

# EU SOCIAL POLICY: DEVELOPMENTS IN THE FIELD AND INSIGHTS FOR THE STUDY OF SOCIAL POLICY

by

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## **Abstract**

This paper focuses on the key features of EU social policy and the way it has been interpreted and seeks to identify new directions for study. EU social policy is considered along two main dimensions: its content and hallmark features and the main approaches to conceptualizing and theorizing it. Rather than the classic negative depiction of EU social policy, this piece suggests that it is more significant than usually allowed, not least because the empirical and theoretical lenses which have been applied to it were developed for other purposes. The implication is that developments in EU social policy are often overlooked, not least in how the EU has carved out a role for itself by constantly framing and reframing discourses relevant to social policy and social problems in an attempt to both influence how social actors at all levels of governance approach policy and secure their acceptance of its role in social policy. Therefore analyzing EU social policy outside of the traditional frames reveals interesting and significant developments especially around innovation in social policy and the attempt to legitimate the EU as a social policy actor.

Keywords: EU social policy, theorization of EU social policy, governance, institutional approaches, social policy innovation.

EU social policy tends to be dismissed or not regarded very seriously. This is because of perceived lack of substance and/or slightness of impact on member state policy. This piece suggests that it is worth taking another look. One aim is to identify the key features of EU social policy *qua* social policy, reflecting on it from different angles and intellectual vantage points and comparing key elements to social policy at national level. Secondly, the paper seeks to draw out insights around the study and theorization of EU social policy. Two main claims are advanced. The first is that the EU has assembled an innovative and in many respects unique portfolio of social policy thematic and methods which are difficult to apprehend through 'conventional' frameworks. The second claim is that the study of EU social policy opens up important aspects and dilemmas of theory and practice around social policy making that are interesting in their own right and relevant also to understanding social policy at the nation state level. The paper's main purpose, therefore, is to uncover the nature of EU social policy and to identify the important things we can know about social policy by studying it at EU level.

The paper unfolds in the following way. The first section identifies the hallmark features of EU social policy. The intent of the second section is to give an overview of the main themes and theoretical perspectives which have been applied to the field of EU social policy. This has a critical edge for, as will become clear, the frameworks applied to EU social policy have been developed for EU studies more broadly. The third part applies a more social lens to reflect on the significance of EU developments in social policy and draw out some of the key questions which it poses for scholarship. For the purpose of the paper, social policy is defined as policies necessary for human well-being and the systems by which human well-being and social stability are promoted (Dean 2012). The paper's compass is broad and it proceeds not by a detailed analysis of the constituents of EU social policy but by taking a broad-brush

sweep of content and method over time. As a further clarification, it should be noted that the empirical focus is on social policy developments at EU level rather than the ‘domestication’ of EU social policy by member states.

### **The Nature of EU Social Policy**

It is not easy to make a case for studying EU social policy. Few of the usual motivations apply when viewed through the lens of national social policy. Especially missing are classic social policy themes such as the collective response to need and risk, income security for individuals and families, an infrastructure to redress social inequality and deliver welfare, concern with the functioning and support of families. Compared with national social policy, EU social policy appears as little more than a short list with many gaps. Two characteristics of the scholarship on EU social policy follow from these observations. The first is its slightness – little more than a handful of books have been written on the topic (e.g., Leibfried and Pierson 1995; Geyer 2000; Hantrais 2007). A second noteworthy feature of the literature is its negative (and normative) thrust. Lange (1993: 7), for example, characterizes the history of EU social policy as one of “good intentions, high principles and little action;” for Streeck (1994: 153) EU social policy is “narrow in scope and incoherent in content.” There have been three main causes for dissatisfaction: the failure of EU social policy to develop what one might call a ‘thick’ policy portfolio; the primary focus remaining on advancing a market agenda; the concentration on negative measures (striking down national measures that contravene EU law) rather than designing and implementing a social policy regime that contributes to or constructs a supportive welfare edifice. Obviously then, EU social policy is different. But what is the nature of this difference and is it fatal?

To begin to answer these questions, an outline of the main features of EU social policy is appropriate. These, I suggest, are encapsulated by a discussion of: the key functions of social policy, core domains of policy, resources/funding, actors, methods of policy making and the evolution of the field. What we might term ‘conventional social policy’ – which is framed by the study of social policy primarily as a nation state phenomenon (Bulmer *at al.* 1989; Williams 1989) - is never far away. The paper does not construct an oppositional dynamic between the study of EU social policy and that at national level. Rather, to the contrary, I see many points of contact between the two rather than a chasm, and the goal is to draw insights from and for the robust body of work on social policy at national level, while keeping in the foreground the particularity of EU social policy (Table 1).

One particular feature of national social policy is that its functions are tied closely to social policy as a nation-state entity. Nation building and ensuring the stability and cohesion of national societies have been driving impulses. This adds a strong political and social dimension and means that treating social policy as the solution to economic problems alone is an incomplete perspective (Amenta 2003). When it comes to the functions of EU social policy, Streeck (1995) provides a useful way into its specificity when he differentiates between policy that is market making – by way of negative integration (removal of barriers) and regulation that enhances efficiency - and that which is market correcting in the sense of imposing standards on market and society and engaging in social citizenship related institution building and redistributive interventions. The latter is more familiar at the nation-state level, having a state-building intonation and is akin to positive integration. For Streeck a market-making social policy, which he sees as dominant in the EU, hardly qualifies to use the term social policy because it is concerned only with the civil right to enter contracts. The question of what makes a market-making social policy has been explored further by Majone

(1996). He characterizes EU social policy as social regulatory - it attempts to improve the allocative efficiency of markets by correcting for various types of market 'failure.' This differentiation has become a lynchpin in EU studies. There is quite a profound theorization involved: for Majone (1996) regulation is an alternative social policy regime. In contrast to the redistributive (Keynesian) welfare state for example, the EU's supranational regulatory regime embodies a separation of state from market (or redistribution from efficiency), draws its legitimacy from technical excellence and a capacity to solve problems (rather than political/democratic exigencies), and involves a type of social policy that concentrates on issuing standards, removing barriers and putting in place the procedures for realizing both.

Moving on to constituent elements, EU social policy is dispersed across a range of policy domains. 'Shallow and scattered' are among the best descriptors. If one understands social policy as social protection, then the rights of migrant workers are the closest the EU comes to having a social policy. Only here has the EU granted a set of individualized entitlements and protections with workers from other member states granted similar rights to national workers. To appreciate the eclectic content of EU social policy one must widen the lens though. Flanking the rights of migrant workers is a more broad-ranging set of policy concerns around health and safety at work, workers' rights, gender equality, employment rates and conditions and, since the Lisbon Strategy in 2000, poverty and social exclusion, pensions and health and social care. The nature of EU engagement with these issues is particular, in that the EU has open to it a range of modes of activating policies. It can issue Regulations, Directives and Decisions (all of which are binding on member states and require transposition into national law as well as enforcement in policy and practice). But the EU also has available a host of voluntary or non-binding policy instruments and increasingly makes use of ways of indirectly influencing policy such as peer review (to be discussed further below). There is no hard and

fast rule about the type of approach applied to a field but, given the EU's very constrained legal mandate in social policy as set out in the Treaties, EU social policy tends to be characterized by the softer more voluntary methods.

The case of poverty and social exclusion is a good example. This is proving to be an enduring interest on the part of the EU, especially since 2000 when the Lisbon Strategy was put in place (European Commission 2000). But it is taken forward in a voluntaristic manner in that what the EU did with the Lisbon Strategy was create a ten-year policy co-ordination process in poverty and social exclusion (later expanding the co-ordination process to include pensions and health care among other domains) whereby member states voluntarily engage in a process which reflects on the best approach to address poverty and social exclusion and seek to come up with EU-wide objectives and norms around poverty and social exclusion which can then be used as a guide for national policy. The goal is then co-ordination rather than integration. Given doubts about this as a way of advancing an EU agenda, the latest EU program - *Europe 2020* – sets out EU-wide targets, including a target in the social policy sphere (to cut the numbers in poverty and social exclusion by some 20 million over the ten year period to 2020) (European Commission 2010). This is the first time that the EU has set targets in the area of social protection and social inclusion but, given that it is an EU-level target (and that member states have the leeway over how they will contribute to it) and is defined very diversely there are reasons to be doubtful that it can be met (Copeland and Daly 2012).

A further particularity about EU social policy relates to funding. Unlike the national states, the EU has no social policy budget. Many of its initiatives, of course, require no direct funding – in that it is member states which bear the costs of implementation and some EU

social policy has no financial costs in that it is aspirational – but the EU does have funds that can have an impact if social policy is broadly conceived. For example, the direct financial assistance given to countries and regions by virtue of the Social and Structural Funds is a form of social policy since it is designed to compensate regions for possible losses associated with economic integration, to promote social cohesion across the Union and create the conditions for competition between regions. Although initially very small-scale, the Funds have been significantly revised and increased over time. The European Social Fund now accounts for some 10 percent of the EU's budget while the Structural Funds overall account for in excess of 30 percent (Falkner 2006: 85). These are the main forms of income redistribution within the EU even if their focus is on territorial cohesion, co-operation and competitiveness as well as (in the case of the European Social Fund) improving employment, employability and the linkages between these concerns and social inclusion. The Common Agricultural Policy is also relevant to any categorization of EU social policy. A form of income support, price controls and subsidies for farmers and their enterprises, this has been said to constitute a kind of welfare state for farmers (Leibfried and Pierson 1992: 341). The EU, then, is best seen in terms of a series of loosely connected fields – hence the term 'social Europe' – rather than the tightly bound package of measures oriented to social protection and risk coverage which characterize social policy at national level.

Thirdly, there are the actors involved in policy making which in comparison to national level are much more diverse and broad-ranging. There are four important sets of institutional actors: the Commission, the Council of the European Union, the European Parliament and the European Court of Justice. While one might grant recognition to the Commission and the European Council and the Parliament as the executive and legislative branches respectively, the place of the fourth EU policy making agent – the European Court of Justice – is more



difficult to slot into the conventional understanding of agency in relation to social policy. And yet the Court has played an extremely important role by virtue of the many instances in which its judgments have affected the social rights and conditions of people as citizens of the EU. The EU is a theater with many other policy actors also however. The social partners play an important role, having over the last decades obtained quasi-constitutional rights of participation in negotiations about laws and rights to be consulted and informed about policy content (Barnard 2002). Active also are industry representatives and a range of NGOs and national and international networks, their involvement reflecting the fact that, as the EU has developed, there has been a dispersal of decision making processes to policy networks that extend beyond the boundaries of the EU organization (e.g., consultation groups, networks of experts, etc.). Greenwood (2007) has estimated that there are about 1,450 EU level groups, of which about a half represent business interests and around one-third citizens' interests.

Turning to methods, the EU is characterized by diversity in how it makes policy. At its simplest, the literature categorizes the methodology of EU policy into hard methods (law-based measures such as Regulations and Directives) and soft methods (based more on persuasion where action has a more voluntaristic character) (Trubeck and Trubeck 2005). This embodies a number of distinctions in regard to: the origins of policy, the processes of policy making and implementation, the theorization of policy change, and the main actors involved. The traditional method of EU policy making, and the counterfactual against which change is usually evaluated, is policy making through law. This is the Community Method – supranationalism at its strongest. According to Majone (2005: 44) the classic Community Method has three features: the Commission as the secretariat of the EU is independent of the other EU institutions and it alone makes legislative and policy proposals; legislative and budgetary acts are adopted by the Council of Ministers (representing member states) and the

European Parliament (representing the citizens) and are the medium through which EU agreements are transposed to national level; the European Court of Justice oversees the maintenance of the balance among European institutions and adjudicates on legal issues associated with the interpretation and transposition of EU law. This model, while not superseded, is being complemented by alternative approaches (so-called ‘soft law’) which are less hierarchical and aim to influence member state policy without transferring competence to the EU. These have grown in significance since the 1990s and they are especially applied in social policy. The Open Method of Co-ordination (henceforth OMC) – the main method applied to social and employment policy under the Lisbon Strategy from 2000 on - is exemplary here. Its *modus operandi* is to involve representatives of member states in a policy learning and development process organized around paradigms, benchmarks and indicators located in a common set of objectives or targets (Daly 2008). A set of routinized procedures were created centering on reporting, monitoring and peer review wherein member states review their policies and progress (Tholoniati 2010). The goal was to bring about change through technical processes of review and reporting on the one hand and deliberation and negotiation about national and EU level policies on the other, with a lot of import placed on learning and cognitive change on the part of national policy makers. The main social policy areas in which the OMC has been applied include employment, education and training, economic co-ordination, poverty and social exclusion, pensions and health and long-term care. While originally theorized as separate and distinct, increasingly now, the two main types of method are seen as interacting and changes occurring within each method – especially the changing nature of the Community Method – caution against seeing either as fixed or one-dimensional as does a move to more hybrid methods (Armstrong 2011; Dawson 2011).

A final defining element is that the development pattern of EU social policy is episodic. Key to understanding why this is the case is the EU's very limited legal mandate in social policy. The original Treaties defined and ratified social policy at EU level mainly in relation to harmonizing employment and living standards (Cram 1997). From the outset then, social policy was an area where EU competence was historically weak. While the legal mandate has been extended over time in a variety of ways to strengthen EU competence in existing areas and extend the EU remit to new domains, any substantial change in the social policy compass of the EU is hotly contested, with member states generally fighting hard to retain social policy as a national level competence. Social policy at EU level is fashioned, then, through continuous rounds of interaction and contestation between a transnational process of rules and rule making (which is highly institutionalized) and often resistant engagement on the part of national political actors and welfare regimes. This is imprinted in its history in the form of a 'stop-and go' pattern of development. Up until the 1970s the EU saw little or no action on social policy, and certainly no development of a legal nature other than measures to do with the free movement of workers. The 1970s heralded a move towards the politicization of social policy within the EU (as against the prevailing pragmatic or technical impulse which drew from a legalistic view of change). It was at this point that the EU tried to extend its efforts to harmonize social policy across member states, introducing directives on equality between women and men in employment (and in the 1980s and 1990s in social protection), health and safety in the workplace and collective bargaining rights. However this intense burst was short-lived. The advent of Jacques Delors as President of the Commission in 1985 and his championing of the need for the internal market program to have a social dimension inaugurated another round of EU engagement with social policy. In this period, the EU's social contribution consisted mainly of setting minimum norms or standards for workers (as in the Community Charter of the Fundamental Rights of Workers adopted in 1989 for

example). Delors's idea of a European social dimension was eventually to run out of steam, however. Another growth spurt was initiated by the Lisbon Strategy in 2000 which inaugurated a period of intense EU social policy engagement – arguably the most intense yet – which has continued with the latest 10-year program – *Europe 2020*. The underlying point is that at EU level the social policy dynamic is not evolutionary (as the development of social policy at nation state level is often represented) but of a stop and start character.

**Table 1. Overview of Main Features of EU Social Policy in Comparison to Those at National Level**

	EU	National Level
Functions of social policy	Market making	Market correcting, nation state building
Main constituent elements	Rights of migrant workers Discrimination/gender equality Health and safety of workers Employment rights and leaves	Securing income risks in cases of unemployment, illness, pregnancy, old age, poverty Supporting family and the raising of children Service provision (social services, health, education, housing) Regulation of employment
Funding	No direct funding but the Structural Funds and Common Agricultural Policy play a role	Direct funding from taxes and contributions
Key actors	Commission, Council, Parliament, Court	National, regional and local parliaments and administration
Modes of policy making	Mixed – binding legal regulation but also more consultative and procedural methods that call upon voluntary engagement by member states	Legal regulation Financial redistribution Services
Developmental pattern	Fitful, stop and start	Regular pattern of development and reform

By way of summary two over-riding features of EU social policy stand out. The first is complexity whereby the EU regime incorporates a range of objectives that are only loosely 'social' and uses a mixed set of methods and instruments to progress them. Second, EU social

policy lacks a single organizing core and social program especially if one takes as the benchmark the constituents of social policy from the nation state – illness, unemployment, pregnancy, child and family well-being, poverty and income adequacy. But a characterization of EU social policy in terms of absence is an intellectual *cul de sac*. Instead, this paper treats EU social policy as leading one to question how to understand the nature, role and architecture of social policy in the contemporary period. Through the EU we are invited into a very different set of literatures and theoretical approaches.

### **The Theorization of EU Social Policy**

EU social policy tends to be studied in terms that derive from the disciplines that have towered over the field of EU studies: law, international relations and political science. Three consequences follow. The first concerns the definition and scope of the subject matter. The term ‘EU social policy’ is used eclectically - it is not uncommon to find studies using the heading which make hardly any reference to social protection measures. Studies of labor market policy, modes of regulation and systems of labor and industrial relations are prominent themes in the scholarship on EU social policy (e.g., De la Porte and Pochet 2002; Zeitlin *et al.* 2005; Armstrong 2010). A second consequence concerns what is considered interesting about the subject. EU social policy has mainly been interrogated for its institutional character and make-up, its role in market integration processes and relevant reform of markets at member state level and how it reflects and is fashioned by the EU as a polity. In comparison to the study of social policy at national level, scholarship on the EU has had greater interest in how social policy links with economic and employment policy and how distinctive it (and all EU policy making) is in a political and governance context. A third consequence pertains to the disciplines involved. While EU studies is a vibrant field and the scholarship is hallmarked by considerable rivalry between disciplines and perspectives, the

social disciplines are not prominent, unlike conventional social policy where sociology has been foundational to the master theoretical paradigm (Bulmer *et al.* 1989). One of the implications is that the theorization of the EU and its policies is weak on social policy. The following overview of the current emphases of scholarship illustrates that.

European integration was the impulse and focal point for much of the classic theorizing of the EU. For a long time, theoretical development was marked out through a kind of ‘ping pong interplay’ between the neo-functionalists on the one hand and the intergovernmentalists on the other. The former view EU integration almost as inevitable, not so much because it is a political goal but because once started the process generates its own dynamic of spillover and functional evolution (classically: Haas 1958), whereas the intergovernmentalist narrative places national governments in the driving seat and views them as exercising a variety of strategies and ploys to repel the integrationist dynamic (classically: Hoffman 1966; Moravcsik 1999). With the focus on the degree of European integration, much of the EU scholarship overlooked social policy since it was not a strong field. But there is another reason also why social policy did not feature much in the classic EU analyses. This was because its future tended to be foretold: in functionalist arguments the interdependencies between economic and political developments are seen to determine whether EU social policy develops or not and for the intergovernmentalists the fact that social policy was so weak as a field of EU activity is taken as demonstration of the power of the national governments to keep social policy circumscribed and under-developed at EU level.

Although these debates continue to rumble on, scholarship has turned away from grand opposing narratives around European integration and is now more focused on the complexity of the EU in terms of both institutions and decision-making (drawing in some of the features

that have been discussed in the preceding section). There are two main bodies of EU work today, each of which has a number of theoretical strands but neither of which is especially interested in social policy as a locus of theory building about the EU.

Given its organizational particularity it is not so surprising that the various schools of new institutionalism constitute a major approach informing EU policy analysis. The basic premise here is that institutions affect outcomes and so the design and operation of policy institutions is central to how the EU develops (Aspinwall and Schneider 2000). Institutions tend to be very broadly defined but most generally they are conceived as rules, routines, procedures and norms. There are three main streams in the scholarship. A historical variant explains developments by the long-range effects of institutions on polities over time, especially in terms of how, once established, institutions exert a constraining effect (in a framework that tends to adhere to a path dependency approach) (e.g., Pierson 1996). Policy is ‘sticky’ and prior commitments and the evolution of norms and institutions over time constrain what is possible and crucially influence what evolves. A second variant – rational choice institutionalism – places the focus on actors and their interests, assuming that social or other policies are the result of actor preferences and strategic behaviour on the part of the key decision makers (e.g., Moser *et al.* 2000). The third – so-called sociological - variant of the approach sees developments as explained by the institutional diffusion of norms (socialization) and the agency associated with actors’ interpretations, values and identities. Here the beliefs, cultural artefacts and knowledge embedded in institutions are seen as socially constructed and in turn provide the environment which conditions actors’ behavior and identity (e.g., Checkel 2000; Christiansen *et al.* 2001).

The institutionalist work can be criticized for having a very broad notion of institutions and for being too ambiguous about what institutions are (Aspinwall and Schneider 2000). In the main a kind of a generic institutionalist approach has been applied to EU social policy with historical institutionalism especially important. Hence, Leibfried and Pierson (1995) attribute the slow and particular growth of EU social policy to the character of the EU project and the set of institutional arrangements put in place to realize it and Streeck (1995: 34) lays emphasis on the fact that European social policy is made in a two-tier polity consisting of a set of supranational institutions and a set of sovereign nation states. Apart from the fact that insights from social policy making in the EU are not generally utilized for institutionalist theorizing, social factors are poorly conceptualized in institutionalism (even in the so-called sociological variants of it). In fact, sociologists have found it difficult to recognize key insights from their discipline in the self-claimed ‘sociological institutionalism’ (Jenson and Mérand 2010; Saurugger and Mérand 2010; Favell and Guiraudon 2011). Among the main critiques advanced are that norms tend to be reified and treated apart from the actors who use them to guide their actions and that the scholarship is more focused on institutions in and of themselves (institution centric) rather than institutions as a vector of power and built through social processes. The sociologists’ plea is for a larger influence for social factors in EU studies – this would seem especially apposite for the study of social policy given that it is in essence an accommodation between market, state and society. In the final section I take up this invitation to view EU social policy as an opportunity to explore the social nature of the EU institutional infrastructure.

Governance, the second dominant perspective in the field of EU studies today, theorizes the increasing diversity in the actors, methods and processes of policy making and political decision-making in the EU. The EU as a political and administrative system is of primary



purchase in this scholarship which has developed along the tracks provided by two key conceptual frameworks: multi-level governance and new modes of governance. Both perspectives develop the idea of the EU as diversified in regard to its methods of policy making and governance. For those working from a multi-level governance perspective EU-related developments are to be explained through the articulation among different levels of governance shaped by a continuous interaction between formal actors such as governments and EU institutions and a host of private or non-formal actors (Hooghe and Marks 2001). The ‘new modes of governance’ perspective is essentially concerned with the changing structure of political and administrative authority and, within the EU context, the move to more diverse and less law-bound methods of collective decision making and policy implementation (Héritier and Rhodes 2011). Both sets of scholarship but especially the latter seek to elucidate a movement in the EU – which has been indicated already - from vertical methods based on hierarchy to the horizontal spread of governance to new institutional structures like agencies or committees or networks (Armstrong 2011: 183).

Social policy has made a stronger appearance in this scholarship, in some cases featuring quite prominently (e.g., De la Porte and Pochet 2002; Heidenreich and Zeitlin 2009; Armstrong 2010). In fact, the scholarship on EU social policy has been especially influenced by the new modes of governance work because, after all, the employment and social domains have been the laboratory in which the ‘soft’ or new methods have been pioneered. This scholarship has illustrated how new sets of norms and procedures are being constructed in a managerialist idiom and has underlined how the expansion of EU social policy is signally helped or hindered by the kind of governance arrangements put in place for it (Armstrong 2010; Zeitlin *et al.* 2005). The governance focus is especially useful in several respects: it underlines and clarifies the complexity and dynamic nature of policy-making in an EU

context; it reveals how the EU has deliberately crafted governance procedures and institutions to get around obstacles (in many instances missing legal competence); the approach seeks to move away from treating the state as a unitary and rational actor (van Kersbergen and van Waarden 2004: 150). Furthermore, as a perspective that destabilizes the whole notion of a center of power and brings in sub-national actors, of public and private provenance, and also actors organized on a transnational basis, it is a perspective that is suited to EU social policy analysis. By way of critique one might say that this is a perspective anchored in the technical (institutions and rules, often treated in great detail but in relative isolation from other procedures and policies) and that like the institutionalist work it lacks a deep sense of how social policy emerges from and is embedded in social and political processes (Borrás and Radaelli 2011). An emerging critique from political sociology draws attention to how governance procedures are rooted in power relations and are bearers of values and meaning. Lascoumes and Le Galès (2007) and Kassim and Le Galès (2010) emphasize that there is no such thing as a neutral policy measure and that effectiveness is not the only, or even the main, criterion governing instrument selection.

To sum up, while the scholarship on EU studies has a strong theoretical orientation and draws from a range of perspectives and disciplines, there are gaps and oversights in it in relation to social policy. One gets little sense of EU social policy as a vehicle through which social as well as economic impact is sought. In addition, the normative principles underlying policy, such a distinctive contribution of national social policy analysis, have been relatively neglected. But more than gaps, there is a sense in which, in analyzing EU social policy, tools and perspectives developed for other purposes are being applied, and thereby that important developments are being missed. To an extent then, much of the potential of EU social policy remains to be exploited and there is a real possibility that analyzing EU social policy outside

of the conventional frames (either of EU studies or social policy studies) will reveal interesting and significant developments that have either been underplayed or overlooked. I use the next section of the paper to draw out some suggestive examples of topics that flow from considering EU policy development and its scholarship in more innovative ways.

### **What is the Study of EU Social Policy Good at Elucidating?**

All social policy regimes have to work out their relationships with existing structures of power and for this and other reasons have to be justified and ‘sold.’ Because the EU has such a constrained space as a social policy actor, not least in that institutional and other blockages rule out a traditional model of social policy for it, legitimacy in regard to creating a social policy project at transnational level has loomed large. My first point here, then, is that the study of EU social policy offers a powerful opportunity to investigate how a transnational project seeks to legitimate itself.

Two conditions serve to constrain the EU’s legitimacy in social policy. First, there is its fragile legal foundation – the Treaties even after a number of revisions make clear that EU action in the core elements of social policy is limited only to experimental activities or those that support the market integration project. A second constraint is the fragile political (normative) foundation. The EU, Majone (2005) points out, is founded on the liberal principle of separation of economics and politics (market and state). The delegation of regulatory powers to the supranational level was seen as a way of effecting such a separation. A central dilemma, which according to Majone (2005: 5) has never been openly faced in the EU, is about whether Union policies should be initiated in order to solve specific problems in the best possible way or whether they are to serve integration objectives. In his view much of the policy enacted at EU level is ‘political,’ i.e., oriented to the achievement of political

integration. When it comes to social policy, there has never been more than a few ‘moments’ of agreement about whether the EU needs a social policy or social project and what type of policy approach and substance are most appropriate. Consideration of the fragile base of social policy in the EU casts relevant developments in a new light and reframes the question from ‘why so little?’ to ‘how has so much been accomplished from so little?’ Majone (2005) and other scholars (e.g., Wendler 2004) have noted an asymmetry between the growth of EU social policy initiatives and the legitimacy of its governance. Resilience, then, rather than weakness or absence is a key storyline in EU social policy. So an essential set of questions revolves around how the EU has managed to make a social policy space for itself.

At least part of the reason is that the EU’s supranational regulatory regime draws its legitimacy from technical excellence and a capacity to solve problems rather than, say, political or democratic exigencies as in the national welfare state models. As pointed out, the EU has developed a type of social policy that now tends to concentrate on issuing standards and benchmarks and engaging states in reflective processes rather than passing hard laws. One could say that in this and other ways what the EU has done has been to seek to normalize its activities in the field through banal processes relating to governance (McNamara 2010: 137). It has set up a technico-rational project which foregrounds the conditions of good policy making as they relate especially to what one might call the ‘toolbox of policy making.’ Under the OMC for example, policy domains were constructed as the subject of a repertoire of resources, structures and techniques (including an agreed set of objectives and benchmarks, a policy program, a system of review, a set of ‘epistemic communities’ and stakeholder communities at different levels of governance, data sets and data analysis techniques like impact assessment, and so forth). In this way the EU has put in place an administrative and knowledge infrastructure that allows it to pronounce upon and influence

the reform process relating to socio-economic and other matters that were long the province of national sovereignty and for which it has a dubious legal mandate (Tholoniati 2010: 94). All of this has impact at national level too, not just because the EU strongly promotes and funds a heuristic and capacity building approach to policy making but also because it advances the expert, technico-rational model of policy making at national level also. Write large then, EU social policy offers an opportunity to study an approach to policy making that is rationalist, heuristic and focused on capacity building and to enquire how such a project sits with the more conventional (law-based) methods.

Missing legitimacy has also meant that as a social policy actor the EU continually has to reinvent itself. This plus the fact that its legal remit is mainly limited to experimental actions has made the EU a social policy innovator, if not entrepreneur. Lines of policy and leeway for action have to be created in that they do not flow directly or unambiguously from the Treaties or from existing practice (Cram 1997: 60). “Institutionally driven creativity in the face of member state opposition has always been at the heart of the development of EU social policy” (Cram 2011: 153). For anyone interested in innovation in social policy then, the EU has to be a major port of call.

There are several aspects to EU creativity, which is especially the *forte* of the Commission. First there are new ideas. New social policy concepts, if not invented by EU, then strongly championed and promoted by it, include activation, social exclusion, gender mainstreaming, reconciliation of work and family life, civil dialogue. While these concepts are not unique now to the EU, conventional social policy research and indeed EU studies are still challenged to manage some of them as well as other organizing ideas in EU social policy (such as subsidiarity, proportionality, policy transfer, voluntarism). This in turn leads to a

series of questions about what the EU project intends when it unearths and uses these and other ideas. The EU appears to be ahead of the class in recognizing that there is a representational content to all actions in a policy setting and that ‘representation’ involves the power to give meaning (Jenson and Mérand 2010: 85). This raises the matter of EU social policy as part of a discursive project – and indeed as practised increasingly at a discursive level given the move to so-called ‘soft methods’ (Schmidt and Radaelli 2004). Elsewhere, I have outlined how the EU promoted and developed the concept of social exclusion (including through the co-optation of academics), before using it as a major idea in its social policy program developed through the Lisbon Strategy (Daly 2006). EU social policy is especially the carrier of a reform project around a ‘modernized European social model’ (Jepson and Serrano Pascual 2005). As well as being oriented to changing public expectations about what can be expected in support from public funds and the public authorities, policy makers are primary targets as well. An essential aim of the OMC, for example, is to get national policy makers to ‘think Europeanization,’ so there is a real sense of the EU offering a cognitive script here. For this and other reasons EU social policy lends itself to the study of ideas and how they make their way onto policy agendas (e.g., Schmidt and Radaelli 2004; Béland 2005).

Secondly, the EU has been innovative in creating new actors and filling a series of empty spaces around national and transnational agency in relation to social policy. Without the right to legislate, the Commission (and DG EMPL in particular) consulted; where there was no group to consult with it created one (Cram 2011). Hence we have the European Anti-Poverty Network (EAPN), European Women’s Lobby (EWL), the European Disability Forum (EDF), the European Federation of National Organizations Working with the Homeless (FEANTSA), the EU Migrants Forum, and Social Platform. All of these, reliant on EU funds

for their existence, are evidence of the institutionalization of a formal structure for social and civil dialogue – thereby creating at EU level ‘an engineered civil society’ (Kohler-Koch 2007: 255, cited in Cram 2011: 160). The EU of course engages with other actors also – as mentioned with social dialogue formally recognized, employers’ and workers’ representatives have a formal part in the policy process. Also among the other actors mobilized by the EU are academics who have benefited hugely from the EU’s need to legitimize itself (through, *inter alia*, research funding streams, the creation of networks and observatories and direct engagement with the Commission and other EU institutions for the purposes of policy debate, design and reform). The set of questions raised by all of this is about diversity as a feature of the EU policy making ‘community’, the role of hierarchy and the mobilization of ‘non-traditional’ policy actors.

Thirdly there are the new methods. “It is striking how heavily the EU has invested in the social power of more subtle forms of administrative and ideological co-optation to produce cultural legitimacy for its innovative forms of governance, rather than relying on extractive or coercive practices as other governance entities have” (McNamara 2010: 139). It could in fact be argued that it is in its methods rather than its content that EU social policy has the strongest identity (and greatest distinctiveness *vis-à-vis* national welfare states). The method has huge significance – for in many ways the method is the license for EU engagement in much of the field of social policy and the new methods had to be invented for that purpose. Essentially this points research and scholarship in the direction of researching the means of social policy making rather than the more typical focus on the ends.

Although these examples are suggestive, they could be multiplied to illustrate the many insights that flow from treating EU social policy as both *sui generis* and a vantage point to study a dynamic, contested and diverse social policy process continually in the making.

## **Conclusion**

A number of conclusions about EU social policy follow. First, there is no singular vision or set of functions to be found in EU social policy. Secondly, the kind of regime that is embodied in EU social policy is complex and a compromise in fundamental respects because it is forged between the twin masters of European integration on the one hand and national sovereignty and diversity on the other. A third point follows from this which is that the meaningfulness of EU social policy is not to be judged in terms of whether it has succeeded in developing a European social policy portfolio or insinuating its vision of state and economy into member states' models (both of which derive from conceptions based on the national welfare state) but rather that we should give attention to it as a model of social policy which has its own form and dynamic. I suggest that the study of the EU, along with offering us a different type of social policy, offers a particularly good vantage point from which to view the emerging models and compromises at national level also.

The particularity of EU social policy should be grasped as an opportunity for scholarship. In the first instance, it means that scholars cannot rely on the standard conceptions and accounts of social policy which, for a long time at national level, focused on the development, mechanics and political settlements embodied in social insurance and social solidarity in the context of the nation state. Secondly, it forces those who study it to reach for a wide angle lens. In particular, the absence of an obvious micro level of application turns attention on a set of larger questions just as the specificity of the EU approach once grasped casts a



searchlight back on the fundamentals of the national models. Thirdly, one of the lessons that might be generalized from EU social policy is the need to adopt a perspective that is inclusive of the entire framework governing policy. One actually cannot study individual domains of EU policy alone because: a) they have little meaning if treated in isolation, and b) it is not clear that any one area on its own properly represents EU social policy given that the whole project is conceived in terms of linkages (even if loose) across areas.

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