



Gender & Equality in the EU

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The EU Founding Fathers



The EU Founding Sisters



Non-discrimination: EU Economy and Society

Article 18

Within the scope of application of the Treaties, and without prejudice to any special provisions contained therein, **any discrimination on grounds of nationality shall be prohibited**

- Jurisprudence ECJ
- Directives
- International Law
- Soft Law

Article 19

...within the limits of the powers conferred by them upon the Union, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, **may** take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation

Gender Equality: the social face of the EU?

Treaty 1957:
Equal pay for
equal work
(art. 157 TFEU)

1973: Social
Action
Programme

1982:
Commission
on Equal
Opportunities

Treaty of
Maastricht
1992: EU
citizenship

Treaty of
Amsterdam
1997: gender
mainstreaming

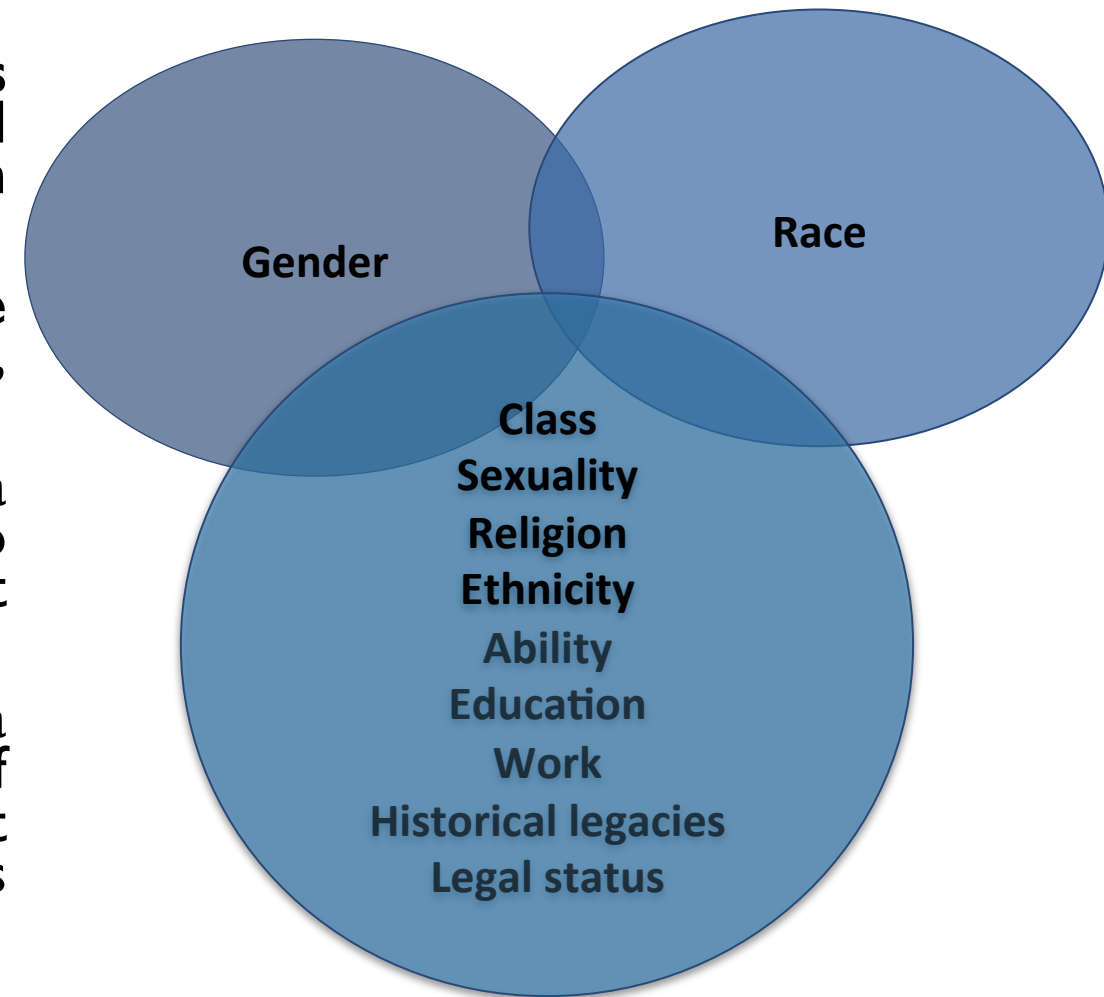
From 2000:
gender
representatio
n in the EU
institutions

Art 8 TFEU/
Art 2 TEU:
eliminate
inequality
and promote
equality

EU Social pillar?

Understanding Real-life Discrimination

- Intersectionality refers to **overlapping relations of oppression, discrimination and disadvantage** based on social categorisations such as gender, race, class, religion, disability and so on
- ‘There is not such thing as a **single issue struggle** because we do not live single issue lives’ (Lorde, 1984)
- ‘The entire **framework** that has been used as a basis for translating “**women’s experience**” into concrete policy demands must be rethought according to intersectionality’ (Crenshaw, 1989)
- ‘Behind the concept of intersectionality there is a **rich history of struggle**. A history of conversations among activists within movement formations, and with and among academics as well’ (Davis, 2016)



Law's Equality

- Failure of the law to **institutionalise social complexity**
- Formal v **Substantive Equality**
- The problem of gender inequality resides not only in the **exclusion** of women, but in the **socio-economic power relations, structures and contexts** in which they act
 - Complex and dynamic balance between the principle of **equality** and the recognition of **difference**
 - Necessary transformation of the mechanisms of **distribution**: fairer distribution of power, resources and **gendered responsibilities**

Gendered Responsibilities - Social Reproduction

- **Social reproduction:** social relations, processes and labour that go into the daily and generational maintenance of the population, it includes the provision of material resources and the training of individual capabilities necessary for interaction in the social context of a particular time and place (Picchio, 2000)
- ‘The fleshy, messy and indeterminate stuff of **everyday life**’ (Katz, 2001)
- Social reproduction can be organised through **households, communities** and by the state through **socio-economic rights and welfare politics**
- This concept is useful to analyse the gendered implications of **apparently gender-neutral/inclusionary law and policy**
- The recognition of the importance of social reproduction needs to be accompanied by measures aimed at **redistributing the gendered responsibilities for this work**

Employment, Family and Social Reproduction

- Social reproduction work is **disproportionately performed** (and expected to be performed) by women **across space and time**
- Social norms supported by the political-economic-legal system of distribution:
 - **Breadwinner bias**: women excluded or relegated to the status of secondary workers
 - **Commodification bias**: minimised role of public provisioning on the assumption that the private sector is more effective than the public sector
 - **Deflationary bias**: prioritisation of low inflation and fiscal restraint over public spending (e.g. structural adjustment policies, austerity measures)
- Social norms are not set in stone and can be **transformed through collective action and political/legal interventions**

Let's look at these principles within the EU: Employment

- Art 157 TFEU: Equal Pay for Equal Work
- Employment Directive 2000/78/EC and Self-Employment Directive 2010/41/EU
- Before the Treaty of Maastricht 1992 the **subjects** of the EU were workers and not citizens
- EU gender regime based on **non-discrimination**
- **Formal** approach to equality as predominant
- Concept of **work** (ECJ broadened the employment status but unpaid work not included): EU driven by economic values
- **Division of labour** according to gender, race, class and nationality...
- '**Flexicurity**' policy assumes and women as secondary workers and relegates them to the margins
- Limits of equal **opportunity** policy: no consideration of structural conditions that prevent women from exercising their rights
- **Non-EU nationals**: the rights associated with citizenship (arts 18,19,20,21 TFEU) exclude important socio-economic rights – although controversies on welfare shopping within the EU

Let's look at these principles within the EU: Family

- Directive 2004/38: definition of **family members** to enjoy mobility rights
- Family as **heteronormative** and **nuclear**
- Family-related mobility and migration are considered 'female' based on the idea of **male breadwinner**
- **Productive v reproductive** work
- The lack of recognition for **social reproduction work** is a source of inequality and the root of main controversies (e.g. migration, Brexit)
- Women as **invisible agents of change**

Some critiques

- Gender mainstreaming is often promoted as ‘**gender equality as smart economics**’ (World Bank 2006, 2012)
- Women’s inclusion aimed at creating **flexible workforce** and more **rational management** of the economy
- Gender equality in the EU is premised on **male-female dichotomy** (similarly to CEDAW)
- **Intersecting social categories** are rarely considered
- Gendered **disproportionate responsibility** for social reproduction work is not addressed
- **Inclusion and exclusion** are framed in economic rather than social terms
- Substantive equality and social justice need a strong **EU Social Pillar**
- Gender justice is not a priority of the **EU budget**

Theorising these critiques

- **Inclusive law and policy measures are built on existing inequalities:** the structures of exclusion that have normalised unequal gender relations are reshaped by a logic of inclusion that risks to reproduce instead of challenging them
- We need to engage in more complex discussions about **structural inequalities, the entitlement of all people to a decent livelihood and the public obligation and accountability to ensure this**
- Real inclusiveness is about providing women across the racial, sexuality, religion, geographical and socio-economic spectrum with the power, structures and resources to participate in a dynamic process of inclusion **rather than being included in a space that others have created for them.** This also means paying closer attention to the diversity of people's voices and **ensuring that the least vocal are always heard**
- These factors create a more substantive and transformative understanding of 'gender equality'.