in the area of employment legislation, whereby it ensured the establishment of a socioeconomic and legal framework that protects women's rights as workers in the official labour market (Hervey and Shaw, 1998; Hoskyns, 1996; Kaplan, 1992: 28; Mazey, 1998: 134–5; Neilson, 1998: 65; Rossilli, 2000). The study of EU policies on maternity rights, however, highlights the limitations of this policy approach: first, it inherently reinforces the public–private dichotomy; second, it fails to recognize the contributions of women in both the public and private sphere. The difficulty in developing a socio-legal and economic model capable of addressing the challenge posed by motherhood is further evidenced by the difficult relationship between the needs of the market for reliable albeit flexible workers, and the needs of working mothers for a legal framework that endorses substantive equality. Ultimately, the consequence of this narrow vision is the continued marginalization of gender-specific issues in European legal structures.

Feminist discourses on the principle of equality have discussed at length the advantages and disadvantages of promoting women’s legal rights as workers separately from women’s rights as mothers (Bock and James, 1992; Crompton, 1998; Evans, 1995; Phillips, 1987). Moreover, the study of the statutory position of women in Europe has led Hervey and Shaw (1998: 44–5), Hoskyns (1985: 74–5), Meehan and Collins (1996: 223) and Helms and Guiffey (1997), among many others, to envisage a distinction between formal and substantive equality, whereby the former relates to women’s legal rights, while the latter refers to the relationship between women’s legal rights and their sociopolitical and economic standing in the public and the private spheres. Each of these studies, although focusing on different functions of the gender–employment nexus, articulates similar arguments about the impact of the public–private dichotomy on the position of women in the official labour market. The analysis of the position of working mothers in the EU falls within this conceptual framework, as it marks a point of convergence between private roles and public rights, thus challenging traditional conceptualizations of European politics in several ways. Perhaps, the most fundamental question raised by this particular study revolves around the emancipatory value of an organization originally founded to promote the economic interests of its member states.

The aim of this article is therefore to review the values enshrined within EU maternity rights, thus assessing the impact of EU law on promoting sociopolitical and socioeconomic structures that allow men and women to play an active role in the public and domestic realms. The analysis of European policies targeting the issue of motherhood revolve around two questions: what is the legal position of mothers in European law, and what assumptions about women’s roles as mothers arise from EU law?
This article answers these questions through a critical assessment of the aims enshrined in some of the most controversial European equal opportunity policies ratified in the last decade: the 1992 Pregnant Worker Directive, the 1996 Parental Leave Directive, the 1992 Childcare Recommendations and the Resolution (2000) of the Council and of the Ministers for Employment and Social Policy on Balanced Participation in Work and Family Life. Ultimately, this article disputes the assumption that EU politics have limited scope in the area of private/domestic relations. Using a gender-friendly theoretical model, I conclude that promoting a socio-legal model of employment and care that is friendly to working mothers is not necessarily outside the remit of EU policies. What may be missing from European policies is the political will rather than the legal scope necessary to challenge gender hierarchies beyond the needs of the market. Ultimately, this article contributes to the growing body of academic and policy-specific literature seeking to assess the successes and failures of EU policies in protecting and promoting the rights of women in Europe.

MOTHERHOOD IN EUROPE: BETWEEN DEMOGRAPHIC TRENDS AND PUBLIC DISCOURSES

The latter half of the 20th century was marked by a period of change in European politics and society. This process of transition has had a clear impact on all features of the social, political and economic life of the people of Europe, and provides the backdrop for the development of maternity rights in the EU and its member states. Two of the most significant trends in contemporary Europe are the sharp decline in birth rates, and the dramatic changes in the demands for labour supply in the official labour market. Such changes are particularly relevant to the analysis presented here, as they have important repercussion for the future of European welfare structures, and thus their overall policy objectives in the field of women’s rights (Gowland et al., 2000: 27–8; Hantrais, 1999: 292–4; Helms and Guffey, 1997; Pringle, 1998: 7; Rubery et al., 1999: 2–3).

Postwar Western European welfare regimes were built on an ‘intergenerational contract’, which represents a socioeconomic relationship between generations of workers (Hantrais, 1999: 300). This ‘contract’ is based upon a fine balance between contributions, to be made towards the welfare state while an individual is active in the official labour market, and compensation, to be received during periods of inactivity. Any changes in the birth rates/death rates ratio that favours the latter, will inevitably lead to an uneven distribution of the population as a whole, and an increase in the proportion of the population that is not active in the official labour market. The current decrease in birth rates, however, has
occurred hand in hand with an increase in life expectancy, thus leading to an ageing population. An escalation in ageing-related welfare costs will be one of the inevitable consequences of such a shift in population numbers. It is this awareness of future costs that has caught the attention of academics and policy-makers alike, and which has led to a critical assessment of the role of European governments in the area of family policy (Hantrais, 1999: 292, 297–8, 300; Lutz, 1999: 10–12, 15).

The analysis of the development of maternity rights in Europe must be contextualized within the sociodemographic trends discussed in the preceding paragraph and the concerns of Western European governments about the impact of decreasing birth rates on the future of European welfare states. Forecasts about the impact of current demographic trends on economic growth are forcing most Western European governments to reconsider traditional divisions between the public and private spheres, and to promote policies seeking to help men and women to reconcile employment and parenting. This shift in the policy agenda has not been based on changed perceptions about the impossibility of achieving substantive equality solely through legal means, but on the implicit recognition of the permanence of women’s role/position in the official labour market and the need to facilitate women’s choice to enter motherhood. The ultimate aim of these policies is to ensure the stability of population numbers and the future viability of the welfare state (Bruning and Plantenga, 1999: 195–6, 205; Collins, 1994: 5; Crompton, 1998; Edye and Lintner, 1996: 367; Lewis, 1993: 6–10; Pringle, 1998: 7; Wintersberger, 1999).

This new agenda, however, is not entirely sensitive to the gender dynamics of social and political relations. Sonia Mazey’s work on gender and the EU reaffirms that traditional assumptions about gender roles and division of labour are a persistent feature of the policy-making process. More specifically, she argues that there is a correlation between gender hierarchies and divisions of labour in the private sphere, and the overall aims of European sex equality policies (Mazey, 1998: 136–7). In her words, ‘such policies have traditionally been based upon a policy “frame” within which women are assumed to be primarily dependants and mothers rather than economically independent workers’ (Mazey, 1998: 136–7). Rosemary Crompton also outlines the impact of European governments’ biases towards women’s contributions to society. Like Mazey, she also claims that women are perceived first and foremost as mothers rather than citizens, thus highlighting the persistence of gender hierarchies in political and economic structures (Crompton, 1998: 133). More recently, Latta and O’Conghaile’s research on the relationship between public employment and private responsibilities in the single market emphasizes the gender bias associated with the issue of care. Their analysis is based on an implicit awareness of the role of the legislation in shaping social
expectations of men and women, which in turn define gender hierarchies in the public and private sphere (Latta and O’Conghaile, 2000: 2–3). Despite current trends in women’s employment that are challenging traditional assumptions about gender divisions of labour, it is also notable that such trends have not been matched by an increase in the provision of care-related services (Latta and O’Conghaile, 2000: 15–17). The economic foundations of gender hierarchies remain therefore unchallenged.

These studies are part of a growing number of accounts seeking to uncover the complexities of the relationship between gender and welfare structures. Perhaps two of the most influential pieces of literature on the relationship between gender and welfare has been provided by Jane Lewis (1992, 1993), whose work on European welfare states identifies various typologies of male-breadwinner models present in the current members of the EU. This model not only challenges traditional categorizations of welfare states as being gender blind, but it identifies women’s care-work in the private sector and their marginalization in the employment market as a key feature of European socioeconomic structures such as welfare states. Despite recent research results that point to a redefinition of gender relations in Europe, the persistence of gender hierarchies as a defining feature of social and welfare structures in the single market reaffirms the validity of Lewis’s breadwinner models as a framework of reference for the analysis of the development of maternity rights and parental leave provisions.

Current demographic indicators, and the ensuing policy debates that have accompanied them, emphasize the ongoing metamorphosis of European society and its core values. The repercussions of these changes, however, are not limited to the social sphere, but have important implications for the future prosperity of the continent. Such dramatic transformations in the make-up of European social and economic dynamics further emphasize the need for a new policy approach that acknowledges the link between the public and the private spheres, and that is sensitive to the impact of economic structures on women’s private choices such as motherhood. A working woman’s decision to become a mother is influenced by many factors, some of which are private, such as her personal circumstances, others which are public, such as the availability of socioeconomic and legal structures that will allow her to reconcile her responsibilities as a mother and her economic/public duties as a worker (Helms and Guffey, 1997). This awareness highlights that women employment rights cannot be developed in isolation from a more comprehensive evaluation of social and economic dynamics in Europe. Women’s attainments of the last three decades in the public sphere have changed the expectations of a whole new generation of women, which is now facing the challenge of juggling employment and family responsibilities. Latta and O’Conghaile’s (2000) results emphasize that such changes in
women’s aspirations have not been matched by equivalent changes in social expectations of women’s responsibilities in the private sphere. The analysis of maternity rights further highlights that current policies on the reconciliation between work and family life lack the economic power to achieve their overall aims, thus making only superficial concessions to the preceding discussion.

WOMEN’S RIGHTS IN THE EU: AN OVERVIEW

Before engaging in a discussion of maternity rights in the EU, it is worth noting that they did not occur in a vacuum, but are the product of 40 years of policy debates and developments in the area of women’s rights and equal opportunities. Thus, it is useful to review briefly the history of women’s rights as workers in the EU. Three pieces of legislation provide the foundations for all other policies in this field. First of all, the Treaty of Rome (1957), the founding document of the EU, included Article 119, which advocated equal pay for equal work. The principle of equality between men and women was further developed in the 1970s with the ratification of the 1975 Equal Pay Directive (75/117/EEC) and the 1976 Equal Treatment Directive (76/207/EEC). Although the Treaty of Rome established the legal foundations for most subsequent achievements in the area of equality between men and women, later developments are also very important because they marked a shift in focus, as much as the failure of what was then the European Economic Community to fully implement the principles enshrined within Article 119. In terms of European law the legacy of these directives is twofold: first, they resurrected the issue of equality and provided the inspiration for the ratification of a wide range of policies; second, they established the legal foundation for the rulings by the European Court of Justice. In other words, they provided the thrust for all other developments in the area of equality between men and women throughout the 1970s and 1980s (Hoskyns, 1996; Mazey, 1998: 142–4; Ostner, 2000: 28–9).

Despite the legal impact of these and the ensuing developments of the last three decades, it is equally important to acknowledge that the position of women’s rights in the EU remains skewed towards the rights of women in the official labour market, and therefore it is limited to the employment relationship (Rossilli, 2000: 5–11). This recognition, coupled with Lewis’s (1992) assessment of the persistence of traditional gender divisions of labour in European society, provides the starting premise for the analysis conducted in the rest of this article.
MATERNITY RIGHTS IN THE EU

The development of maternity rights, or more generally the protection and promotion of the rights of working mothers in the EU, is a recent development in this organization’s history. Three pieces of legislation ratified in the 1990s form the core of maternity rights in the EU: the 1992 Directive for the Protection of Pregnant Workers or Workers who have Recently Given Birth (hereafter referred to as the Pregnant Worker Directive) (Council Directive 92/85/EEC), the 1996 Parental Leave Directive (Council Directive 96/34/EC) and the 1992 Childcare Recommendations (Council Recommendations 92/241/EEC). The importance of these policies resides in two factors: first, they broadened the aims of European equality law; second, they formally introduced the concept of pregnant workers within European legal structures (Hoskyns, 1996: 143–4; Meehan and Collins, 1996: 228–9; Rees, 1998: 50, 52–3). Each one of these policies, and more recently the Resolution (2000) of the Council and the Ministers for Employment and Social Policy on Balanced Participation in Work and Family Life, represents a positive shift in policy specific aims and political discourses. However, a careful analysis of overall objectives of these policies uncovers the persistence of gender-specific assumptions about care, which need more detailed consideration. In the context of this article, and in order to understand the potential impact of maternity rights in promoting substantive equality in the EU, it is imperative to unpack the founding premises of these policies, and therefore assess what constructions about men, women, mothers and fathers they implicitly and explicitly promote.

The first EU directive to recognize the legal position of pregnant women in the official labour market was the 1986 Equal Treatment in Self-Employment Schemes Directive (86/613/EEC). Even though this Directive introduced some degree of protection for women working in those areas of the labour market that are more susceptible to discrimination, its overall scope was rather limited (Ellis, 1991: 175). More significant to the discussion conducted in this article is the 1992 Pregnant Worker Directive (92/85/EEC), which formally acknowledges the contributions of working mothers to the economy, and recognizes the importance of protecting their position as a category in the official labour market (Meehan and Collins, 1996: 228; Rees, 1998: 50). Controversial from its inception, the obstacles encountered during the ratification process highlight the difficulties inherent in the development of maternity rights in a capitalist market. It is difficult to speculate on the reasons why this Directive was first conceived, however it is interesting to note that according to Helen Collins this policy ‘followed concerns over the falling European population and shortages of skilled workers’ (Collins, 1994: 5).

The Commission originally submitted a proposal for this Directive
under the auspices of Article 119 (equal pay); however, it was finally ratified under Article 118a (health and safety) due to the foreseeable opposition of member states’ governments. Despite the change in the Treaty basis, or arguably due to this shift, the negotiations were driven by the sustained opposition of the UK and Italian governments: the former because it felt that the scope of the Directive was beyond the aims of health and safety provisions, and therefore would impose additional costs upon private employers; the latter because it feared that the wide-reaching maternity provision available within Italian legislation would place private employers at a competitive disadvantage. Ultimately, the impact of such controversy and conflicting interests forced the Council of Ministers to ratify a directive that was a watered-down version of the Commission’s original proposal (‘Maternity Directive’, 1992: 3–4; Busby, 2000: 284; Conaghan, 1993: 82–4; Ellis, 1991: 223–5; Meehan and Collins, 1996: 228, 232; Pringle, 1998: 139).

The preamble of the Directive summarizes the scope and aim of this law. First, it acknowledges that pregnancy is a condition that differentiates men and women. Second, it recognizes that these biological or physiological differences should not be the source of discriminatory practices against women employed in the official labour market. Briefly, this Directive outlines the basic health and safety requirement for the protection of pregnant workers. It establishes the basic regulations on prohibited work, night work, maternity leave, time off for antenatal care, protection against dismissal: all issues that are clearly framed within the context of employment rights (Busby, 2000: 279–80; Collins, 1994: 5–9; Council Directive 92/85/EEC Preamble and Articles 4, 6–12; Pringle, 1998: 139).

Although the final text is a watered down version of the original draft, and a compromise in favour of economic rather than social integration, the 1992 Pregnant Worker Directive marked a significant shift in EU policy-making in the field of equality and equal opportunities. It provides a minimum standard for the protection for working mothers in the EU, thus improving the legal standing of women in the member states where maternity legislation was weak or altogether absent, as in the case of the UK (Hoskyns, 1996: 157; ‘Maternity Directive’, 1992: 4). On the negative side, however, it also serves to reinforce the division between formal and substantive equality. This further dichotomization of the principle of equality occurs because EU legislation establishes a framework for the protection of women workers, rather than addressing calls for the promotion of women’s rights as mothers and citizens. The focus on the former rather than the latter fails to encourage a redefinition of social structures of oppression that are particularly evident in the case of working mothers, and which influence women’s choices about motherhood and employment. Finally, the impact of economic arguments on the final shape of the
Directive is further evidence that European political elites continue to perceive a conflict between economic and social interests. This conflict, however, is perpetuated at the expense of the development of a family-friendly economic framework that recognizes the contributions of working mothers to the overall shape and future of the economy, and that seeks to promote substantive equality.

This policy was followed four years later by the 1996 Parental Leave Directive (Council Directive 96/34/EC). This Directive has a history that predates most European legislation in the field of equality, including the Pregnant Worker Directive. As a matter of fact, the original proposal by the Commission for the development of parental leave provisions dates back to 1983. The topic, however, was so controversial that it took the Council of Ministers 13 years to ratify the final draft. Adopted under the auspices of the Social Agreement, which at the time of ratification was not endorsed by the UK government, this Directive was the first agreement reached through the Social Dialogue. This policy-making structure had just been introduced at the European level and involves the main representatives of labour and management in the policy-making process. In other words, the legal framework for this Directive, as adopted in its final draft, was first envisaged and agreed upon by the main European representatives of employers and trade union associations (UNICE, ETUC, CEEP). There are some significant implications associated with this policy-making framework. The involvement of the main representatives of trade and industry represents a further commitment to the economic objectives of European integration, thus limiting the overall scope of this policy (European Commission, 1997: 63–5; Falkner, 1998: 114–22; Hall, 1998; Hoskyns, 1996: 146–7, 163; Pringle, 1998: 139–40).

The stated objective of this policy is to allow workers, men and women, to reconcile family responsibilities and employment in the official labour market (Bruning and Plantenga, 1999: 205; European Commission, 1998: 7–9; Hall, 1998; Pillinger, 1991: 6). The preamble states that the aim of this policy is to encourage changes in attitudes towards men and women’s roles as workers, carers and parents. This Directive therefore has two specific objectives: first it strives to establish a socioeconomic framework that allows women to reconcile professional and domestic responsibilities; second, it seeks to redefine gendered divisions of labour in the practice of care by encouraging greater male participation in domestic responsibilities. Accordingly, the Directive establishes the minimum standard for further developments in the field of parental leave and leave for family reasons. For the first time in European law, the right of leave to fulfil family obligations is extended to men/fathers. To summarize, the main achievement of this Directive was the provision of a minimum right to parental leave of three months for each parent to be taken in the first eight years of life of a child. Moreover, to achieve the aims set out in the
preamble, these provisions were made non-transferable. This principle is particularly important for the analysis presented here, as it ensures that, for a set of parents to take full advantage of the provisions set out in the Directive, the father has to take an active part in parenting, and thus share the responsibilities of care. It could therefore be argued that this Directive challenges the assumption that women are or should be the sole carers. What the Directive failed to provide for, however, was a minimum standard of remuneration for workers during their period of absence (Bruning and Plantenga, 1999: 205–8; European Commission, 1997: 63; Hantrais, 2000: 121; Hoskyns, 1996: 144, 146).

The issue of pay once again raises questions about the persistence of a division between formal and substantive equality in European law, as the extension of parental leave to the men/fathers does not take into account the impact of the male-breadwinner model on the social and economic organization of European societies. If, on the other hand, this socioeconomic model is taken into account, then it is clear that there are serious economic implications for withdrawing the salary of the main breadwinner from the family income. In other words, as currently formulated, the Parental Leave Directive fails to address the impact of economic hierarchies on parental choices about employment and care. If economic as well as social factors contribute to women’s choices about employment, then their strong representation in the bottom layers of the salary scales severely constrains the choices available to a given family unit and/or working mother. One of the ensuing conclusions of this analysis is as follows: European law holds the potential to question gender hierarchies that underpin social, economic and political disparities in Europe; however, it inevitably falls short of providing full economic backing for a concrete redefinition of socioeconomic structures that ultimately determine women’s position in society.

A comparative analysis of the aims of the 1992 Pregnant Worker Directive and the 1996 Parental Leave Directive reveals that the EU may be supporting divergent policy objectives. On the one hand, the 1992 Pregnant Worker Directive highlights the persistence of formal equality as the primary objective of European law; on the other, the 1996 Parental Leave Directive entails a more critical assessment of gender roles and gendered divisions of labour. The question that needs to be addressed with reference to the future of EU policies in this field is as follows: to what extent will the Parental Leave Directive challenge the status quo and foster a more cohesive approach that will allow future policies to bridge the gap between formal and substantive equality? It is at this stage that a more in-depth consideration of the aims of the 1992 Childcare Recommendations and the Council Resolution (2000) on Balanced Participation in Work and Family Life may shed some light on the ultimate aims of European laws in the fields of social policy and women’s rights.
The 1992 Childcare Recommendations (92/241/EEC) are an interesting development even though they remain marginal to the overall policy process. These recommendations could be identified as a positive step in favour of substantive equality, because they moved some way towards addressing structural issues surrounding the impact of care ‘duties’ on women’s choices about motherhood and employment in the official labour market. However, the very nature of this policy is little more than a statement of intent on behalf of the signatory states to improve the standards of childcare provided for employed mothers. Unlike the previous directives, which are legally binding on the signatories, these Recommendations provide only a framework for future action, thus detracting from the overall legal and political value of this policy.

The Resolution (2000) of the Council and the Ministers for Employment and Social Policy on Balanced Participation in Work and Family Life extends the EU’s commitment, already established by the policies discussed earlier, to the development of more equitable socioeconomic structures in the single market. The main aims of the Resolution outline the shift in the equality agenda following the Treaty of Amsterdam and the inclusion of the principle of equality between men and women as one of the main objectives of the integration process (Hantrais, 2000: 117; Neilsen, 1998: 75). As the title of the Resolution reveals, the main objective of this proposal is to encourage the ratification of policies that will redress the imbalance in the domestic distribution of care duties. Thus, this policy implicitly acknowledges the impact of traditional gender divisions of labour on employment practices. For this reason this Resolution seeks to encourage member states to develop a more holistic approach to employment policies which recognizes the contribution of women to the labour market and allows men to play a more active role in family life. Finally, it recognizes that this shift in priorities is essential in order to achieve equality between men and women.

The Resolution adopted the language of various documents published by the Commission, which acknowledge the impossibility of successfully implementing the aims of the Parental Leave Directive without addressing more fundamental gender hierarchies in society at large. This Resolution thus appears to reaffirm the commitment of European institutions to promote equality between men and women, as reflected in the Treaty of Amsterdam and the 1997 Part-Time Work Directive (97/81/EC). Briefly, the former officially endorses the principle of mainstreaming and makes some superficial concessions to the principle of substantive equality, whereas the latter seeks to ensure that part-time workers are not disadvantaged for choosing flexible employment opportunities (Hantrais, 2000: 75, 117–18). This Directive is also particularly important with reference to the application of the principle of substantive equality. As Webster points out, women with children and other caring responsibilities tend to
be strongly represented in this category of worker for the flexibility that
this type of employment entails (Webster, 2001: 24). As such, any policy
attempting to increase the rights of part-time workers will benefit
working mothers who choose to reconcile employment and motherhood
by means of flexible employment. A possible interpretation of the overall
aims of these policies is that EU institutions are finally starting to acknowledg
that, in order to achieve flexibility and competitiveness in the
growing global economy, the single market must recognize the contributions of the female labour force. Thus, to maintain the level of compet-
itive ness required by the global economy, the European employment
market must find some way of encouraging the continued participation of
this section of the labour force in the official labour market.

What is important to note at this point, however, is that the Council
Resolution (2000) on Balanced Participation in Work and Family Life,
much like the Childcare Recommendations almost a decade earlier, is an
example of a soft law. Although this type of provision is part of the overall
EU legal system, its main role is to provide a statement of intent or at the
most to establish the foundation for future policy direction. As such, it is
located at the bottom of EU legal hierarchies. Moreover, by virtue of not
being legally binding on the signatory states, it lacks the legal power to
ensure the successful implementation of its objectives in national law.
(Leach, 1998: 179; Shaw, 1993: 114). This division between hard laws (i.e.
directives) and soft law (i.e. recommendations and resolutions) is important because it highlights the reluctance of European governments to
promote substantive changes to the status quo by assigning to the afore-
mentioned policy statements full legal status. Moreover, the change in the
legal nature of these policies would have important implications for the
role of the European Court of Justice as arbitrator on these issues, and
would also ensure the implementation of the principle of cohesion,
whereby the women of the EU should benefit equally from participation
in the single market.

The 1998 European Commission Report, Reconciliation between Work and
Family Life in Europe, is particularly interesting here because it successfully
brings together the various trends embedded in the most recent develop-
ments in European equality rhetoric, and helps to summarize the analysis
presented in this article. The report identifies three main policy areas for
future development: care issues, parental and paternity leave and child-
care. The results of the research conducted by the Commission recognize
that at present it is difficult to reconcile care responsibilities and employ-
ment in the official labour market (European Commission, 1998: 6, 8, 13).
This tension between employment and care arises from the assumption
that care is an individual or family responsibility, which is fulfilled pri-
marily by the withdrawal of a family member from the official labour
market. The provision of care, however, is not gender neutral and women
are often identified as the main providers, ultimately reinforcing male-breadwinner models of welfare (Bussemaker and van Kersbergen, 1994: 24–5; European Commission, 1998: 8; Lewis, 1992; Windebank, 1996: 149, 156). The report identifies parental leave and childcare as two key areas in need of further development. Whereas it recognizes that the increased provision of parental leave in the last decade has brought about clear improvements, men’s takeup rate remains minimal (Bruning and Plantenga, 1999: 204–5; European Commission, 1998: 9; European Network, 1998: 3; Hall, 1998). In the area of childcare, the report also observes that despite the 1992 Recommendation, the overall provision of childcare remains underdeveloped in the vast majority of the member states, thus suggesting that an increase in publicly funded services may be needed to ensure adequate progress (European Commission, 1998: 9–10).

It is interesting to note the focus of the report on the impact of care ‘duties’ on men and women’s employment. The emphasis on this issue can be interpreted as an implicit recognition of the failure of social policies that continue to maintain a dogmatic division between the public and the private sphere (European Commission, 1998: 6–12). Following this assessment, it is therefore questionable that the Resolution on Balanced Participation in Work and Family Life will achieve the ambitious goals set out in this report and all the previous discussion papers in support of some form of substantive equality.

A preliminary conclusion of this article is that European law is based upon gendered assumptions about mothering and women’s role in the reproductive process. This limited vision of the social and economic importance of maternity and motherhood in European society ultimately prevents European legislation from fully integrating the concept of substantive equality within its overall short- and long-term aims. This attitude not only fails to ensure the development of substantive equality, it also ignores the impact of European legislation on employment practices and demographic trends.

DISCUSSION

Both strengths and weaknesses can be identified in EU law on equality and maternity rights, however the discussion of the role of EU policies must be contextualized within the wider framework of current changes in the economic climate of the European labour market. Various studies have assessed the shift undertaken by the labour market during the 1980s and 1990s in favour of a service-based flexible and adaptable labour force (Cousins, 1999: 43–8; Helms and Guffey, 1997; Perrons, 1999: 391–2; Rubery et al., 1999: 13). The increased availability and/or demand for flexible workers, however, has not occurred in a gender-neutral setting,
but has been characterized by a dichotomization of the labour force, whereby the lower grades of the service sector have become increasingly feminized (Cousins, 1999: 72–3; Gregory, 2000: 165; Hantrais, 2000: 135; Helms and Guffey, 1997; Perrons, 1999; Webster, 2001: 24). Moreover, despite an increase in flexible employment to meet the needs of the market for greater flexibility, the employment market continues to revolve around the full-time worker (Cousins, 1999: 43), which is all too often identified with the male worker. In this context, the full-time worker remains the industry’s model for achieving advancement and promotion, thus failing to promote alternative socioeconomic structures that would allow for a more balanced division of paid and unpaid work (Webster, 2001: 26). Returning to Lewis’s analysis, it is possible to conclude that the focus on the full-time worker model is the result of a sociopolitical context which favours traditional breadwinner models of welfare and economics. According to this model, a woman’s contribution to the family income remains secondary to that of her husband/partner (Lewis, 1992, 1993). The primary consequence of this bias is the perpetuation of the role of traditional family structures as the main provider of care. Interestingly, this focus on the family coincides with a shift in social trends that challenges the dominance of the traditional family as the basic unit of society.

The main strength of EU law has been the establishment of a framework for the development of legal equality which, despite maintaining a division between public roles and domestic responsibilities, and thus formal and substantive equality, nevertheless provides a minimum standard of protection for European women. Although it would be an overstatement to say that EU law in the field of equality has had a tremendous impact on its member states, failing to recognize the impact EU law has had on national politics and policies would be just as unfair. The question that needs to be addressed, and which the policy areas of maternity rights and parental leave raise with a vengeance is what kind of impact has the EU equality model produced on women’s decisions about motherhood?

The explicit message enshrined in the policies discussed in this article is that the EU is seeking to promote a family-friendly economic and sociopolitical model. The analysis of the strengths and weaknesses associated with these policies, however, highlights the lack of recognition of the impact on the overall principle of equality of the various forms of employment that women engage in during, before, after and in-between pregnancies, and which allow them to fulfil the social function of motherhood. This failure on the part of policy-makers is beginning to influence women’s attitudes towards motherhood and maternity, as the current decline in European birth rates may demonstrate. As discussed earlier, a woman’s decision to become a mother is influenced by a variety of factors, not least the availability of socioeconomic structures that would
allow her to reconcile her roles as mother and worker (Helms and Guffey, 1997). The sharp decrease in birth and fertility rates in the member states of the EU is the result of several factors, some of which can be associated with women’s increased participation in the public sphere and the official labour market (Cousins, 1999: 73–5). This trend highlights the difficulty of reconciling employment and family responsibilities, particularly when the former is based upon male standards of work and worker, and the latter on traditional gender roles and divisions of labour. Ultimately, this discussion highlights one of the greatest failings of family-friendly policies, which despite the artificial gender neutrality enshrined in the language are actually targeted at women as the primary carers. In order to achieve the aims set out by the preamble of the Parental Leave Directive (96/34/EC), which sought to redefine gender hierarchies and foster greater male participation in family life, family-friendly policies cannot be targeted solely at women, but must incorporate a more comprehensive redefinition of family, gender roles, employment and the structures associated with these issues.

At the end of the 1990s, the principle of mainstreaming has made a notable entry into EU policy-making rhetoric. This principle has been promoted as the possible answer to the questions raised earlier. The aim of mainstreaming is to ensure that gender and gender-specific issues are addressed in all areas of policy and politics (Rees, 1998: 9). Mainstreaming is proving to be a trendy new concept that has been widely endorsed by academics and policy-makers alike. However, when applied to EU policies it is important to point out that by focusing predominantly on employment in the official labour market, mainstreaming gender in the EU reaffirms the male standard of worker and citizen, which is skewed in favour of economic citizenship, public rights and formal equality. More worryingly yet, this concept has also been used to relegate women’s issues to the back of the policy agenda (Rossilli, 2000: 1, 6–7, 11). This awareness raises the concern that women’s interests as mothers and workers are not being fully integrated in the policy process, but they become a mere secondary addition. Particularly with reference to the issue of care, men’s and women’s concerns continue to be portrayed as distinct, whereby women continue to be the primary carers. The direction of EU policies at the end of the last decade has been to allow men and women to reconcile employment in the official labour market and family life. However, despite this shift, the failure of member states’ governments to challenge structural inequalities continues to separate rhetoric from reality and reaffirms traditional divisions of labour.

The questions raised at the beginning of this article focused on the potential role of the EU in bridging the gap between formal and substantive equality, and its impact on women’s choices about motherhood. The answer to each of these questions, and those raised by the introduction of
the concept of mainstreaming within EU policy rhetoric and policy-making, is that EU policies continue to promote a concept of equality that is biased in favour of legal rights. This continued focus on formal rights has occurred at the expense of a more comprehensive approach to gender and the construction of gender roles. One further danger with this approach is that it can pigeonhole the issues of leave and care as ‘women’s issues’, ultimately reaffirming traditional gender divisions of labour and the male breadwinner model of welfare. This shift in policy highlights the conflict present in EU and national equality law, which on the one hand strives to promote women’s legal right to equality, while, on the other, it is forced to protect traditional divisions of labour, particularly with reference to the social function of motherhood, to ensure the survival of the welfare state in Europe. This dichotomous, and arguably conflicting position of the law, and the choices currently available to women under current legislation, can help to explain contemporary demographic trends, particularly the sharp decline in European birth rates. Women’s attainment in the public sphere has now become a fundamental feature of the European labour market, as have the increasing concerns about current demographic trends. The only possible resolution to these issues resides in further cooperation between employers, national governments and the EU to devise socioeconomic structures that will allow women to reconcile their role as mother and worker, thus diminishing the tension between public life and private responsibilities.

NOTES

1. Various authors have discussed the role of the EU in national and international politics. For a general analysis of the historical, political and economic developments and the overall structure of the EU see: Dinan (1999), Hix (1999) and Nugent (1999). For various analyses of the EU role in social affairs see: Rosas and Antola (1995), Falkner (1998) and Hantrais (2000).


3. It should be noted here that there is a qualitative difference between the directives and recommendations in European law; whereas the former are legally binding upon the member states, the latter are simple frameworks for future actions.

4. Without great consideration for the political developments in the field of European social policy, it is necessary to point out that by 1992 the aims of Article 119 had been officially implemented and further developed by the controversial Protocol and Agreement on Social Policy (albeit the UK government opted out of this part of the new Treaty on the EU/TEU until the revised version of the TEU in 1996).
5. Any policy ratified under the auspices of Article 119 and the Social Protocol requires the unanimous agreement/vote of member states’ governments.

6. The debate about the value of negative vs positive integration is very important in contemporary literature about the process of European integration. In this context, negative integration implies the development of a European single market through the removal of trade barriers, whereas positive integration refers to the establishment of a European framework of regulations that would foster greater balance between the social, political and economic objectives of the single market (Shaw, 1993: 229–30; Vobruba, 1997: 125–6).

7. Since the new Labour government won the 1997 elections there has been a change in policy, and the UK has since signed the Agreement. Following the endorsement of the UK government, the Agreement was formally included in the Treaty at Amsterdam (1998).


9. For a discussion of the impact of economic and gender hierarchies on women’s choices about employment see the following works: Lewis (1992), Duncan (1995) and Sainsbury (1994).

REFERENCES


Latta, Mia and Wendy O’Conghaile (2000) *Aspirations, Restrictions and Choices: Combining Life and Work in the EU*. European Foundation for the Improvement...
of Living and Working Conditions; available at: www.eurofound.ie/publications/employment/3768.htm


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The areas of Europe worse for teenage mothers. The figures show a broad trend of higher levels of teenagers giving birth in south- and north-eastern Europe. Bulgaria, Romania, Hungary, Slovakia, Lithuania, Latvia and Poland are all among the EU’s worst when it comes to young mothers. The UK is the only western European country in the EU’s worst 10, with three percent of births to a girl aged 10-19. Despite this, there has been huge progress in Britain. Europeans, for the most part, support the EU’s vision that EU citizens should be able to speak at least two foreign languages; more than seven in ten (72%) agree that people in the EU should be able to speak more than one language in addition to their mother tongue. 8. SPECIAL EUROBAROMETER 386. Russian is the most commonly spoken language in Europe. European Russia has a population of 110 million people, and 106 million of that total speak Russian. However, not all of these individuals speak Russian as a mother tongue, although most can speak the language at a native level. Russian is mostly spoken in the eastern part of the continent. German. German is the second most widely spoken language in Europe and commonly referred to as the “money language.” See more ideas about Europe travel, Europe travel tips, European travel. Read more on what made the top 10 cheapest countries in Europe that you must visit! Vacation European Road Trip Road Trip Fun Trip European Destination European Travel Travel Road Trip Europe Europe Travel. 25 Dreamy European Road Trips that are So Worth it. Let’s talk about dreamy European road trips. Here we have 25 best road trips Europe to take once in a lifetime. These are for your bucket list. Immigrant Mother in Europe started as a parenting website to document my journey as a... See more of Immigrant Mother in Europe on Facebook. Log In. or. Create New Account. See more of Immigrant Mother in Europe on Facebook. Log In. Forgotten account? or.