Feminist Tensions in Equality Policies: An Analysis of Gender Mainstreaming in the European Union.

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For my parents, Susana and Antonio,
you live with me, through me, in me

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This thesis is the product of love. Everything I do, I do fueled by love. This love is deep; it can travel through continents, time zones and oceans at times. It is there in everything I do and lights the fire from within.

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Abstract

This dissertation provides an account of how feminist tensions are presented in policy by studying the case of Gender Mainstreaming in the European Union. First, we present Gender Mainstreaming and other strategies that tackle gender inequality. We explain how gender governance is organized in the institutional map of the European Union and how gender is constructed and perceived in policy. We use problematizations and the "What's the Problem Represented to Be" approach to study the meanings embedded in those policy documents. We recognize two feminist theories in tension: poststructuralism and liberalism. We then explore the case of education in the European Union, to further show how those tensions are represented in almost every issue. We conclude that Gender Mainstreaming was intended to bring fresh air into policy, based on a poststructuralist approach to gender, but got entangled within liberal feminism and neoliberal policies that mitigate its transformative effects. This is what we describe as the Firework Effect. From these considerations, we argue that it is necessary to rethink policies by bringing those feminist debates to light.

Resumen

Esta tesis brinda una descripción de cómo se presentan las tensiones feministas en las políticas públicas al estudiar el caso de la incorporación de la perspectiva de género en la Unión Europea. Primero, presentamos la integración de la perspectiva de género y otras estrategias que abordan la desigualdad de género. Explicamos cómo se organiza la gobernanza de género en el mapa institucional de la Unión Europea y cómo se construye y se percibe el género en la creación de políticas públicas. Utilizamos el enfoque "¿Cuál es el problema que se representa?" para estudiar los significados incluidos en esos documentos y reconocemos dos teorías feministas en tensión: el posestructuralismo y el liberalismo. Exploramos el caso de la educación en la Unión Europea para mostrar cómo se representan estas tensiones. Llegamos a la conclusión de que la incorporación de la perspectiva de género tenía la intención de dar aire fresco a la política, basada en un enfoque posestructuralista del género, pero se enredó dentro del feminismo liberal y las políticas neoliberales que mitigan sus efectos transformadores. Esto es lo que describimos como el Efecto de fuegos artificiales. A partir de estas consideraciones, argumentamos que es necesario repensar las políticas a la luz de los debates feministas.

Preface

On the Aims of the Thesis

Feminism as a political movement and feminist theory are aimed at challenging and changing unequal gendered power relations (Ferree, 2006). Feminism is targeting social change. Feminist theory is one of the fuels behind the fire that lights feminism around the globe. Women were first given full political rights and thought of as citizens in western societies last century. To think that our grandmothers were not able to vote is a sobering fact for women in this day and age. The progress made has been massive, but so have the sacrifices made and the tensions that arose upon the way.

Today, the challenges of feminism are multiple: violence against women, the pay gap, the feminization of poverty around the world, education, domestic labor, motherhood, the glass ceiling, and many others. The voices on how to improve the condition of women around the world are as many as people in it. Feminism, however, is a movement that encompasses more than women's equality. It is aimed at challenging structures that create binary notions of masculinity and femininity and (re)produces intersectional inequalities. How to change the social order is *the* question, but there are multiple answers to it. In

this thesis, we will analyze the tensions between two understandings of gender equality: poststructural feminism and liberal feminism.

In this context, this thesis has a dual-objective. First, to examine one of the incumbent institutional strategies for equality, Gender Mainstreaming. We will analyze the context for its application in the European Union. Second, we will explore the underlying philosophical tensions that are embodied in the strategy. This will show a tension within the strategy of mainstreaming that could be dangerous when considering that there is a contradiction between what the strategy promises and what it delivers. We call this the "Firework Effect": the show of lights that creates a false sense of security but then becomes lost in the air.

Two brief explanatory points on the putting together of this thesis. First, allow us to explain the reason why we choose to focus on a strategy in the European Union: we believe that the European Union presents the most fertile ground for change in issues of equality. Since we live in a globalized world, policies and strategies are often transferred from some regions to other regions. We argue that if Gender Mainstreaming fails to live up to its promise in one of the most amicable contexts in the globe, transference to least amicable spaces would result in even greater disappointments. Second, we recognize that our approach to feminist theory is mainly based on

western feminists. Although influenced by Latin-American feminism, the authors' base for this thesis belongs to the tradition of western philosophy.

On the Strategy of the Text

We use the analysis of Gender Mainstreaming to find representations of the "problem" of gender equality. By following the "What's the Problem Represented to Be?" (WPR) approach, we introduce the concept of problem representations to analyze how the problem of inequality is introduced in the mainstreaming strategy and its implications. We examine definitions, assumptions, policy proposals and representations. We see different discourses in the analysis of those texts, from human-rights discourses to efficiency market-oriented discourses that influence the notions of equality and how to achieve it. Behind those discourses we recognize two contrasting notions of feminism that are in tension: feminist poststructuralism and liberal feminism.

Besides this preface, this thesis consists of six chapters and a set of conclusions. The chapters present the main arguments for the discussion. Chapter One presents the strategy of both in the European Union and around the world. It presents the evolution of European Union strategies in gender equality. We analyze the three most

important strategies for equality: equal treatment, positive actions, and Gender Mainstreaming.

Chapter Two delves into the issues of gender governance and how gender equality in the European Union is schemed. We present the challenges of defining a gender perspective and we introduce the notion of problematizations, as defined by Michel Foucault, and incorporated into the What's the Problem Represented to Be? approach by Carol Bacchi. The WPR approach becomes extremely useful in identifying the underlying representations present in policy. We analyze the concepts of gender and equality in European Union documents to explore the problematizations around those terms.

Chapter Three is aimed at exploring the resistances within the implementation of Gender Mainstreaming. The problems of discursive openness, intersectionality, and impact are introduced, as well as the feminist political analysis criticism.

Chapter Four presents the first approach of the analysis of gender performativity. There is an analysis on the evolution of women's to gender studies and its correlation in policy. The theories of poststructuralism in general and Judith Butler's work on gender performativity are the core of the chapter.

Chapter Five presents the theory of liberal feminism to the light of Martha Nussbaum's Capabilities Approach and her trace of feminist liberalism. We explain the capabilities approach and its fruitful expansion in development theory. We explore the incorporation of the concepts of empowerment into gender equality policy, its problematizations, and the connection to an efficiency-based discourse of equality. We study the over proliferation of benchmarking and the logics of numbers-approach equality.

Finally, Chapter Six deals with issues of education. We see how these tensions are crystalized in the development of educational policies in the European Union. We focus on education because of its close interrelation with gender equality. Many European Union documents establish the importance of education for a long-term equality. Based on that presumption, we analyze what is being done in terms of education in the European Union context.

CONTENTS

CHAPTER 1:

GENDER MAINSTREAMING AND THE EVOLUTION OF EUROPEAN UNION STRATEGIES IN GENDER EQUALITY: FROM EQUAL TREATMENT TO MAINSTREAMING.

Section I:

Gender Mainstreaming in context: What are we mainstreaming?

The idea behind Gender Mainstreaming (GM) is to take "gender" into account in all stages of policy planning, decision-making, and implementation in all departments. This is what "mainstreaming" is thought to be: to make available to the whole general institutional structures a "gender perspective". Developed in non-governmental organizations between the 1970s and 1980s (Walby, 2005: 332), Gender Mainstreaming provided new and diverse approach to gender inequality. Feminist activists at first sight became optimistic with this new revolutionary idea and the speedy embracing of the strategy (Woodward, 2003). It became very appealing to gender equality activists and organizations because of the novelty it entailed: including a gender perspective into every policy-making area (Rees, 1998; Squires, 2005; Walby, 2005).

However popular, there is no definite description of Gender Mainstreaming that can be deemed definitive (Mackay and Bilton, 2003). This lack of common understanding and wide variety of actions taken by international organizations and states generates uncertainty when applying (or trying to apply) the strategy. Added to this, the fact

that there is no consensus on what is the "gender" or gender analysis that is being tried to mainstream, poses another source of uncertainty. Lastly, how the act of "mainstreaming" should be implemented, when it is considered to be properly mainstreamed, and how to measure the different strategies, actions, and plans also became problematic in time.

Gender Mainstreaming was first introduced in the public policy arena in 1995 at the Fourth World Conference on Women as a general recommendation of the United Nations. The 1995 UN Platform for Action indicated:

"Governments and other actors should promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes, so that, before decisions are taken, an analysis is made of the effects on women and men respectively" (United Nations, Beijing Declaration and Platform for Action, 1995).

Since then, official commitments have been made by many international organizations, including the European Union. In 1994, the Steering Committee on Equality between Women and Men was created as the intergovernmental body responsible for "defending, stimulating and conducting the Council of Europe's action to promote equality between women and men". In 1998, this Committee published what it is still regarded nowadays as the conceptual framework for Gender Mainstreaming and its methodology of implementation in the European Union:

"Gender Mainstreaming is the (re)organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy-making." ("Gender Mainstreaming: Conceptual Framework, methodology and presentation of good practice", Council of Europe, 1998).

The European Commission also adopted this definition on the same year, and in the document "One Hundred Words for Equality: a glossary of terms for equality between women and men" articulates Gender Mainstreaming as the

"(…) systematic integration of the respective situations, priorities and needs of women and men in all policies and with a view to promoting equality between women and men and mobilizing all general policies and measures specifically for the purpose of achieving equality by actively and openly taking into account, at the planning stage, their effects on the respective situations of women and men in implementation, monitoring and evaluation" (Commission communication, COM(96) 67 final, 21.2.1996).

The collective thread in these definitions is that gender equality plays an important part in all areas of policy making (Verloo, 2001). This is a relevant shift into the narrative: the state has a responsibility to act, to evaluate its own policies, and to diagnose the problem[1] of gender inequality as such. The underlying rationale of gender as a social construction became extremely attractive to activists and feminist

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[1] More on the state definition of 'problem' in Chapter 2.

[2] See Beveridge and Nott, 2002.

[3] Gender Mainstreaming as a strategy has been incorporated as such in countries all over the world through the United Nations Development Programme (UNDP). See "Evaluation of Gender Mainstreaming in UNDP" (United Nations Development

academics[2] that welcomed Gender Mainstreaming as a breath of fresh air when it was first conceived. In the 90s, the eager adoption of Gender Mainstreaming in more than 100 states and in several international organizations was perceived as a success after extensive lobbying from gender equality activists (Keck and Sikkink, 1999; True and Mintrom, 2001).

In their study, Jacqui True and Michael Mintrom's describe Gender Mainstreaming as a "more radical strategy for achieving gender equality that involves traditional state efforts to address gender imbalanced by developing specific policies for women (…) the ongoing process by which public policies that are known to have a large impact on society, from macroeconomic to housing policy, are devised by taking into account the specific interests and values of both men and women" (True and Mintrom, 2001: 33).

True and Mintrom explain the rapid diffusion of Gender Mainstreaming in 150 states from 1975 to 1998 as facilitated by transnational networks. They emphasize the part played by transnational feminisms, in both expertise and pressure to the international arena, not only at the UN, but also at the EU, the World Bank and other organizations (Hafner-Burton and Pollack, 2000; Zalewski, 2010). True and Mintrom's study is useful to signal out that there was a change in commotion, that activists, organizations and feminists were eager to incorporate new understandings on how to create gender. Nonetheless, the results today, almost 30 years after the

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[2] See Beveridge and Nott, 2002.

first incorporation of Gender Mainstreaming in the agenda, are not as hopeful as they once were.

Gender Mainstreaming has been introduced around the world, from the United Nations to Latin America, Africa and Asia, as a gender equality policy aimed at introducing a gender perspective in all areas of policy making.[3] If it does not prove to be a successful strategy in a rather fertile environment such as the European Union, it could translate to disappointing implementations around the world. Although policy failures tend to be specific to the environment and context in which they are applied, it is important to analyze the causes of why Gender Mainstreaming has been weathered down, especially if the problems arise from policy-making processes and an overall context of social and historical inequalities.

Section II:

When did Gender Mainstreaming enter the international arena?

The concept of Gender Mainstreaming entered the international public policy arena in September 1995 at the Fourth World Conference on Women (Beijing, 1995). However, the idea of mainstreaming gender in public policies originated in the Third World Conference on Women (Nairobi, 1985), which focused on the limited role of policy integration of gender equality in development policies.

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[3] Gender Mainstreaming as a strategy has been incorporated as such in countries all over the world through the United Nations Development Programme (UNDP). See "Evaluation of Gender Mainstreaming in UNDP" (United Nations Development Programme, 2006), and "Evaluation of UNDP Contribution to Gender Equality and Women's empowerment" (United Nations Development Programme, 2015).

In 1975 the United Nations started the UN World Conferences on Women. These four conferences, City of Mexico 1975, Copenhagen 1980, Nairobi 1985 and Beijing 1995, were critical efforts to improve the political, economic, and social status of women done by women's advocates worldwide which resonated in the UN (True and Mintrom, 2001: 41).

The belief that the benefits of overall development policies will eventually reach women proved problematic. In this context, development initiatives started to visualize the incorporation of a gender perspective. Although the concept of Gender Mainstreaming still would not be devised, many major features were based on the Beijing conference, especially the inclusion of specific policies to promote the empowerment of women.

The issues raised in the Nairobi Conference were discussed in greater depth at the Fourth World Conference on Women (Beijing, 1995). At that meeting, a platform for action was concluded with a series of horizontal policies including the development of methods of incorporating gender politics into national strategies. The document includes a description of what Gender Mainstreaming would eventually become: "Governments and other actors should promote an active and visible policy of mainstreaming a gender perspective into all policies and programmes, so that, before decisions are taken, an analysis is made of the effects for women and men, respectively" (United Nations, 1996). In Beijing, delegates from 189 countries signed a platform for global action for the integration of gender perspective as the head of global strategies for promoting equality.

At the 23rd United Nations General Extraordinary Assembly (New York, 2000), the points discussed in Beijing 1995 came to the debate to launch a set of new strategies. The conference focused on the criticism from non-governmental organizations, the United Nations Organization itself and the European Union on the inaction of the actors involved. The result of the conference was far less promising than Beijing: the signed resolutions for the implementation of women's rights and equality were very similar to those previously signed in 1995. In other words, the results obtained in the five years after Beijing were not as expected.

In 2005, the 40th session of the UN Commission on the Status of Women was held, with the primary objective of reviewing the implementation of the platforms for action in both Beijing 1995 and New York 2000 ("Beijing +5"). The results were, again, not very encouraging, and action strategies were re-evaluated.

The 50th Commission on the Status of Women of the United Nations (CSW) was held in New York from February 27 to March 10, 2006, and, among other things, the order of equal participation of women and men was included in decision-making processes at all levels. In the final document on the subject of "equal participation of women and men in the process of decision making", the European Union also established a German initiative: the need to implement educational plans with gender perspectives and the need to take into account the role of men and boys in promoting gender equality. This document

provides a qualitative leap in the incorporation of the necessity to widen the gender perspective to men and boys.

In September 2015, world leaders drafted by consensus a new document called "Transforming our World: the 2030 Agenda for Sustainable Development" which included a compromise towards Gender Mainstreaming: "the systematic mainstreaming of a gender perspective in the implementation of the Agenda is crucial". However, there is no indication of a concrete plan or awareness development programme.

Despite not having the results expected, the UN continues to focus on Gender Mainstreaming strategy with the creation of UN Women in mid-2010, an entity for "Gender Equality and Empowerment of Women". As an intergovernmental organization, the United Nations has received criticism for its lack of enforcement. In that way, the failed objectives of Gender Mainstreaming may be part of a bigger problem in connection with international organizations. Still, the fact remains that most members do not produce the data they compromised to collect and UN resources devoted to gathering data are scarce. Gender Mainstreaming looks very good on paper, but when translated into action, falls short of its main objectives.

Section III:

A European Journey: Gender Mainstreaming in the European Union

Historically, the EU has been a fertile ground for feminist struggles

(Shaw, 2000; Fraser, 2007; Woodward, 2012). The EU commitment to gender equality has been growing since its creation up to the significant commitment to establish gender equality as one of the objectives of the Union in the Treaty of Amsterdam and the Treaty of Lisbon.

The first landmark commitment from the European Union to gender equality –in a long list– is the Treaty of Rome of 1957, in which the basis for equal pay for equal work were established in Article 119. Following this path, the European Court of Justice, in its 1976 landmark case "Defrenne v Sabena II"[4], recognized the direct effect of the principle of equal pay and it extended the application to collective paid labor agreements.

In the beginning of the 1990s, gender equality was starting to become one of the key issues of the social project of the European Union. In 1994 the European Council of Ministers at the Essen Summit singled out equal opportunities as a priority. It was in 1995 that the group of EC Commissioners on Equal Opportunities and the Intra-Service Group on Equal Opportunities were established. In that same year the Council dictated the resolution on Equal Opportunities on Development Cooperation.

Meanwhile, the concept of Gender Mainstreaming appeared in the policies of the European Union for the first time in 1991 as a small

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[4] See Judgment of the Court of 8 April 1976. Gabrielle Defrenne v Société anonyme belge de navigation aérienne Sabena. Reference for a preliminary ruling: Cour du travail de Bruxelles - Belgium. The principle that men and women should receive equal pay for equal work. Case 43-75. (European Court of Justice, 1976).

and innovative element within the Third Action Programme for Equal Opportunities (1991-1996) after the recognition that existing policies (equal treatment and affirmative action) were "failing to have any impact on the majority of women's lives and lacked coherence" (Booth and Bennett, 2002: 439). A more comprehensive and influential approach to the problem of inequality was needed, and Gender Mainstreaming seemed to be a possible solution. However, during the execution of the Programme, Gender Mainstreaming went unnoticed. Despite the adoption of a new strategy for the implementation of the Third Action Programme for Equal Opportunities and previous statements on equal opportunities in the European Council in Essen in 1994, no institutional changes were made to the effective inclusion of a gender perspective. This story tells the tale of rhetoric without action that would later become the usual currency in the adoption of gender equality measures.

It was only after the 1995 Beijing Conference that the European Union made a true commitment to the principle of Gender Mainstreaming. The UN Platform for Action distinctively defined the term 'Gender Mainstreaming' and brought to the international sphere a commitment of governments and United Nations institutions to encompass a gender perspective in all policy-making areas (Booth and Bennett, 2002; Pollack and Hafner-Burton, 2000; Stratigaki, 2005). The EU delegation in the Beijing Conference was essential in discussing and defending the principle of mainstreaming. They brought back an invigorating approach, legitimized by the international sphere, determined to incorporate Gender Mainstreaming in public policy in the EU.

Another important element to consider for the official adoption of Gender Mainstreaming as a strategy in 1995 is the incorporation of Sweden, Austria and Finland to the European Union. Concerning equality measures, these three countries provided a greater experience and, in turn, the European Commission for the first time since its creation incorporated five women. That Commission issued, in Communication 96/67, the first definition of the Gender Mainstreaming strategy: "mobilizing all general policies and measures specifically for the purpose of achieving equality by actively and openly taking into account at the planning stage their possible effects on the respective situations of men and women (gender perspective)" ("Incorporating Equal Opportunities for Women and Men into all Community Policies and Activities". COM (96) 67. Brussels, 21 of February 1996: Page 2). The Commission devised the strategy to achieve lasting changes in family structures, institutional practices, organization of work and leisure time, personal development, and independence of women. The 1996 Communication from the Commission Incorporating Equal Opportunities for Women and Men into All Community Policies and Activities is a foundational document that presents the new ideals of the EU: "Equality between men and women is now indisputably recognized as a basic principle of democracy and respect for humankind" (European Commission, 1996). Wording choices are not casual: equality is indisputable a basic principle of both democracy and humankind and the challenge is to "transform it into legislation and practical reality". The document makes reference to the need to achieve a new partnership between men and women through Gender Mainstreaming and incorporates a

broader definition of the strategy: not to restrict it to specific measures but to mobilize all community policies towards the ultimate objective. Furthermore, this communication introduces new language:

"The promotion of equality must not be confused with the simple objective of balancing the statistics: it is a question of promoting long-lasting changes in parental roles, family structures, institutional practices, the organization of work and time, etc. and does not merely concern women, their personal development and independence, but also concerns men and the whole of society, in which it can encourage progress and be a token of democracy and pluralism." (European Commission, 1996)

The focus on the organization of society and work and the will to mobilize legal instruments, financial resources and the analytical and organizational capacities of the European Union are two of the shifts that are recognizable in this document.

In this context, the Commission established a "group of Commissioners on equal opportunities" and in 1995 proposed the Fourth Action Programme for Equal Opportunities for Men and Women (1996-2000)[5]. Gender Mainstreaming became the central theme of the programme, promoted by the Beijing Platform for Action 1995 (Pollack and Hafner-Burton, 2000). The primary objective was to promote the integration of equal opportunities in the preparation, implementation and monitoring of policies and activities of the Union and Member States. It was the first time that the description of Gender Mainstreaming incorporated the idea of

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[5] More on the specific gender equality instruments of the European Union in Chapter 2.

crosscutting and extended to the national, regional and local levels in an official action programme of the EU in three general themes (Hoskyns, 2000: 46). The first of those themes was the "organizing principle", aimed at expanding gender issues beyond the areas in which it was already being discussed, mainly the then Directorate-General of Employment and the Directorate-General of Social Affairs, to all community policies. Secondly, "subsidiarity" as a theme, which was another important addition: how to make the Member States and the EU institutions work together to make gender equality policies. It was proposed for the first time to develop methods to integrate a gender perspective not only at a European level but also in the Member States. The third theme is among the most innovative features that were introduced in the Action Programme: the reconciliation of family and professional life of women and men and mobilizing all people responsible for the economic and social life for equal opportunities. Incorporating not only the public but also the private life was a significant shift in EU policies.

Implementation started in early 1997 with the appointment of Gender Mainstreaming officers in twenty-nine different departments to develop policies that would account for a gender perspective. In this context, the European Commission "Gender Impact Guide" was published in that same year to establish base lines for the implementation of the new strategy. It initially focused on two areas in particular: employment and social security. The European Parliament also echoed and formally adopted Gender Mainstreaming as a strategy in Resolution A4-0251/97, plus other special measures to promote gender equality. In that document, equal opportunities were

recognized as "transversal priority of EU policies" (European Parliament, Resolution A4-0251/97, 18 July 1997) and, in turn, included a request to the Commission to establish coordination structures for the implementation of the principle of mainstreaming and the incorporation of the discussion on gender equality in budgetary terms and data analysis.

This novel approach for equal opportunities was reflected and strengthened by the terms of the Amsterdam Treaty of 1997, which included several new provisions that strengthened the powers of the EU in the field of equal opportunities. The Amsterdam Treaty came into force in May 1999 and established equal opportunities between women and men as one of the objectives to be achieved in the policies and programs of the Union. Article 2 established that equality between men and women is a primary objective of the community, while Article 3 stated, "the community must seek to eliminate inequalities and promote equality between men and women". In turn, Article 141.4 (which replaced Article 119 of the Treaty of Rome) allowed the use of specific benefits to the disadvantaged sex (partially in response to the judgments of the European Court of Justice declaring the inapplicability of those rules –Kalanke and Marschall).[6] The new articles incorporated the wording "throughout all Community areas", reinforcing the commitment to Gender Mainstreaming as a strategy (Booth and Bennett, 2002) and broadening the commitment to a more inclusive vision of equality. Although Treaty provisions are not directly applicable, i.e., do not create legally enforceable rights, they

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[6] More on these judgements in Section III.

represent a strong political commitment.

At the same time, the European Council had also been working on its own gender equality programmes. In December of 2000, the Fifth Community Action Programme for Equal Opportunities (2001-2006) was presented. Surprisingly, there was no mention of mainstreaming and, although its objectives do mention the coordination, support and financing of different transnational projects as part of the implementation of a community's global framework strategy on gender equality, these had already been adopted by the Commission in June 2000.

The Roadmap for Equality between Women and Men 2006-2010 was the European Commission document that elaborated the strategy for that period. It was conceived on a dual-track approach, incorporating elements of Gender Mainstreaming and other specific measures. The Roadmap set up the six priority areas for the EU action on gender equality: Economic independence for women and men (employment, social security, etc.); Reconciliation of private and professional life; Equal representation in decision-making; Eradication of all forms of gender-based violence and trafficking; Elimination of gender stereotypes; and Promotion of gender equality in external and development policies –i.e. beyond the frontiers of the EU (COM (2006) 92 final: 2). This document functions as a framework, identifying the priorities and actions to be followed in each one of the six areas and it also provides tools for monitoring the incorporation of

Gender Mainstreaming. [7] A yearly follow-up presented by DG Employment, social Affairs and Equal Opportunities was also established, in which there should be specifications on the work done for each priority area during the previous year. The Roadmap was the first of a series of documents prepared by the Commission and was followed by the Strategy for Equality between Women and Men 2010-2015, and the Strategic Engagement for Gender Equality 2016-2019. All of those documents are still deeply rooted in the idea of Gender Mainstreaming as a strategy for gender equality and a division into areas of action.

When talking about legal protection, it is important to mention the Charter of Fundamental Rights of the European Union of 2000. Drafted by the European Convention, composed of members of the European Parliament, members of the national parliaments of the European Union, representatives from Member States governments and representatives from the European Commission, the convention was called to consolidate rights for EU citizens and enshrine them at EU level. The European Parliament, the council of Ministers and the European Commission proclaimed the Charter on December 2000. In Article II-23 the Charter states: "Equality between men and women must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favor of the under-represented sex" (Charter of Fundamental Rights, 2000). This article was not only establishing gender equality as one of the pillars of

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[7] More on this in Rossilli, 2000.

fundamental rights in the European Union, but also setting the basis for affirmative action measures.[8]

The legal status of the Charter was uncertain until the entry into force of the Treaty of Lisbon on the 1st of December 2009.[9] Concerning gender equality, the Treaty amended previous references, as Article 1.A declares:

"The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail." (European Union 2007: 11)

And in Article 2, Paragraph 3 the Treaty of Lisbon specifies:

"The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the

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[8] More on this in Section V of this Chapter, and in Hodapp, Trelogan, and Mazurana, 2002.

[9] Following the Treaty of Lisbon, the Charter has the same legal value of any of the European Treaties. The Treaty of Lisbon (Treaty on European Union and the Treaty establishing the European Community) is an international agreement that sets the constitutional basis for the European Union. Signed on December 2007, it entered into force on December 2009, and amended the two previous treaties, the Maastricht Treaty (Treaty on European Union) and the Treaty of Rome (Treaty on the Functioning of the European Union). Among the most prominent changes, a bicameral legislature was incorporated in the European Parliament, and the Charter of Fundamental Rights became legally binding.

environment. It shall promote scientific and technological advance.

It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child. It shall promote economic, social and territorial cohesion, and solidarity among Member States.

It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced."(European Union 2007: 11)

Article 1 and Article 2 set up the basis of equality as an objective and a goal. Aside from gender equality in the labor market, the Treaty of Lisbon incorporates an extended perspective on gender relations, future generations, racial, and social issues. Nonetheless, the articles are very general and encompass different issues all together. Aiming at incorporating the "European Social Model", EU documents try to achieve a higher profile for social policy in general (Lewis, 2006: 420), which seem too general and broad to successfully comprehend. Added to this, implementation of Gender Mainstreaming produced uneven results, as shown by extensive research on problems in impact, in budget allocation, in accountability, in institutionalization and in discursive openness, among others[10] (Rees, 1998; Braithwaite, 2000; Shaw, 2002; Mazey, 2002; Verloo, 2001; Stratigaki, 2005).

To further understand Gender Mainstreaming, it is relevant to analyze

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[10] We will analyze these problems in more detail in Chapter 3: Resistances in the implementation of Gender Mainstreaming: The Firework Effect.

in depth two of the previous (and complementary) strategies for gender equality: equal treatment and positive action. This will allow us to see and analyze the process of the construction of gender equality policies in the European Union.

Section IV:

The Evolution of Gender Equality Approaches in the European Union

Gender equality policies have been materialized into three different approaches: equal treatment, positive or affirmative action, and, finally, Gender Mainstreaming (Rees, 2002). It can be argued that each one of them builds on the foundations and shortcomings of the other and that there is an evolutionary logic behind their implementation. There has been surrounding controversy on whether they should be understood to be complementary or competing and if the implementation of one over the others was a replacement.[11] In fact, one of the major dilemmas in the implementation of Gender Mainstreaming was whether it was exclusive to the other equality strategies, i.e., equal treatment in legislation and affirmative action.

Gender policy on the European Union ever since 1957 has been centered in the labor market in particular. When Article 119 of the Treaty of Rome on equal pay for men and women was sanctioned in 1957, equal treatment was established as the foundation of the European Union's pledge to gender equality (Hantrais, 2000). Moreover, this article has also been described as the foundation for

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[11] In fact, there is literature that highlights that Gender Mainstreaming has been used to set aside other equality strategies. See Stratigaki, 2005.

the commitments of the European Union to social policy in general (Lewis, 2006). Although it was not until the 1970s when a series of directives gave shape to the strategy (Rees, 1998: 38), it was still a significant step for gender equality. [12] The rationale behind the incorporation of Article 119 was to safeguard equal opportunities in the labor market between women and men in order to establish fair competition among Member States (Hoskyns, 1996).

Legal Basis for the Principle of Equal Treatment in the European Union

The legal basis for equal treatment can be traced to Article 141 of the Treaty establishing the European Community (the consolidated version of 2002 of the Treaty of Rome):

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

2. For the purpose of this article, "pay" means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

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[12]The most important EU documents that will be explained are: Council Directive 75/117/EEC, OJ L 45, 19.02.1975; Council Directive 76/207/EEC, OJ L 39, 14.02.1976 amended by the recent Directive 2002/73/EC, OJ L269/15, 05.10.2002; Council Directive 79/7/EEC, OJ L 6, 10.01.1979; Council Directive 86/613/EEC, OJ L 359, 19.12.1986; Council Directive 86/378/EEC, OJ L 225, 12.08.1986 amended by Council Directive 96/97/EC, OJ L 46, 17.02.1997; Council Directive 92/85/EEC, OJ L 348, 28.11.1992; Council Directive 96/34/EC, OJ L 145, 19.06.1996; Council Directive 97/80/EEC, OJ L 14, 20.01.1998; Council Directive 97/81/EC, OJ L 14, 20.01.1998.

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

3. The Council, acting in accordance with the procedure referred to in Article 251, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers. (Article 141)

Article 141 EC is the laying stone of the principle of equal treatment in the European Union. This article not only establishes the principle of equal pay for equal work or work of equal value, but also encourages the Council of Ministers to adopt further measures to properly ensure the application of these principles. In context, it is important to point out women's political activism (Reinalda, 1992) and also the pressure from certain Member States to the European Union to legislate on gender equality (van der Vleuten, 2007). The incorporation of legally binding measures in equal pay, equal treatment in employment, working conditions and social security was fundamental for the creation of a legal framework around the principle of equal treatment, especially in the workplace.

It is important to notice that the dynamics of the integration process

in the European Union also influence gender policies and its development. Following Fritz Scharpf (1999), the dynamics moving economic integration are two: market making and market correcting. In that sense, market-making dynamics are reflected in negative integration strategies that are mainly focused in the elimination of barriers that could possibly restrict the movement of goods, services and the factors of production. On the other hand, market-correcting dynamics involve positive integration measures aimed at establishing a common sovereignty through the creation of new institutions or the modification of existing ones.[13] Social policies in general have mostly succeeded as far as they fit regulatory policies of minimalist negative integration (Ostner, 2000: 32). This has been mostly the case with gender equality policies, especially equal treatment policies from 1970 to 1990. In fact, the incorporation of Article 119 in the Treaty of Rome responds to that logic since it aims at harmonizing pay systems between women and men that constitute a social cost for employers that generates a market failure and hampers with competition between Member States (Jacquot, 2015). In that sense, equal treatment and market making are linked based on the free action of individual subjects. Market-correcting measures, such as equal treatment, have some limitations in their conception.

In the 1970s, Article 119 was fully implemented and reinforced by different directives. Among those directives it is important to mention

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[13] More on this in Scharpf, 1999.

the Equal Pay Directive 75/117,[14] which defined the terms *pay* and *equal work*. Equal work was defined more extensively and allowed for incorporating comparisons and classifications systems for wage determination.

In 1976, Directive 76/207/EEC,[15] then replaced by Directive 2006/54/EC,[16] stretched the principle of equal treatment for women and men to access to employment, vocational training, working conditions and social security. Moreover, it included a prohibition of direct or indirect discrimination on grounds of sex by reference to marital or family status, broadening the protection, and it outlawed legal and administrative practices that could contradict equal treatment even in collective agreements or individual employment contracts. Section 4 of Article 2 incorporated, for the first time, the basis of what would become positive action, as it reads: "This Directive shall be without prejudice to measures to promote equal opportunity for men and women, in particular by removing existing inequalities which affect women's opportunities in the areas referred to in Article 1 (1)" (Section 4, Article 2, Directive 76/207). This allowed Member States to incorporate their own measures to fight inequalities and presents a more systemic understanding of inequality, although only related to employment and the work force (Ostner, 2000: 39). There was initial

[14] Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women.

[15] Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

[16] Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

conflict between supporters and opponents of gender equality to formally include positive action in Directive 76/207. In the end, the wording did not indicate a commitment to positive action but instead it was included years later in Council Recommendation 84/635/EEC, as soft law (Stratigaki, 2005: 170).

On that same trend, Directive 79/7 on Equal Treatment in Matters of Social Security, [17] Directive 86/378 on Equal Treatment in Occupational Security Schemes, [18] and Directive 86/313 on Equal Treatment in Activities such as Agriculture and Self-employment, [19] as well as other Directives, were used to define the legal frame of equal treatment in various social schemes (Ostner, 2000: 29). All of these directives and Council Recommendations are considered the first serious approach to gender equality in the form of equal treatment in the workplace. It is important to mention that, as a result of their enactment, Member States had to adopt or amend existing legislation to fully ensure that it complied with these new European rules. [20]

During the 1970s, equal treatment was put into motion in the European Union as a means to correct a market fault in employment. Through the implementation of directives in several areas of

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[17] Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security.

[18] Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes. Repealed by Directive 2006/54/EC.

[19] Council Directive 86/313/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood.

[20] More on the difference of soft and hard law in the European Union in Chapter 2.

employment, gender equality was put into the agenda and further change was enabled. Those directives were so influential that even in the 1990s the ECJ was ruling based on them (Hoskyns, 2000: 51). In the 1980s, the Equal Opportunities Action Programmes were introduced to manage the implementation of the strategy. These action programmes were developed in the European Commission and presented to the Council of Ministers for approval, and their main aim is to provide the basis for legislative proposals, the funding of projects and the commissioning of studies and research.

The first Action Programme, "Action Programme for Equal Opportunities for Women 1982-1985" (APEO 1) was aimed at spreading the umbrella of protection of equal treatment from the workplace to childcare and family responsibilities of women and men. In point 14 it is established that the "first set of actions aim at strengthening the rights of the individual as a way of achieving equal treatment", so all of the measures were taken from a legal individualistic liberal perspective, in which it is illegitimate for women to receive a different treatment under the law. The Action Programme includes the need of implementing "positive action" in specific fields. This was a contested issue; positive action was demoted from a proposed directive to a recommendation because Member State governments were cautious when adopting binding legislation on women's rights (Hoskyns, 2000: 48). At the same time, the Advisory Committee on Equal Opportunities was created to involve representatives of equality agencies in the Member States. Those were the foundations of gender equality networking on the European Union that are still present today.

The "Second Action Programme for Equal Opportunities for Women 1986-1990" (APEO2) presented a multi-faceted policy: "action in the area of education and training", strengthening "networks for contacts and exchanges which represent a new form of social dialogue", and proposing "actions in favor of a more equal sharing of family responsibilities". Compared to APEO 1, there is a broader focus on the family and the societal representations of women as a whole. Both domestic and unpaid work are brought to the conversation and the networks were being expanded beyond women in the workplace and women as a workforce.

In this context, under the Spanish Presidency of the European Community, the Instituto de la Mujer (Women's Institute) and the Commission of the European Communities held a seminar on Assessment of the Community's Equal Opportunities Policy, in April 1989. The conclusions adopted at the end of the seminar gave optimistic reviews of the progress made in implementing the first two Action Programmes on Equal Treatment for Women. Bearing in mind the new deal of the Single Market and the demographic and technological changes that occurred, the objectives were the sharing of family and work responsibilities, affirmative action, training and information. It is worth mentioning that, at the same time, the notion of the "social dimension of the European Union" was presented by the Commission President Jacques Delors to balance the economic integration (Gold, 1993). The "Third Medium-Term Community Action Programme for Equal Treatment for Women and Men 1991-1995" (APEO 3) was presented in 1990 with some clear differences to

its predecessors: there is a section on improving the status of women in society. Its introduction states: "implementation of the law, however, cannot alone secure de facto equality of opportunity". This is a very significant change as compared to APEO 1. The notion of "equality partners" is also presented as a means to define the different actors that ought to be included in a discussion on equality. Moreover, there are two innovative elements: the involvement of women in politics and the incorporation of a "mainstreaming" strategy:

"In addition, the third Action Programme provides for the Integration of equality into general mainstream policy, which represents an Innovative feature of the programme. It means that equal opportunities should be integrated into the formulation and implementation of all relevant policies and action programmes at Community and at Member State level." (Page 3 of the Third Action Programme for the Integration of Equality into General Mainstream Policy)

APEO 3 shows the beginning of a change in the strategy of equality: there is less reliance on legislation and litigation as a means of achieving results and a reliance on "soft-law" (resolutions, recommendations and communications) (Hoskyns, 2000: 51). This change presented some doubts, especially if the scope was too broad given the limited budget that the Programme run on.[21] Those concerns were reproduced in the "Fourth Medium-Term Community Action Programme for Equal Opportunities for Women and Men 1996-

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[21] Other concerns involved the incorporation of "men" in the title of the Action Programme. Scandinavian states were the ones who tried to incorporate men to the title, as a means to demonstrate that men are also deeply involved in the search for equality. However, some controversy arose when others understood that the incorporation in the title meant that men had a right to equality.

2000" (APEO 4) that was discussed in the middle of negotiations of the ratifications of the Treaty of the European Union. In those times of turmoil, there were three identifiable themes in the programme. The first one was subsidiarity, which was one of the key issues to be discussed at European Level. It is established that the Member States have primacy and that the Commission has a supportive role ("community added value"). Second, mainstreaming is described as one of the key themes of the Programme. However, there is no mention of how it would be implemented or monitored. Third, there is a new approach to control and focus to coordinate structures. As it also happened with APEO 3, APEO 4 relies very little on the law as a strategy to enforce rights. There are no new measures except a commitment to try to upgrade to binding Directives previous soft law provisions on sexual harassment.

From the analysis of these four Action Programmes on Equal Treatment it can be noted that, within the strategy, the understanding of equal treatment even morphed briefly introducing positive action in APEO 2 and 3 and fully committing to Gender Mainstreaming in APEO 4. While the role of Community policy in APEO 1 and the Directives of the 1970s was to establish common standards and provide direction, in APEO 4, in the 1990s, the Commission is more a facilitator or a monitor rather than a generator (Hoskyns, 2000: 54).

Positive Action in the European Union: A Harder Sell

Contrary to the rapid legislative response to the equal treatment strategy, positive action was having a colder welcome. In fact, the

European Court of Justice (ECJ) played a very important role in limiting its application. In very contested cases, the ECJ analyzed positive action measures in the light of the Equal Treatment Directive 76/207. Those are Kalanke (C-450/93), Marschall (C-409/95), Abrahamsson (C-407/98), and Lommers (C-476/99).

The Court's first ruling concerning positive action measures was "Eckhard Kalanke v Freie Hansestadt Bremen" (17 October 1995), [22] in which it invalidated a positive action measure previously established by the City of Bremen. The Court found that the "Bremen Law on Equal treatment for men and women in the public service", which provided a preference for women over equally qualified men in public sector jobs, violated the Equal Treatment Directive (76/207).

The ECJ finds that rules that automatically give priority to women in sectors where they are underrepresented imply discrimination on grounds of sex. The argumentation of the Court relies on two intertwined concepts: That the Directive must be interpreted restrictively and that positive action in itself presents as a violation of equality of opportunity. The ruling describes positive action as a "derogation from an individual right laid down in the Directive" and because of that, "Article 2(4) must be interpreted strictly".[23] In the views of the Court, there is a problem with the "absolute" and "unconditional" priority for appointment since it "oversteps the limits

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[22] European Court of Justice. 1995. Judgment of the Court of 17 October 1995. **Eckhard Kalanke v Freie Hansestadt Bremen**. Reference for a preliminary ruling: Bundesarbeitsgericht - Germany. Equal treatment of men and women - Directive 76/207/EEC - Article 2 (4) - Promotion - Equally qualified candidates of different sexes - Priority given to women. Case C-450/93.
[23] Kalanke, Paragraph 21.

of the exception in Article 2(4) of the Directive".[24]

This over restrictive ruling goes as far as to expose that positive action "substitutes for equality of opportunity as envisaged in Article 2(4), the result which is only to be arrived at by providing such equality of opportunity".[25]

In the Kalanke decision, the ECJ clearly contradicts the spirit of both the European directive and the democratic law enacted by the people of the city of Bremen. By establishing a very difficult standard and prioritizing the protection of the individual rights of those who do not benefit from the legislation, the ECJ jeopardized all positive action measures taken all across Europe. Since at the time there was no positive action Directive, the strategy itself was at stake.

In the midst of profound debate within European institutions, the ECJ ruled "Hellmut Marschall v Land Nordheim-Westfalen" (11 November 1997).[26] In a very similar case to Kalanke, the ECJ incorporates the idea of prejudices and stereotypes[27] to respond to the critics to the Kalanke decision. Nevertheless, the ruling replicates the argumentation provided in Kalanke, highlighting the principle of strict

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[24] Kalanke, Paragraph 22.

[25] Kalanke, Paragraph 23.

[26] European Court of Justice. 1997. Judgment of the Court of 11 November 1997. **Hellmut Marschall v Land Nordrhein-Westfalen**. Reference for a preliminary ruling: Verwaltungsgericht Gelsenkirchen – Germany. Equal treatment of men and women - Equally qualified male and female candidates - Priority for female candidates - Saving clause. Case C-409/95.

[27] "It appears that even where male and female candidates are equally qualified, male candidates tend to be promoted in preference to female candidates particularly because of prejudices and stereotypes concerning the role and capacities of women in working life" (Marschall, Paragraph 29).

interpretation in connection with the measures, which "constitute a derogation from an individual right".[28] Nevertheless, in the Marschall case there is an extenuating fact: German law provided a savings clause.[29]

It is important to mention that these savings clauses are considered to be detrimental to the whole aim of positive action measures. The objective of positive action is to give precedence to women in underrepresented areas. If there is a way in which the decisions can be appealed, or at least undermined, the reason to be of the measures fall short. Again, this generated institutional tensions between the ECJ and the Commission.

The Kalanke and Marschall cases motivated multiple debates between European institutions and nongovernmental organizations. As a response, the Commission enacted a Communication on Positive Action [30] and a proposal for amending Directive 76/207/CEE. [31] Negotiations for the Treaty of Amsterdam were already underway, but the rulings ignited the incorporation of Article 141.4. In the new version of the Treaty, "specific advantages in order to make it easier

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[28] Marschall, Paragraph 32.

[29] In the description of the ECJ, the savings clause acts as a "guarantee that the candidatures will be the subject of an objective assessment which will take account of all criteria specific to the individual candidates and will override the priority accorded to female candidates where one or more of those criteria tilts the balance in favour of the male candidate." (Marschall, Paragraph 33).

[30] COM (96) 88 final. 1996. Communication from the Commission to the European Parliament and the Council on the interpretation of the judgments of the Court of Justice on 17 October 1995 in Case C-450/93, Kalanke v Freie Hansestadt Bremen. Brussels, 27 March 1996.

[31] Official Journal of the European Communities, C 179, 22 June 1996 - OJ C 179, 22.06.1996, p. 8. [Available at: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=OJ%3AC%3A1996%3A179%3ATOC. Last accessed: October 2018].

for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers" to ensure "full equality in practice between men and women in working life" are legally recognized. For the first time in European Union legislation, equality of outcome was incorporated for the cases of underrepresentation but also as a compensatory or preventive measure. Nonetheless, the term "positive action" was not included in the final redaction of the article. Moreover, there is no reference to the possible constitutional or judicial obstacles that positive action measures in general encounter within European legal systems, there is no clear preference in favor of women (Otero García-Castrillón, 2002), and there is a limitation on the basis of application to the "working life".

Some of these restrictions became relevant in the "Abrahamsson and Anderson v Fogelqvist" (2000) case.[32] The University of Goteborg had a vacancy for the chair of the Hydrospheric sciences department, specifying that affirmative action measures may be applied in the selection of candidates. Mr. Anderson, Mrs. Destoni, Mrs. Fogelqvist and Mrs. Abrahamson, in that order, were considered by the selection board for the post, considering their scientific background. Because of the Regulation 1995/936, which allowed preference even in cases in which the female applicants did not have the same qualifications as the male candidates, Mrs. Destoni was appointed. However, she decided

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[32] European Court of Justice. 2000. Judgment of the Court (Fifth Chamber) of 6 July 2000. **Katarina Abrahamsson and Leif Anderson v Elisabet Fogelqvist.** Reference for a preliminary ruling: Överklagandenämnden för Högskolan - Sweden. Concept of "national court or tribunal" - Equal treatment for men and women - Positive action in favour of women - Compatibility with Community law. Case C-407/98.

to withdraw her application. As a consequence, Mrs. Fogelqvist was appointed, in spite of some initial criticism from the board members. Mr. Anderson and Mrs. Abrahamsson appealed this decision.

The Abrahamson case tackles the biggest liberalist fear: positive actions in cases in which a candidate belonging to the unrepresented sex, with sufficient qualifications is appointed in preference to a candidate of the opposite sex with better qualifications.[33]

Swedish law carefully considered that, in an area of development in which women clearly do not have the same opportunities as men and are unrepresented, they need to be benefited. Statistically, women in science are scarcely represented. Studies show that median salaries of women scientists with doctoral degrees were 20% lower than men's (and they represent a very low proportion of general scientific doctoral degrees). Likewise, these studies showed that women did not held high-rank position jobs.

In a case in which both the University and the Swedish law agreed that the fact of low representation of women had to be dealt with, the ECJ states that the Swedish rule is precluded by Article 2(4) of Directive 76/207 and is in fact disproportionate to the aim pursued.

Again, the ECJ recognizes that the "aim of the criteria is to achieve

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[33] More on the "myth of merit" in Young, 2011. In this sense, Young has argued that the "ideology of merit" tries to depoliticize the establishment of criteria and standards for allotting positions and granting benefits. She proposes a democratic approach to deciding on the criteria for the filling of jobs and offices, as a condition of social justice.

substantive, rather than formal, equality by reducing de facto inequalities which may arise in society", but still holds that these measures are disproportionate to the aim pursued.

In Lommers v. Minister Van Landbouw (1999),[34] the Dutch Ministry of Agriculture and Fisheries created nurseries for female staff. Mr. Lommers tried to use those nurseries for his child but was rejected saying that nurseries would only be available for men in cases of emergencies. The ECJ held that the scheme was proportionate since it allowed women to have help while raising their children.

The Lommers case, in fact, emphasizes the institutional problems that gender equality strategies face: the ECJ clearly shows to be oblivious towards the issue of the role of women in society by perpetuating the idea of women as caregivers.

All in all, these four decisions demonstrate that there are diverse readings between European institutions in connection with gender equality in general and to positive action in particular.

Article 3 of Directive 2006/54/CE[35] incorporates the final definition

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[34] European Court of Justice. 2002. Judgment of the Court of 19 March 2002. **H. Lommers v Minister van Landbouw, Natuurbeheer en Visserij**. Reference for a preliminary ruling: Centrale Raad van Beroep - Netherlands. Social policy - Equal treatment of men and women - Derogations - Measures to promote equality of opportunity between men and women - Subsidised nursery places made available by a Ministry to its staff - Places reserved only for children of female officials, save in cases of emergency, to be determined by the employer. **Case C-476/99**.

[35] Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

on positive action as a gender equality strategy. Under the title "Positive action" it determines that "Member States may maintain or adopt measures within the meaning of Article 141(4) of the Treaty with a view to ensuring full equality in practice between men and women in working life." It is important to mention that the wording of the Directive does not incorporate a definition of what positive action is or how it should be applied, which, again, shows little commitment to the strategy.

In conclusion, positive action strategies lack a legally binding form as its own directive. They were casually included in the last Equal Opportunities Directive and, in turn, the Charter of Fundamental Rights incorporates certain reference to positive actions, but even in a vaguer formulation than the Treaty of Amsterdam.[36] Most of the energy in which Equal Treatment was founded in the 1970s was lost in the 1990s when positive action needed to be legally enforced. Besides, the EU began a trend towards the adoption of soft measures to address gender inequality (Lombardo and Meier, 2006: 152) that culminates with the incorporation of Gender Mainstreaming.

Equal Treatment, Positive Action and Gender Mainstreaming: Contesting or Complementary?

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[36] Treaty on the Functioning of the European Union - PART THREE: UNION POLICIES AND INTERNAL ACTIONS - TITLE X: SOCIAL POLICY - Article 157 (former Article 141 TEC) *Official Journal 115, 09/05/2008 P. 0117 - 0118* 4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

Along the evolution of equal treatment in the European Union it can be seen that there is a shift between the first Action Programme and the last. From the 70s directives, which set the basis of the equal treatment workplace-oriented strategy in the European Union, to the lack of commitment towards positive action, there is a marked decrease in the attention towards gender equality.

The strategies of equal treatment and positive action have had different legislative evolutions in the European Union. There are multiple reasons for this, starting with the evolution of the European Union and the initial trail-blaze of gender equality in the 70s. However, there is a crucial element to be taken into consideration when analyzing the reasons why the success of positive action has been limited and it is constantly on the fence.

Equal treatment and positive action rest on dissimilar premises. Behind equal treatment there is a gender-blind and race-blind approach to an individualistic policy that shapes contemporary discussions of positive action (Bacchi, 1996). At the heart of equal treatment there is the belief that women and men should be treated exactly the same (Rees, 2002). Based on the idea of equality, the strategy identifies discrimination as a cause of exclusion of women and tries to create the same opportunities, especially in the labor market.

In studying these strategies, Judith Squires identifies three different approaches to policy-making: inclusion, reversal, and displacement (Squires, 1999: 5). Inclusion supports equal access, reversal supports

equal outcomes, and displacement tries to focus on broad systems and structures to tackle disadvantages.

Inclusion policies try to address and prevent that discrimination from a liberal theoretical commitment: to "level the playfield", without addressing any type of cultural or power system, the sole aim is inclusion.[37] The responsibility relies on the legislators who ought to provide laws that secure formal equal rights for women and men. On an individual basis, all women should be treated the same as men in order to avoid any possible individual disadvantages that may occur. Strategies of reversal assume an interpretative methodology that seeks recognition for a specifically female gendered identity and recognizes differences and an unfavorable socio-cultural context that needs to be considered while devising policies.[38] It is based on a specifically female gendered identity (Squires, 2005: 368) that is different from a male gendered identity and, for that reason, policies are devised against the "gender-neutrality" formulated by inclusion strategies (such as equal treatment).

Strategies of displacement are based on a genealogical methodology sprung from gendering as a verb as opposed to gender as a noun. Gender as a verb, refers to placing the focus on gendering. The idea behind the notion of gendering is to allow for conceptual links within the premises of Gender Mainstreaming as an always-incomplete

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[37] On this topic, it is important to state that there is literature on the distinction between inclusion and assimilation, but said distinction and its corresponding literature exceed this thesis. Nonetheless, regarding these policies, they tend to assimilate, taking men as the norm and as a benchmark to compare.

[38] More on this in Bacchi, 2004.

process that "must necessarily be sustained for as long as policy-making endures" (Eveline and Bacchi, 2005: 10). On the other hand, gender as a noun fixes the categories and denies the effortful 'do-ing' of asymmetrical power relations and the gendering of policy itself.[39] Displacement is often associated with postmodern philosophies and diversity politics and tries to deconstruct the regimes in which gender is composed (Squires, 2005: 368).

It is important to understand that these three approaches do coexist in any policy work. For instance, Squires recognizes strategies of inclusion, reversal and displacement in Gender Mainstreaming. In turn, those conceptions of what Gender Mainstreaming is, compel the ways in which the strategy should be conceived: if via bureaucratic policy tools (equal opportunities approach), via consultation or via inclusive deliberation (Squires, 2005: 384). Bureaucratic policy tools make reference to any type of policy tool that encompasses equal access, such as legislation. Consultation, in turn, is the two-way approach with civil society organizations and NGOs. Inclusive deliberation is aimed at incorporating deliberative democracy practices to mainstreaming. Squires argues that through bureauctratic policy tools mainstreaming becomes constrained by individualism and elitism, while by consultation it becomes constrained by identity politics. Then, she proposes that mainstreaming is best understood as a "transformative strategy when it is conceptualized as a means of pursuing complex equality via inclusive deliberation" (Squires, 2005: 384).

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[39] More on the distinction of gender as a verb or gender as a noun in Chapter 4.

Concerning equal treatment and inclusion policies, although the concept is to treat women and men as equals, men are often taken as the norm. Equal treatment does not account for structural inequalities: treating women and men the same does not necessarily mean treating them equally[40] (Rees, 2002). Moreover, in the 70s the European equal treatment approach was aimed at workplace relations. This implies that underlying causes of equality, the "gender contract"[41] (Rees, 1998: 23), the repercussions of social hierarchies, or gender from a broad social perspective were not taken into consideration. Equal treatment was aimed at moderating the symptoms of inequality (in the workplace mainly). It did not account for women being part of groups and systems of power that were culturally reproduced. As a consequence, there is a shortcoming in the results: equal access is not granted because there are previous barriers that impede even getting to the access point (Rees, 1998: 71). The limitations of equal opportunities

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[40] More on the limitations of the politics of equality as sameness in Chapter 4.

[41] The gender contract is a term that seeks to emulate "The sexual contract", by Carole Pateman. Pateman defied the liberal idea that the power of the state does not contradict the freedom of individuals because it is founded upon a "social contract". She points out that the literature of social-contract theorists such as Hobbes, Locke and Rousseau lacks the perspective of the female half of the population. Then, the social contract is based upon a previous contract, a sexual contract that implies the subordination of women to men. Pateman explains that the sexual and the social contract result complementary: the exclusion of women confirms and perpetuates the sexual hierarchy found in most institutions, especially marriage. Sexual hierarchy is armored by the notion of "representing the natural order of things", as a non-political fact. This element is crucial because women are not only absent from the social contract, but the politics that govern them are defined in direct opposition to the attributes associated with womanhood. Pateman contends that the liberation of the "sons", manifested by the social contract traditions as the culmination of the paternalistic model of political authority, perpetuates the subordination of the "daughters", their wives, sisters, mothers. Pateman concludes that the social contract transformed patriarchy as a system of male domination. More on this in Pateman, 1988.

are rooted in the individualistic approach that pays attention to the offers rather than to the structural conditions under which those opportunities are offered (Lombardo and Meier, 2006: 158).

Although advocating for equal rights is an important first step to ending inequality, legislation alone is not sufficient to eliminate structural problems that disfavor women and may even prove to be harmful. A severe application of equal opportunities could, in fact, produce further inequalities (Lombardo and Meier, 2006: 160), as demonstrated by the rulings in Kalanke and Marschall. There are many advantages to legal statute of equality, mainly that it provides a frame for the discussion of inequality and that it generates a certain amount of accountability and entitlement through enforceability.

Positive/Affirmative action measures are specific equality measures based on the idea that the concept of formal equality collides with a reality where structural inequalities deny access to certain rights. This strategy seeks to create conditions to balance the initial unfavorable conditions. Affirmative action measures aim at changing the social perception of women and allowing entry to areas that are institutionally out of reach. It is a very different starting point compared to equal treatment.[42] The rationale behind positive action recognizes women as a disadvantaged group in order to take specific measures to tackle the problems caused by said disadvantaged starting positions.[43] It aims at creating new conditions to overcome the

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[42] More on how positive action can compensate for "biased perceptions" in Warren, 1977; Purdy, 1984; and Sumner, 1987.
[43] See Fiss, 1997.

disadvantages present even before the starting position.[44] There is another big philosophical difference with equal treatment in that it identifies differences between women and men. It recognizes that there are similarities, there is "sameness", but it also accounts for the differences. Affirmative action or policies of "reversal" (Squires, 2005: 368) attempt to acknowledge and reduce the differences in certain cases in particular, to incorporate those differences into a status quo that previously excluded women. Nonetheless, in this attempt, men are again the norm and women have to make up for the "deficits" in not complying with the norm. Affirmative action measures in no way challenge the culture, but present a temporary solution to very specific problems, such as, for example, quotas for the representation of women in national parliaments or women in stem cell research.

Both positive/affirmative action (reversal strategies) and equal treatment (inclusion strategies) are targeted at women; that is to say, affirmative action enables changes in the behavior of women (by encouraging inclusion in a context of exclusion) and equal treatment is designed for giving women exactly the same rights as men. On the other hand, Gender Mainstreaming is a "displacement" policy that targets the state and is based on a conception of socially constructed gender relations and the mechanisms that work to generate disadvantages (Rees, 2002). Gender Mainstreaming is projected to generate a structural change in the system of reproduction of inequalities (Verloo, 2002), including all government stakeholders involved in the process of decision-making and the institutions

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[44] More on these points in Bacchi, 2004. Holzer and Neumark, 2000; Arnold, 1998; Beauchamp, 1998; Beckwith and Jones, 1999; Boylan, 2002; Cahn, 1995.

themselves. In that sense, it was conceived as a comprehensive strategy with medium and long-term objectives that includes all actors involved in the policy-making process. Mainstreaming tries to reach for the root of both the individual and the group disadvantage and targets hierarchies by identifying the ways in which systems of power and structures are biased to comply with a heteronormative gender system. Provided its transformative purpose, mainstreaming represents the expansion of gender equality principles beyond labor, politics and the economic sphere. The most innovative elements of the strategy are addressing the root causes of inequality, rather than the symptoms, and to present a broad systematic perspective of application that aims at a paradigm shift in policy and practice that requires being able to see how current practice is "gendered in its construction, despite appearing to be gender- neutral" (Rees, 1998: 142).

While Gender Mainstreaming has a much broader scope of action, affirmative action measures seek to increase female visibility in areas with deeply enrooted structural inequalities. Gender Mainstreaming is complementary to other strategies; they complement themselves (Mazey, 2002; Daly, 2005; Squires, 2005; Walby, 2005) and co-exist in EU programmes and legislations. In fact, Mackay and Bilton describe gender equality as a "three-legged stool" that requires all three: laws of equal opportunity, affirmative action and Gender Mainstreaming (Mackay and Bilton, 2003). Since Gender Mainstreaming pursues the transformation of systems of power and institutions, its objectives are mostly long-term and actually rely heavily on equality in the law and on concrete affirmative action measures (Rees, 2000).

Nonetheless, Stratigaki observes that the growth of Gender Mainstreaming policies during the 1990s was used as a vehicle for the elimination of affirmative action measures (Stratigaki, 2006: 168). The movement towards less affirmative action measures is based on the misbelief that the implementation of Gender Mainstreaming supposes a legal recognition of the inequalities. The gender equality policy frame becomes bigger with Gender Mainstreaming; equality measures are presented to destabilize the status quo from an institutional level especially in the momentum post the Beijing conference. However, the results are timid at best.[45] The rationale behind it is fueled by a shift in the social debate, as if by just recognizing a problem, it would become magically solved. In that sense, Woodward also warns about using Gender Mainstreaming to "dismantle the political machinery of women" through tearing down spaces for women to prioritize mainstreaming (Woodward, 2003). Guerrina notes that Gender Mainstreaming can silence women and remove gender from the political agenda by avoiding specific programs targeted to women (Guerrina, 2003).

Despite the possibility of using Gender Mainstreaming to demonstrate the inadequacy of traditional policies of equal opportunities, Mazey highlights the difficulty in implementation because of the cultural values that remain rooted in society (Mazey, 2002: 228). The effectiveness of Gender Mainstreaming depends on the possibility of action at all levels of political decision and in various areas of society.

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[45] More on this in Chapter 4.

Stratigaki reaffirms the idea that Gender Mainstreaming complements but does not replace the above strategies; in fact, she identifies them as a necessary prerequisite for its proper application. However, she recognizes the most innovative elements of Gender Mainstreaming as its worst weakness. As an all-encompassing strategy, Gender Mainstreaming is poised to able to act in all areas of policy-making at the same time. However, this feature also allows for the reproduction of inequalities rooted in institutional structures if no previous structural change in all areas is properly addressed.

All of the different readings of Gender Mainstreaming, its application and meanings clearly show that there is no unequivocal definition on how Gender Mainstreaming should be implemented. What is worse, there is no apparent institutional reference as to how it should be. There are some critics that even suggest that Gender Mainstreaming would only work in a gender-neutral world (Zalewski, 2010: 27).

The evolution of equality policies in the European Union from equal treatment to Gender Mainstreaming is compelling. The role of the state, the underlying philosophical assumptions and the conception itself of what gender equality means, who and how it should be addressed, and the tools that should be used have all transformed. The approach has developed from a focus on equal treatment to a deeper institutional commitment and a dual-track[46] approach that associates Gender Mainstreaming and specific actions to promote gender equality (Mazey, 2002; Stratigaki, 2005; Walby, 2005).

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[46] We denote dual-track approach, the strategy that combines a more general strategy such as Gender Mainstreaming with specific measures tackling gender inequality.

In sum, the evolution of gender equality policies in the European Union since the 1970s reveals a more comprehensive and profound approach to equality. Equality has been stretched to new strategies, new legal and political documents, and novel areas of policymaking. Gender equality in itself used to be thought of as a labor problem, a conception that was expanded with the incorporation of both positive action at first and Gender Mainstreaming later on to the original strategy of equal treatment.

However, there is one significant difference in the way in which the policies were implemented. Equal treatment was endorsed by a set of directives focused on equal pay, equal treatment in the workforce and social security, while positive action and Gender Mainstreaming did not share the same legislative support (aside from the Amsterdam Treaty and the 2004 Constitutional Treaty). Additionally, there has been resistance from the European Court of Justice to the implementation of judicial measures of positive action since the inception of Gender Mainstreaming, halting the development of hard law measures that address gender inequality. Moreover, the concepts of Gender Mainstreaming and positive action have been used as contradictory (in spite of their complementary nature), which, as Stratigaki (2005: 176) points out, is a reflection of the political struggles that are being faced by EU actors in connection with gender equality.

Furthermore, the conceptual distinction between the theoretical foundations of the strategies is also a turning point to consider. Equal

Treatment is based on a liberal conception of equality of opportunity in which formal equality is provided by equal access (Verloo, 2001), affirmative action tries to secure the equality of outcome by leveling the starting positions (Rees, 1998: 25) and, finally, mainstreaming is the integration of the concept of gender equality into all policy, all systems, all structures of power, and into culture and organizations (Rees, 2002). As we can see, there are significant differences among the three approaches. Equal treatment was historically one of the first gender equality policies to be implemented by European countries, especially in the 1970s. A decade later, after uneven results, positive action was implemented, and, in the 1990s, Gender Mainstreaming began to track allies.

In this first part we have analyzed how Gender Mainstreaming became the leading strategy in the European Union for the search of gender equality. We have also described the origins of gender equality strategies embodied as equal treatment and positive action, its evolution and treatment in the European Union and the differences among them.

In the following chapter, we will first analyze how gender governance is created in the European Union, the specific actors that give meaning to the concept of gender equality. Secondly, we will focus on the problematizing process and on the specific creation of inequality as a "problem" that needs to be "solved".

CHAPTER 2:

GENDER GOVERNANCE IN THE EUROPEAN UNION: WHAT ARE WE TRYING TO MAINSTREAM? A PROBLEMATIZATION APPROACH.[47]

In this chapter, we will analyze how the idea of gender equality is institutionally schemed in the European Union. To so do, we will explore the notion of gender governance broadly and more specifically in the European Union. We will study in detail all of the different actors, institutions, formal and informal organizations that are involved and interact in policy making and in the production of meanings in terms of gender in the European Union.

Furthermore, we will characterize the different legal instruments that are used to produce knowledge and delineate gender (in)equality and which end up defining Gender Mainstreaming. We will show how gender policy is mainly enacted through soft-law non-bindings instruments and policy tools.

In the second part of the chapter, we will analyze the process through which these institutions and actors who are involved in gender governance in the European Union create the "problem" of gender inequality. To do so, we will introduce the concepts of problematizations by Michel Foucault and What's the Problem Represented to Be? by Carol Bacchi as a public policy methodology analysis.

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[47] In this chapter, we follow the work of Calvo, 2013.

Section I:

What is governance? What does it mean in terms of the European Union?

Governance can be broadly defined as all the political processes that exist between formal institutions. More specifically, throughout this work, the term governance will refer to all the interactions and the decision-making processes between the different actors involved in a collective problem that ends up in the creation, reinforcement or reproduction of institutions and social norms (Bevir, 2013). Governance encompasses policies, regulations, programs and decisions oriented to solve a public problem through collective action. This collective action can be composed of actors and processes such as negotiating political agendas as well as influencing in the forms of building different coalitions, lobbying, and also the influencing and persuasions/threats that abound in the process of policy making and implementation. Governance can also be between private or public actors. While the latter is more commonly thought about, governance can take place exclusively between private participants in the cases of corporate or associative governance (Enderlein, Wälti and Zürn, 2010).

Within the governance spectrum and inspired by the institutional framework of the European Union, Lisbet Hooghe and Gary Marks developed the concept of multi-level governance, focusing on the multiple interacting authority structures at work in the global economy (Hooghe and Marks, 2001). They describe this as a "system of continuous negotiation among nested governments at several

territorial tiers – supranational, national, regional and local." They argue that multi-level governance is more flexible than governance concentration in just one jurisdiction. This is especially the case when there are heterogeneous characteristics across populations. Hooghe and Marks (2001) also present an understanding of two different types of multi-level governance, type I and type II. The former describes general-purpose jurisdictions that bundle together functions, policy responsibilities, and possibly important institutions such as a court system. Under this type of governance, at any territorial scale there is one relevant jurisdiction, and they are often stable for long periods of time. However, the designation of policy competencies through jurisdictions can vary and is not fixed. Type II is much more flexible and can accommodate a large number of jurisdictions that might overlap: usually divided in pieces that serve specific tasks or policies in a functional manner. For instance, providing a particular service at a local area, or solving a community specific problem (Hooghe and Marks, 2001). This type of governance is very much related to the concept of polycentric governance, which provides an interesting layer to the analysis, in that it acknowledges governance not only across levels but also across functional specialization over levels in different policy sectors (Schmitter, 2004).

To understand how the governance process takes place in the European Union structure it is important to mention that there are a number of actors and organizations (Member States, regional business associations, regional and international NGOs, lobby groups) that take part.

On an institutional level, the European Union is composed of seven principal decision-making bodies: the European Council, the Council of the European Union (or Council of Ministers, hereinafter "The Council"), the European Commission ("The Commission"), the Parliament, the European Court of Justice, the European Central Bank, and the Court of Auditors.[48]

Related to the general idea of multi-level governance, the Commission has supported type II governance (variable territorial jurisdictions) by funding and supporting programmes and networks at EU level (Hooghe and Marks, 2001). As such, the European Union, is both a multi-level and poly-centric system, and thus is open and dynamic. Different entrepreneurial actors are able to articulate their positions and engage in the policymaking process through informal politics (Andersen and Burns, 1996).

Section II:

Gender Governance in the European Union

To analyze how Gender Mainstreaming is applied in the context of the European Union, it is important to introduce the broader concept of

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[48] The European Council is an intergovernmental negotiative body, which sets the priorities and the political direction of the Union. The Council of the European Union (or Council of Ministers) is a decision-making body with quasi-national representation that convenes to decide on each given issue. The European Commission is the motor behind the European Union that impulses issues to be convened. The Parliament is the democratic representation of the Union. The European Court of Justice is in charge of applying EU law and of interpreting treaty Provisions. The European Central Bank is in charge of monetary policy for the euro zone, and the Court of Auditors is responsible for monitoring the spending of taxpayers' funds in the European Union. More on these institutions and all of the actors involved in governance related to gender in the European Union in Section II.

gender governance, namely, which actors and processes are key when talking about gender strategies.

Gender governance is composed of all the structures, legislation, and policy instruments that create a framework for gender equality. It is a broad, complex, informal, ever-evolving notion in which different actors –agencies, committees, networks, lobbyists, informal groups, academics, officials– generate gender discourses. Its dynamic character makes it possible for different people to occupy different positions (Woodward, 2003). Within gender governance, knowledge and information play a key role. And, at the same time, power and conflict are inherent characteristics of the dynamics of gender governance (Burns and Stöhr, 2011: 4). To be more precise, power is exercised in the construction of meanings on what gender equality or inequality is. Moreover, it is also present in the different relationships between actors who generate said meanings, as well as in the interventions that revolve around gender. At the same time, this very same process of interventions and production of discourses is in itself a powerful process, which also creates conflict and power battles. Ultimately, this whole process cycle is informed by knowledge and information and leads to the creation of both of them, having an important impact on the actions and discourse regarding gender (Calvo, 2013: 46).

In the case of Gender Mainstreaming, governance helps understanding the processes in which the actors involved generate meaning through policy formulations and how knowledge, power and conflict affect these formulations. In particular, Gender governance sheds some light on the framework in which gender is produced and

the inequalities reproduced, it contextualizes the production of gender discourses (Calvo, 2013: 44).

Therefore, to understand mainstreaming as an encompassing strategy it is important to analyze the context in which it is applied and through which gender relations are created and regulated. The implementation of equality policies, such as affirmative action, equal treatment legislation and Gender Mainstreaming, is one of the main the objects of gender governance in the European Union. To comprehend how they are regulated, as well as the problems in its implementation, [49] it is important to understand the governing processes in which different institutions are involved and some key aspects of (multi-level) governance structures and institutions in the European Union. There are multiple debates that concern both the issues of governance and the European Union. In a world in which multi-level decision-making is constantly changing, the European Union serves as a model for other regional integration systems. Scholars describe policy making in the European Union as a permanent exercise in multi-level governance (Bache, 2008).

In that sense, Ulrieke Liebert defines "Europeanization" as the "transnational processes of convergence towards shared norms and frameworks that do not necessarily enhance homogeneity but which, depending on the governance instruments involved, may be compatible with domestic diversity" (Liebert, 2002: 243). The European dimension then becomes an "embedded feature, which

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[49] More on the problems of the implementation of Gender Mainstreaming in Chapter 3.

frames politics and policy within the European States" (Wallace, 2000: 370). In that context, the European Union is the most densely institutionalized and constitutionalized set of norms, procedures and practices in any regional context (Liebert, 2002). Concerning the Europeanization of gender equality strategies in general and Gender Mainstreaming in particular in the multilevel polity, Liebert recognizes three sets of governance mechanisms: legal measures, material incentives, and knowledge-based inducements (Liebert, 2002). While equal treatment is the strategy that encompasses the legal aspect of equality, Gender Mainstreaming depends mainly on institutional settings that enhance the "learning capability of public and private decision-makers" (Liebert, 2002). That is to say that contrary to the equal treatment strategy, which includes binding regulatory instruments (directives, regulations, decisions), the mainstreaming strategy relies mostly on a toolkit and a range of instruments that could be considered of soft law (recommendations, opinions and action programmes), which are created by different European institutions. Therefore, in the next section we will study the relevant actors, institutions and the contexts in which they operate, generate, and reproduce the meanings behind gender, gender equality and Gender Mainstreaming.

Section III:

Gender Governance in the European Union: Relevant Institutions and Actors

a.   European Commission.

The role of the Commission as a propeller of policies, consensus and support for these proposals (Cram, 2001; Fligstein, 2001; Wendon, 1998) has placed the institution in a central place to take initiatives for gender equality. Its main tasks include elaborating and proposing legislation to the European Parliament and the Council, implementing policies and managing the EU budget, enforcing European Law, and representing the EU in the international arena, among others. As the so-called "entrepreneur" of the European institutional framework, the Commission has been balancing and mediating national interests, lobbyists, experts, and the goal of European integration through the shaping of EU policies. In this sense, it has become the main actor in creating an institutional framework of gender governance in the EU (Schmidt, 2005). The Commission is composed of 28 members (with one member for each state) and acts as a cabinet government, where each member is bound to the interests of the European Union rather than those of their home state. In terms of legislative action, the Commission plays a key role in the proposal of legislation. It is the only institution in the EU that has legislative initiative (i.e., only the Commission formally proposes legislation). This particular governance structure was created to ensure the coherence in the drafting of legislation in the EU. While the process of initializing legislation starts in the Commission, it does not end there. After the Commission adopts the proposal formally, this modifies its status from a white paper[50] to an official proposal. Then, the official proposal is sent both

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[50] White Papers are documents that contain proposals for action in specific areas of the EU. Their aim is to start debates among the different institutions and bodies in

to the Council of the European Union and to the European Parliament, and consensus is required between the two in order for legislation to be adopted. This whole legislative process is known as the co-decision procedure and was initiated by the Treaty of Maastricht in 1991. Thus, it is important to note that while the Commission has the monopoly on starting a proposal for legislation, the co-decision procedure heavily involves both the Council and the European Parliament in the generation of legislation.

Concerning gender governance, the Commission has been proposing legislation –through Proposed Directives– and its negotiation within and outside itself (Hantrais, 2000; Carson, 2009). Carson recognizes in its development that the use of soft measures has provided the context for the development of formal measures and even to the reformation of treaties (Carson, 2004: 68). Gender Governance in itself has been conducted mostly through soft-law-type legislation which is non-binding, such as Recommendations, Communications, Action Programmes, White Papers, Green Papers, and Roadmaps.[51] On the other hand, the Commission has also used proposed directives that could be binding, but this type of legislation has to undergo the co-decision process.[52] Within the European Commission, there are

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the EU that could end up building political consensus. In many occasions, White Papers are the consequence of Green Papers, which are used as consultative documents.

[51] One of the most important Roadmaps regarding gender is the Gender Action Plan 2016-2020 (or GAP II). This roadmap has been conceived as a "Joint Staff Working Paper" and provides an approach to gender equality through external action (European Commission, 2015).

[52] For instance, one of the most widely publicized directive proposals in terms of gender is that of gender quotas on corporate boards (European Commission, Directorate General fos Justice and Consumenrs, 2016).

several important actors, groups and divisions that are part of the gender governance structure in the European Union: (i) DG Justice, (ii) DG Employment, (iii) the High Level Group on Gender Mainstreaming, (iv) the Inter-Service Group on Gender Equality, (v) the Group of Commissioners on Fundamental Rights, Non-Discrimination and, Equal Opportunities, (vi) the Network of Experts, (vii) the Advisory Committee on Equal Opportunities for Women and Men, (viii) the Bureau of European Policy Advisers, (ix) the Informal Group of Experts on Gender Equality in Development Cooperation, (x) the Informal Network of Gender Focal Points, and (xi) the European Network to Promote Women's Entrepreneurship. Below, we explain its main tasks and how they relate to gender governance in the European Union.

i. DG Justice.

Directorate-Generals (DG) are a branch of the European administration dedicated to a specific field of expertise. The evolution of the diverse DGs corresponds with the emphasis in policy that the Commission deems to address. Still, since the creation of the European Union, the DGs have been morphing and readapting themselves. More specifically, DG for Justice, Fundamental Rights and Citizenship (DG Justice) was created in 2010. At first, there were four directorates within DG Justice: Civil Justice, Fundamental Rights and Union Citizenship, Criminal Justice and Consumers. Later on, the Directorate for Equality was incorporated, receiving all of the policies and action programmes concerning gender equality from its predecessors.

In terms of documents relating to gender, the DG Justice has worked (as a part of the Commission) in several important roadmaps and strategies such as: the **Roadmap for Equality between Women and Men (2006-2010);[53]** the **Strategy for Equality between Women and Men (2010-2015);[54]** and the **Strategic Engagement for Gender Equality (2016-2019**).[55] These instruments provide the framework necessary to coordinate the strategy of Gender Mainstreaming. They are useful to understand the priorities and the tools used to monitor the equality strategies and the understandings of gender.

ii.   *DG Employment.*

Formally known as Employment, Social Affairs and Inclusion, this DG is in charge of bringing practical benefits to citizens such as job finding, migration for work related reasons, and job training. Together with national authorities, and several organizations, it is in charge of tackling important challenges in the EU, for example, the ageing

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[53] Issued in 2006, this Roadmap identifies six different priority areas for action in terms of gender in the EU for 2006-2010: (i) equal Independence economically for men and women; (ii) reconciliation in terms of professional and private life; (iii) equality of representation in decision-making; (iv) elimination of gender-based violence; (v) elimination of gender stereotypes; (vi) promotion of gender equality in development and external policies. In the document, the Commission acknowledges that to accomplish the objectives and actions the help of the Member States is needed, and as such the document provides the framework to move the gender agenda forward, with the help of Member States and other relevant actors (COM (2006) 92 final. 2006).

[54] This strategy was adopted in September 2010. It builds both on the Roadmap for Equality between Women and Men (2006-2010) and the European Pact for Gender Equality. The document calls for action in five different priority areas (equivalent to the ones in the first Roadmap) and a sixth area of horizontal issues. These actions, as stated in the document, follow the dual approach of Gender Mainstreaming and specific measures. (COM (2010) 491 final. 2010).

[55] Similar to the other documents, this strategy issued by the DG for Justice and Consumers calls for more action by all actors in the five prioritized areas in the Strategy for Equality between Women and Men (2010-2015). (Directorate-General for Justice and Consumers, European Commission, 2015).

population in Europe. With respect to gender, it deals with much of the agenda in gender equality. This DG has also worked and monitored the different Roadmaps and Strategies for gender equality mentioned above.

iii.   High-Level Group on Gender Mainstreaming.

The High-Level Group on Gender Mainstreaming (HLG) is an informal group created in 2001 formed by ministers from Member States. The Group has been meeting twice a year to identify relevant policy areas and topics. Since 2003, it has been assisting the Commission in the preparation of the Report on Equality between women and men to the Council and is in charge of working on follow ups of the United Nations Platform for Action, specifically the evolution of the gender equality indicators.

iv.   Inter-Service Group on Gender Equality.

The Inter-Service Group on Equality Between Women and Men (ISG) was created in 1995 as a "specific coordination structure devoted to achieving the Commission's gender equality policy objectives" (Evaluation of the Strategy for Equality between women and men 2010-2015 as a contribution to achieve the goals of the Beijing Platform for Action, 2014). It is composed of one member from each of the Commission Directorates. The Inter-Service Group meets four times a year to monitor implementation on the specific actions and also works as a forum of exchange of information and best practices in the field of gender equality (Evaluation, 2014).

v. Group of Commissioners on Fundamental Rights, Non-Discrimination and Equal Opportunities.

The Group of Commissioners on Fundamental Rights, non-discrimination and Equal Opportunities was set up in 2005 on an initiative of the President of the Commission. Its main objective is to gather all those Commissioners who deal with gender equality in some way, especially on prospects for women in international trade, and the impact of the gender dimension on Community trade policies (COM (2006) 92 - September 2006).

vi. Network of Experts.

The Network of Experts was created in 2007 as a forum for experts from all Member States to give external gender expertise to the Commission but it does not represent the Commission's position or opinion. It is comprised of two different networks, of which one is focused on employment and gender equality and the other on gender equality, social inclusion, health and long-term care.[56]

vii. Advisory Committee on Equal Opportunities for Women and Men.

The Advisory Committee on Equal Opportunities for Women and Men provides assistance to the Commission in formulating and implementing European Union activities between member countries, social partners at EU level and NGOs. The Committee delivers

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[56] Recent documents by the Network of Experts on gender equality are: *Visions for Gender Equality* (2015), *Men, Women and Pensions* (2015), *Secondary Earners and Fiscal Policies in Europe* (2015) and *A New Method to Understand Occupational Gender Segregation in European Labour Markets* (2015).

opinions to the Commission to promote gender equality in the EU.[57]

viii.   Bureau of European Policy Advisers.

The Bureau of European Policy Advisers (BEPA) has been working since 2004 to elaborate policy analysis and provide advice to all members of the European Commission. There is a gender expert at BEPA that prepares reports, elaborates on Commission proposals and advises the President of the Commission.

ix.   Informal Group of Experts on Gender Equality in Development Cooperation.

The Informal Group of Experts on Gender Equality in Development Cooperation, created in 1999, is another one of the regular meetings that gather experts from all Member States to discuss policy developments.

x.   Informal Network of Gender Focal Points.

The Informal Network of Gender Focal Points is composed of the representatives of Directorates General of the Commission that deal with external relations and development cooperation, as well as of representatives of EC delegations (COM 92 (2006)). Its main objective is to ensure a proper implementation of the Fourth Action Programme for Equal Opportunities for Women and Men at the European Commission.

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[57] For instance, the Advisory Committee recently provided an opinion document, 'Opinion on Gender Balance in Decision-Making in Politics' (2017), describing the key challenges in achieving gender equality in politics, alongside recommendations and possible actions.

    xi.   *European Network to Promote Women's Entrepreneurship.*

The European Network to Promote Women's Entrepreneurship (WES) was created in 2000 to exchange information and good practices between representatives from 31 European countries and the Commission to Promote Female Entrepreneurship (COM 92 (2006)). Members of WES provide advice, support and information on existing legislation for women entrepreneurs.

Apart from the Commission, the European Parliament is also an institution with a major role in gender governance in the European Union. The European Parliament represents the legislative branch of the European Union. It has budgetary and supervisory powers as well and has been increasing its powers in each Treaty. It is divided in twenty different Committees that instruct legislative proposals through the adoption of reports, the proposal of amendments to Plenary and the appointment of a negotiation team to conduct negotiations with the Council on EU legislation. Also, as mentioned above, it is one of the parts involved in the co-decision process of legislation in the European Union.

    b.   <u>*Women's rights Committee.*</u>

The Women's Rights and Gender Equality Committee is a Parliamentary Committee (FEMM Committee) in charge of elaborating, discussing and voting on reports on women's rights and, therefore, it is a central actor in terms of gender governance in the EU. Moreover, the Committee monitors the elimination of all types of gender-based discrimination and violence, as well as the development

and implementation of Gender Mainstreaming. Additionally, it is in charge of the monitoring and application of conventions and international cooperation agreements that involve women's rights and tries to increase the awareness of the rights of women.[58]

c.   *European Women's Lobby.*

The European Women's Lobby (EWL) is the largest organization of women's associations (almost 2,500) in the European Union. It was founded in 1990 to promote women's rights and represent women both at multinational level and locally. The EWL is largely financed by the Commission (almost 80 per cent of its budget) and by membership fees and other diverse resources. It functions as a partner with European Institutions such as the Advisory Committee on Equal Opportunities for Women and Men, the Commission, the European Council, the Parliament and the Council of Europe and even the United Nations. In fact, for the Council of Europe the lobby holds consultative status. Furthermore, the EWL thrusts to "promote, implement and facilitate civil society and specifically women's organizations input into the European debate as an essential part of the European social model" (EWL, 2005). Basically, the EWL feeds content to the European Commission by producing reports, evaluations and position papers and provides expert knowledge when

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[58] The activities of the Committee are extensive, going from organizing meetings, publishing working documents, issuing press releases, drafting opinions, among many others.

needed.[59] Aside from lobbying and pushing the agenda on gender governance, it does not hold any decision power.

d.   Women in Development Europe.

Women in Development Europe (WIDE), created in 1985, is one of the oldest women's organizations at the European Level. WIDE is a lobbying network of women's organizations, gender experts, NGOs and activists that aim at influencing and monitoring economic, trade, development policies and practices at international level. It functions as a research network, which provides knowledge in the policy-making process, working specially with the European Commission and the EWL.[60]

e.   European Committee of the Regions.

The European Committee of the Regions (CoR), established in 1994 and reinforced in the Treaty of Lisbon, is an advisory body composed of locally and regionally elected representatives from all Member States, appointed by the Council of the EU for five years. The rationale behind the CoR is to give regions and cities a formal say in EU decision-making processes when drawing up legislation of matters concerning local and regional government, especially health,

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[59] While the EWL creation was supported by the Commission, and even today most of its funding is derived from the Commission, it is important to highlight that in theory it should be an independent lobby group. In Chapter 3, we will analyze in more depth its dependence on the Commission and the problems that it brings in terms of the application of the strategy.

[60] Among their more recent activities we can find working groups, such as working groups in Migration and Gender and Gender and Trade, as well as a current project on active Solutions to Female Migrant Rights.

education, employment, social policy, economic and social cohesion, transport, energy and climate change. Aside from preparing opinions and circulating them upon legislative proposals, the CoR can also issue opinions on its own initiative.

f.   *European Institute for Gender Equality.*

The European Institute for Gender Equality (EIGE) was created by the European Parliament and the Council to "provide expertise, improve knowledge and raise visibility of equality between men and women" (Regulation No. 1922/2006). It was created as an agency independent from the Commission, but still the Commission nominates the Institute management board, which is composed of one representative per Member State.[61] Aside from the Board, the EIGE has an advisory body called the "Experts' Forum" whose principle function is to "provide expertise knowledge of gender equality" and is composed of members specialized on gender equality issues of every Member State of the European Union, two members designated by the EP, three designated by the Commission, one representative from a non-governmental organization at Community level (for the period 2016-2018 it is a representative from the EWL), one from an employers' organization at Community level and one from a workers' organizations at Community level.

g.   *Council of Europe.*

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[61] As with the case of the EWL, the EIGE should be an independent expert group as it does not form part of the Parliament or Commission in a strictly direct manner.

The Council of Europe, although outside of the institutional setting of the European Union, can also be considered a key player in gender governance. Created to promote and protect human rights in Europe, it is divided into expert committees. The Steering Committee for Equality between Women and Men (CDEG) is responsible for "defending, stimulating, and conducting the Council of Europe's action to promote equality between women and men." The Group of "Specialists on Gender Mainstreaming" was responsible for a text in 1998 that is nowadays considered to be foundational for Gender Mainstreaming in Europe[62] (Verloo, 2005).

In sum, there are several formal and informal institutions and lobby groups which, through their actions, produce knowledge, participate in power struggles, and, in general, form part of gender governance in the European Union. In the next section, we discuss how these organizations and institutions participate in this process and how they interact.

Section IV:

Gender Governance in the EU: The Wheels in Motion

As it can be deduced from its very own description, as well as from the institutions and actors involved in it, that gender governance in the EU is flexible, dynamic, complex, many times informal, and a continuous changing process. It is also clear that both gender governance and the policy-making process include different

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[62] "Gender Mainstreaming: Conceptual Framework, Methodology and Presentation of Good Practices", EG-S-MS (98) 2.

instruments, formal institutions, organized actors, academics, lobbyists such as WIDE or the EWL, and even individual policy-makers that might not belong to any of these groups. Furthermore, certain actors may move within the different institutions or lobbyists groups creating a very flexible and dynamic type of gender governance in the EU. For instance, academics that might be part of the EWL may later move on to be part of the networks of experts in the Commission (Woodward, 2003).

Moreover, there is a "bureaucratic overlap" among the institutions and actors (Calvo, 2013), since the boundaries between roles and functions are not perfectly defined. This is especially the case for different agencies, bodies or lobby groups such as the EWL or the EIGE. Nonetheless, aside from the overlapping, not all the different actors, institutions, agencies and bodies have the same power to enact legislation, produce knowledge and generate conflict in terms of gender governance. In that respect, the European Commission is still considered to be one of the principal actors in gender governance, because it holds both the power to define the problem of gender inequality and a powerful influence over policy formulation since it creates the instruments that coordinate the implementation of the equality strategies. This power over the definition of what Gender Mainstreaming is and how the strategies are going to be employed makes the European Commission and its dependencies a central actor and a knowledge producer.[63]

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[63] This is not the case, however, with equal treatment legislation, where the European Court of Justice is the main actor due to its means of law enforcement.

However, even within the Commission there is heterogeneity in the degree of power and knowledge that different DGs might have and produce. For example, DG Employment concentrates a lot of power due to its task of monitoring, coordinating and evaluating the Roadmap (and thus having an enormous influence on the strategy of Gender Mainstreaming). Still, bodies within the EC such as the Inter-Service Group on Gender Equality, the DG Justice, the Advisory Committee, the BEPA, and the Network of Experts on gender equality have influence in the political process of the strategy. Aside from the European Commission, the EWL, the EIGE, the FEMM Committee and WIDE are very influential actors that help define and redefine policy through struggles and negotiations and as producers of knowledge.

In fact, one important aspect in the case of gender governance in the European Union is that knowledge is produced and circulates mainly at the Commission level and through EU-level institutes, experts, and lobbies (such as the EWL) in the form of instruments (Calvo, 2013). These instruments include different tools and policy mechanisms such as recommendations, programmes, certain education funding, awareness-raising activities[64], the creation of a gender equality index and benchmarking all examples of soft-law.

Regarding Gender Mainstreaming, this process of circulation of knowledge is essential since most of the times the strategy relies on knowledge-based instruments to promote exchanges between regional

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[64] More on awareness-raising activities in Section VIII.

and national decision makers, and also different other organizations such as NGOs. For instance, the analysis and monitoring of domestic employment policy is based on certain benchmarks that require assessments in terms of gender impact, that include peer reviews, and which are monitored by the Commission. These soft educational, analytical and consultative tools are comprised of "guides to gender impact assessment", "gender training", "flying experts", and include documents showing "examples of best practice" in terms of equal opportunities for men and women (Liebert, 2002). These tools provide decision makers both in the political and administrative arena with knowledge in terms of cognitive, informational and discursive devices in order to implement mainstreaming.

All in all, gender governance in the EU in practice is characterized by the presence of different actors, institutions and instruments that produce power and knowledge and influence the different struggles that affect how Gender Mainstreaming is applied and, in the end, the potential limits and problems of the strategy, both of which will be the focus of the next sections and the following chapters.

Section V:

What's the Problem Represented to Be?

In "Gender Transformations", Sylvia Walby recognizes two models for the European Union: Europe as an economic community and Europe as a social model (1997). These two models, she argues, present an often-competing version of where the Union should place its priorities. Moreover, in times of economic crises, the economic

community side takes predominance over the social model.

This tension that is inherent to the foundation of the European Union as a whole, is also palpable in the definitions of gender equality and, in turn, in gender inequality in the official documents of the European Union. There are two competing –often contested– dimensions that shape the notion of gender in the EU and the surrounding discourses. The first dimension sees gender equality as an instrument, a means for economic growth and efficiency. The second dimension regards gender equality as a value in itself, as a human rights issue. This tension influences both how gender equality and gender inequality are defined, which concepts are connected to "gender", which issues are paired as "gender issues", and which are the "problems" to be "solved". In turn, those are the frameworks to the processes, the practices that constitute gender. Thus, it is essential to study the meanings attached to the term "gender equality" (Magnusson et al, 2008).

Carol Bacchi presents the idea that within every policy proposal there is an explicit or implicit diagnosis of the problem (Bacchi, 1999) that rest upon culturally influenced presuppositions and assumptions ('unexamined ways of thinking') (Bacchi, 2010). The concept of poststructural policy analysis illuminates the process of interrogation of conceptual premises and the understandings of a problem.

Problematizations: A First Approach of Analysis

Michel Foucault introduces the notion of problematization as a form

of methodology to study the "where, how and by whom of social life and its institutions"[65] (Besley, 2002: 9):

"Problematization doesn't mean the representation of a pre-existent object, nor the creation through discourse of an object that doesn't exist. It's the set of discursive or nondiscursive practices that makes something enter into the play of the true and false, and constitutes it as an object for thought (whether under the form of moral reflection, scientific knowledge, political analysis, etc.)" (Foucault, "The concern for truth", May 1988).

The main aim is to reveal the unexamined ways of thinking that lie behind the policies (Foucault, 1981). In this sense, Foucault understands that the most direct way to unearth the premises and assumptions, what he defines as the "thinking", within policies is to analyze how they problematize a certain "issue" (Foucault, 1984). Carole Bacchi applies Foucault's theory to an analysis of gender and gender policies. Since every policy endorses change of some sort, every policy contains an implicit representation of what is seen to be problematic (Bacchi, 2012). That is what she calls problem representation. Focusing on the problematization process allows seeing that every policy, by the nature of policy-making, give "problems" a particular shape (Bacchi, 2010). In that sense, we are "governed through problematizations rather than through policies" (Bacchi, 2009: 31) in themselves. Miller and Rose explain that there are not problems to be solved, but instead government is in itself a

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[65] The analysis of problematizations by Foucault is very extensive and we do not mean to cover all of them in this work. But it is important to understand said notion for the What's the Problem Represented to Be? approach.

"problematizing activity" in which expertise and knowledge are essential to recognize the construction of problematizations (Miller and Rose, 2008). Behind the policies put in place to govern lie "unexamined ways of thinking" (Foucault, 1994: 456). The aim of the use of problematizations is to expose them and imagine different ways to problematize and be governed (Wickam and Pavlich, 2001).

According to Bacchi, Foucault's use of problematizations has a two-fold objective. First, to depict the ways in which problematizations take "truths" [66] for granted. This method of analysis, "thinking problematically" (Foucault, 1977), is not aimed at searching for the "correct" answer to a particular issue. Instead, it studies how the issue is questioned, analyzed, classified and regulated in "specific times and under specific circumstances" (Deacon, 2000, quoted by Bacchi, 2012).

The second meaning of problematizations involves a study of historical processes of producing objects for thought and how an analytic approach could benefit the study of public policy and politics (Bacchi, 2012). It includes the analysis of how and why certain things become a problem (Foucault, 1985) and how they are formed as particular objects. As an example, Foucault introduced the concepts of "madness" and "sexuality" [67] that do not represent essences but

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[66] Foucault's study of truth and what constitutes truths could be relevant to this point. See "Il fait defender la sociéte" (1975-76), "Naissance de la biopolitique" (1978-79), "Subjectivité et verité" (1980-81).

[67] The concept of sexuality as a discursive object is one of the most famous theories of Michel Foucault. In Volume I of his books "The history of Sexuality" he criticizes the "repressive hypothesis", the idea that sexuality was repressed in western society from the XVII to the mid XX century. He in fact claims that discourse on sexuality

become objects for thought in certain practices. In this case, the study of problematizations can uncover the relations involved in "thought": on the surface there are practices that render complex relational phenomena problematic and create the "problems". Uncovering the process of producing "objects" –such as "sexuality" or "madness"– is the objective of problematization.

The concept of problematizations is useful to examine how the actors within gender governance outline, understand and characterize the "problem" of gender inequality in the European Union. In this journey, we will discover conflicting perspectives among actors.

Section VI:

What's the Problem Represented to Be? An Approach to Policy Analysis

Every policy advocates for a specific change of a situation and an

proliferated during that period in which sexuality was examined in a scientific manner. Discourse on sexuality was then described as a revolt against a repressive system, sexuality as a matter of political liberation, instead of as a subject of intellectual analysis. Foucault addresses this paradox: why proclaiming to be repressed? He is interested in why and how sexuality is made an object of discussion. In this interest he introduces the concept of discourse, how language and knowledge are connected to power. "Knowledge is power" then who determines what can be discussed, determines what can be known. In turn, who determines what we know also determines how we think and how we constitute ourselves. There lies the political importance of language and knowledge. Foucault identifies five characteristics on the conception of power: first that it establishes a negative relation between sex and power (sex is always constrained by power); power determines how sex ought to be understood; power acts only prohibit or suppress sex; power works to deny sex; power works at all levels, there is uniform repression. Power then is always repressive and one-sided. In conceiving power as oppressive and one-sided, power becomes something that acts upon us, distinct from us, and free to resist it. (Foucault, 1984a).

implicit representation of what is "problematic" (a problem representation). To uncover the premises and assumptions behind them, the "thinking" in Foucaultian terms, there needs to be critical scrutiny. The "What's the Problem Represented to Be approach" (WPR) is an analysis of the "thinking".

In this sense, Carol Lee Bacchi explains that every strategy encompasses a "problem" depiction. Bacchi develops an approach to understand policy development called "What's the Problem Represented to Be?" (1999). As we defined in the previous section, the concept is based on problematizations: the idea that institutions, governments and social actors in general, shape social problems in the way they address them. In that way, they are active in the creation of ways of understanding the issues. Bacchi defines competing understandings of social issues as "problem representations" (Bacchi, 2009: 12). Those competing problem representations constitute a form of political intervention with a range of effects that go beyond intentionality. The approach is aimed at revealing the deep conceptual underpinnings of problem representations in two levels: what is represented to be the concern and what is represented to be the cause of the problem (Bacchi, 1999). Its main goal is to shed light on problematizations for discussion and debate, to expose the "meaning-creation" involved in policy design, and to draw attention to the ways in which issues are given a shape (Bacchi, 1999). The effects of problem representation are distinguished in three categories: the ways in which subjects and subjectivities are constituted in discourse, the effects which follow from the limits imposed on what can be said, and the "lived effects" of discourse (Bacchi, 1999).

Problem representations are constituted in discourse. In the WPR approach discourse makes reference to the relatively bounded, socially produced forms of knowledge that set limits upon what it is possible to think, write or speak about a "given social object or practice" (McHoul and Grace, 1993). Discourses are plural, complex and internally inconsistent at times, which allows for contestation. There are different discourse statuses: Discourses with greater status are the ones institutionally sanctioned that "reinforce established economic, legal, familial, religious and educational norms" (Bacchi, 2010: 5). Because of this nature, Foucault recognizes discourse as an asset, the object of a political struggle (Foucault, 1972).

The WPR approach aims at examining the representations of the "problems" to find the underlining assumptions or presuppositions. In Bacchi's words, WPR is a "tool for uncovering the frames that construct policy problems", "how every proposal necessarily offers a representation of the problem to be addressed, how these representations contain presuppositions and assumptions which often go unanalyzed, how these representations shape an issue in ways which limit possibilities for change" (Bacchi, 1999: 266). Bacchi recognizes that the policy community understandings of gender inequality are not deliberatively devised but instead are deep-seated in largely unconscious levels (Bacchi, 2010). The WPR approach offers tools to uncover them.

To further explain how representations comprise implications about how to present the problem, Bacchi takes the example of Gillian

Fulcher (1989), which shows how education policies of disability construct disabled children as the "problem" that needs to be "fixed". This representation in turn lets "responses" or "programmes" be seen as "benevolent, generous and compassionate, reinforcing power relations" (Fulcher, 1989: 17). This relation is also reproduced in affirmative action cases in which the "preferential treatment of the disadvantaged tends to alienate affirmative action targets from the reform" (Bacchi, 2004) and reinforces the status quo. Both of these examples are used to illustrate how the problem of representation is also a form of political intervention and, as such, needs to be examined.

In turn, the What's the Problem Represented to Be approach is composed of five questions. It is important to notice that not all questions need to be answered like a questionnaire. They aim at defying the view that policies react to pre-existing problems, as a mathematical solution.   To debunk the proposition that the development of policies is based on "solving" social problems, WPR shows that policies create or produce certain particular kinds of problems that in turn shape social subjects and social relations.

The first one is concerned with what is the problem (gamblers/gambling; drug use/ abuse; domestic violence) represented to be in a specific policy or policy proposal. The second question aims at uncovering the presuppositions or assumptions that underlie the representation of the problem. That would include identifying binaries, key concepts and categories. The third is aimed at the effects produced by the representation, how subjects are constituted, the

limits imposed on what can be said and the lived effects. The fourth deals with the silences, with what is left unsaid in the representation of the problem, what is deemed "unproblematic". Finally, the fifth question points to how or where are dominant problem representations produced, disseminated and defended and how they could be contested/disrupted.

It is important to notice that gender analysis frameworks are not static, they are flexible and subject to political pressures and that this types of analysis should be understood to be specific to that moment in time. There is not always a simple message and each policy has nuanced complex understandings. Still, the suggestion of analyzing different levels of conceptualizations brings new perspectives in play.

The impression that women require opportunities to access organizational contexts is one of the dominant understandings of gender equality in western industrialized countries since 1960 when the "problem" began to be taken into consideration (Bacchi and Eveline, 2010: 125). This argument (equality as access to existing institutions and the work force) is present in anti-discrimination laws and equal opportunity policies (Bacchi, 1990).

In that context, Gender Mainstreaming was conceived as an unconventional representation of the "equality problem" that would produce institutional transformation (Rees, 1998: 33). To open up the "gender dimension" to all levels of decision-making requires a lot of institutional changes. The WPR approach in the application of Gender Mainstreaming should be done in a case-by-case basis to identify

which are the main actions or if mainstreaming is indeed an empty signifier.

This perspective will be used as a methodology throughout this thesis to analyze policy documents. For example, when evaluating the proposed commission legislation in the form of a EU directive to attain a 40% objective of women ("under-represented sex") in non-executive board-member position in publicly listed companies.[68] This controversial proposal directive has been welcomed with resistances on the part of some European governments, but is still in debate in the Parliament, and in fact was revitalized in November 2017.[69] The proportion of women on the boards of the largest listed companies has doubled from 10% in 2005 to 22% in 2015. Nonetheless, women account for only 7% of board chairs and presidents and only 6% of chief executives in the largest companies.[70]

Incorporating minimal mandates to women in positions of power are a type of leadership building program, proposed to increase representation in positions of influence or higher-paying jobs. Those measures are aimed at "solving" the problem of "underrepresentation of women" in higher decision level and paying jobs. Within there is the understanding that more women in those positions would lessen the burdens of women that are in lower positions by understanding

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[68] European Commission - Proposal for a Directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (COM (2012) 614 final. 2012).

[69] See https://www.theguardian.com/world/2017/nov/20/eu-to-push-for-40-quota-for-women-on-company-boards

70 As depicted in the Directorate-General for Justice and Consumers "Gender balance on corporate boards" fact sheet of July 2016.

the needs of maternity leaves, for example, and improving the pay-gap. It is a filtered-down approach to the issues of women in the workplace. Matters of representation also arise, taken from the arguments of having more women in decision-making positions in politics, as the rationale of more women invites more women is present. These measures are aimed at solving the issues of underrepresentation.

Norway was the first nation to implement the quotas 2003 by a modification to the Companies Act [71] mandating 40 percent representation of each gender on the board of publicly limited liability companies. Studies[72] show that in the Norwegian case the post-reform appointed board members were more qualified than female predecessors and that the gender gap within the members of boards fell substantially. However, the trickle-down effects that were initially hoped for (impact on highly qualified women that were not members of the board and more representation of female representation in the companies), did not have a great impact. Moreover, these studies show that there were no impacts on decisions taken by women more generally, as initially hoped for (changes in female enrollment in business education programs, or a convergence in earnings trajectories

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[71] In 2006 the quota had to be applied to all newly established public limited companies. Initially, the quota was supposed to be voluntary but it was made mandatory in 2006 after considering that firms failed to raise their female representation. By the year 2008, all public limited companies were required to instate the quota. To do so, there was a government database of female candidate for corporation to evaluate the qualification of potential women leaders. The penalties for non-compliance with the quotas were: for companies that were previously established, the penalty was closing down, and for new companies, there was no company board registration. More on this in Carroll, 2014.

[72] More on this in Bertrand, Black, Jensen and Lleras-Muney, 2014, and Seierstad and Huse, 2017.

between recent male and female graduates). These findings indicated that the reform had very little perceptible impact on women in business aside from the direct effect on the appointed female board members. These are the effects that follow from this representation of the problem.

Going back to the WPR approach we can see that the targeted women belong in a position of power, to a certain class and privileges. Taking into consideration the findings in Norway we can see that effects of these measures not necessarily trickle down, at least not as expected. The WPR approach sheds light on how this proposal creates the "problem" of women's representation on boards of companies. The problem is presented as lack of access of women, in which Women are constituted as part of the "problem" of not being able to get to the top of management. Although these types of measures can benefit a certain group of women (particularly women with more power), the effects are not for "women" in general. The WPR approach allows to bring to light rationale behind these regulations, that might end up being counterproductive in the long run for feminist claims generating a false sense of security and progress (as we will analyze in Chapter 3 with what we call the "Firework Effect").

This comes to show that these measures have very little long-term impact and no structural real changes, but are very evocative for the public opinion. The WPR approach inquires around the failures to be problematized in ways of representing the issue and how the

"problem" can be thought differently.[73] Analyzing measures like these from the WPR approach shows that since women are constituted as part of the problem (Why are not female board members? What can we do to make them want to be board members?), instead of framing the problem as an institutional one (How can we make the conditions in firms more egalitarian for everyone?), the results are often not very optimistic. The sole incorporation of quotas does not represent a sufficient change in business-type models. Using these experiences with an analysis of policies such as the WPR allows us to think outside the box: from the identification of the representations of the "problem" to other possible identifications.

Bacchi and Eveline pose certain questions that are very useful to understand the rationale behind the WPR approach: "What will be done, given this representation of the 'problem'? To whom? What will stay the same? Who will benefit from this representation of the 'problem'? Who will be harmed? Who is 'blamed' in this representation of the 'problem'? How does this attribution of blame affect the ways in which those targeted as responsible for the 'problem' think about themselves and their place in the world?" (Eveline and Bacchi, 2010: 116). In this case in question, what will be done is to take women as tokens to "solve" the "problem" of lack of

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[73] When stating this, we are not saying that quotas are not relevant. They are extremely useful political measure to bring issues into public domain, and they effectively change the outcomes of those women benefited by them. What we are saying is that other types of more structural measures should be approached, and that the limitations of quotas should be taken into consideration when devising further policies. The WPR approach is a useful tool to further analyse all policy implementation and can provide elements to rethink equality policies. Particularly in the case of female quotas in boards, it is relevant to consider who the benefited women are and focus on policies to address a larger number of people.

representation in the board. In this representation of the problem the "blame" is put on a "system" but in a way also in "those women" that have the competencies but are lacking something to reach those positions, to "break the glass ceiling".

The WPR approach brings attention to three overlapping kinds of repercussions to assess the usefulness, the limitations or dangers of a particular policy: the discursive effects (limiting what can be said); the subjectification effects (the kinds of political subjects produced in and through discourse); and the lived effects (the material impact on people's lives) (Eveline and Bacchi, 2010: 115).

As we have analyzed in the previous section, different interpretations of how the concept of gender equality is understood in policy texts and how it comes to play in the diverse settings of European Union policies have diverse consequences. Policies create different impressions of what the "problem" of "inequality" demands. There are meanings attached to the term "gender equality" (Magnusson et al., 2008), as we have show, to which the WPR approach seeks to uncover. In the following section, we will analyze which are the uses of equality in the European Union.

Section VII:

Gender Equality: Instrument or Value?

"Gender equality" is presented in Commission documents as a key term. Three of the most relevant documents regarding gender equality are the Roadmap for Equality between Women and Men 2006-2010

(Roadmap), the Strategy for Equality between Women and Men 2010-2015 (SWM), and the Strategic Engagement for Gender Equality 2016-2019 (SEG). There are considerable differences between the documents that demonstrate a change. For example, both the Roadmap and the SWM stride from equality between women and men, while the SEG recognizes an importance in gender equality in general instead of between women and men. Those changes in wordings, although subtle, reflect a different understanding of the issues at stake. Concerning the notion of "gender equality", the Roadmap defines:

"Gender equality is a fundamental right, a common value of the EU, and a necessary condition for the achievement of the EU objectives of growth, employment and social cohesion."

In this description two contrasting conceptions of gender equality are put together. Gender equality is seen as a "goal in itself, a human right" on the one hand and, on the other, gender equality as a necessary condition of growth, employment and social cohesion.

The Strategy for Equality between Women and Men 2010 - 2015 defines:

"Equality is one of five values on which the Union is founded. The Union is bound to strive for equality between women and men in all its activities. The Charter of Fundamental Rights provides for such equality and prohibits sex discrimination. (…)

Inequalities between women and men violate fundamental rights. They also impose a heavy toll on the economy and result in underutilization of talent. On the other hand, economic and business benefits can be gained from enhancing gender equality. In order to achieve the objectives of Europe 2020, namely smart, sustainable and inclusive growth, the potential and the talent pool of women need to be used more extensively and more efficiently."

Again, there is a tension between the notion of equality as one of the five values and the "heavy toll on the economy" which result in "underutilization of talent" that impedes growth.[74]

The Strategic Engagement for Gender Equality 2016-2019, states that:

"Promoting gender equality is a core activity for the EU: equality between women and men is a fundamental EU value, an EU objectiveand a driver for economic growth. The Union shall aim to promote equality between men and women in all its activities. The Commission's 2010-2015 strategy for equality between women and men prioritized five key areas for action:

- *equal economic independence for women and men;*

- *equal pay for work of equal value;*

- *equality in decision-making;*

- *dignity, integrity and ending gender-based violence; and*

- *promoting gender equality beyond the EU.*

(…)

Therefore, as set out in its 2016 work programme, the Commission will continue

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[74] There seems to be two distinct reasonings or moral logics, a deontologic and a utilitarian. This also adds tension to the discourse.

its practical work to promote gender equality. Action will continue with a focus on all the five priority areas. Efforts are required of all actors if we are to achieve real equality between women and men in all spheres of life within the EU and elsewhere. This 'Strategic engagement for gender equality 2016-2019' is a reference framework for increased effort at all levels, be they European, national, regional or local. It continues to corroborate the 2011-2020 European Pact for gender equality."

Gender equality is more often described as an instrument in European Documents. There is an understanding that the gender equality policy contribution represents growth and employment. In that sense, for example, the European Commission in the Report on Equality between Women and Men 2006 states that "gender equality policies are instrumental to growth and employment" and that removing structural inequalities "between women and men will help to release the employment potential of women while contributing to social cohesion and to the viability of the social protection system" (European Commission, 2006). The same report in 2007 indicated that "In order fully to exploit the potential of European workforce productivity, it is essential to promote women's long-term participation in the labor market and to eliminate the disparities between men and women right across the board" (European Commission, 2007). This idea is also replicated in the 2008 Mid-term Progress Report on the Roadmap for Equality between Women and Men, that in fact goes out to say that "economic equality between women and men would only be achieved through greater participation of women in employment" and that "in order to increase participation in employment, the workforce potential of women needs to be fully

exploited and all economic operators need to be more committed" (Mid-Term Report, European Commission, 2008). The rationale behind these arguments is that gender equality is merely a question of participation in the labor market and of economic independence that can be adjusted if women are integrated in the male-centric workforce (Calvo, 2013: 94). Employment, growth, and economic independence become key terms in connection to equality.

Ten years later, the Report on Equality between Woman and Men 2017 keeps on the same tension when describing equal participation of women in decision making: on one side it is about justice and, on the other, there is a mention of economic growth and competitiveness:

"Equal participation of women and men in decision-making positions is a matter of justice, respect for fundamental rights and good governance. It is needed to better reflect the composition of society and to strengthen democracy. It will also bring benefits to the EU's economic growth and competitiveness." (European Commission, 2017b)

This tension can be seen in almost all of the gender equality documents in the European Union. In the Gender Equality Index 2017, [75] a document prepared by the EIGE, gender equality is described as:

"(…) vital for the smart and sustainable growth of the European Union. It not only fosters economic development but also contributes to overall well-being and a

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[75] This index was created in 2013 and it measures gender gaps taking into account the different contextual realities of Member States in different policy areas.

more inclusive and fairer Europe for both women and men." (EIGE, 2017)

Connected to the idea of an instrumental view of gender equality, there are two terms that are used often in documents: stereotypes and awareness-raising. Combating stereotypes and creating awareness are proposed as two of the tools against gender inequality. In that sense, for instance, in the priorities and key actions included in the SEG 2016-2019, it is stated that one of the actions is to: "Across all priority areas, attention will be paid to the role of men, dismantling gender stereotypes and promoting non-discriminatory gender roles" (European Commission, 2016).

The Report of Equality between Women and Men 2017 states that "wage transparency and awareness-raising activities are steps that can enable employees and employers to reduce the gender pay gap" (European Commission, 2017b) and includes that "A comprehensive strategy is needed, with legislation where necessary. A broad range of actions might include: measures to reconcile family and work life for both women and men; changing the political culture; overcoming gender stereotypes regarding leadership skills; ensuring women's equal access to financial resources; programmes to support training/mentoring for women candidates and to build a pipeline of women politicians." (European Commission, 2017b).

The Gender Equality Index 2017 understands that "reducing gender segregation in the labor market is crucial for smart, sustainable and inclusive growth. It could greatly benefit if women's and men's potential were fully realized without being constrained by unequal

gender roles and harmful gender stereotypes." Concerning gender stereotypes, the Index states that "gender stereotypes continue to limit the life choices of women and men and contribute to gender segregation in vocational and tertiary education, as well as in the labor market. Challenging the harmful effects of gender stereotypes throughout the educational cycle, from primary school to lifelong learning, can play an important role in reducing gender inequalities in other spheres of life (EIGE, 2017a). Tackling gender stereotypes and gender segregation is also central to the modernization of the European higher education system (European Commission, 2011) and is a precondition for achieving the Europe 2020 target — increasing the proportion of young people aged 30-34 with tertiary degree to at least 40 % by 2020" (EIGE, 2017a).

There is an idea that stereotypes are influential for women's choices and in that way, they generate resistances in women's employment. In turn, awareness-raising becomes a tool to address and change those stereotypes. What the European documents fail to address is how the stereotypes are to be dismantled: there is no specific action that defines awareness or the methods employed, except that it is "central to the realization of gender equality" (EWL, 2005).

The idea that the stereotypes are the ones that limit the choices of women, instead of the system in itself is what limits women's possibilities. Stereotypes rest on the basis of inequality (Calvo, 2013: 108) and emphasize that they impede the full use of women's abilities, as if it were a question of individual choices.

The introduction of awareness-raising as a key tool is evidenced by, for instance, the "key action" in the "Strategic Engagement for Gender Equality 2016-2019":

• *consider introducing further measures to improve the gender balance in economic sectors and occupations; using the Grand Coalition for Digital Jobs to support measures enhancing digital skills among women and girls and promoting female employment in the ICT sector (2016-2017); activities to raise awareness of educational and vocational training choices (2018-2019)*

• *promoting gender equality in all levels and types of education, including in relation to gendered study subject choices and careers, using existing policy cooperation tools and funding instruments as appropriate, in line with the priorities set out in the "Education and Training 2020" framework (2016-2019);*

The underlying rationale is that if there is awareness raised over stereotypes, for instance, over vocational training choices, then women will be able to "choose well" and reach the educational and, in turn, labor standards, standards that are, in turn, male.

To represent the "problem" to be absences in women's character, such as lack of confidence, or an inability to "make the right choice", or to acquire certain experiences is precisely what constitutes women as the "problem" to be "fixed", bolstering the cultural location of women as outsiders (Bacchi, 2010). In the same line, Bacchi uses the example of the "problem of women's lack of access to child care facilities", that reinforces the assumption that the domestic division of labor and the heterosexual family are "unchangeable facets of life rather than the constraints of a particular form of economic

organization" (Bacchi, 2010). These types of proposal are a reinforcement of existing gender categorizations.

This approach to stereotypes as causes for inequality contrasts the view of stereotypes as a symptom of structural gender inequality (Calvo, 2013: 108). In fact, in documents from the same source, there are contrasting views. For example, on the one hand the Strategic Framework for Gender Equality states that:

"Patriarchy persists and frames the whole system which legitimises the oppression of women's rights. In exploring how it is that we have laws protecting and promoting the equality between women and men, but there is still so much sexism and violence, it is important to emphasise the extent to which stereotypes constrain women's roles in work and at home, in society and politics, in sport and culture." *(EWL, 2017)*

But in a document from 2005, the European Women's Lobby shared a more structural approach:

"In every country in the European Union, access to resources, rights and power are unequally distributed between women and men and gender inequality is pervasive at every level and across all groups within society. Supporting this structured inequality are still widespread and related prejudices, stereotypes and cultural patriarchal attitudes that undermine women as independent autonomous actors in all spheres of life." *(EWL, 2005)*

In terms of inequality, the EWL in its annual report in 2008 understands women's under-representation in politics as "a serious

democratic deficit. It is not acceptable to leave half of the population outside positions of power, appear as 'while claiming that our societies foster democratic values of equality, justice and participation'" (European Women's Lobby, 2008).

The terms "gender equality" and "gender inequality" are both defined as a two-part issue: on the one hand of a "social issue", a "democratic deficit", and on the other hand as a question of economic inefficiency, economic dependence and a hindrance to growth (Calvo, 2013: 112). Conflicting understandings and creations of meaning between each of different institutions within the EU framework also generate different responses but, overall, the main documents present gender equality in instrumental terms, focusing on the labor market and the inclusion of women in areas that result beneficial to the economic agenda.

There is an underlying idea that women should be incentivized to make different choices and fulfill certain conditions to achieve equality, to adhere to the norm, the male norm (Calvo, 2013: 108). In this sense, Joan Scott contends that "the opposite of equality is inequality or inequivalence, the noncommensurability of individuals or groups in certain circumstances, for certain purposes. [...] The political notion of equality thus includes, indeed depends on, an acknowledgment of the existence of difference. Demands for equality have rested on implicit and usually unrecognized arguments from difference; if individuals or groups were identical or the same there would be no need to ask for equality. Equality might well be defined as "deliberate indifference to specified differences" (Scott, 1988a: 44). In this sense, equality can be replaced by the term equity, in that

women do not need to become the norm but instead can be equal and different. Equality/difference as an opposition is powerful in corroborating men as the norm (Calvo, 2013: 110) but there has to be the possibility of considering equality and difference as complementary.

Gender Mainstreaming in its first descriptions was created as a transformation of the gender structure (Rees, 1998: 29). But in its application, the work presented in documents create gender as a binary distinction that still relies in men as the norm and in which equality is mainly seen as an instrument. The representation of women as "lacking", lacking choices, lacking economic independence, lacking skills, lacking a place in the labor market, produces an image of an able asset that needs to be adjusted to the innovative strategies (Pettersson et al, 2008).

Analyzing the problems of Gender Mainstreaming sets a basis to analyze the structural processes that reproduce inequalities. The second part of the thesis is aimed at using the implementation of Gender Mainstreaming as a gender equality strategy to examine if the problems that resurface are caused by failures in the implementation (Mazey, 2000a; Bretherton, 2001; Daly, 2005; Stratitaki, 2005) or if the underlying mechanisms generate resistances incompatible to achieve gender equality. To do so we have presented the development of Gender Mainstreaming both in the United Nations and in the European Union, to understand how the strategy responded to a time of international commitments to gender equality which has been slowly declining ever since. For example, in a recent report, the World

Economic Forum has shown how gender equality, in terms of the Global Gender Gap Index, has been sliding backwards worldwide.[76] As shown by this statistics, progress peaked around 2013 and has been declining since. Secondly, we have focused on Gender Mainstreaming in the European Union context, compared to other equality strategies previously displayed. In the following chapter, we will analyze problems with the implementation of Gender Mainstreaming in the European Union to set out the different areas in which it is failing to achieve the proposed goals.

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[76] "Gender Equality is Sliding Backwards, Finds Our Global Report", World Economic Forum, 2016. Available at: https://www.weforum.org/agenda/2016/10/gender-gap-report-2016-equality-sliding-backwards/. Last accessed: October 2018.

CHAPTER 3:

RESISTANCES IN THE IMPLEMENTATION OF GENDER MAINSTREAMING: "THE FIREWORK EFFECT".

More than twenty years after its implementation, Gender Mainstreaming is now finally acknowledged in many sectors of government and non-governmental organizations. The fact that several international organizations such as the International Labour Organization and the United Nations have adopted Gender Mainstreaming as a gender equality strategy reivindicates its implementation (Woodward, 2001). There is a basic level of institutionalization in the annual reports that states should present to the United Nations and the European Union on progress in Gender Mainstreaming.

The European Union works at the same time as a pilot-test and as a transfer agent of policies from Member States regarding the implementation of Gender Mainstreaming measures. In this sense, the character of "soft policy" can be considered as a facilitator in networking policy learning and deliberation (Mazey, 2000b). In some cases, the actors and institutions influencing the strategy have developed new tools and welcomed political actors, specifically in the case of domestic violence prevention and awareness. Woodward points out that through training initiatives in gender, more men have become aware of gender inequalities (Woodward, 2008). In turn, the

use of Gender Mainstreaming has enabled new opportunities for discussion in areas that previously proved impervious to gender claims, such as in DG Trade (Directorate General for Trade of the European Commission).

Despite this, Gender Mainstreaming as a policy has presented certain deficiencies in its application that make us wonder if it needs a closer look at what it is that is not working. We intend to delve into this problems from a public policy perspective using the tools from the WPR approach developed in Chapter 2. For that, we divide the implementation problems into five: (i) problems on the institutionalization of Gender Mainstreaming and problems related to gender governance in the European Union; (ii) impact problems; (iii) discursive openness; (iv) intersectionality and diversity problems, and (v) an analysis of –and (possible) answer to– the question "Is it possible that the problem that Gender Mainstreaming policy faces is that it actually lacks a clear gender perspective?" In this last section, we will argue that Gender Mainstreaming can be described as a "Firework Effect" strategy: with plenty of shiny colors and noise when it was introduced, but lacking any perdurable effects several years afterwards.

Section I:

Problems on the Institutionalization of Gender Mainstreaming

In this section, we will build on the gender governance structure detailed in Chapter 2, and we will analyze the different problems regarding the implementation of Gender Mainstreaming that reside on the institutions, actors and instruments involved in the gender governance process in the European Union.

Roadmaps, Strategic Plans and Action Programmes

To analyze the problems on the institutionalization of Gender Mainstreaming, it is important to start with the construction and application of the different Roadmaps, Programmes and Strategic Plans mentioned in Chapter 1. What are the differences among them? What problems became apparent when it came down to applying the different plans that were to mainstream gender?

For instance, The Fifth Community Action Programme on Gender Equality (2001-2005) and the Sixth Community Action Programme on Gender Equality (2005-2009) include a dual approach that involves the combination of Gender Mainstreaming as a community policy and specific actions designed to improve the status of women in society. With wider aims, such as providing assistance and institutional support for gender equality, the intention is to coordinate, support and finance the transnational horizontal implementation of activities in the fields of intervention of the Community strategy on gender equality.

In the years of implementation of these programmes, the Gender Mainstreaming objectives remained the same. The fact that there are no substantial changes in either the objectives or the policies suggest at least certain shortcomings in the implementation of the initial strategies. It is also important to highlight the lack of support from EU Member States for running equality reports, something they should have been conducting since 2001. Moreover, Decision 1554/2005 of the European Parliament and of the Council amended Decision 2001/51/EC and established the financial reference amount for the implementation of the Programme for the period 2001 to 2006 to be of EUR 61.5 million. It also assigned EUR 3,3 million for the period from 2004 to 2006, that is an 89% decrease in the last period. This clearly shows that engagement to the strategy was steadily decreasing, no changes were made, and more importantly, the money allocated was significantly reduced.

Moreover, The Roadmap for Equality between Women and Men (2006-2010) of the European Commission introduced even broader concepts, such as the elimination of gender stereotypes in society. In turn, it advocated for promoting the elimination of wage differentials between men and women (that remains one of the primary objectives of equality policies, with figures showing slight progress since 2000), improvements in the balance work-private life, the fight against human trafficking, support gender budgeting and gender equal treatment both inside and outside the European Union. Nonetheless, no specific strategy or course of action was determined.

The Action Plan for Gender Equality and the Empowerment of

Women (2010 - 2015) revives Gender Mainstreaming and describes it as the "backbone" of gender equality in the European Union. The objectives and specific actions are not significantly different from previous strategies aside from reinforcing the idea of gender training, although no specific funds or possible ways in which actions could be implemented are specified.

The objectives of the Roadmap of the European Commission (2006-2010), the Action Plan for Gender Equality and the Empowerment of Women (2010-2015) and the Strategic Engagement for Gender Equality (2016-2019) are, despite some differences and new additions (such as the universality of equal treatment) similar to those outlined more than twenty years before. Is the absence of significant changes in implementation a symbol of failure? Could we say that many of the goals at which the strategy of Gender Mainstreaming aims are often unattainable? Or is it a problem of the strategy itself? There are some references to the need for educational reforms on gender issues and involvement in decision-making institutions. However, it is imperative to carry out an analysis of the real implementation problems that many of the empty definitions involved in a "low cost" strategy may entail in order to ensure the adoption and implementation of specific policies. The European Union should mobilize not only traditional networks of interests of women but also the entire policy making machinery. These are the challenges that the European Union should be focusing on.

Intra Institutional Tensions

In Chapter 2, we described the different actors and institutions

involved in gender governance in the European Union. Calvo (2013: 47) notices that these actors and institutions have and produce competing knowledge and have different power relations, which are part of the dynamics of gender governance. The different degree of power and differences in bodies of knowledge create struggles and conflicts. Actors involved in governance in the European Union can have different visions on the procedures to be taken to achieve goals and on how the whole system should function. This type of problem is very present in practice and, more specifically, in the application of Gender Mainstreaming.

For instance, within the European Commission, there was a turning point in gender policies with the introduction of Gender Mainstreaming. From that point onwards, DG Employment took the role of monitoring and evaluating the strategy. Nonetheless, as analyzed in Chapter 1, many times the objectives of strategy are not well defined, and a lot relies on taking always gender into consideration. Thus, a lot depends on the person or DG within the European Commission that is in charge of gender issues in a given policy area and his/her knowledge, resources and willingness (Stratigaki, 2005: 179).

Even the EWL has acknowledged this through several documents and interviews (EWL, 2007, 2008), in which they explain that the application of the Roadmaps and the strategy is up to the different DGs. More specifically, with regards to the Roadmap on Gender Equality that was adopted in 2006, they argue that it has some goals, but that it lacks concrete measures to apply it, especially its lack of

budget. They claim that without a budget attached to it, the application of the different programmes is up to the different DGs that have to apply them, and thus may lack a coherent view of how to apply the Roadmap.

Conflicts are always present (open or latent) between the different actors involved in policy-making. There are contacts and 'good relations' between the EWL and Commission officials in different bodies. However, the EWL is quite critical of all the mechanisms in general within the European Commission. They argue that since 2000, there have been new mechanisms for promoting gender equality by the Commission, but that their efficiency is hindered by the lack of financial resources, the lack of training, and an unclear mandate at the highest level (EWL, 2005).

There is also conflict and differing views on the prevalence of the Inter-Service Group on Gender Mainstreaming, which should be an important actor in influencing the application of the strategy. The EWL has claimed that there is a lack of visibility of this group, which is part of the Commission. As such, they have limited power to influence the process and monitor the results (EWL, 2007). If mainstreaming is to be applied consistently and monitored, then this group should have more visibility and a higher status. The EWL has argued that there is little information on the activities of the group and that they have had little contacts with them in order to make progress on the proper monitoring of the strategy.

Another set of tensions in the implementation of the strategy comes

from the excessive dependence on the Commission. As described in Chapter 2, one of the main actors with regards to gender governance and to the application of Gender Mainstreaming is the Commission. Its role as a propeller of policies, consensus and support for these proposals has given this institution a central place in the application of Gender Mainstreaming in the European Union. However, this central place may come at the cost of less independence for other actors and institutions involved in gender governance. For example, around 2003, 80 percent of the budget of the EWL came from the Commission (Woodward, 2003: 77). And this has not changed in recent times. This number is 76% as of 2016.[77] Therefore, the EWL, one of the institutions that have lobbied for the proper implementation of Gender Mainstreaming, is more of a dependency of the Commission rather than an independent lobbying institution. Furthermore, there is the European Institute for Gender Equality (EIGE). An institute that was created to "provide expertise, improve knowledge and raise visibility of equality between men and women" (Regulation No. 1922/2006) by the Parliament and the Council. As such, it should be independent from the Commission and play an important role in the monitoring of gender equality strategies. In reality, the Commission still nominates the management board at EIGE, bringing into question the supposed independence of the institute. Thus, the excessive dependence on the Commission, may cut the independence of different institutions that play an important role on the creation, progress and monitoring of gender equality strategies.

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[77] As shown in the EWL Financial Information and Transparency posted on February 2018: https://www.womenlobby.org/Financial-Information-and-Transparency-336 (last date of access: October 2018).

While much of the analysis has focused on the role of the Commission, there is also a role to play for the Parliament and the Council, as explained in Chapter 2, with regards to gender equality instruments. In this sense, the co-decision procedure of the EU gives rise to another set of tensions in the application of the strategy.

The co-decision procedure has many advantages from a democratic perspective, such as involving a large number of actors, voices, opinions and interpretations into the decision-making process. However, this strength can also be a weakness. In establishing a co-decision procedure, issues often get side bared or important legislative initiatives get lost into the process.[78] Additionally, lobbying groups, and their efforts can lose momentum and force if they have to be tackling different committees or dealing with several institutions along the co-decision procedure.

For instance, one of the recent issues that exemplify this weakness of the co-decision process is the adoption of the directive approved by the European Parliament on the implementation of 40% of women on boards of European companies listed. The measure is pending approval by the Council of Ministers. This new plan of action includes only members of non-executive boards and does not specify penalties for breach of the measure, rather than fines for not following open and transparent procedures. This initiative has been encountering

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[78] In practice, the legislative (co-decision) procedure in the European Union is as follows. First, the Commission has several proposals on an issue. Then, a member in the European Parliament (MEP) presents a report in one of the committees in the Parliament. After that, the committees vote on the report and the Parliament takes a position once the text is adopted in a plenary session. This process is repeated until there is an agreement with the Council.

roadblocks throughout the process. The Commission presented a press release calling for this 40% of women on boards of listed companies as early as 2012, which was followed by a proposal for a Directive.[79] Nowadays this legislative proposal is still being discussed and has not been debated. Since the Parliament adopted its decision with regards to this proposal, it has been stuck in the Council. There have been several discussions among members of the Parliament from different Member States on whether there should be a binding on non-binding measure on this issue.

In the same vein, there are clear tensions in the application of the strategy –and regarding gender equality policies in general– between the Commission and the European Court of Justice, as analyzed in Chapter 1. The ECJ played a very important role in limiting the strategy of positive action in the European Union and the contested cases of Kalanke (C-450/93), Marschall (C-409/95), Abrahamsson (C-407/98), and Lommers (C-476/99) exemplify this.

These rulings demonstrate that there are diverse readings between European institutions in connection to gender equality. If mainstreaming is failing to address the fact that the higher Court in the European Judicial system does not uphold the same gender perspective as other institutions (at least on the Recommendations and Strategy Plans for gender equality), and is disregarding laws intended to alleviate social injustices. Then the whole institutional framework remains under observation. The Kalanke, Marschall, Abrahamsson,

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[79] Press release available at http://europa.eu/rapid/press-release_IP-12-1205_en.html [Last accessed: October 2018]

and Lomers decisions were made after Gender Mainstreaming was in full force and effect, and there was growing tension between the Court and the European Commission, tension that nonetheless still remains unsolved because of the lack of institutional mechanisms to address them. These decisions are a red light to the overall context of gender equality in the European Union. How can a strategy that aims at incorporating a gender perspective in all areas of decision-making be effective when there is no consensus even at the highest institutional level?

The Institutionalization of Gender Mainstreaming

Much of the success of Gender Mainstreaming depends on the effective institutionalization of the strategy in the different organizations within the European Union and across Member States. That presupposes a radical change that acknowledges the creation of new mechanisms. Institutions structure political interactions, thus without changes, the transformative effects of Gender Mainstreaming are minimal.

One of the problems that highlight this lack of changes is the "technocratization" of Gender Mainstreaming, as defined by Daly (2005). In the literature, there is a tendency to present Gender Mainstreaming with two defined characteristics. First, with an analysis of how gender inequality is perpetuated and, second, with a set of tools and/or activities to reduce this inequality. Common examples of these activities/tools are gender budgeting, or gender specific statistics, or impact assessment methods. However, in practice, the

first of these characteristics is absent. Agencies or institutions tend to adopt tools or techniques to attack gender inequality, but without a general framework. Therefore, Gender Mainstreaming is more associated with how to attack this inequality, and less with a defined overall program that could inspire actual change in the actors and institutions involved in the mainstreaming of gender. In fact, Daly (2005) concludes that this propensity towards technocratization is very much related to the lack of an overall defined program and the lack of conceptualization of Gender Mainstreaming. Kantola and Lombardo highlight another marked problem related to technocratization (Kantola and Lombardo, 2017: 102), within what they call the 'expert-bureaucratic' model of Gender Mainstreaming. In this model (the one applied in the European Union), the work and application of the strategy is performed by bureaucrats, policy-makers and civil servants, sometimes in consultation with gender experts in different institutions. This application resembles a lot a very technical process in which these actors only need to use certain defined tools that are supposed to be neutral (Rees, 2005). However, are these actors neutral? And more importantly, are these bureaucrats and gender professionals aware of the broader concerns of different women that are not reflected in their own experiences? Squires (2005: 374) highlights that current tools in Gender Mainstreaming, such as the Gender Impact Assessments, have been applied in a way that they are not too demanding in terms of time and the expertise needed to construct these assessments. This introduction of tools that is limited to existing policy processes and demands little change and effort from actors reduces both the accountability of bureaucreats and gender experts, also reducing the possibility of wider consultations with non-experts,

reducing the transformational effect of the strategy. Notice that, as these actors are not neutral, and they are part of the pre-existing policy framework, their experiences and problematization of gender might be very different from the concerns of individual that are not part of the gender governance process.

Furthermore, Calvo (2013: 135) argues that the growing technocratization, in the context of the European Union, is coupled with the urge to reach economy-related objectives. It is no coincidence that throughout all the documents that frame Gender Mainstreaming, there is the constant mention of the reduction in the gender, earnings and pay gap. This has been one of the objectives from the beginning of the strategy. Furthermore, among the priorities and key actions in the SEG, 3 out of 5 priorities are related to the economy (labor market participation, gender pay gap, and equality in decision-making). Using again the WPR approach, it can be noticed how the framing of the problem, an economic one, with measurable objectives, makes Gender Mainstreaming a marketable sold tool rather than a gender equality strategy that generates institutional change.

This is clearly exemplified through the different Roadmaps and Strategic Plans, as analyzed before. Their focus is always on the objectives and actions (tools) that, in many cases, have not been altered whatsoever. As such, Gender Mainstreaming remains a strategy that is more related to a nice declaration of principles, but which hardly challenges the status quo. Thus, it does not lead to a significant change through the institutionalization of the strategy.

In relation to this, much can be learned from small-scale adoptions of Gender Mainstreaming such as the one analyzed by Callerstig (2014) for a municipality in Northern Sweden. In Sweden, Gender Mainstreaming has been the main gender equality strategy and is used at the different levels of government (central, regional and local levels). Callerstig (2014: 140) highlights that the implementation of the strategy in local politics required the use of 'small wins strategy' coupled with 'tempered radicalism'. The former implied changing the organization from the inside, while at the same time building key alliances. The latter is described as a strategy in which the actors recognize the existing gender inequalities and want to reduce them, but at the same time they are conscious about the organization in question and are loyal to the values of such organization.

This type of analysis on resistances to gender equality strategies in organizations and institutions have become common in the literature.[80] These studies analyze how formal and informal norms might perpetuate the status quo and inequalities in different institutional setups. Investigators have used different tools such as focus groups, interviews, and document analysis to determine the key resistances that come up during processes of gender training and Gender Mainstreaming within different type of organizations. These detailed analyses allow the identification of barriers or lack of changes during the implementation of gender equality strategies and plan accordingly to have a more effective execution of Gender Mainstreaming. Such an

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[80] For more on this topic see, among others, Benschop and Verloo, 2006; Mergaert, 2012; Mergaert and Lombardo, 2014; Verge, Ferrer-Fons and González, 2017; and Cavaghan, 2017.

analysis or plan on how to implement Gender Mainstreaming and institutionalize the strategy in the European Union is still missing in the overall strategy and constitutes another one of the problems in terms of implementation.

An analysis of the role of institutions in the development of policies in general and Gender Mainstreaming in particular, concludes that there is a need to incorporate substantial changes in decision-making processes to get structural transformations (Mazey, 2002: 234). Similarly, Lombardo highlights three fundamental changes to institutionalization: changes in the process, in mechanisms, and in actors (Lombardo, 2003: 9). The first involves a total reconstruction from a gender perspective; the incorporation of awareness programs and of more dialectic processes that embrace different voices in decision-making. Changes in mechanisms or policy require horizontal cooperation mechanisms in all areas, as well as the use of appropriate tools to integrate the gender variable. And as regards to actors, new players should be approached. Not only additional gender equality experts, that might sometimes have a pre-determined policy frame, but more importantly, civil society individuals, in order to open new channels of consultation. The implementation of Gender Mainstreaming in the European Union does not have a strong institutional presence. Institutions such as the Commission and Parliament have in fact abrogated the incorporation of the strategy, showing a significant preference for incorporating mere cosmetic modifications to the decision-making mechanisms, and for leaving all profound changes out. Moreover, there have been no visible changes

either in the Council or the Court, two very important organs for the functioning of the European system.

The WPR approach can helps us further understand all the examples analyzed of intra institutional tensions and the institutionalization problems in the application of Gender Mainstreaming. Take for instance the SEG, a major document outlining the gender equality strategy in the European Union. Regarding the institutional challenges in the application of the strategy, the key actions highlight "exchanges of good practice and peer-learning between Member States and cooperation with all actors" which are further outlined in a section named "Cooperation with all actors" with the following guidelines:

"Close cooperation with institutions and stakeholders active in the field of gender equality (Member States, the European Parliament, the European External Action Service, social partners, civil society organisations, equality bodies, international organisations and EU agencies) will be continued. This will take many forms, from bilateral and multilateral exchanges to structured dialogues.

National strategy documents and developments in the area of gender equality in the Member States will be followed and exchanges of good practice among Member States will be facilitated through the mutual learning programme. Cooperation with Member States will also continue through the High-Level Group on Gender Mainstreaming.

The Advisory Committee on equal opportunities for women and men composed of representatives from Member States, social partner organisations and civil society will continue to advise the Commission on policy and legislative initiatives. The

European Institute for Gender Equality will continue to play an important role in developing and sharing reliable evidence and data to support evidence-based policy-making, e.g. through its gender equality index.

The European Parliament and the Council are invited to actively engage in this cooperation."

Once again the intra institutional tensions are not specifically highlighted, and there is a call for close cooperation and good practices between the different institutions and organizations that are involved in gender governance in the European Union. There is no mention of the needed institutional change to improve the application of Gender Mainstreaming. Using the WPR approach helps us understand that this lack of mention to these tensions show that this is not seen as a problem, as it is not presented as one. In a sense, that Gender Mainstreaming is thought of as being applied in a world where there are no tensions or power struggles among the institutions that are a central part of applying the strategy.

Additionally, there is little mention on the objectives of this close cooperation with all actors involved in the gender governance process. As we analyzed above, the increasing technocratization of the strategy leaves little scope for it being transformative. This document does not acknowledge that as a problem, and, in fact, many of the actions to be taken have attached responsible institution for its implementation. Therefore, the application of these actions to achieve the objectives in the SEG are responsibility of bureaucreats and policy-makers within these institutions, showing little problematization of the European

Union with regards to technocratization. To sum up, on the institutional aspect, Gender Mainstreaming policies have shown a minimum transformative effect and very little problematization of these issues in official documents.

Section II:

Impact Problems

Gender Mainstreaming was one of the fastest growing strategies in the 1990s and early 2000. Twenty years after its emergence there is a decline in the "issue attention cycle" (Downs, 1972: 38), the systematic cycle that takes place when the public interest in a particular topic increases and then dissipates. According to Downs, the key is finding enough political pressure to bring about a lasting institutional change.

In the case of Gender Mainstreaming, despite running with the advantage that its approach is novel and is currently used in organizations worldwide (True, 2003: 386), it fails to delve deeper into an institutional reform and even some authors warn that the support of the European Commission is in decline (Stratigaki, 2005: 179). In turn, others determine that the impact of Gender Mainstreaming correlates with two variables: the presence of gender specialists in European Union institutions and the possibility for policies to generate a change (Mazey, 2002: 233). Without the necessary political pressure and without achieving a profound institutional change, targets become empty of content, and implementation becomes even more challenging. This can be illustrated by looking at both the Action Plan for Gender Equality and the Empowerment of Women (2010-

2015), or GAP, and its successor, Gender equality and women's empowerment: transforming the lives of girls and women through EU external relations 2016-2020 (GAP II).

It is important first to notice that the original GAP received poor evaluations when its implementation and outcomes where by an independent evaluation team (Watkins et al., 2015). Several of its conclusions highlight that its main problems are related to the lack of institutional reform needed to successfully implement changes in terms of gender equality and the empowerment of women. For example:

"Conclusion 3: Weak systems for GAP reporting and accountability are symptomatic of the low priority that Gender Equality and Women Empowerment (GEWE) has received in practice and further undermine the EU's ability to deliver to its commitments."

"Conclusion 4: The limited use of country-level GEWE contextual analysis significantly weakens strategy and programme relevance and undermines the EU's ability to achieve significant GEWE results. This represents a binding constraint to improved performance."

"Conclusion 7: The European Commission Services/EEAS reliance on a gender unit and network of GFPs to drive Gender Mainstreaming has been inadequate."

Despite this evaluation report and its negative conclusions, the new GAP II also suffers from its own limitations related to a needed institutional reform within the European Union governance to

successfully apply this program and achieve actual change in terms of gender equality. For instance, a recent report by O'Connell (2015: 5) on GAP II argues that:

"Resolute, high-level political and management leadership is essential to provide legitimacy and urgency to the commitment, drive the transformation of institutional culture, allocate the necessary resources, and monitor progress. (…) Without this leadership, it is likely that the framework will lose momentum over the next five years and fail to deliver on its objectives. It is clear from the 2014 Implementation Report on the 2010-2015 GAP that where change is happening, it is because of management and political leadership at middle and top levels."

However, there are little signs of institutional change or reform coming from the European Union in order to achieve the objectives of GAP II.

Additionally, there is a clear reduction in the enthusiasm towards the strategy since its inception. In the early 2000s, when it became an official strategy in the European Union, there was huge support from different actors such as politicians, scholars and activists, among others (Kantola, 2010). However, the problems related to the implementation of Gender Mainstreaming, on top of the resistances to change at different institutional levels, have waned the enthusiasm towards the strategy, even from within the European Commission. For instance, GAP II was presented as a Joint Staff Working Paper as opposed to the status of Communications given to, for instance, the Action Plan on Human Rights and Democracy. Staff Working Documents are not reviewed, discussed or approved at the Council

level, which could have carried a much heavier political weight. This, in turn, could have shown a greater political support for Gender Mainstreaming as a strategy and for the needed institutional reform to successfully apply GAP II. Several members of the Parliament and women lobbyists group were already warning about the political consequences of giving GAP II a Joint Staff Working Paper Status.[81]

Moreover, Kantola and Lombardo (2017: 151) highlight that the lack of participation of gender advocates from academia or feminist movements into the different Gender Mainstreaming initiatives has exacerbated the technocratization problem highlighted above. This has lead that in different setups the application of the strategy has become a ticking boxes activity. This is observed, for example, in the Strategic Engagement for Gender Equality 2016-2019. In Annex 6, a table is presented with the fields in which Member States introduced legislation with regards to gender equality (marked with an x). There is a broad range of fields: social inclusion and poverty, education and training, access to health, gender based violence, economy and labour market, gender stereotypes, reconciliation of working life and family life, and decision making. This shows how simply by introducing legislation in these fields, it seems that Member States are making progress in mainstreaming gender into different areas of policy. This approach severely disregards the importance of the legislation introduced, how effective its application has been, and several other factors, leaving it as a ticking boxes exercise. This rudimentary 'toolkit approach' in the application of mainstreaming has brought criticism as

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[81] See, for example, De Vos, 2015.

it strikes at the heart of the strategy in terms of fighting gender equality (Currie, 1999; Lombardo, 2013).

As analyzed above, the support and impact of the strategy is going to be closely related to the funding available for implementing it. We have already established that gender equality has been recognized as a priority for the European Union (EU) in achieving development, it has even been described as a founding value.[82] Nevertheless, besides mere mentioning the importance of Gender Mainstreaming, adequate and transparent funding is necessary to provide actual mainstreaming through the European initiatives.

Since the strategy of Gender Mainstreaming in the European Union was implemented in the late 90s, the budget allocation to gender specific investment has changed significantly. The European Union has been allocating fewer resources to gender equality through discontinuing some programmes and merging others. Specific programmes that addressed gender inequality have been discontinued in order to move towards a more "mainstreamed" strategy. The EU highlights the importance of gender inequality across different areas (for example employment and justice) but there is a higher responsibility than before on Member States to allocate funds to address gender inequality. Furthermore, the introduction of "gender budgeting" (a systematic gender-sensitive analysis and development of public budgetary policies) as part of the Gender Mainstreaming

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[82] See http://ec.europa.eu/justice/gender-equality/

strategy has been received as a necessary measure.[83] Nonetheless, effective application of gender budgeting relies on tools, information and expertise, which can be difficult to find.

This shift from the EU gender equality design to that of Member States has a deep impact on the effectiveness on those gender equality measures, as there is a high disparity among EU countries when it comes to gender equality. Not only the EU has been allocating fewer resources to gender equality, but also, there are less comprehensive strategies at the supranational level.

At this point, it is also important to study the impact of the gender budgetary priorities of the EU with regards to gender equality measures and its evolution. This can be observed with two different examples. First, during the budgetary period 2000-2006 the EQUAL initiative was implemented as a specific programme concerned with "transnational co-operation to promote new means of combating all forms of discrimination and inequalities in connection with the labor market". [84] One of its main objectives was to provide equal opportunities for women and men with regards to employment. This initiative was part of the European Social Fund (ESF), which has been the main financial instrument to improve employment and labor market conditions in Member States. During the 2007-2013 period, the budget for this program was discontinued and the EU highlighted six specific priority areas for the ESF, in which gender issues were

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[83] See, for instance, Directorate General of Human Rights and Legal Affairs of the Council of Europe. (2009). 'Gender Budgeting: Practical Implementation – Handbook', prepared by Sheila Quinn. (CDEG (2008) 15).

[84] Community initiative EQUAL concerning transnational cooperation to promote new means of combating discrimination and inequalities in connection with the labor market [C (2000)853 - Official Journal C 127 of 05.05.2000].

confined to "improving the social inclusion of less-favored persons" in developing nations.

As the report "Evaluation of the European Social Fund's support to Gender Equality"[85] suggests, the Member States have not filled with success the absence of gender specific programmes funded by the European Union and applied at the regional level. Figure 1 shows the percentage of ESF funds spent in gender specific issues across Member States and for the whole EU during both the 2000-2006 and 2007-2013 budgetary periods. In sum, the EU decreased their gender specific expenditure from nearly 6.6 million to 3.8 million euros, while increasing the funds dedicated to the ESF. The combination of both led to a decrease of 5.7 percentage points in the importance of gender specific expenditures between the two budgetary periods, which implied a decrease in almost half of the importance of gender in the ESF budget.

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[85] Directorate-General for Employment Social Affairs and Inclusion (European Commission). 2001. '**Evaluation of the European Social Fund's support to Gender Equality**'. Synthesis Report submitted by the consortium GHK Consulting Ltd and Fondazione G. Brodolini as the final output of the study 'Evaluation of the European Social Fund's support to Gender Equality' requested by the DG for Employment, Social Affairs and Equal Opportunities of the European Commission under the Multiple Framework Contract 'Provision of evaluation and evaluation related services to DG EMPL, including support for Impact Assessment Activities'. [Available at: ec.europa.eu/social/BlobServlet?docId=6643&langId=en. Last accessed: September 2018].

Figure 1. ESF funds spent in gender specific issues
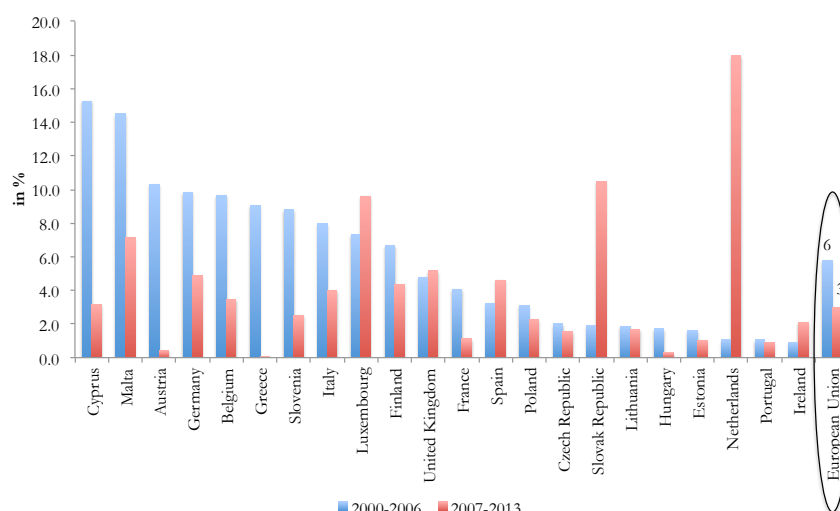
Source: Own calculations based on "The European Social Fund and Institutional Capacity of Public Bodies".

It is relevant to mention that not only gender specific funds decreased, but at the same time, ESF funds increased, potentially spending in issues not related with gender equality, which demonstrates a lesser compromise to gender equality. While this example takes into consideration these two budgetary periods, the projected expenditure on gender sensitive issues is expected to decrease during the 2014-2020 multi-annual financial framework despite another increase in the budget of the ESF.[86]

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[86] European Parliament, Directorate General for Internal Policies, Policy Department C: Citizen's Rights and Constitutional Affaires Gender Equality, "The multi-annual financial framework 2014-2020 from a gender equality perspective", January 2012.

Figure 2. Gender Specific Expenditure in ESF
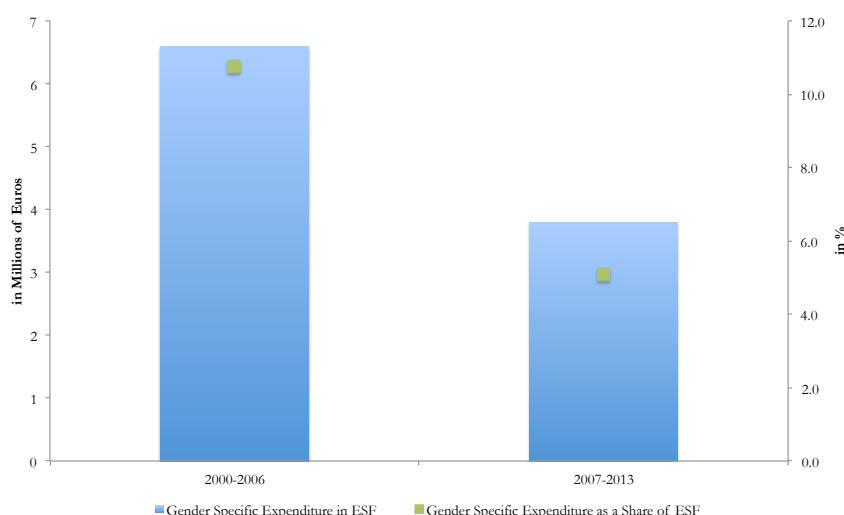
Source: Own calculations based on "The European Social Fund and Institutional Capacity of Public Bodies".

This process of allocation reduction was reinforced during the 2010-2014 Justice budget. A unified programme named "Rights and Citizenship" was created that merged three different programmes: PROGRESS programme (anti-discrimination and gender equality stands), DAPHNE III (dealt with awareness raising of violence against women among other things), and the Fundamental Rights and Citizenship programme. These three programmes provided approaches to specific problems, as well as a separate budget for gender issues. For instance, a 12 per cent of the 743 million euros budget of the PROGRESS programme was devoted to gender equality. Those almost 90 millions euros dedicated to gender equality were lost when the programmes were streamlined. Thus, not only has the new programme sidelined gender inequality as a main concern for the EU, but also the budget allocated to this new initiative implies a

significant decrease for gender specific expenditure, with a decrease of 16 percent.[87]

Gender Mainstreaming not only competes with other resources but also challenges the status quo (at least in its definition), which makes for even fewer resources for implementation. At the time, it was a major revolution, in that it was not going to be a specific programme, with a specific budget, but rather it would mainstream gender into different areas of policy making without a specific budget for its implementation. For instance, the specific education budget for gender sensitivity was withdrawn in 1996 because its objectives would be incorporated into the educational strategy "Socrates" (Stratigaki, 2005: 177). This simple example illustrates how Gender Mainstreaming can be washed away by its implementation: since objectives would be magically "incorporated" somewhere, there is no need for extra efforts nor extra spending. And in that line of reasoning, many specific programmes were discontinued. Another example were the programmes NOW and EMPLOYMENT-NOW, which targeted specifically women and became part of EQUAL, which was supposed to mainstream gender in the employment field. Whenever there is an open challenge to the existing hierarchical relations, there is intrinsic resistance. Gender Mainstreaming as it is applied in the European Union, does not take those inherent oppositions into serious consideration and bases itself in a conflict-free environment. This is shown across the official documents that are

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[87] See "The Multi-Annual Financial Framework 2014-2020 from a Gender Equality Perspective" (Directorate General for Internal Policies (European Parliament), 2012).

part of the strategy and how they present the strategy, its objectives and actions, and in the end how they problematize gender inequality. Not accounting for the efforts that changing social structures demands can be considered, to say the least, as naive. And in fact, examples such as the one studied by Callerstig (2014) and discussed above in Sweden show that there can be more successful applications of the strategy, even in a non conflict-free environment. Understanding the setting in which Gender Mainstreaming is applied, by whom actions are taken, and their pre-existing policy framework were all needed for the strategy to lead to actual change.

Section III:
Discursive Openness

Gender Mainstreaming is a mostly soft-law policy with little binding force. Developed in directives, work guidelines, and broad objectives, it implies a permanent reconstruction of its nature and meaning. Emanuela Lombardo and Petra Meier describe Gender Mainstreaming as an empty signifier (Lombardo and Meier, 2006: 152) whose impact depends on the interpretation of whoever is in charge and if they have specific training or not. It is an approach with an extreme discursive opening that opens the game to different forms of interpretation (Squires, 2005: 376). The danger is to become a "rhetoric without substance", to not see concrete results of its implementation when translated into "a job for everybody = a job of nobody" (Stratigaki, 2005: 181).

Lombardo and Meier emphasize that the process of Gender Mainstreaming is more easily adopted (and has a more visible impact) on issues where historically gender perspectives were introduced: family policies and unequal representation in politics. In turn, they show there are more feminist readings in areas where the European Union does not issue binding measures (Lombardo and Meier, 2006: 161). According to these authors, there are five shifts required to get a feminist reading of Gender Mainstreaming. First, a deep analysis of the underlying causes of unequal relations between women and men (Walby, 1990). The second shift is based on the refocusing and incorporation of a gender perspective in the political agenda in all areas. The third one refers to political representation and the ability to challenge the male-oriented value criteria. Fourth, an institutional turn in decision-making processes. This turn requires awareness of the mechanisms that cause and reproduce gender inequalities and devising new tools to tackle them (Lombardo and Meier, 2006: 154). The last shift to a feminist model of Gender Mainstreaming requires displacement and empowerment.

Lombardo and Meier try to analyze up to what extent these shifts can be detected in the policies of the European Union. After examining various policies, they conclude that there is a lack of a comprehensive approach that addresses the interconnected causes that shape the unequal gender relations that result in disadvantages for women. After twenty years of implementation, the strategy has not yet achieved the third turn. Does mainstreaming a gender perspective make sense if there is no agreement over a clear conception of gender? There seems to be conflict over the definition of gender, which, in turn, translates

into failures in implementation. We would argue that even the first shift still has a problematic approach: in many ways there is a lack of awareness of the historical, social and economic oppression, as referenced by the decisions of the European Court of Justice.

Moreover, the Council of Europe defines gender equality through the need for participation of "both sexes in all spheres of public and private life" and clarifies that gender equality is not synonymous to similarity but means to "accept and value the same way the differences between women and men and the different roles they have in society" (European Council, 1998). Which are the different roles that women and men have in society? Who describes those roles? Where do non-conforming people belong? These are tacit debates where the concept of gender is addressed and should be discussed publicly. The Council of Europe on Gender Equality Strategy 2014-2017 does not express a definition of equality and it even avoids references to the words "sameness" and "difference". Again, the debate about what gender equality and what Gender Mainstreaming is, becomes diluted.

Squires proposed that with the creation of a diversity agenda, isolated groups could become united in a productive dialogue to end tensions between them (Squires, 2005: 380). This dialogue could be an exercise in deliberative democracy to develop new projects and to transcend former dissents. However, results so far are not promising. There is no evidence that the policy of Gender Mainstreaming has provided profound changes neither in European Union policy nor in gender relations.

Finally, some understand Gender Mainstreaming as the reinvention or restructuring of feminism in the contemporary era. Walby (2011) describes five elements in its analysis: the tension between gender equality and mainstream; the differences between "equality", "difference" and "transformation"; the possible difference between the strategy used to achieve equality or equality as part of the process; the relationship of gender inequality with the rest of inequalities; and the tension between democracy and expertise and the transnational nature of Gender Mainstreaming. Walby (2011) recognizes a social construct that is defined through negotiation and contestation between feminism and a mainstream concept in a complex adaptive system. The idea is that equal opportunities policies carry their own limitations by employing male standards.

In labor policies, there are references to increasing the role of women in the job market, but without referring to concrete changes in the domestic sphere that represent a challenge to male hierarchies in the distribution of power. Concerning inequalities in the field of politics, there are certain shifts towards a feminist Gender Mainstreaming configuration. However, these quantitative changes do not imply qualitative changes. Although a greater number of women are involved in decision-making processes, those structures respond to patriarchal institutions where political priorities maintain the status quo. The use of Gender Mainstreaming has not yet provided any insight on the need to review gender biased electoral systems.

Additionally, a majority of gender studies with respect to policy is based on a binary concept of gender, only contemplating the relation

between women and men (Kantola and Lombardo, 2017). This might block policies that go past this binary category of women and men, and that focus on the problems of people throughout their lives with the heterogeneity and transformation needed in this process. Kantola and Lombardo (2017: 37) argue that through the deconstruction and policy approaches, using the study of policy discourses, we can move past the problems of using a binary concept of gender. In that regards, the intersectional approach to oppression is important to understand additional problems with the strategy and how it might evolve. In the next section we develop and discuss this approach and how it might improve Gender Mainstreaming.

Section IV:

Intersectionality

Another set of criticisms to Gender Mainstreaming is the lack of intersectional analysis. In the following section we will delve into this line of criticism to evaluate if an intersectional approach would contribute to a substantive difference in mainstreaming or if it only presents a new category of analysis.

The concept of intersectionality is extremely helpful to understand how oppression can simultaneously overlap. The term was coined by Kimberlé Crenshaw in 1989 when she described the intersectional approach as an aim to "bring together the different aspects of an otherwise divided sensibility" (Crenshaw, 1989: 236). She presents the intersectional analysis to shed light into a mutually reinforcing racial and sexual subordination.

Black women in the US were the first to point the activist critiques in the 70s and 80s of the homogeneous political discourse that created a sense of "all the women are white and all the blacks are men" (Hull, 1982). In that context, Crenshaw accentuates how the structural intersections of inequalities add, multiply and reinforce particular hierarchies in specific locations by using crossing streets ("patriarchy", "colonialism") as a metaphor for intersecting inequalities. By using this visual metaphor, Crenshaw directs attention to the movement along the streets or axes, not to the specific intersection or the groups that can be found (Yuval - Davis, 2006). Structural intersectionality makes reference to inequalities and intersections are relevant to the direct experiences of people in society (Lombardo and Verloo, 2009). The example described by Crenshaw is a black woman not considered for a job because she is black provided that the "norm" employee is a white woman and at the same time not considered for jobs available to black people in which the "norm" employee is male. In this example, sexism is amplified by racism, and, in general, structural intersectionality builds up on the reinforcement of exploitations on exploitations. Political intersectionality, on the other hand, reveals how inequalities and their intersections can be relevant for political strategies (Crenshaw, 1991). There is a need to address the interdependencies between intersecting inequalities since each of the strategies to tackle inequalities are not neutral to other inequalities. The example that Crenshaw provides to distinguish political intersectionality is the unavailability of domestic violence statistics on police interventions in Los Angeles. In this case domestic violence activists owing to the fear of racial stereotyping blocked the information. Although the concerns could be well founded, they can be hurtful for victims fearful of

retaliation.

The intersectional approach has also been described as a heuristic device that "references the ability of social phenomena such as race, class, and gender to mutually construct one another. One can use the framework of intersectionality to think through social institutions, organizational structures, patterns of social interactions and other social practices on all levels of social organization" (Collins, 1998: 205).

The dimensions of inequality are dynamic and in constant change, they are mutually constituted and always entangled (Walby, 2005: 325). This character provides complexity to every analysis and provides an explanation of itself as a way of understanding the social order. It is a process in which "race" can take a gendered meaning for particular people, as well as "religion", "sexuality" and other processes that constitute the person. These are the domains in which "multidimensional forms of inequality are experienced, contested and reproduced in historically changing forms" (Ferree, 2009: 87). In this complex system, gender is not only a dimension limited to social organization or the reproduction of family, class is not only an economic dimension, but all processes are permanently being co-constructed with the meanings that they themselves attribute and reinforce separately and together (Ferree, 2009). Myra Marx Ferree describes it as if "each institutional system serves as each other's environment to which it is adapting" (Ferree, 2009: 87).

The concept of intersectionality, in short, has appeared to be

extremely helpful to understand the way in which members of social groups can suffer different and overlapping sources of oppression. For instance, it has been widely argued by black feminists that the oppression black or Latin women face in the U.S. is different and more complex than the sort of oppression that white women tend to face in this society. This does not mean, however, that the oppression faced by white women is least important of harmful than the one that black women tend to face. What this means, instead, is that the oppression faced by black women might require different or additional remedies than the one faced by white women.

Intersectionality, thus, has been helpful to understand these different sorts of oppression and the way in which we need to enable remedies that can overcome them. Lombardo and Verloo recognize a growing academic use in intersectionality, both structural and political, as a concept to tackle multiple inequalities and their consequences (2009). Nonetheless, they recognize that intersectionality is underdeveloped in existing policy practices. To trace the presence of intersectionality or its absence in policy documents, they turn to critical frame analysis. Gender Mainstreaming is a part of the debate between the concept of gender inequalities and the different policies. The question lies in whether the strategy raised may include ethnic, social, religious, sexual preferences, and others. In that sense, the policies seem to only include a concise and comprehensive definition of "poverty" and "social exclusion" as generalizing concepts without further analysis.

This is readily observable from the different documents involving Gender Mainstreaming. For example, in one of the most recent

Strategic Plans, the Strategic Engagement for Gender Equality 2016-2019, throughout the whole document there is an exclusive focus in the difference between women and men. There are little signs of diversity among women. In that regard, there are references to older women[88], disadvantaged women, single parents, migrant and Roma women.[89] While the Strategic Plan calls for special attention for women that belong to each of these groups, there is no mention or analysis on how the different types of oppression across this diverse group of women might be tackled. There is also a notion of diversity when the document focuses on the labor market. There are mentions to migrant women and women heading single-parent households.[90]

Furthermore, these references to diversity among women are, if anything, reduced compared to the different Reports and Roadmaps in 2006 and 2010. In these, there were more mentions to women in vulnerable situations, with more focus on Roma women (Calvo, 2013: 96). Additionally, asylum seekers and trafficked women were referred to, something that is missing from this Strategic Plan.

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[88] The document argues, for instance, that "Older women are much more at risk of poverty and social exclusion than older men and no mitigating trends have been observed in recent years."

[89] Under Priorities and Key Actions for 2016-2019, the text of the Strategic Engagement for Gender Equality 2016-2019 includes the following line: "Particular attention will be paid to the specific needs of groups facing multiple disadvantages, e.g. single parents and older, migrant, Roma and disabled women."

[90] "In terms of access to financial resources over a lifetime, gender equality remains elusive. Women (particularly migrant women and women heading single-parent households) still generate a much lower proportion of income on the labour market than men." (Strategic Engagement for Gender Equality 2016/2019, Section 2 'Gender Equality in 2015: Challenges and Gaps', p. 8).

Even if the mentions or analysis of diversity among women were increasing in the official documents outlining Gender Mainstreaming, there is a clear lack of an intersectional approach to gender (Calvo, 2013: 97). What is missing is how the different oppressions might amplify each other, or more specifically, how they can intersect. Each different minority group among women is listed in the document with a call to special attention to each of these groups. Even more, these listed groups do not seem to include every dimension of diversity among women. There is no mention, for instance, of lesbian or transgender women in the document.

Related to this, Kantola and Nousiainen (2009: 467) highlight that the European Union policy on anti-discrimination is not based on the intersectional approach but rather on a 'multiple discrimination' one. This latter model is based on the premise that the different inequalities among a group are similar and of the same importance and can thus be treated with an anti-discrimination approach. This coincides with the analysis of the European Union anti-discrimination policy in Lombardo and Verloo (2009), where they argue that even in practice, within the Commission, the different inequalities are treated separately in terms of policy action. Moreover, they conclude that this anti-discrimination model might end up being more like an equal opportunities' strategy, rather than an all-encompassing approach to inequality, such as Gender Mainstreaming. This shows that the European Union recognizes women mostly as a homogeneous group, with little if any further reading of diversity, ethnicity, multicultural and class differences (Calvo, 2013: 93). It implements mechanisms

that reproduce and consolidate this group called "women" mainly as primary caregivers (Lombardo and Meier, 2006: 158).

The lack of an intersectional approach with respect to gender can help us understand the benefits and also the tensions that European policymakers might face in combining and amplifying the concept of gender equality with other types of oppressions. The Roadmaps and Strategic Plans outlining the strategy of Gender Mainstreaming show clearly a binary concept of gender, distinguishing men and women, with an occasional mention to some diversity among women as mentioned above. Even within the different groups of women, the documents are especially silenced about lesbians or transgender women. This reflects an understanding of gender that is prone to maintaining power relationships and hierarchies even within women, being silent about the inequalities or oppressions that are not mentioned in the relevant documents of the strategy. This is one of the disadvantages of not considering an intersectional approach in gender equality policies. This end up homogenizing the problem and solution, silencing groups that are left aside, and thus perpetuating the existing power hierarchies among women. In that sense, Lombardo and Verloo (2009: 489) argue that one of the most negative consequences of the lack of intersectionality in gender equality policies is that it goes against the objective of these policies being transformative and defiant of the established oppressive social norms. They highlight that the use of a more intersectional approach would bring important benefits in terms of improving the quality of gender equality policies through a better understanding of gender, and also through a clearer picture on the biases of policymakers.

This recognition of the different benefits from an intersectional approach also leads to a very natural question: Why have policymakers in the European Union been against, or at least muted, in terms of extending the concept of gender to other types of inequalities? One potential explanation lies in power struggles, as highlighted by Lombardo and Verloo (2009: 481). Different groups among women might have not only different demands in terms what is needed to combat oppression, but also different levels of influence and access to policymakers in the European Union. In addition, the own policymakers' biases can, conscious or unconsciously, perpetuate and reproduce the different inequalities and sustain the status quo through their discourses. Furthermore, there is a struggle in terms of competition for funding. An intersectional approach to gender equality policies, as suggested by the EWL, implies the recognition that different oppressed groups might have distinct equality agendas, with their own dynamics of inclusion and exclusion (EWL, 2004). Therefore, the actions and analysis needed are specific to each group and might lead to specific resources devoted to fight each inequality. As such, different groups among women can start competing for funds, leading to power struggles and conflicts that might affect gender equality policies themselves.

In the end, the debate on the various inequalities that permeate the category "woman" does not seem to be permeable to the policies of the European Union despite being one of the critical discussions. Two positions, in principle antagonistic, emerge. The first argues that in trying to amplify the spectrum to other inequalities some resources allocated to Gender Mainstreaming may be lost. At the same time, it

could dispel the focus from the causes of inequalities to a competition on assigned priorities and funding (Skjeie, 2006; Woodward, 2008).[91] The second position defends the idea that the result of the implementation of Gender Mainstreaming policies could be strengthened from prior coordination between various communities and initiatives (Squires, 2005: 368). Again, the importance of the concept of gender used transpires. Understanding the category "gender" as a dispersed category to be analyzed within other complex inequalities is one of the options for analysis. Using the concept of gender, as a social construction and thus a more ontological analysis could be another. However, these discussions go outside those carried out in the creation of gender policies of the European Union. Finally, even if the strategy were to be combined with deliberative mechanisms that incorporate marginalized groups into a diversity mainstreaming strategy as suggested by Squires (2007) several problems would persist. Notice that the tensions and problems in the implementation of Gender Mainstreaming highlighted and analyzed up until now do not revolve around the lack of an intersectional approach. The problems on the institutionalization of the strategy, the impact problems, and the discursive openness problems would not be resolved by an intersectional approach to gender equality. Thus, while diversity mainstreaming has several potential benefits, it does not solve the inherent problems of Gender Mainstreaming in the European Union.

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[91] This is even more complex if the different inequalities that are important in each Member State, as well as the different standing that each oppressed group might have in terms of influence and power across countries, have to be taken into consideration. For instance, the experiences of the UK and Nordic states in this regard can be quite different, as highlighted by Squires (2007).

Section V:

Gender Mainstreaming and the "Firework Effect"

In these first three chapters of this dissertation, we analyze Gender Mainstreaming as a gender equality strategy and its implementation in the European Union, a fertile environment. Research has shown that Gender Mainstreaming is not working, or at least that it is not presenting the results that were once expected. In a recent study, EIGE claims that the progress towards gender equality is going at a "snail's pace", even showing that several Member States had drawbacks in terms of gender equality.[92] Although there are some that recognize Gender Mainstreaming as a slow revolution (Davids, Van Driel and Parren, 2014),[93] overall support seems to be on the decline.

We have examined how incompatible resistances generate pressure points that hinder the road to equality. These resistances go from the indefinition over what is mainstreamed, whether it is an instrument or value, to the intra institutional tensions within the European Union, including how and who applies the strategy and their pre-existing political frame. Furthermore, we have argued that there is a decline on both the impact of the strategy and the budget dedicated to specific programmes to fight gender inequality, as a result of this all-encompassing nature of the strategy.

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[92] See EIGE publication 'Gender Equality Index 2017 in Brief – A Snail's Pace Towards Gender Equality', (2017b). Avaialble at: https://eige.europa.eu/rdc/eige-publications/gender-equality-index-2017-brief-snails-pace-towards-gender-equality.

[93] The authors claim that while there are reproductions of gender inequality in the strategy, depending on the context, there is a slow change in the power structures due to Gender Mainstreaming in general. (Davids, Driel and Parren, 2014).

These types of resistances are extremely common in European institutions, and there is no active engagement in trying to overcome them. We have discussed how there is a decreasing interest in implementation, shown by slimmer budgets and increasing cultural backlash after the global financial crisis. We have argued that beyond implementation problems, its character of soft law, the inability to find agents responsible for the application, the almost exclusive use in areas historically associated with gender issues, the danger of its use to the detriment of other policies of equality, the minimum transformative effect (caused by lack of institutional reforms) and the contradictory results, the main problem is that it does not have a clear gender perspective. On top of this, we have shown throughout the analysis that these tensions and problems are not part of any discussions in the most recent official documents related to the strategy. Thus, there is a lack of problematizations of these issues, showing little transformative effort from within the European Union.

As such, Gender Mainstreaming is presented as a too all-encompassing and ambitious strategy. But, it ends up being an empty concept in itself, deprived of any analysis of gender, gender relations and their impact. Therefore, it becomes an abstract principle that does not consider structural inequalities in the decision-making process and institutions. Thus, the development of Gender Mainstreaming can be described as a "Firework Effect". In the 1990s, this policy represented the forefront of gender issues. The possibility of incorporating a gender perspective mainstreamed in all policies of the European Union was certainly attractive. However, trapped within the limits of its own ambition, it became another vehicle for the reproduction of

inequalities entrenched within patriarchal institutions. All the noise and colors provided at first faded and, like a firework display, there was no permanence.

One of the main problems of Gender Mainstreaming is that it does not address inherent conflict. In many cases, afraid of agitating waters and generating breaches in society, Gender Mainstreaming tries to slowly move away from a history of inequality. The strategy seems to be working rather poorly.

Conflict should be brought to the front page, to raise awareness, to be debated and to finally get on the right track towards equality. For example, education is the key to understanding oppression. Through the understanding of gender as a construction and a permanent renegotiation, an analysis of the role of gender education is a necessary step towards a true commitment to gender equality. This would be a step forward to addressing resistances through the examination of the relation between Gender Mainstreaming and education. It is difficult to have a real commitment to gender equality without a policy that takes serious consideration in gender education.[94]

Thinking about the inherent problems aforementioned, Gender Mainstreaming seems to rely in a previously accorded gender perspective. In other regions of the world, in which there is less awareness of historical and cultural oppressions, it is even less likely that Gender Mainstreaming would prove to be successful.

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[94] More on education in the European Union from a gender equality perspective in Chapter 5.

To sum up, we have seen the tensions between the different institutions that are involved in gender governance in the European Union. The European Commission, the European Parliament and the Council seem to be in a different position than the European Court of Justice. This one-sided conversation in which each institution goes along without debating causes and consequences generates unnecessary friction and, moreover, it does not help with the resolution of conflicts. The search for gender equality is a revolutionary quest. It is revolutionary in the sense that it entails the rearranging and rethinking of all social, political and economic institutions and powers. Dissent is part of the human expression and it should be considered. Gender equality begins with awareness of an oppressive situation. Institutional change should also begin through awareness. Implementing a gender perspective in all areas without awareness is like asking a hockey player to win a football world cup.

In this context, Gender Mainstreaming as a phenomenon should be analyzed from its inception in the prior gender debates in order to urge action strategy from which it can generate equality policies with argumentative strength and concrete plans. This is the aim of the second part of this dissertation.

CHAPTER 4:

A POSTGENDER STRATEGY IN A STILL BINARY WORLD. GENDER, WHAT IS GENDER?

In this chapter, we will explore the philosophical bases for the "What's the Problem Represented to Be? (WPR)" problematizations approach. To so do, we will first examine the evolution of both feminist political science and feminist political analysis to uncover the processes of changing from the concept of women to the concept of gender. Secondly, we will study the theory of Simone de Beauvoir, her critics and proponents and the impact in the study of gender relations. Third, an analysis of feminist poststructuralism and the work of Judith Butler to fully understand the meaning of a fluid conception of gender: gender as a performance or a doing instead of a fixed category of analysis. The concept of gender as seriality, by Iris Marion Young will be introduced to present an account of gender that is novel and solves some of the problems portrayed by the use of identity politics. This will provide a first bridge from theory to practice. We will in turn analyze the uses of gender from gender as a fixed concept to the benefits of using gender as a verb. Finally, we will use these tools to analyze Gender Mainstreaming as a policy embedded with poststructural ideas.

Section I:

First Came "Woman", then Came "Gender".

Feminism[95], as described by Myra Marx Ferree (2006: 6) is, "activism for the purpose of challenging and changing women's subordination to men", it is a "goal, a target for social change". In this definition, Ferree recognizes a challenge to all gender relations as well as addressing "norms and processes of gender construction and oppression that differentially advantage some women and men relative to others, such as devaluating "sissy" men or the women who do care work for others" (Ferree, 2006: 7). Chris Weedon states "feminism is a politics. It is a politics directed at changing existing power relations between women and men in society" (Weedon, 1987: 1).

In turn, Judith Butler describes "the program of feminism is not one in which we might assume a common set of premises and then proceed to build in logical fashion a program from these premises. Instead, this is a movement that moves forward precisely by bringing critical attention to bear on its premises in an effort to become more clear about what it means and to begin to negotiate the conflicting interpretations, the irrepressive democratic cacophony of its identity" (Butler, 2004: 175). The focus on critical attention from the feminist movement is an essential part of the description of feminism that is relevant to this thesis.

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[95] There are many questions as regards what feminism is and what it is supposed to be, but they exceed the purpose of this thesis. More on what feminism is in Disch and Hawkesworth, 2006.

Feminist political science (FPS) and feminist political analysis (FPA) have been crucial for the incorporation of categories of analysis in policy work. Feminist political analysis is understood as the diversity of analytical strategies developed around the political, while feminist political science presents an approach to political science from a feminist perspective. That is, based on the construction of unequal relations of power between men and women. Wendy Brown describes political theory as speculative work that provokes thinking and imagination through the production of new representations of the world (Brown, 2002: 574). The political in conceived as the space in which unequal relations are constantly produced and transformed and in which the dichotomy public/private gets torn apart by the notion that "the personal is political" (Pateman, 1983).

In the early years of FPS as a separate entity of political science, the aim was to criticize the exclusion of women as political actors and to challenge all fundamental assumptions of the discipline, including the public/private distinction and the politics of women in political life (Lovenduski, 1998; Phillips, 1998; Childs and Krook, 2006). Feminist research had a two-fold objective: first, to draw up a critique of status-quo and second, to incorporate "women" to the discipline, by means of women-knowledge on participation and interests in political life.

Research was focused on account for underrepresentation of women in politics. The substantive representation of women and the relation of the number of women elected to office and the women-favored legislation (Phillips, 1995, 1998) gave rise to the concept of "critical mass" to study the percentage of women in political assemblies and

the transformation of institutional, political and public behavior (Studlar and McAllister, 2002).

The focus on feminist studies shifted in the decades of late 1980s and early 1990s by developing new critiques of political research methods and specifically by focusing on the gendered nature of political processes and institutions (Childs and Krook, 2006; Hawkesworth, 1997). The concept of women's studies was replaced, or rather enhanced, by gender studies. In turn, the research agenda also shifted to focus on the gendered meanings of structures, values, conventions and practices (Scott, 1986; Beckwith, 2005), and the cultural meaning of the sexes, became subject to renegotiation and fluidity (Acker, 2006; Connell, 2009; Butler, 1990).

Kantola and Lombardo (2017) recognize five different approaches to feminist political analysis: women, gender, deconstruction of gender, intersectionality, and postdeconstruction. [96] They describe these approaches, following Nina Lykke, as "temporary crystallizations in ongoing feminist negotiations of located theory making" (Lykke, 2010: 49). The Women approach is focused on the analysis of women to bring to light their roles and actions. It was the first approach to include women as a particular group worthy of specific analysis. The restrictions of this approach are the dangers of essentialism and disregard for the structures of inequality. In response to the lackings of the "women" approach, the Gender approach tries to aim at wider societal structures and how they construct women and men's roles, to

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[96] The purpose of Kantola and Lombardo's analysis is to provide contributions and limitations of each one of the feminist approaches.

show that gender inequality is socially constructed and is the result of a relation between women and men. Deconstruction of gender refers to the theories of gender as a practice continuously contested, believed to not have a fixed meaning but to assume different normative meanings. The intersectional approach to political science explores the intersection of gender with other inequalities such as race, class and other systems of inequalities. Finally, the Postdeconstruction approach explores affects, emotions and bodily materials into gender and politics (Kantola and Lombardo, 2017: 14).

In sum, Kantola and Lombardo argue that political analysis connects theory and practice, and that gender analysis is in itself useful for making such connection. Taking from their classification, we will focus on the women and gender approaches, encompassing what they describe as gender and the deconstruction of gender. Different understandings of the conception of gender generate diverse representations of the problem, as we have seen in Chapter 2. We will study that there is a shift in political analysis that does not necessarily translate to the application of Gender Mainstreaming. In this section we analyzed the shift between women's studies to gender studies and its influence on policy to later on argue that Gender Mainstreaming as a strategy is framed in gender studies, using the vocabulary, concepts and ideas developed by gender studies but still hung up on the women centric perspective. This poses a threat because through the process of problematizations we have seen that structural change is not aimed at changing structures (as was first intended in the conception of mainstreaming as a strategy), but instead is focused on women. In the following section we will analyze gender as a category.

Section II:

What is Gender? – A Political Analysis of Gender and Gender as an Analytic Category.

The concept of gender, initially developed in the fields of linguistics (Hawkesworth, 1997), resulted in a fast-growing revolution in feminist literature. Scott defines gender as "the entirely social creation of ideas about appropriate roles for women and men. It is a way of referring to the exclusively social origins of the subjective identities of men and women. Gender is, in this definition, a social category imposed on a sexed body" (Scott, 1988a: 32). In this perspective, "the use of gender emphasizes an entire system of relationships that may include sex, but is not directly determined by sex nor directly determining of sexuality" (Scott, 1988a: 32) and thus becomes a constitute element of social relationships as a "primary way of signifying relationships of power" (Scott, 1988a: 42). Scott developed gender as an analytical category, arguing that gender is crucial in the distribution of power that operates in multiple fields. Values, conventions, and practices are structured to the point of attributing gendered meaning to even unrelated relations between women and men (Scott, 1988a; Beckwith, 2005).

Gender as a Social Construction - de Beauvoir

Gender as a social construction was introduced by Simone de Beauvoir's analysis of the nature of women and men, arguing that there was no necessary relationship between biological sex and constructed gender. De Beauvoir reestablishes the female identity and

paved the way to second wave feminism's disproval of biology as destiny (Jaggar, 1990) and to certain conceptions of identity politics that fueled upon gender and racial divisions. In this context, the subject "woman" became problematic (hooks, 1981; Lorde 1984; Benhabib, 1995). Second-wave feminism attempted to move away from subjectivizing accounts of oppression and toward a critique of male power (Zerilli, 2015).

In 1949 Simone de Beauvoir introduced the notion of women as the "second sex" and the "other" to the normative male figure. De Beauvoir described women as the mirror to which the male "contemplates himself" (de Beauvoir, 1949: 185) and contended that: "(…) woman is the Other in whom the subject transcends himself without being limited, who opposes him without denying him; she is the other who lets herself be taken without ceasing to be the Other, and therein she is so necessary to man's happiness and to his triumph that it can be said that if she did not exist, men would have invented her" (de Beauvoir, 1949: 186). This process of constructing a universal subject (as man) and the Other (as woman) is social: "One is not born, but rather becomes, a woman. No biological, psychological or economic fate determines the figure that the human female presents in society; it is civilization as a whole which produces this creature, intermediate between male and eunuch, which is described as feminine" (de Beauvoir, 1949: 267).

Before de Beauvoir, Mary Wollstonecraft (1792) had argued that women were not different than men, but made different because of, amongst other social constructions, absence of education. In that

sense, de Beauvoir set the basis for theorization of the social construction of gender and the social construction of difference through the process of otherness.

The analysis of the process of "othering"[97] has presented two different approaches to difference and equality. De Beauvoir takes from Hegel the concept of "otherness" as a fundamental category of human thought. Nonetheless, she deviates from Hegel in the "essential hostility between human beings that produced the other as inferior, a slave for the self", the ways in which otherness is not "immutably fixed in human nature" (Günther, 1998: 184).

The "difference" approach has recognized two levels of difference, one in which there is relative inequality, and other in which Otherness is in fact produced by inequality. And the relationship is one of submission. The differentiation process becomes rooted in power relations between male and female and inequality arises. There is a hierarchy in differences (Woodfield, 2000) proclaimed by inequality.

Of this, Catherine MacKinnon has also pointed out that both accounts take men as the measure of all things. Under the sameness approach, "women are measured to the correspondence with men, equality judged by our proximity to his measure" (MacKinnon, 1984: 382). The difference standard implies being measured according to the lack of correspondence with men, womanhood judged by the distance

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[97] The analysis of *othering* is influenced by Hegel's dialectic of identification and distantiation. More on this in Forster, 1993.

from manhood (Ibid, 1984: 382). As MacKinnon shows, the impossibility to get out of the binary opposition and the normalization of the subject "men", presents a tough challenge to both the sameness and the difference approach. Neutrality then becomes the male standard, and the special protection the female standard to which men is the referent.

Monique Wittig states that sex, as gender, is a socially constructed category: "The category of sex does not exist a priori, before all society. And as a category of dominance it cannot be a product of natural dominance but of social dominance of women by men, for there is but social dominance" (Wittig, 1992: 5). The mere perception of anatomical sex differences is a product of patriarchy and not a biological difference (Wittig, 1992). The idea of sexual difference underpins the assumption that humankind is divided into men and women, but for Wittig, "sex" is an ideological category that helps to naturalize gender and preserve the oppression of women: "For there is no sex. There is but sex that is oppressed and sex that oppresses. It is oppression that creates sex and not the contrary. The contrary would be to say that sex creates oppression, or to say that the cause (origin) of oppression is to be found in sex itself, in a natural division of the sexes pre-existing (or outside of) society. The primacy of difference so constitutes our thought that it prevents turning inward on itself to question itself, no matter how necessary that may be to apprehend the basis of that which precisely constitutes it" (Wittig, 1992: 2-3).

Günther points out that Wittig's logic is circular for one sex and can only oppress the other if a differentiation exists (Günther, 1998). The

"hyperconstructivism" (Kruks, 1992) of Wittig's theory is understood as a reaction to essentialism of "female nature" and "biology" as a justification of female subordination (Günther, 1998). The idea of sexual difference is created by the asymmetrical relationship between men and women but not by difference. In fact, de Beauvoir pays special attention to the distinction between sexual differences and their interpretation within particular social contexts. The perception of sexual difference constructs the ways in which men and women learn to experience their physical existence according to the definitions of male and female body (Günther, 1998: 180). This is strongly connected to the embodiment of human subjectivity, another key element of de Beauvoir's gender theory, that depends and varies provided the socio-historical circumstances (Ward, 1995).

Christine Delphy, in turn, affirms that the mere notion of sexual difference is the basis of the hierarchical relationship between the sexes and therefore any egalitarian concept of difference is a contradiction in terms (Delphy, 1996). In this line of reasoning, equality is pursued by the challenge to perceived differences between female and male. This is a central connection to liberal feminism and equal opportunity approaches that acknowledge most institutional frameworks and demand access based on the right to self-determination (Weedon, 1987).

Criticism to Gender as a Social Construction

The analysis of social construction of the feminine and womanhood has scorned criticism. Luce Irigaray maintains that de Beauvoir

promotes a vision of feminism in which women become like men through a return to the "singular, historically masculine, subject, and the invalidation of the possibility of a subjectivity other than man's" (Irigaray, 1995: 8). Irigaray presents a vision of feminism based on the female perspective, the ways in which women experience the world differently and re-categorize the feminine instead of rejecting it. This approach has been described as strategic essentialism[98] (Stone, 2004: 134). Irigaray aims at constructing feminism based on sexual difference (Kauffman, 1986). To do so, she employs the concept of mimesis as a re-articulation of the naturalized stereotypical portrayals of women to put them into question (Irigaray, 1995).

"To play with mimesis is thus, for a woman, to try to recover the place of her exploitation by herself to be simply reduced to it. It means to resubmit herself –inasmuch as she is on the side of 'perceptible,' of 'matter'– to 'ideas,' in particular to ideas about herself, that are elaborated in/by a masculine logic, but so as to make 'visible,' by an effect of playful repetition, what was supposed to remain invisible: the cover-up of a possible operation of the feminine in language. It also means 'to unveil' the fact that, if women are such good mimics, it is because they are not simply resorbed in this function. They also remain elsewhere: another case of the persistence of 'matter,' but also of 'sexual pleasure'" (Irigaray, 1985: 76).

The setback of this position is the risk of embedding essentialist

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[98] More on strategic essentialism in Spivak, 1987. In said book, Spivak describes strategic essentialism as a practice, not a theory; a means to an end, a way to facilitate the escape from oppressive representations.

notions of femininity and fixed conceptions of women. The debate of equality and difference arising from de Beauvoir's theory presents de Beauvoir bendable approach to difference, as she uses gender and difference from two theories simultaneously. This brief approach to the equality and difference tensions presents a debate that is still present and still permeates the understandings of equality policies.

De Beauvoir's development of gender as a social construction was key to addressing the essentialist arguments regarding the "natural" differences of men and women. By disrupting the previously unbreakable relationship between sex and gender, De Beauvoir set the basis for feminist political analysis.

The act of defining a gender identity is exclusionary to some bodies, practices, and discourses and obscures the constructed, and by that reason contestable, character of gender identity (Young, 1994: 715). On this topic, Iris Marion Young has exposed that feminism has been stuck inside the assumption that it can be neither theoretical nor without a subject delineated by gender identity and experience. In this sense, she explains that feminist politics is presumed to speak in the name of a group (women) defined by the female gender identity. Then it was essential to promote the category gender to criticize and reject efforts to define women's "biological sex" (Young, 1994: 716).

If we consider that discourse tends to reify fluid and shifting social processes, the insistence in the construction of the subject then obscures the social and discursive production identities by ignoring the

centrality of enforced heterosexuality in the social construction of gender (Young, 1994: 716).

The main limitation of the category of gender is that it always represents a binary opposition between the masculine and the feminine. To the degree that sexual difference is classified as man and woman, gender mirrors sex. Gender identification is not a cultural variable overlay but the categories of gender are the ones that construct sexual difference itself (Young, 1994: 716). In this sense, Mohanty critiques a tendency to see women as a group that is already constituted, coherent with "identical interests and desires" (Mohanty, 1984: 337). Trying to construct or speak for a subject leads to objectification. In that way, the task for feminist theory is to formulate genealogies that depict the social construction of categories and remain open to accepting and affirming the flows and shifts in the contingent relations of social practices and institutions (Young, 1994: 716).

Identity politics is suggested as an answer to the essentialization of gender while retaining "women" as a group. It proposes that there is a common identity –in the case of feminism, "women"– that unites subjects into a group as the construction of a political movement (Young, 1994: 721). Since there is not a single female identity that can define the social experience of womanhood, the category of women and men is then constructed by coalition politics by means of various social, historical, political conditions that create the possibilities for membership (Fuss, 1989: 36).

Identity politics recognizes that the perception of a common identity is the product of social or political process that brings those people together around a purpose. The conception of women as a group that rejects an essentialist or substantive conception of gender identity proves to be useful for feminist political needs (Young, 1994: 722). However, Young (1994) recognizes two problems with identity politics. The first, the fact that even in a coalition of mutually identifying women, there will be some experiences or norms privileged over others. In this sense, Butler (1990) contends that there should be suspicion in settling in a unified coalition. She argues that identities should shift and be deconstructed in a play of possibilities so as to avoid exclusion. The second objection presented by Young is establishing a degree of arbitrariness in feminist politics: "Some women choose to come together in a political movement, to form themselves as a group of mutually identifying agents. But on the basis of what do they come together? What are the social conditions that have motivated the politics? Perhaps even more important, do feminist politics leave out women who do not identify as feminists? These questions all point to the need for some conception of women as a group prior to the formation of self-conscious feminist politics, as designating a certain set of relations or positions that motivate the particular politics of feminism." (Young, 1994: 722).

After the 1960s and 1970s political mobilizations, and the idea of equality and equal opportunities, new criticisms arose from groups that felt marginalized by the nature of the subject "woman" and the "women's movements" (hooks, 1981). The surge of identity politics introduced a new perspective to feminism and the politics of

exclusion. In this political climate, the existing perceptions of rights, gender, experience and difference were challenged and a new "theory of the relation between language, subjectivity, social organization and power" (Weedon, 1987) arose. In that context, post-structural ideas of feminism became more enticing.

Gender as a Performance: the Feminist Poststructuralist Approach

Defining "poststructuralism" can prove to be a hard task as it refers to many theoretical positions. Friedrich Nietzsche, Georg Wilhelm, Friedrich Hegel and Martin Heidegger are four of the 19th century German philosophers whose ideas around the nature of being were the base for poststructuralist thought. The key feature introduced by poststructuralism, which remains essential for what is perceived as postfeminism, is the nature of the subject and the understandings of individual experience, since, in Nietzsche's position, there is no "being" behind the doing, acting, becoming; "the doer" is merely fiction imposed on the doing, the doing itself is everything (Nietzsche, 1887: 29). In this line of thought, Heidegger (1927) described an ongoing "becoming", instead of an individual, the "I". These ideas were also influenced by contemporary linguistics and semiotics theories of language. Ferdinand de Saussure, considered the founder of modern linguistics, described language as a system of linguistic signs, defined as an organized set of interrelated and coexisting elements. It is characterized as social, just to be complete in the mass and external to the individual, who is unable to alter it. De Saussure

(1983) explains that it is a mental faculty, the capacity of each individual to build systems of signs, and associate linguistic signs. In this trace, the language is only psychological and psychic because it is within the mental part of the circuit of the word and is composed of signs, biplane psychic entities. By stating that language controls our psyche, we are implying that is not only a tool through which we express our thoughts, but also who controls and who develops them. Ultimately, it is through language that we know, we communicate and above all, we structure our thinking. This introduces the cognitive study of language: If language handles our psyche, we rationalize and comprehend through it. De Saussure developed the concept of the linguistic sign, made up of two elements, the signifier (sound, written word, image) and the signified (the meaning). In this theory the relation between the signifier and signified is not natural or inexorable, rather that is obtained through the chains of signs.

The evolution of poststructuralist thought was erected around four concepts: language subjectivity, discourse, and power (Weedon, 1987). Taking from de Saussure, poststructuralism regards language as a contested arena, in which social forms are produced and reproduced. This in turn takes the focus away from the subject as an independent agent to the production of subjectivity in social practices.

Within poststructuralism, feminist post structuralism is based on studying the construction of gender, subjectivity and power. In particular, in the following section we will explore the work of Judith Butler (Butler, 1990, 1991, 1993, 2000, 2004), which brings together theoretical approaches of poststructuralism (by resorting to Lacan,

Foucault, Hegel, Derrida, and Nietzche) and performativity of gender (by terms of a feminist approach to de Beauvoir, Irigaray, Kristeva, and Wittig, among others). Butler is also influenced by linguistics and more specifically by J.L. Austin's theory of speech acts in the formulation of gender identity (Salih, 2002). Austin defines speech act as an utterance with a performative function in language and communication and distinguishes two types: constative utterances (those which describe or report on something) and performative utterances acts, that in saying, perform what is being said (Austin, 1955). The meaning of language becomes unstable, which implies that social forms can (and should) be contested. Poststructuralism explores concepts of subjectivity, language, discourse and power, and highlights the importance of social practices.

Judith Butler: Gender as a "doing"

Judith Butler describes the concept of gender as repetition, as an activity repetitively performed, a series of iterations of stylized acts or practices (Butler, 2004). Butler theorizes that gender ought to be understood as a doing, a practice of improvisation that originates from the other, even if the other is only imaginary (2004). This theory is explained through a process of differentiation, much like de Beauvoir's. Gender is instituted through the stylization of the body and, hence, must be understood as the mundane way in which bodily gestures, movements, and enactments of various kinds constitute the illusion of an abiding gendered self (Butler, 1988). It is not only a series of repetitive iterations, but it also becomes a common construction through interrelation:

If gender is a kind of a doing, an incessant activity performed, in part, without one's knowing and without one's willing, it is not for that reason automatic or mechanical. On the contrary, it is a practice of improvisation within a scene of constraint. Moreover, one does not "do" one's gender alone. One is always "doing" with or for another even if the other is only imaginary. What I call my "own" gender appears perhaps at times as something that I author or, indeed, own. But the terms that make up one's own gender are, from the start, outside oneself, beyond oneself in a sociality that has no single author (and that radically contests the notion of authorship itself). (Butler, 2004: 1)

Gender as a doing, not a proscriptive category, is based on the idea of differentiation from the other and the discussion around the differentiation process. The "othering" process that we have previously discussed in de Beauvoir's theory influences this. There is a differentiation between the feeling of what each individual "authors" or "owns" in terms that are beyond one. That is to say, the self is established through the terms that are outside the self. This precludes the commonality of the construction of gender. It is in this sense that the communal construction of gender and the performative elements gain relevance from a policy perspective.

Repetition is inherent to the concept of performativity, repetition defined as at once a reenactment and a re-experiencing of a set of meanings already socially established that legitimates it (Butler, 1990). Likewise, performativity is a repeated iterative discursive practice that constitutes a subject and its temporary condition. These practices are performed within a ritualized production, under and through

constraint, and under and through the force of prohibition and taboo, within regulatory norms that are never absolute (Butler, 1993). Discursive practices, both cumulative and consolidating, embody a potentially transformative effect on its flexibility. Butler, inspired by Austin, claims that bodies are never merely described, but constituted in the describing act. When "it's a boy/girl" is declared, sex and gender is being assigned to a body that has no existence outside discourse (Butler, 1993). That statement is performative, it precedes and constitutes the subject.

The concept of performativity was first developed in *Gender Trouble* and later redeveloped in *Bodies that Matter*:

"Performativity is neither free play nor theatrical self-presentation; nor can it be simply equated with performance. Moreover, constraint is not necessarily that which sets a limit to performativity; constraint is, rather, that which impels and sustains performativity. Here, at the risk of repeating myself, I would suggest that performativity cannot be understood outside of a process of iterability, a regularized and constrained repetition of norms. And this repetition is not performed by a subject; this repetition is what enables a subject and constitutes the temporal condition for the subject. This iterability implies that 'performance' is not a singular 'act' or event, but a ritualized production, a ritual reiterated under and through constraint, under and through the force of prohibition and taboo, with the threat of ostracism and even death controlling and compelling the shape of the production, but not, I will insist, determining it fully in advance" (Butler, 1993: 60).

In this sense, Butler makes a point in the particular characteristics of repetition, on the ritualized production of the performance, further

enhancing the social element of it. The re-introduction of performativity has been aimed at responding to criticism to Gender Trouble and based on three main precepts: the repeated iteration embedded in all social relations; that those practices or performances constitute the individual; and that are performed within a framework of constraining regulatory norms that are never absolute.

The Performativity within Gender

As we have previously established, to understand gender as a doing implies that gender and subjectivities are reproduced in repetitive discourse practices. This is deeply intertwined with the poststructuralist approach that recognizes discourses as ways to constitute knowledge; they constitute the mere nature of the body, unconscious and conscious mind and emotional life of the subjects that discourses seek to govern (Weedon, 1987: 108).

Much of the early criticism to Butler's theory is based on the dangers of proposing that reality (the bodies) is a discursive construction (Collins, 1995; Deutsch, 2007). Martha Nussbaum (1999) has also criticized Butler's work (even calling her "the Professor of Parody") for establishing a "loss of a sense of public commitment" (1999: 13).

On the fragility of gender production, or the apparent easiness to "change performance", Bell conveys a different reading to Butler's theory, considering that "the fragility of gender production does not mean that its deployment is easily interrupted or broken. Partaking in the cultural fiction is also the securing of one's own 'cultural survival'

in a world where genders are distinct, hierarchically related and heteronormatively organized" (Bell, 2006: 216).

Butler reinforces the paradox in the notion of existence outside the gender norms: even in choosing to exist outside the norm there is a recognition and reinforcement of the norm and a position in relation to it. "For gender to be a norm suggests that it is always and only tenuously embodied by any particular social actor. The norm governs the social intelligibility of action, but it is not the same as the action that it governs. The norm appears to be indifferent to the actions that it governs, by which I mean only that the norm appears to have a status and effect that is independent of the actions governed by the norm. The norm governs intelligibility, allows for certain kinds of practices and action to become recognizable as such, imposing a grid of legibility on the social and defining the parameters of what will and will not appear within the domain of the social" (Butler, 2004: 41-42). This excerpt shows that the reason why norms cannot be completely precluded is the fact that norms govern intelligibility. Norms provide the setting through which we learn how to experience the world. Nonetheless, the possibility to question the norms remains. Norms can be denaturalized, the concepts that were presented as "natural" can become troubled notions and that process allows for the basis for transformation. "What does gender want? To speak in this way may seem strange, but it becomes less so when we realize that the social norms that constitute our existence carry desires that do not originate with our individual personhood. This matter is made more complex by the fact that the viability of our individual personhood is fundamentally dependent on these social norms" (Butler, 2004: 2).

Butler argues that the key to understand the interdependence of social norms and how it influences our decision-making is challenging to a conception of the self in which a bereft "I" is the center of the decision-making universe.

On the Subject and Subjectivity

In the introduction to Bodies that Matter, Butler asks "if gender is a construction, must there be an 'I' or a 'we' who enacts or performs that construction? How can there be an activity, a constructing without presupposing an agent who precedes and performs that activity? How would we account for the motivation and direction of construction without such a subject?" (Butler, 1993: XVI).

She responds by acknowledging that under a theory of the construction of gender, gender is not constructed by the "I" or a recognizable before space and time "we". In fact, gendering is the "differentiating relations by which speaking subjects come into being" (Butler, 1993: XVI). The "I" does not precede or follow the gendering process, but instead emerges from within as the matrix of gender relations themselves (Butler, 1993: XVI). In this sense, the creation of identity it is not fixed in the self, it becomes after the interaction of discourses. Identity or subjectivity then becomes malleable and fluctuating, away from the essentialist notion of the "I". Identity is then an incomplete process that is constituted in discourse (Weedon, 1987).

The subject is the effect of discourse, rather than the cause of it (Salih,

2002: 57). This confronts traditional western philosophy built upon the notion of the unitary subject. There are not true or false, real or distorted acts of gender, the postulation of a "true gender identity" is revealed to be a regulatory fiction (Butler, 1990: 180). Poststructural philosophy has shed light on the processes that take place in the construction of the "I" as a coherent, rational, and stable thinking subject. There is no doer behind the deed, no "volitional agent that knowingly 'does' its gender" because the gendered body is inseparable from the acts that constitute it (Salih, 2002: 57). In this sense, Linda Zerilli has maintained that if gender is understood as an effect of discourses of truth and power, the analysis of its construction should be designed to uncover how the ground on which we decide the true and the false of gender is produced (Zerilli, 2008: 33).

Butler has expanded the theory of performativity to the law (Butler, 2000), censorship (1997) and ethics (2005) to focus on how repeated stylized discursive practices produce specific identities. From this analysis the relevance of analyzing discursive practices is crucial to recognizing how gender is reproduced.

While Foucault focuses on the regulatory processes of control in the formation of the subject, Butler, taken from Irigaray and de Beauvoir, replies that the only recognizable sex is the masculine. Going back to the notion of otherness that we have previously debated, the concept of "woman" is constructed as the "one's other" and is not intelligible as a subject. This inconsistency in the recognition of formations of subjectivities is present within the terms of productive power, regulation and control work through the discursive articulation of

identities. Those discursive articulations influence certain exclusions and erasures; oppression works not merely through the mechanism of regulation and production but by foreclosing the very possibility of articulation (Butler, 1996: 68).

The formation of gender identity in this theory can then be summarized in two aspects. First, that there is no single doer that performs certain subjectivities, the subject is formed through the doing. Second, the analysis of those subjectivities that constitute the doing of gender points to the fact that not all subjectivities are independently constructed and that oppression works its way in the articulation of the subjectivity. It is precisely there that inequalities between the representation of women and men occur.

The Power within Repetition and Regulatory Norms

Performative theories of gender have been criticized on the possibility to change the norms. Francine Deutsch (2007) contends that with the statement that any attempt to exist outside the norms reinforces them, the theories of doing gender imply the unfeasibility of actually "undoing gender" (2007: 107). Deutsch portrays a reading of poststructuralist theories as hopelessly impervious to real change and ignoring links between "social interaction and structural change" (Deutsch, 2007: 107).

The possibility of change is an issue that Butler specifically approaches in Undoing Gender (2004) to further explain that the fact that gender is produced through serial repetitions and citation and that

subjectivities are never fully formed but demand continuous re-iteration, is a great scheme to produce change. Butler appeals to Irigaray's depiction of the failure of mimesis to generate a rigorous copy and the failure of discursive performativity (Butler, 1993: 140) to provide for the undoing of gender. Butler's intervention to feminist theory is aimed at exposing the constitutive effects of gender as a signifying practice and the exclusionary logic it supports by shedding light into discursive practices that produce gender and subjectivity (Zerilli, 2008: 34).

As we have stated, Discourse in the Butlerian perspective is based upon the Foucauldian formulation of Discourse as large groups of statements governing the way we speak and perceive through establishing rules and conventions (Foucault, 1972: 37). In spite of being inspired by the Foucauldian notion of Discourse, Butler explores performativity through the identification of citational chains of discursive practices instead of "gender Discourses" (in fact Butler prefers to discuss "gender acts/practices/norms/scripts/regimes").

Performativity is described not in a singular act but always a reiteration of a norm or set of norms, to the extent that it acquires an act-like status; it conceals or dissimulates the conventions of which it is a repetition (Butler, 1993: XXI). In that sense, the acts of gender are the ones that create the idea of gender, without those acts, "there would be no gender at all" (Butler, 1990: 190).

"Gender is, thus, a construction that regularly conceals its genesis; the tacit collective agreement to perform, produce, and sustain discrete

and polar genders as cultural fictions is obscured by the credibility of those productions— and the punishments that attend not agreeing to believe in them; the construction 'compels' our belief in its necessity and naturalness. The historical possibilities materialized through various corporeal styles are nothing other than those punitively regulated cultural fictions alternately embodied and deflected under duress" (Butler, 1990: 190). Gender norms are not rigid; they are produced through cumulative, amalgamating, but bendable discursive practice. There lies the potentiality of transformative effects of discourse practices. The performed nature of those practices requires a repeated performance, a re-enactment and re-experiencing of a set of meanings socially established in its mundane and ritualized form of legitimation (Butler, 1990: 191). That performance is the sedimentation of bodily acts. Butler describes gender as tenuously constituted in time through a stylized repetition of acts, instituted through the stylization of the body and because of that it should be understood as the mundane way in which bodily gestures, movements, constitute the illusion of an abiding gendered self (Butler, 1988: 519).

Seeing gender as a doing, as we will see in following sections, provides the framework to never stop addressing the issues and re-embarks on the idea that these are not "problems to be solved" but reiterations that need to be constantly critically assessed. This clearly contradicts the number-oriented visions (that we will analyze in Chapter 5 and we have dealt with in Chapter 3 regarding the "Firework Effect") that generate the false security or the false conscience that "equality is 170

years away".[99] In the following section, we will delve specifically into the barriers that the theory of performativity has encountered when embarked upon a political agenda.

Theory into Practice: the Politics of Critique

The compatibility of theories of performativity and the political agenda of feminism has been extensively questioned (see Carver and Chambers, 2008; Gill, 1995; Nussbaum, 1999). Feminist poststructuralism has been depicted as a contradiction in terms, or at best precarious (Carver and Chambers, 2008). Karen Zivi even states that "to say that her [Butler's] theory of performativity makes a valuable contribution to progressive democratic politics is, however, to make a claim likely to elicit puzzled looks" (Zivi, 2008: 157).

The frictions within Butler's theory of gender performativity and feminist poststructuralism are mainly based around the idea of the deconstruction of "woman/women" as a subject. Suspicions around this deconstruction are aimed particularly at the effect of "women" as a political agent. A feminism without a subject, that avows for the partial, multiple and shifting nature of subjectivity, appears unable to construct legitimate knowledge to counter the oppression of women (Calás and Smircich, 1999).

This objection comes from the assumption of a stable subject in feminism that is the main actor in the struggle against inequality.

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[99] See news https://www.weforum.org/agenda/2017/01/gender-equality-is-170-years-away-we-cannot-wait-that-long/ (Last accessed: September 2018).

Butler would in fact dispute this postulation stating that by questioning the subject, everything that we know is put at risk, not for the thrill of the risk but simply because we (women, the woman, the oppressed, or whatever that "we" is) have already been put into question as subjects. She goes on to say: "We have already, as women, been severely doubted: do our words carry meaning? Are we capable of consent? Is our reasoning functioning like that of men? Are we part of the universal community of human kind?" (Butler, 2004: 227).

There has been endurance from feminist thinkers to using performativity theories in settling feminist political agenda (Gill, 1995; Calás and Smircich, 1999; Deutsch, 2007; Carver and Chambers, 2008; Coole, 2008), arguing that there is no compatibility and that for the sake of transforming women's lives, they should remain separate. Certain authors believe that gender performativity undermines the goal of dismantling gender inequity by perpetuating the idea that the gender system of oppression is hopelessly impervious to real change and by ignoring the links between social interaction and structural change (Deutsch, 2007). Other authors argue that the shifting nature of subjectivity would banish categories of women, which would, in turn, affect campaigns for the equality of women and men. Likewise, others have explained that without hegemonic knowledge there would be no recounting of oppression. Feminist poststructuralism is about an uncovering woman as subject as defined today. It is important to understand that all types of feminist projects are political and are "directed at changing existing power relations between women and men in society" (Weedon, 1987).

Feminism poststructuralism, as we have described, is designed to expose and critique the exact framing of "woman" as subject that already exists. The lack of materiality, of bodily integrity and self-determination over the own body has also been another source of criticism. To that issue, Butler replies that "although we struggle for rights over our own bodies, the very bodies for which we struggle are not quite ever only our own" (Butler, 2006: 21). She references the public dimension of the body, constituted as a social phenomenon in the public sphere. In that sense, Butler describes the term *bodily autonomy* as a lively paradox (Butler, 2006: 21). Nonetheless, she recognizes a value in making bodily autonomy claims, as part of a normative aspiration of a movement that seeks to maximize the protection and the "freedoms of sexual and gender minorities, of women, defined with the broadest possible compass, of racial and ethnic minorities, especially as they cut across all the other categories. But is there another normative aspiration that we must also seek to articulate and to defend? Is there a way in which the place of the body in all of these struggles opens up a different conception of politics?" (Butler, 2006: 21). These reflections on the disjointing of normative and descriptive claims between what a political strategy is and what it should aim at, portrays a dual necessary focus on the metamorphosis of gender relations and the need to establish new concepts of gender, sex, and identity.

To advocate for the opening of the categories does not imply loosing the subject as a political agent. In fact, Butler describes this as a double movement consisting of invoking the category of women to provisionally institute an identity (for political action) and at the same

time open the category as a site of permanent political contest (Butler, 1993: 168). This is closely related to Iris Marion Young's description of gender as seriality, which we will analyze in the following section.

A different set of arguments against the claims of destabilization of the subject of feminism is the ones established by black and post-colonial feminists. They maintain that trying to establish a universal "woman" for political action is a failure in terms that the category is exclusionary and partial (Lloyd, 2007). bell hooks (1981) has demonstrated how women of color have been marginalized in "white western feminism" and that the category is not unified, inclusive or homogeneous. This contends not against using the category for political gain but, instead, against the views of political change through a cohesive universal subject. This instrumentalist conception of politics as a means-end activity centered on the pursuit of group interests requires a coherent group (Zerilli, 2008: 30).

This discussion is permeable to the debate between equality and difference feminism, which we discussed above, on the construction of women as essentially different or socially constructed to be different than men. Tensions created by the search of a unitary category of woman can be reevaluated through poststructuralist theory, by exchanging universalities for pluralities, diversities and contingencies (Scott, 1988b) and through the understanding of gender as seriality (discussed below).

The significance of poststructural analysis in sorting out types of discourses from which problematizations come from (Weedon, 1987)

is based on the politics of critique (Foucault, 1984). The denaturalization of discourse allows resisting and rejecting assumptions about the world and traditional ways of knowing. In that way, the norm becomes alienated. This process permits the denaturalization of notions of gender.

This is deeply entrenched again with the notion of the object and control. Butler states that there is no lag between the production and the regulation of sex (Butler, 1996: 64). What this means is that the production of sex comes from its regulation, as regulation is always generative. Regulation produces the objects that it claims "discovering" or "finding" in the social field in which it operates (Ibid, 1996: 64). In that way, discrimination is built into the very formulation of sex, enfranchisement is the formative and generative principal of someone else's sex (Ibid, 1996: 64). To analyze those methods of power through the critique of the notions of gender and sex and the operations of exclusion, erasure, foreclosure and abjection in the discursive construction of the subject (Butler, 1993) present the basis for transformation. Challenging the status quo through the analysis of discourse and discursive practices displaces naturalized concepts like men and woman and exposes how they are constructed in disentrancement (Salih, 2002).

Gender as Seriality

Iris Marion Young proposes the notion of seriality to avoid the "identity dilemma". Taken from Jean Paul Sartre's Critique of

Dialectical Reason,[100] Young proposes understanding gender as part of a social series, a specific kind of social collectivity. Gender as seriality provides a way to think about women as a social collective but does not require that all women have common attributes or a common situation. The distinction is between group and series. Group is understood as a collection of people who recognize themselves and one another as in a unified relation that undertakes a common project. Members become united by the action they take together and the acknowledgement of being together in a group often comes from a pledge, contract, constitution, bylaws or statement of purpose. The project is collective as far as the members understand that it is better to be undertaken as a group. Summarized, group is understood as the "self-consciously, mutually acknowledging collective with a self-conscious purpose" (Young, 1994: 724).

To explain series, Sartre uses the example of people waiting for the bus. They minimally relate to each other, follow the rules and are brought together by their relation to a material object, the bus. The actions and goals of each and every one of the passengers may be diverse and they do not have a common element aside from a united desire to ride a route. In the case in which the bus fails to come, or there is a problem, they can use their latent potential in the series to complain to each other, share stories or even sharing a different mode of transportation. This serial collectivity is the mutual identification

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[100] Young (1994: 723) acknowledges Sartre's writing as hopelessly sexist and male biased, especially in the theorization and functionalization of heterosexual relations. But still finds the idea of seriality to be useful to think about women as a collective and tries to take and rearticulate the concepts for the theory she poses and for her own purposes.

part, they are aware of the serialized context of the activity in a social collective. Individuals in the series are isolated, they are interchangeable, but not alone as they understand themselves to be constituted as a collective (Young, 1994: 726).

In summary, a series is a collective whose members are unified passively by the relation their actions have to material objects and practico-inert histories. Membership does not define identity, the series is a "blurry, shifting unity, an amorphous collective" (Young, 1994: 728).

Gender as seriality implies that the series "woman" is a structural relation to material objects as they have been produced and organizes by a prior history. Women are the individuals who are positioned by the activities surrounding the structures and objects constructed in the multifaceted, layered, complex understandings of gender.

Young explains: "the serialized experience of being gendered is precisely the obverse of mutual recognition and positive identification of oneself as in a group" (Young, 1994: 731). Gender as a series presents a broader approach, rather than constitutive, a background to personal or group identity. The series woman is the structural relation to material objects as they have been produced and organized through history.

In Lived body Versus Gender, Young defines gender as a "particular form of the social positioning of lived bodies in relation to one another within historically and socially specific institutions and

processes that have material effects on the environment in which people act and reproduce relations of power and privilege among them" (Young, 2002: 22). Under this definition of gender, being "gendered" connects to finding ourselves passively grouped according to these structural relations, in ways that are often too impersonal to ground a sense of identity. In this context, Young recognizes three basic axes of gender structures: a sexual division of labor, normative heterosexuality, and gendered hierarchies of power, taking from Connell (1987).

Social structures, in turn, are defined as routines, institutional rules, "mobilization of resources", and physical structures that condition peoples' lives in unjust ways (Young, 2002: 20). Structures include social outcomes that "result from the confluence of many individual actions within given institutional relations, whose collective consequences often do not bear the mark of any person or group's intention" (Young, 2002: 20).

She considers that the term gender should be used as an "analysis of social structures for the purposes of understanding certain specific relations of power, opportunity, and resource distribution" (Young, 2002: 25). She believes that the analysis should be focused on understanding how the rules, the relations, and their material consequences produce privileges for some people that "underlie an interest in their maintenance at the same time that they limit options of others, cause relative deprivation in their lives, or render them vulnerable to domination and exploitation" (Young, 2002: 25).

Seriality also responds to many of the concerns raised by intersectional feminists that we have developed in Chapter 3.[101] The fact that Young tries to avoid a focus on identity to dodge false generalizations is connected to black feminist's work[102] about how the search for a cohesive gender identity often overruled the experiences of women of color (Crenshaw, 1989; Spelman, 1989; Mohanty, 1991). In abandoning the pursuit of a unified identity, Young provides the possibility of interactions of race, class, gender and other axis.[103]

We have previously shown how there are limitations in the construction of gender as a binary. As Iris Marion Young explained, "inasmuch as sexual difference is classified only as man and woman, then, gender always mirrors sex" (Young, 1994: 716). As long as there is no disruption on the conception of gender that allows for gender to be something else than a classification of male/female that mirrors sex, no policy will be able to present the possibility of equality.

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[101] The intersectional experience, as argued by Kimberlé Crenshaw, is greater than the sum of racism and sexism (Crenshaw, 1989: 140). Crenshaw also incorporates the notions of over-inclusion and under-inclusion to analyze why intersectional dimensions of subordination are overlooked. Young's development of seriality and structures works with avoiding identity-based over-inclusion. Over-inclusion ensues a problem or condition that particularly or disproportionately visited on a subset of women is simply claimed as a women's problem (Crenshaw, 2000). Crenshaw uses the case of trafficking of women to represent how the lens of gender in times does not explain other forms of subordination, as social and racial. On the other hand, under-inclusion arises when the gendered dimension of a problem makes other problems invisible. She exemplifies through the sterilization abuse in the United States to Puerto Rican and African American women. Gender as seriality used within the intersectional framework can provide tools to avoid identity-based over-inclusion. The concept of oppression can also provide resources for analysis of over and under inclusion.

[102] Black feminists started discussions of the interactions of race, gender, and class and their impacts on black women's experiences. More on Black feminism in Davis, 1981; King, 1988; Williams, 1991; Collins, 2000; hooks, 1984; and Lorde, 1984.

[103] This discussion is also present in trans-feminism and the incorporation of transwomen into the category, but that discussion exceeds the extract of this work.

This is a first set of limitations that comes from the own conception of understandings of gender and the replacement of the wording "women" to the word "gender" to account for a change in policy. Nonetheless, it is not only in the philosophical analysis of these policies that we can see that the "shift" provided in the incorporation of Gender Mainstreaming as a strategy was insufficient. If we analyze the discourses that are being mainstreamed we will see the utmost importance of the economic discourses, the commoditization of feminism and the false conscience of the (over) use of benchmarks.

Section III:

The uses of gender

Up to this point we have presented the theoretical performative account of gender in the work of Judith Butler. We have also introduced the concept of seriality, which brings a new perspective to the political use of gender as a serial collective that aims at surpassing issues of identity politics and essentialism. In this section we will focus on how those theories can be incorporated in policy analysis.

The theory of gender performativity describes subjectivities as never complete or entirely formed. Instead, they require constant reiteration and repetition. Is in that precise moment when the door opens to politics. Awareness of the impact of serial repetitions, gender knowledge in all its forms, introducing a different chain of subject creation, are all parts of undoing gender. Butler's theory highlights the impact that deemed "uncontroversial statements" have in real life; it

aims at exposing the constitutive effects of gender as a signifying practice and the logic of exclusion that it supports (Butler, 1990). In that sense, understanding gender as a construction and its repercussions becomes a very useful tool to evaluate public policies and to identify the doing and the differences in discursive construction of women in the public and private spheres. That is the reason why feminist politics needs to draw more from feminist theory to achieve its objectives.

Gender acts constitute a subject that is the effect of discourse rather than the cause of it (Salih, 2002). In this sense, Butler, following poststructuralist theory, defies the traditionally male unitary subject of Western philosophy by revealing the process of its constitution. No unitary subject performs definite subjectivities; the subject is shaped in the doing. Butler, influenced by de Beauvoir and Irigaray, takes poststructuralism as a point of departure and argues that not all subjects are recognizable and, therefore, identifiable.

The work on women and politics that provided first the basis for the analysis of women as a group morphed into the analysis of gender and politics (Beckwith, 2005). In 1974 Wilma Rule Krauss studied political implications of gender roles, in an effort to incorporate the psychological studies of gender to political science. The question concerning how to incorporate those philosophical analyses into political science is one that remains contested up to this day.

Building on theories of performativity, Raewyn Connell provides one approach to analyze gender relations in which she describes gender as

a historical process socially created to deal with reproductive biology (Connell, 1987). Gender is the structure of social relations that centers on the reproductive arena, and the "set of practices that bring reproductive distinctions between bodies into social processes" (Connell, 2009: 11).

Within this analysis of gender relations, Connell uses the idea of structure[104] as a pattern of "constraint on practice inherent in a set of social relations" (Connell, 1987: 97). Based on the analysis of three main structures in the field of gender: division of labor, structure of power, and structure of cathesis (the structure that organizes emotional and sexual relations among people), Connell describes the dual-sided characteristics of structures that constrain and are also modifiable by practice and are the main elements of gender regimes in institutions (Connell, 1987).

All three structures are intrinsically linked: power relations are reflected in the cathesis and the sexual division of labor is composed at the same time of cathesis. All institutions, including family and the state, are intertwined by encompassing gender relations influenced by structures of power (Connell, 1987). Institutions are essential to the construction of gender categories because of the influence on the regulation of social practices and relations. The historical "construction" of categories, such as "men" and "woman", entails providing a particular content to a social category, to establish contrasts with and distances from other categories, and constituting an

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[104] Connell uses the notion of structure from the work of Giddens, 1984, and Bourdieu, 1984.

interest around which identity and action can be organized (Connell, 1987). In that sense, the essentialist notion that physical appearance or traits are the basis from which a "social gender" is developed upon, is counter-argued by the explanation that biology is experienced in practice and therefore transformed through socialization (Connell, 1987). Division of labor refers to the match between groups of people and certain types of labor. [105] Structure of power denotes the endurance of social relations of power beyond acts of violence or oppression. Cathesis is the structure that systematizes emotional and sexual relations.

For example, the demand for cheap labor for domestic and care work is related to the dynamics of the division of labor in the labor market but also with the structure of cathesis in the private sphere (Connell, 1987). This analysis is more deeply analyzed in two very distinctive strands of feminist though: the ethics of care[106] and the distinction between private and public spheres of power[107]. The imbalanced

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[105] More on the sexual division of labor in Ferguson, 2013.

[106] The ethics of care has been criticized for reinforcing traditional essentialist stereotypes of "good women". Nonetheless many have adhere to the notion of care-focused feminism as a branch of feminist thought, mainly based on ethics of care as developed by Carol Gilligan and Nel Noddings. This body of theory explains how caring is socially engendered, being assigned to women and consequently devalued. They esteem women's capacity for care as one of the human strengths, which can and should be taught to and expected of men as well as women. The substance of the ethics of care is basically a refusal of the Kantian notion that the ideal moral agent is dispassionate, objective and operates from rationally derived moral principles. In the Ethics of Care, it is our very caring that is seen as an essential ingredient and motivator to respond ethically. Based on relational ethics, Noddings even suggests that ethical caring has the potential to be a more concrete evaluative model of moral dilemma, than an ethic of justice. More on this in Gilligan and Noddings, 2005.

[107] In "The Sexual Contract", Carole Pateman presented a critique to the dichotomy between public and private spheres in the contract that establishes modern patriarchy. The sexual contract is ignored and power relations are intertwined under

distribution in domestic and care work between women and men and the increasing participation of women in the labor market generate a higher demand for (underpaid) predominantly female domestic and care work in industrialized societies.

The use of structures is helpful to provide elements of identification in policy documents. For example, when dealing with specific training and the idea of "women's empowerment through work", Connell points out that those are mechanisms that compel the structural constraint of labor. Through these mechanisms the sexual division of labor is present as an apparent technical division, resistant to most antidiscrimination strategies (Connell, 1987). Connell presents a series of elements of analysis of policy based on the use of structures. In the following section we will present a complementary approach introducing the concepts of gender as a noun and gender as a verb and the policy implications of both.

Section IV:

The Language of Gender: Noun vs. Verb

In 1996 Terrell Carver acknowledged that "gender is not a synonym for women" but there is still no consensus as to what gender specifically is. Many efforts have been made from gender as a synonym for sex to gender as culturally dynamic interactions (Beckwith, 2005: 130).

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the sphere of "private life" because women have been excluded from the original contract and incorporated into a new contractual order. More on this in Pateman, 1988.
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However, there are two common understandings concerning gender as a point of analysis. The first is that there is a cultural element; the meanings constructed around the secondary sex characteristics are not physical imperatives but constructed meanings. Male and female as categories of "sex" do not form adamantly any particular practices or meanings and do not embody directly politics. Sex can be used as an analytical marker of convenience but not a physical foundation upon which to map difference (Beckwith, 2005: 130). From that point of view, the binary male/female does not define gender. It merely regulates the connection between nature and the social, a connection through practice, in words of Connell. "Gender is social practice that constantly refers to bodies and what bodies do, it is not social practice reduced to the body. Indeed reductionism presents the exact reverse of the real situation. Gender exists precisely to the extent that biology does not determine the social. It marks one of those points of transition where historical process supersedes biological evolution as the form of change" (Connell, 1995: 71). The second understanding is that male and female are not perfectly interpreted by the distinction between masculine and feminine. Masculine and feminine are presented as indicators of the outer boundaries of constellations of meanings that are socially and politically contextualized and constructed (Beckwith, 2005: 133). These categories are not mutually exclusive but are mutually implicated.

Within those understandings, the language of gender, what gender is, what the implications are, and the extent of its definition are questions yet to be settled in the political science community where there are

multiple meanings that embody the categories of analysis. Some of those differences are subtle but can represent different understandings, especially in the field of gender policies. Is gender analysis possible without the category of women and men? It is apparent that the category woman has been replaced by gender. The women and politics approach in feminist political analysis established recognition and problematization of women as actors with diverse and conflicting interests with different political implications (Bacchi and Eveline, 2010: 32). In that sense, gendered political research should as well convey the plurality of femininities and masculinities with potentially different political implications (Hawkesworth, 2003). That was the aim of the first political science approaches to gender as a category that got ultimately fixated as a noun.

We will then introduce the notion of gender as a verb that becomes the policy embodiment of gender as a performance. As Iris Marion Young suggested, using gender as a category of analysis can provide a closer approach to a performative perspective of gender into policy analysis. To bring together the performative theories of gender and the use of gender as a category of analysis has the potential to build a feminist ontology through the consideration of the bodily effects of power allowing for the category gender to be fluid and inclusive.

Beckwith defines gender as a category as a "multidimensional mapping of socially constructed, fluid, politically relevant identities, values, conventions, and practices conceived of as masculine and/or feminine, with the recognition that masculinity and femininity correspond only fleetingly and roughly to 'male' and 'female'"

(Beckwith, 2005: 131). Gender as a category allows for a demarcation of contexts in which certain behaviors, attitudes, result in certain outcomes. This was the first approach of analysis in the universe of gender. departing from the notion of "woman" to present a more nuanced proposition of analysis.

This level of analysis presented some setbacks. Gender started being used as a replacement for the category "woman", as an opposition to "men". Dualistic pairs are recognized as a marker in symbolic orders (Harding, 1986). As explained by Bacchi, the public debate rests on binaries or dichotomies (such as nature/culture, public/private, national/international, mind/body, male/female, equality/difference, economic/social, licit/illicit, responsible/irresponsible, legal/illegal). What is on one side of the binary is deemed to be excluded from the opposite side (Bacchi, 2009). The use of binaries is sometimes caused by the need to simplify complex relationships. But policies create meaning; construct problems through the discourses used (Bacchi, 2009). It is mandatory to identify and interrogate the binaries and visualize them operating within a policy.

The hitch of using "gender" as a synonym to "women", which is what happens in most policy documents, is that gender is determined as a noun. If gender is a noun, it is a given, there are no possibilities for discussion of the underlying power relation that constructs gender. Gender as a noun is static, it is not a structure or a process of reproduction of hierarchies, but, instead, a fixed category that can be complete by "male" or "female".   This functions as a return to a women-centered   approach.   Calvo   determines   that   Gender

Mainstreaming has led to a cul-de-sac from which it is mandatory to bring the category "women" back to return to focus on women's issues (Calvo, 2013: 265). In the European Union policy work, gender is used as a category, male or female. It is a fixed feature that can be used as a marker, a binary opposition. In that context, Gender Mainstreaming remains more a declaration of principles than an actual strategy.

In this particular point is where the concept of gender as a verb can be useful for a deeper understanding of analysis. Gender as a verb, as presented by Bacchi and Eveline, makes reference to placing the focus on gendering, "the always partial, fragmentary and unfinished business of gendering women and men" (Eveline and Bacchi, 2005: 10). The idea behind the notion of gendering is to allow for conceptual links within the premises of Gender Mainstreaming as an always-incomplete process that "must necessarily be sustained for as long as policy-making endures" (Ibid: 10).

The treatment of gender as a verb, based upon the theory of gender performativity, allows for the deeper acknowledgement that gender is something that people do rather than something they have. Under the understanding of gender as a verb, Gender Mainstreaming is designed at "nurturing a continuous and never-ending process of analysis and revision, in line with good policymaking" (Eveline and Todd, 2009: 186). Again, mainstreaming is presented as an unfinished process as gender is, never fixed, never complete, continuously working through everyday practices.

This notion of gender as a verb is connected to gender as a process, based on advocating for the study of institutions that are gendered and can be gendered. That is a retake on the possibility of installing practices and rules to alter the gendered nature of the political. Questions like "how cultural codes of masculinity are built into public institutions?" (Lovenduski, 1998: 339) are used to uncover how unambiguous behaviors affect the political. In the following section we will see how this analysis of gender as a verb can be useful in the mainstreaming approach.

Section V:

Gender Mainstreaming: A Poststructuralist Approach?

The production of gender through discursive practices can be observed in all kinds of discursive sites, including legal documents and international policy strategies. In this sense, this research aims at shedding light on subjectivities in public policy in the European Union. More specifically, how the Gender Mainstreaming strategy and how practitioners (both in state and in supra-state levels) tackle gender equality and how to achieve it.

Gender Mainstreaming entails the transformation of the gender structure (Walby, 2011). However, in practice, the dual-track approach to mainstreaming and the technocratization of the strategy and the gender governance structures, tools, processes and techniques leave out the conceptual frameworks and the indetermination that come around the idea of gender. The lack of a clear conceptual framework has two consequences. First, it frames Gender Mainstreaming as a

completely consensual process (Verloo, 2005: 357). If mainstreaming becomes a conflict-free strategy, it disguises the notion of structures of power that can only be transformed through the challenge of reproduction and the repetition of a new order or power relation. There is no clear understanding of what gender perspective is in the work of the actors, in the structures and in the policy-making processes and organizational practices. This drains the transformative political power of mainstreaming. Then, mainstreaming is left to the devices of old tools (Daly, 2005: 436).

The change from "women" to "gender" was generated by feminist political analysis and applauded in policy. Nonetheless, identifying gender through the binary distinction male/female has practically invalidated the gender transformation. Acknowledgments of the relational nature of gender end up being drowned by policy formulations centered on gender as a noun, as a category of a dichotomy. In many cases, this understanding still reproduces the logic of men as the norm.

The adoption of Gender Mainstreaming as a strategy represented also a shift from a "women's" to a "gender" equality approach in agencies in 1990 (McBride and Mazur, 2013). That shift would represent that equality would not only be dealt with in so-called "women's agencies", but it would be included in every institution in the European Union. Nonetheless, in the 2000s, women's policy agencies not only have become central to the implementation of gender equality strategies but also started dealing with other inequalities. Moreover, more separate

governmental equality structures concerning race and ethnicity have been created (Kantola and Nousiainen, 2009).

A gendering poststructuralist approach finds possibilities for change and resistance in the fluidity of the category of women that are constructed in a multiplicity of discourses (Kantola and Lombardo, 2017: 83). This idea would have worked better within the strategy of Gender Mainstreaming, understood as a revolutionary approach aimed at establishing a new structural approach to equality. In this chapter, we presented approaches to gender that enriched the discussions of the genesis of mainstreaming, and even fueled the incorporation of the strategy.

Gender Mainstreaming was conceived on notions of the deconstruction of gender, but, as we have shown in these four chapters, it has encountered problems in its application, both internally and externally: problems within the strategy (as open discursiveness) and institutional resistances.

To show this in a clear example, we can analyze the "Gender Equality Strategy in Research and Innovation"[108] which very clearly depicts this duality that we have been discussing. This document describes the gender dimension as a "dynamic concept that ensures that researchers question gender norms and stereotypes and address the evolving

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[108] This is a document from the European Commission published in 2017 within the framework of Horizons 2020. (European Commission. 2017c. 'Gender Equality Strategy in EU Research &Innovation'. [Available at: https://graphene-flagship.eu/news/Documents/Gender%20Equality%20Strategy%20in%20EU%20 RI_.pdf. Last accessed: October 2018].

needs and social roles of women and men. Addressing the gender dimension in research and innovation entails taking into account sex and gender in the whole research process, when developing concepts and theories, formulating research questions, collecting and analyzing data and using the analytical tools that are specific to each scientific area" (European Commission, 2017c: 4).

This document makes a description of the gender dimension as dynamic, it introduces the concepts of gender as addressing evolving needs of both women and men, and makes an effort on the willingness of incorporating sex and gender into the formulation of the research process. These elements can be traced back to a conception of gender as a doing, as we have depicted in Butler's work. The incorporation of gender as dynamic and ever-changing is very much in line with poststructuralist approaches to gender. Nonetheless, there is no specific recollection on how materializing this very novel approach to gender and the binary men/woman is ever present in these descriptions. In this case we can see that gender is not replacing the word "woman" and that the problematizations of the perceived inequality have been broadened by applying more structural changes.

However, the strategies proposed to access equality are basically the same strategies that have been used over the last forty years. In other words, there is no incorporation of a new strategy aside from the mere depiction of a different understanding of the gender dimension. It is recognized that "Gender equality is a cross-cutting issue in Horizon 2020, with its own article (16) in the Framework Regulation." While describing the "Responsible Research and Innovation (RRI)" the

measures taken into consideration are three. First, "Gender balance in research teams at all levels. Applicants for funding are encouraged to promote gender balance at all levels in their research teams and in management structures. Gender balance in teams is taken into account when ranking proposals with the same evaluation scores. By signing the grant agreement, beneficiaries commit to promote equal opportunities and gender balance at all levels of personnel assigned to the action including at supervisory and managerial level" (European Commission, 2017c: 3). This first measure is aimed at generating equal representation in the research teams by only promoting gender balance. Second, it describes the notion of gender balance in decision-making: "A target of the under-represented sex is set at 40% for expert groups and evaluation panels and at 50% for the advisory groups" (European Commission, 2017c: 3). Last, there is a mention of integrating the gender dimension in the content of research and innovation: "The gender dimension in the R&I content enhances the quality and societal relevance of the R&I outcomes and creates business opportunities. In H2020, the gender dimension is explicitly integrated from the outset in many of the specific programmes. Whenever relevant, applicants are requested to describe where relevant, how sex and/or gender analysis is taken into account in the project's content" (European Commission, 2017c: 3). Again, in this document the characterization of the equality problem is reduced to a number problem that feeds the rationale of "solving the numbers, solving the problem". The problematization is aimed at incorporating a "lacking" element into the research components and, if applicable, describe how a gender analysis is taken into account. There is no mention of even positive action opportunities –which would be a

stronger encouragement–, only suggestions. This document is useful to show how even after the incorporation of deconstructive terms in the description of policies that present a poststructuralist approach, the analysis of problematizations depicts understandings of binaries and efficiency discourses.

This efficiency discourse is also present in all of the policies of equality and is developed hand in hand with the numerical-driven approach to equality. The "Gender Equality Strategy in Research and Innovation" document establishes that "Achieving gender equality is not only a matter of social justice but also of economic growth and research performance. Gender equality calls for more transparency and a wider access of women scientists to research, thereby enlarging the pool of talents and the innovation potential. In addition, including sex and gender analysis in research enhances the quality and the societal relevance of the produced knowledge, technologies and innovations. It contributes to the production of goods and services better suited to potential markets" (European Commission, 2017c: 1). We see present the tension between a social justice approach to equality and the efficiency economic discourse on equality that we have discussed in Chapter 2. This efficiency discourse is connected to a notion of liberal feminism that is enrooted in access and economic empowerment.

Up to here we have presented the poststructuralist approach to understanding gender. We have shown that it has influenced the analysis of gender by the incorporation of a gender dynamic dimension in policy. But, this novel perspective to the analysis of gender remains not seen in the actual application of policies. In a

context of a strategy that is too broad to be understood and a policy implementation that do not contemplate institutional and social resistances, a once transformative strategy ends up falling into the same holes that it tried to avoid in its conception.

In the following chapter, we will explore one of the most relevant proponents of liberal equality feminism and the effects that this philosophical approach has in the equality discourse in the European Union. We will see how this generates a tension between the poststructuralist approach that we have analyzed and that is present in theory and in the actual application of gender equality policies.

CHAPTER 5:

THE INFLUENCE OF FEMINIST LIBERALISM IN THE APPLICATION OF GENDER MAINSTREAMING IN THE EUROPEAN UNION.

In this chapter, we will argue that Gender Mainstreaming, in its application, has embedded a feminist liberalism view. For that, we will start by analyzing how feminist work has critiqued Rawls' Theory of Justice, which has been an important foundation for public policy nowadays. From thereon, we will develop Nussbaum's view on liberalism and how she develops its capabilities approach into a feminist liberalism.

Then, we will argue how this view ends up implying a necessary movement towards being able to measure progress in terms of statistics and numerical advances. Coincidentally, most of the world has moved into the over use of these statistical benchmarks to measure progress in terms of gender equality.

Furthermore, we will show that the application of Gender Mainstreaming, an originally transformative strategy based in a post structural feminism ideology, ends up being applied in a world where equality is overly assessed by numerical equality. As such, the strategy ends up having embedded a feminist liberalist view that prevents its transformative efforts. We will end with an analysis of how the strategy might be re-thought through the post structuralist view developed in Chapter 4, for a more transformative approach to attack gender inequality.

Section I:

Liberalism and Feminist Critiques to the Theory of Justice

The theory of liberalism is mostly based on Kant's idea of "critical philosophy" developed in three of his most influential works: Critiques: the Critique of Pure Reason (1781, 1787), the Critique of Practical Reason (1788) and the Critique of the Power of Judgement (1790). The core idea in all of his work is the importance of human autonomy. Because of this, knowledge from science, religion, and morality are consistent with each other since they rely on the same foundation of human autonomy.

Influenced by this Kantian view of the world, in his Theory of Justice, Rawls proposes that the principles of justice should be blind. No arbitrary characteristic of people, such as race, religion, class, gender, should influence the socially just distribution of goods in a society. Furthermore, he is of the belief that there should be the greatest possible amount of liberty for any member of society, limited only by the liberties of the rest of the individuals.

Without a doubt, John Rawls's Theory of Justice is one of the greatest political theories of the 20th century. Rawls's theory has been debated all around the world and has shaped the minds of many of today's scholars. It has even influenced economics: a social welfare function was postulated inspired by Rawls's ideas in which the welfare of the society is the welfare of the least well-off individuals. Nevertheless, Rawlsian theory has also backlashed several criticisms: from communitarians to egalitarians and feminists. Our focus is on the

feminist critique to this theory, and especially the critique by Marta Nussbaum, that has been one of the central views to form an important part of liberal feminism.

Catharine A. MacKinnon presents the intrinsic tension between liberal descriptions of equality as sameness and gender as difference concentrating in dominance. Unequal distribution of power between men and women produces the systemic relegation of a group to a condition of inferiority (MacKinnon, 1989: 243). This is a political subordination. She argues that the concept of autonomy should be relegated towards the dominance approach.

MacKinnon's views on sex inequality are focused not on unrealized rights but on the deliberate and systematic victimization of women by a hierarchal society constructed by men, in which liberal law perpetuates male social dominance by reinforcing those same social structures that led to gender inequality on the first place. MacKinnon takes the case of pornography to point out the failure of the liberal state in protecting instruments of subordination and thus preserving violations against women: Liberal freedom of speech (one of the fundamental Rawlsian basic liberties) protects the interests of men while conveying to have no gender bias; that is why MacKinnon describes the apparent neutral state as a male state. In the same way, she defines rape as not prohibited, but just regulated (MacKinnon (1989: 179). MacKinnon describes liberal neutrality towards these issues as a "deceptive fiction" in which a liberal state protects the patriarchal bias. In this context, women continue to live under the liberal promises of equality in a social system that protects and

encourages social dominance. Furthermore, MacKinnon takes from Marxism the idea that choices are products of oppressive conditioning, in that sense, liberal freedom of choice is a way to perpetuate oppression and, thus, women's choices cannot be free in a patriarchal society.

Carole Pateman is one of the first feminists to engage in criticizing the social contract. In *The sexual contract* she focuses on the social contract as a repressed dimension of contract theory, since women are born into subjection (Pateman, 1988: 9). She states that a free social order cannot be a contractual order: "The original contract as typically understood today is only part of the act of political genesis depicted in the pages of the classic contract theorists of the seventeen and eighteen centuries" (Pateman, 1988: IX).

As far as John Rawls's theory is concerned, Pateman criticizes the "original position" arguing that it is build around the aim to confirm "our" intuitions about existing institutions, which, to Pateman, include patriarchal relations of subordination. That's why, the parties summoned to this original negotiating position "merely reason and make their choice" (Pateman, 1988: 42), regardless of their sex. ("The disembodied party who makes the choice can not know one vital 'particular fact', namely, its sex") (Pateman, 1988: 43).

Pateman defines the original position as a logical abstraction of such "rigor that nothing happens there" (Pateman, 1988: 43). She compares Rawls to the classic contract theorists, reclaiming Hobbes' description of the state of nature. Pateman emphasizes the state of nature as a

social condition in which men and women come together, full of life, "engage in sexual relations and women give birth. The circumstances under which they do so, whether conjugal relations exist and whether families are formed, depend on the extent to which the state of nature is portrayed as a social condition" (Pateman, 1988: 43).

Still, Pateman believes that it is necessary to study the story of the sexual contract aside from the contract theorists, since they establish the original political right after the birth of the son that makes a man (a husband) and a father (Pateman, 1988: 104). From Pateman's perspective that picture is missing a key element: the father cannot become a father without a woman becoming a mother, and without the act of coitus. So then, Pateman states that in the true origin of political rights (father-rights) the necessary female beginning is missing, and because of that fact, the contract doctrine is not only oblivious to but also subjects women.

Susan Moller Okin in *Justice, Gender and the family* recognizes the powerful influence of John Rawls's *A theory of Justice* and believes that in Rawls' theory there is potential to discuss gender (Okin, 1989). In this way, Okin's perspective clearly differentiates from Pateman's and MacKinnon's, since she mostly accepts Rawlsian theory only when applied to social structures that perpetuate women's inequality, specially the family. Nonetheless, there are some important criticisms that are crucial to Okin's theory and present difficulties to Rawls' conception of justice from a gender perspective, especially that Rawlsian theory is structured on hidden- gender- family and false gender neutrality (Okin, 1989: 15).

The first difficulty Okin (1989: 98) points out, which could seem a technicality, is the tradition in which Rawls is a participant: Kant, who wrote a moral theory not applicable to women, and Freud, who considered that women's moral development was deficient due to their incomplete resolution of the Oedipus complex. In this context, Rawlsian theory is already encompassed in a tradition of female submission.

From the blindness to the sexism of the tradition that Rawls follows, it is only natural to wonder if Rawlsian theory of justice applies to women (Okin, 1989: 15). From the perspective of the veil of ignorance, Rawls has emphasized that sex is one of the morally irrelevant contingencies that are hidden. That is the only reference Rawls makes in connection to gender issues.

Rawls explains that the parties in the original position are not individuals but heads of family. He argues that this fact permits a person in the original position to care about the well being of other persons in the next generation. In this sense, he makes the family opaque to claims of justice and reproduces the family hierarchies. The viewpoint of the less advantaged members never gets to be heard (Okin, 1989: 94). Many have discussed the situation of children in the family, although this objection has been neutralized from a paternalistic point of view. Still, the situation of other adults in the family remains unimportant. It is relevant to call attention to the fact that those adults are generally female. Women's opinions are not reproduced in Rawlsian theories: this is why Rawls' view of the family is in fact detrimental to gender justice.

Rawls does not engage in the issues of gender justice, he just mentions that the injustice and irrationality of racist doctrines share the same characteristics with sexist doctrines. Okin finds this to be a very light statement in views of the importance of sexism, and criticizes the assumption that the "parties formulating just institutions are (male) heads of (fairly traditional) families, and are therefore not concerned with issues of just distribution within the family or between sexes. Thus the "heads of families" assumption, far from being neutral or innocent, has the effect of banishing a large sphere of human life - and a particularly large sphere of most women's lives - from the scope of theory" (Okin, 1989: 95).

Rawls assumes that family as an institution is just, but does not explain the basis of this assumption. On the contrary from Okin's perspective, the institution "family" is not just, but are a relic of caste or feudal societies in which roles, responsibilities and resources are distributed in accordance with innate differences. As a consequence of this, Rawls's whole structure of moral development is built on shaky ground (Okin, 1989: 93). Just distribution within the family or between the sexes in not dealt with in Rawls theory. In societies characterized by gender, such as our modern society, women often do not get paid and are even not acknowledged for their labor, so the discussion of the distribution of wealth is once again oblivious to the gender bias.

Okin highlights the fact that the original position forces one to "question and consider traditions, customs, and institutions from all points of view, and ensures that the principles of justice will be acceptable to everyone, regardless of what position they'd end up in"

(Okin, 1989: 101). Following this line of thought, Okin suggests that a Rawlsian conception of justice can be functional from a feminist perspective if the family, as a major social institution affecting the life chances of individuals, is constructed in accordance with the two principles of justice. In that sense, Rawls's theory of justice can be a very powerful tool for feminist theories, if applied to the idea of family life in connection to the two principles of justice.

The critical impact of the feminist application of Rawls's theory comes from the application of the second principle: inequalities should mean the benefit of the least advantages and the attachment to offices and positions open to all. The abolition of gender seems essential to the fulfillment of Rawls criterion: the constitutional process should preserve the equal representation of the original position to a practicality degree.

According to Okin, since gender is a social construction, what used to be considered as personal, a question of gender, encompasses a strong political element. Because there is an absence of women in high-level political decision-making circuits, the choices made concerning women, disproportionally poor and black, are not made by them. The personal sphere can only be just and secure if the members are equals. Given the inequalities regarding women, the idea of the dichotomy between private and public sphere is pointless. The limits of the personal sphere are defined politically, that is to say, that women are not defining what is understood to be "personal" and what's not. In fact, significant differences between women and men are created by the division of labor within the family. This example states how

important a "personal" institution as the family is influenced by the "public" sphere (Okin, 1989: 172). It is because of the relevance of the family in the perpetuation of gender injustices that Okin proposes a different view of Rawlsian theory from the perspective of justice within the family.

In the same way as Susan Moller Okin, Martha Nussbaum presents a new liberal alternative to Rawlsian theory. Coming from a Kantian constructivism, same as Rawls, Nussbaum believes that no human shall be used as a means for the ends of others, and shares with the Rawlsian project the idea of the citizen as a free and dignified human being. Nussbaum proposes a concept of substantial freedoms or capabilities. Inspired by the works of both Rawls and Amartya Sen, addresses exactly what people of a group are actually able to do while considering people one by one. This is the capabilities approach. In the next sections, we will develop this approach and analyze how it has impacted public policy around the world, as well as its consequences for the application of Gender Mainstreaming in the European Union.

Section II:
Nussbaum's Capabilities Approach

The capabilities approach was first conceived as an economic theory to measure welfare in the 1980s. Built as a theoretical framework around two normative claims: the moral importance of the freedom to achieve well-being and that the freedom to achieve well-being is based on terms of capabilities (Nussbaum, 2011), it has been embodied in

diverse theories of social justice, economic development and development ethics. Moreover, and most importantly, this approach became prominent in social sciences, in which new statistics and social indicators were developed to measure the attainment of the basic capabilities. This new paradigm (mostly applied to development studies) is Human Development.[109] One of the key distinctive elements of the capability approach is the enhanced value to the well-being instead of the ends[110] provided that people differ in the ability to exchange means into valuable opportunities (or capabilities) or outcomes (functioning) (Sen, 1992).

Under this approach, functionings are associated with what a person can do or be, or in other words, their actions and states. These functionings are, according to this view, what gives meaning and value to a human life. Elementary examples of functionings can be having a good job, being safe, or being in good health. On the other hand, the capabilities are the different combinations of functionings that are within the set of feasible opportunities for a person to achieve. In sum, capabilities are related to an individual's opportunity and aptitude to produce valuable results, given the external factors and own characteristics.

The capabilities approach,[111] as explored by Martha Nussbaum, deals

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[109] More on the human development approach in Hirai, 2017.

[110] Other normative frameworks, for instance Resourcism (by Ronald Dworkin) or the social primary goods approach (by John Rawls), are constrained to the ends or results.

[111] There are certain differences between Amartya Zen and Martha Nussbaum's perspectives of how empowerment should be represented in the capabilities approach. More on this in Keleher, 2014, and Keleher, 2008.

with an "approach that is respectful of each person's struggle for flourishing, that treats each person as an end and as a source of agency and worth in her own right" (Nussbaum, 2000: 69). "A principle of each person's capability, based on a principle of each person as end" (Nussbaum, 2000: 5). This Kantian idea summarizes the capabilities approach, aimed at the pursuit of capabilities for each and every person (Nussbaum, 2000). It is a theory based on the examination of "real lives in their material and social settings" (Nussbaum, 2000: 71). Nussbaum distinguishes three different sets of capabilities: basic, internal, and combined capabilities. Basic capabilities are the innate, necessary basis for developing more advanced capabilities and a ground of moral concern (Nussbaum, 2000: 84). For instance, the capability for seeing and the capacity for hearing. Internal capabilities, on the other hand, are developed states of the person, mature conditions of readiness. Nussbaum points out that internal capabilities eventually come up in time with the support from the surrounding environment, such as the capacity to speak. Combined capabilities, on the other hand, are internal capabilities combined with the appropriate external conditions for the exercise of the function. Nussbaum uses the example of citizens of a non-democratic regime to explain the difference between internal and combined capabilities: those who have not been able to exercise the internal capabilities. There is a fine line between internal and combined capabilities based on the fact that to develop an internal capability it is necessary to practice the function. However, Nussbaum defends the distinction considering that even a highly trained capability can be frustrated and extreme deprivation can also affect the internal promptness of the capability.

In that sense, Nussbaum enumerates[112] ten core capabilities that are central to human life anywhere and everywhere, and that should be respected by democracies everywhere: life; bodily health; bodily integrity; senses, imagination and thought; emotions; practical reason; affiliation; other species; play; and control over the political and material environment. It is important to mention that this list is non-exhaustive and that it is constantly permeable to new capabilities. The capabilities belong to each and every person, not to groups. These ten capabilities only represent the necessary conditions for a dignified life, but they are not to be realized in each and every life. Here, opportunity is the key point: being able to realize the capabilities are decisive, but not actually realizing them. Nussbaum uses the Aristotelian term *dunamis*, "the condition in virtue of which one is able to do something" (Nussbaum, 1992), to describe the importance of the potential.

Out of the ten core capabilities, in this work, we would like to focus especially on "senses, imagination and thought", "practical reason" and "affiliation". "Senses, imagination and thought" makes reference to the ability of using the senses, to imagine, think and reason in an informed and cultivated manner. This capability would entail adequate education, "including, but by no means limited to, literacy and basic mathematical and scientific training".[113] This capability aims at using "one's mind in ways protected by guarantees of freedom of expression

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[112] Nussbaum understands that the outlining of a list, although maleable, is an important tool to explain capabilities. Sen, on the other hand, disagrees with the perception of a list, arguing that each society should, through public reasoning, weigh the diverse capabilities and decide (Keleher, 2014: 65).

[113] By establishing these three educative elements, even if by example, it implies a hierarchization of disciplines.

with respect to both political and artistic speech, and freedom of religious exercise" (Nussbaum, 2000: 79). "Practical reason" implies being able to form a conception of the good and to engage in critical reflection about the planning of one's life. This is connected to the protection of the liberty of conscience and religious observance. Lastly, "affiliation" is dual sided: the first part (A) involves being able to live with others, show concern, and engage in social interaction. The second part (B) encompasses the social bases of self-respect and non-humiliation, being able to be treated as a dignified being. This last makes reference to provisions of non-discrimination on the basis of race, sex, sexual orientation, ethnicity, caste, religion, national origin and species.

Notice that, while freedom is one of the two fundamental principles for a human being in Rawls' Theory of Justice, in Nussbaum's capabilities approach free individual choice is just one of ten capabilities. This is related to capability number six, practical reason that is described as able "to form a conception of the good and to engage in critical reflection about the planning of one's life" (Nussbaum, 2000: 79). Nonetheless, Ruth Abbey (2013: 161) points out that free choice plays a more fundamental position in Nussbaum's framework, provided that Nussbaum distinguishes capability from function as a reason to respect individual choice. Practical reason, in turn, represents both a particular capability and a more universal good "that suffuses all the other functions, making them human rather than animal" (Nussbaum, 2000: 87).

In this particular phrase, Abbey presents a conundrum inside the

theory of capabilities, that practical reason "gives value to any functioning that arises from the other capabilities, which points to a hierarchical rather than horizontal relation between the ten capabilities" (Abbey, 2013: 159). As well as practical reason, that now appears as a foundational good, as lender of value to other capabilities, dignity (as part of capability number seven, affiliation, part B) also appears to hold foundational status. In this particular point of contention, it has been noted that dignity, or non-discrimination, or the right to be treated as an end in oneself, takes precedence over other capabilities (Charlesworth, 2000), which generates a focus on possibilities, rather than outcomes. Taken this into consideration, for example, when dealing with participation in government, the idea of more women in decision-making positions would suffice for equality in decision-making.[114] This illustrates that not all capabilities share the same position in this theory and that the construction of free choice is in times influenced by certain preferences.[115]

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[114] Nussbaum's accent on free choice develops another complication, taken from the unacceptability of some choices. For instance, female genital mutilation, based on two arguments, that it creates long-term health risks and that it "involves the permanent removal of the capacity for most sexual pleasure" (Nussbaum, 2000: 94). The implication behind this is that free choices are inviolable only when they do not interfere with capabilities and the future functionings that those capabilities represent (Abbey, 2013: 160). This caveat is a further complication for the idea of absolute free choice. This is especially troubling because Nussbaum makes room to other types of harming capabilities, which could be accepted within the capabilities approach. That is the case with two circumstances that could damage one's health and make capability number two vulnerable: sustained fasting and smoking (that Nussbaum only supports banning when it harms others).

[115] Moreover, there is another contested relationship in this theory: capabilities and function. Nussbaum recognizes that the line is not always so recognizable, there are cases in which the promotion of a capability requires functioning which blurs the distinction and places limits on free choice (Abbey, 2013). Compulsory education and voting are two areas in which functioning and capability are hard to separate concerning free choice.

By focusing on what people are able to do and not what they actually do, Nussbaum's' capabilities theory delivers a political rather than a moral philosophy. Capabilities are basic guarantees that should be able to be efficiently measured in order to establish the success or failure of a certain government/programme/country (Abbey, 2011). If any of the areas are below the capability standard, governments become responsible for its redress (Nussbaum, 2000). For this work, it is important to understand how this need for measurement affects gender equality policies. For that, we turn to the analysis of Nussbaum's equality feminism.

Section III:

Nussbaum's Equality Feminism

Martha Nussbaum presents a type of feminism with five salient features: "internationalist, humanist, liberal, concerned with the social shaping of preference and desire, and, finally, concerned with sympathetic understanding" (Nussbaum, 1999: 6). She argues that a coherent powerful image can be drawn from these five - supposedly at odds- elements.

By internationalism, Nussbaum aims at reconciling the "real lives of women" (Nussbaum, 1999:6), and incorporate conditions and problems shared by other women rather than the experiences of white middle-class women. Internationalism is linked to views of global justice on universal obligations to protect and promote human dignity through the international human rights movement.

In connection to humanism, Nussbaum seeks justice for human beings as such, believing all human beings to be fundamentally equal at worth. Facing what she describes to be as the "circumstances of justice" (Nussbaum, 1999:8) (circumstances that make us develop an account of what is due and its dignity), she sustains that the problems faced may be common but the solutions vary from group to group. That is to say that any proposed "good solution" must be held as responsive to the concrete circumstances for which it was designed. Nussbaum warns that this "sensible interest for specificity" should not be confused with normative cultural relativism.[116] She argues for an account of the central human capabilities and functions as a full universal approach that should guide feminist thought and planning.

Nussbaum defends a notion of universalism from the critics that pose that universalism is the male view projected into women. She contends that by insisting on the universal importance of protecting spheres of choice and freedom, people with diverse views can pursue flourishing according to their own preferences (Nussbaum, 1999: 9). Nussbaum contends that by providing support of basic capabilities and opportunities, there is no imposition of values.

The core of Nussbaum's feminism relies on the return to a form of liberalism (derived from Kant, Mill and Aristotle). She argues for the

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[116] Nussbaum presents a very strong account against what she defines as normative cultural relativism, the theory that believes that the ultimate standard of what is right for the individual or group must derive from that group's internal traditions. In the case of female mutilation she argues that "it seems plausible for governments to ban female genital mutilation, even when practiced by adults without coercion: for, in addition to long-term health risks, the practice involves the permanent removal of the capability for most sexual pleasure, although individuals should of course be free to choose not to have sexual pleasure if they prefer not to" (Nussbaum, 2000: 94)

equal worth of human beings as such, in virtue of their basic human capacities for choice and reasoning. Liberal feminism adds sex to the list of morally irrelevant characteristics such as rank, caste and birth. Liberalism "must respect and promote the liberty of choice, and it must respect and promote the equal worth of persons as choosers." (Nussbaum, 1999: 57). Nussbaum extends the tradition of equal concern and respect to all the relations between women and men in the family. Liberal feminism presents a different view of individualism, not based on egoism, but an individualism that makes compassion, care, and love an essential part of the normative program. To contend the individualistic critiques, Nussbaum makes reference to the importance that many liberalist thinkers assign to family and community. She in fact reclaims individualism to care for women "when we reflect that a large number of the world's women inhabit traditions that value women primarily for the care they give to others rather than as ends, we have all the more reason to insist that liberal individualism is good for women" (Nussbaum, 1999: 63). What she distinguishes is relevant from liberalism to other political traditions is the concern as human beings as ends rather than means. In Nussbaum's words: "the liberal insists that the goal of politics should be the amelioration of lives taken one by one and seen as separate ends, rather than the amelioration of the organic whole or the totality" (Nussbaum, 1999: 10). Provided that through history women have been regarded as means and not as ends, as reproducers and caregivers instead of sources of agency and worth, Nussbaum tries to correct that wrongs and equate women to the same standards as men. The protection that liberalism assigns to the individual and autonomy is useful for feminism in that women often function less autonomously

because of their connection to family and children. Then the protection of autonomy through negative guarantees works differently for women than men. In this way, Nussbaum contends that liberalism has not been individualistic enough concerning the family. She notes: "Liberal thinkers tended to segment the private from the public sphere, considering the public sphere to be the sphere of individual rights and contractual arrangements, the family to be a private sphere of love and comfort into which the state should not meddle"[117] (Nussbaum, 1999: 63). To preserve private choice, liberals insulate the family from state regulation. Nussbaum contends this view as she portrays the family as a creature of state power and open to criticism and measured against the social justice norms. (Nussbaum, 2000: 252). Nussbaum advocates for a movement that identifies the injustices of denying women the ability to function and the social arrangements constraint women's capabilities by analyzing diverse women's lives and the possible remedies to those situations (Baehr, 2013). In this sense, Nussbaum describes a type of feminism compatible with global moral pluralism and global feminism (Nussbaum, 1999).

Feminist liberalism as presented by Nussbaum is not concerned in maximizing numbers of choices, instead, it combines the idea of equal worth and respect. The choices that ought to be protected are the ones that are regarded to be of central importance to the development

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[117] In this regard, Nussbaum is connected to the thought of Catherine MacKinnon and the contention that private power (not state power) serves as the foundation to women's inequality: "Unlike the ways in which men systematically enslave, violate, dehumanize, and exterminate other men, expressing political inequalities among men, men's forms of dominance over women have been accomplished socially as well as economically, prior to the operation of law, without express state acts, often in intimate contexts, as everyday life." (MacKinnon, 1989: 161).

and expression of personhood. To do so, Nussbaum believes that liberalism needs to make a stand about what is good for people. There is where the notion of capabilities is incorporated. The goal is to "put people in a position of agency and choice, not to push them into functioning in ways deemed desirable" (Nussbaum, 1999: 10). Nussbaum defends choice as a goal and a desire.

In general, liberal feminism is based on the assumption that women should enjoy personal autonomy that is violated by the "gender system" (Okin, 1989: 101), and that the women's movement should work to identify and remedy those violations. Procedural accounts of personal autonomy argue that women should be enabled to a range of autonomy conditions that should be identified and promoted by the women's movement.

Baehr compares Nussbaum's capabilities approach to procedural accounts of autonomy[118] that advocate for the women's movement to protect and promote women's ability to live lives of their own choosing. In order to do so, they propose identifying particular autonomy deficits in women's lives and in turn promote the necessary conditions that enable autonomy (Baehr, 2013). In that sense, Nussbaum's capability approach has a number of points in common. However, procedural accounts of autonomy are more concerned with redefining social equality to as to serve freedom (Cornell, 1998). The focus on freedom as the most fundamental pillar for a human being (Cudd, 2004; Cornell 1998) presents a difference with the capabilities

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[118] More on this in MacKenzie and Stoljar, 1999.

approach that puts freedom in an equal standing with other capabilities.

The idea of choice is intertwined with the concern with the social shaping of preference and desire, the fourth element of Nussbaum's liberalism. Nussbaum recognizes in feminist critiques to liberalism the neglect of the social formation and deformation of preference, emotion and desire, understood as simply given. She proposes that feminism studies social origins of desire, preference, and emotion to demystify and question these preconditions. Nussbaum believes that socially constructed preference shape and reinforce subordination, questioning liberal definitions of freedom as realization of preferences. In the capabilities approach, Nussbaum responds by proposing alternative means of measure well-being and pre-defining conditions for meaningful autonomy: "We ask not only about the person's satisfaction with what she does, but about what she does, and what she is in a position to do (what her opportunities and liberties are)" (Nussbaum, 2000: 71).

Regarding the sympathetic understanding, Nussbaum is concerned with the value of women as creatures of care and sympathy. Nussbaum follows MacKinnon in questioning the validity of women's instincts of care.[119] On this question, Nussbaum tries to combine a radical feminist approach with an interest on the possibilities of trust

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[119] On the instincts of care, there is a tension between feminists. There are those who believe that the instincts of care are a construct of women's subordination, that serve male interests and subordinate women (such as Catherine MacKinnon and Claudia Card) and others that sustain that the ability to care is inherently female and the core of morality and should be emulated by all (such as Carol Gilligan and Virginia Held).

and understandings, understood as human virtues necessary to societal life.

In her own words, Nussbaum defines the capabilities approach as "the systematization and theorization of just such thoughts and plans. It is plural because what women strive for contains a plurality of irreducibly distinct components. It is focused on capability or empowerment, even as the women's own thinking is focused on creating opportunities and choices, rather than imposing on any individual a required mode of functioning. To the thinking that is already there it adds a set of arguments linking the capabilities list explicitly to underlying ideas of human dignity that help us test candidates for inclusion; it adds a framing political approach showing how these ideas of capability and functioning will deal with legitimate concerns about diversity and pluralism; it adds arguments linking capabilities to specific political principles that can be embodied in constitutional guarantees. Finally, it adds arguments showing very clearly the incompatibility of this approach with other prevalent alternatives. In these ways, it seems to me, the approach can fairly claim to make a distinctive contribution to the practical pursuit of gender justice." (Nussbaum, 2000: 303). Capabilities are possibilities, not requirements that help to address the question of the conditions in women's lives before women's choices are considered binding. Nussbaum establishes a set of robust preconditions that includes the existence of alternatives, education about the alternatives and no coercive social norms that could preclude available non-traditional choices. The capability approach insists that choice is not spontaneous and it does not flourish independently. Because of that, while caring

about autonomy, it is mandatory to care about the "form of life that supports it and the material conditions that enable one to live that form of life" (Nussbaum, 1999: 50).

What Happens Until Justice? Adaptive Preferences and Unresolved Problems of Nussbaum's Liberal Feminism

There are two different sets of critiques to be made to Nussbaum's capabilities approach. The first one concerning flaws within the theory. Those criticisms would come from inconsistencies or non-developed points in the theory. The second set would be related with the application of the theory in policy.[120]

One of the main theoretical problems with this approach, is the potential existence of "adaptive preferences". This term was coined by Jon Elster (1982), and describe preferences in where the unavailability of an option cause an agent to dislike that option. This type of preferences clear affects the autonomy of the individual. Notice how adaptive preferences pose a challenge to the capabilities approach in connection to feminist liberalism: the value of free choice versus how subordination and oppression can reduce the sense of entitlement of a person (Abbey, 2013: 176). Concerning this dichotomy, Nussbaum establishes, on the one hand, that adaptive preferences might indicate an adjustment in desires or aspirations, and a mark of responsibility or maturity (Nussbaum, 2000). On the other hand, Nussbaum concedes that there are ways in which "habit, fear, low expectations, and unjust

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[120] This latter critique will be analyzed in the next section.

background conditions deform people's choices and even their wishes for their own lives" (Nussbaum, 2000: 114). This means that adaptive preferences are unacceptable when they represent "adjustment to bad circumstances", such as poverty and other depravations (Nussbaum, 2000: 138). Nussbaum does not present a theory on how to determine which are the adaptive preferences deemed valuable or which are the ones that come from an adjustment to bad circumstances. The capabilities approach relies on the threshold that stipulates what is good for all individuals to be enabled to do, falling below the threshold is bad in itself, irrespective of the personal experience (Abbey, 2013: 177). The question on where the threshold is, remains contested.

"Our question is: under what conditions are preferences a good guide to such fundamental issues of social choice, and under what conditions might we be justified in departing from or criticizing some of them in the name of important norms such as justice and human capability? How should such a justification go?" Nussbaum deems this to be a treacherous question (Nussbaum, 2001: 115). Anne Phillips recognizes in this predicament a theory "simultaneously hooked on the idea of choice and critical of most people's choices" (Phillips, 2001: 262). For Phillips, actual choice is reserved in the name of the "high value attached to choice" (Phillips, 2002: 401), and suggests a focus on equality rather than choice to allow dribbling this dilemma, which would counter with the fact that the capabilities approach does not concern outcomes, but possibilities.

Capabilities are described as things that people would intuitively

endorse[121] (Abbey, 2013: 162). This issue poses the question of how we can establish value without considering preferences and desires, and how to discredit which intuitions are the inherently valuables and which not. Another strong critique comes from Alison Jaggar, who assesses the circularity of the issue: "the test for determining whether or not a desire is informed seems to be precisely whether or not it can be interpreted as a desire for one of the items on her list" (Jaggar, 2006: 316). Jaggar also points out a neocolonial criticism, suggesting that Nussbaum precludes the intuitions of some over the intuitions of others from an occidental perspective and even that Nussbaum attributes adaptive preferences only to oppressed women in the global south (Jaggar, 2005: 189).

Ann Levey, who considers that adaptive preferences present an inflexible problem to the reconciliation of liberalism and feminism, further explored this point. She points out that the gendered system operates exactly to produce "people whose interests and preferences serve to perpetuate differences in power and expectations between women and men" (Levey, 2005: 128). Levey considers that liberalism "remains silent" about those choices and does not fully address the problems they reflect and produce.

How to measure the degree in which choices are fully voluntary and the underlying preferences are truly women's own is another one of the central questions. The answer provided by Nussbaum (up to her

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[121] Nussbaum establishes that the human capability approach is "informed by an intuitive idea of a life that is worthy of the dignity of a human being" (Nussbaum, 2000)

best extent) and liberal feminists is that until the moment in which women enjoy a "wider range of choices with the same opportunities and tariffs as men, we cannot know where their choices will fall" (Abbey, 2013: 182). In that uncertainty relies the fact that liberal feminists cannot positively address which preferences are effectively adaptive. For this perspective, only after removing injustice and inequality does the analysis of the choices become possible. This ex-post analysis of the situation precludes that the liberal proposition is to address injustice and inequality. After properly addressing them, women might even continue to make the same choices. The theory would encompass those choices as adaptive preferences. As Abbey explains, "the crucial difference for a feminist liberal would reside in the different process and experience of choice" (Abbey, 2013: 163).

Moreover, there is another important problem regarding the theory that we have highlighted in the previous section. The hierarchical order of capabilities is hardly horizontal, and some capabilities matter more than others. The relational nature of equality moves the focus from if individuals have the minimum necessary for choice (as sustained by the capabilities approach) to how the positioning in social hierarchies shape their choices in unequal ways (Phillips, 2001). Phillips points out that while Nussbaum moves from liberal claims that individual freedom surpasses social equality, she gets drawn back from the challenge of establishing a system of minimum capabilities for a dignified human existence that leaves her on unsteady ground to criticize choice in the name of choice. Nussbaum tries to address the social formation of preferences and how treacherous it is to assume that there is free choice in what people want or need. Concerning that

focus, Phillips advocates for equality instead of autonomy and choice. Nussbaum defends the pure search of genuine free choice. It is a question of where to put the focus: Nussbaum wants to limit the point of departure while Phillips supports addressing end-state inequalities (Phillips, 2001).

Section IV:

Capabilities, Empowerment and Benchmarks

Throughout our analysis of Nussbaum's capabilities approach, we have seen how it leads to a need for measurement of these capabilities. This reliance on statistics, leads to a second type of critiques to Nussbaum liberal feminism. In this section, we further develop that, and we also show how much of the public policy analysis today is based on the use of benchmarks and a numbers-driven approach.

The rationale behind the capabilities approach is that women (who already "lose out by being women", according to Nussbaum, (2000)), have limited powers of choice and sociability, provided that they "live as adjuncts and servants of the ends of others and in which their sociability is deformed by fear and hierarchy" (Nussbaum, 2000: 298). Nonetheless, women, as all people, are bearers of human capabilities, understood as "basic powers of choice that make a moral claim for opportunities to be realized and to flourish". For this theory, the problematization is pointed out from the failure to attain a higher level of capability.

In Nussbaum's capabilities approach agency[122] is the ability to act and it is established when all of the capabilities can be fulfilled. In that sense, agency comes after the fulfillment; it is an "after preconditions" type of agency. The argument is: If all capabilities are properly fulfilled (X), then pure agency will be possible (Y); that is to say, people will be able to freely choose provided that all ten (or more, depending on the specific context) are enabled.

In other words, women (or any oppressed people) would be able to act in full capacities provided that the list is complete and more similar to those of men, who already have full capabilities. In that rationale, women are necessarily compared to men and the capabilities that they pertain, thus the need of indexing and benchmarking[123], to make possible a measurement of achievements. This generates the false idea that when all capabilities are fulfilled, equality is not a problem, and any difference is a question of choice, without accounting for structural, historical and cultural context.

In this work, we are dealing with this notion of capabilities because it has spread widely in international policies of development and gender equality and this shows how these questions are problematized

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[122] Agency is one of the key concepts in philosophical and political analysis of the 19th and 20th centuries. The notion of agency has shifted and taken different perceptions. Its use is heterogeneous, and involves anthropology, psychology, sociology and economics. In classic philosophy the term "agency" was used to indicate the performance of intentional actions, as explained by Aristotle to Hume. Anscombe and Davidson, from the contemporary analytic philosophy tradition, share the view that action is explained in terms of the intentionality of action. The notion of intentionality then became fundamental to the notion of agency.

[123] Benchmarking is the process of comparing one's policies to the best practices in the rest of the countries or regions.

nowadays in the field of public policy. The use of benchmarks and indicators of welfare and gender equality are a focal common point between the United Nations and the European Union's approach.[124] Gender equality and women's empowerment are now mainstream dimensions of any development discourse.[125]

In that regards, empowerment has been described as a "buzzword" and "fuzzy concept" in development (Cornwall and Brock, 2005; Cornwall, 2007; Eyben and Napier-Moore, 2009; Klasen and Schüler, 2011). Empowerment is defined in official policy documents[126] as the "range of options that create opportunities and reinforce individual and collective capacities to exercise control over the life of individuals and offer them more choices. In that sense, empowerment can mean access to and control over resources, but also self-determination and participation". There are two important aspects of empowerment that should be noticed. First, the notion of agency: empowerment becomes an element to provide "range of options" to create opportunities and reinforce capacities. Second, this definition of empowerment is intimately related to the capabilities in the sense that there is a need to be empowered (achieve core capabilities) in order to choose freely.

The proliferation of indexes and benchmarks to analyze the success of public policies and the relationship with the notion of women's empowerment can be illustrated by the following indexes or reports

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[124] We will analyze in more detail the widespread use of benchmarks in the European Union and the Open Method of Coordination in Chapter 6.

[125] As evidenced by the European Union Gender Action Plan 2016-2020 - European Implementation Assessment.

[126] EU Gender Action Plan 2016-2020 - European Implementation Assessment - (EIA-GAPII).

that aim at measuring progress towards the objective of gender equality:

1.   Human Development Report

In 1995 the United Nations Development Program (UNDP) presented the Human Development Report (HDR) focusing on gender. That report contained the Gender-related Development Index (GDI) and the Gender Empowerment Measure (GEM). The Gender Empowerment Measure was an index promoted by the United Nations Development Programme (UNDP) to measure the extent of gender inequality across the world. The units measured were economic income, participations in high-paying positions with economic power and access to professional and parliamentary positions. This index was introduced in the 1995 Human Development Report along with the Gender-related Development Index. These two indexes, although widely revered for raising awareness on gender related issues, were heavily criticized for conceptual and methodological restrictions.[127]

2.   Gender Inequality Index

As a way to solve the problems identified by the indexes, in 2010 the Human Development Report of the United Nations launched a new measure, the Gender Inequality Index (GII). The new index presents a measure of gender inequality based on reproductive health, empowerment and the labor market. First, reproductive health is

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[127] More on the analysis of indexes in Bardhan and Klasen, 1999; Dijkstra and Hanmer, 2000; Dijkstra, 2002; Klasen, 2006; Dijkstra, 2006.

measured by maternal mortality ratio and adolescent birth rate. Second, empowerment reflects the share of parliamentary seats held by women and the shares of population with at least secondary education by gender. Finally, labor market is measured by gender specific labor force participation (and replaced the income component used previously in the GEM). A low mark in the Gender Inequality Index represents low inequality between women and men.

3.   Gender Equality Index in the European Union

At European level, the Gender Equality Index (GEI) elaborated by the European Institute for Gender Equality (EIGE), measures the level of equality between women and men in European Countries. It is not lost that the European Union index measures "Gender Equality" while the UN index measures "Gender Inequality". The GEI measures thirty-one indicators and six core domains and generates a score that ranges between 1 and 100 (100 being total equality). The six core domains being work (the position of women and men in the labor market); money (inequalities in financial resources and the economic gaps in earnings and incomes between women and men as well as the risk of poverty); knowledge (differences in terms of education and training); time (inequalities in the allocation of time for care activities); power (gender inequality in decision-making positions in political, economic and social spheres, especially the representation of women and men in political spheres), and health (the access to health services, life expectancy and health behavior factors).

This expansion of indexes and its reliance when analyzing public

policies is related to our discussion of technocratization in the application of Gender Mainstreaming in Chapter 3. If the final goal is measuring progress with numbers, most of the application of the strategy becomes a ticking-boxes exercise, which creates tension with the transformative spirit of Gender Mainstreaming in its conception.

Additionally, this is also connected with our notion of the Firework Effect developed in Chapter 3. The increase in numbers benefits a sensation of progress, and the false conscience of actual equality. The emphasis on tools and techniques harms clear policy frameworks. The use of benchmarks also engenders a difference between the countries with the highest scores and the countries with the lowest scores. It is not casual that the countries that scored lower belong to the European South. Gender equality becomes a number and, in turn, a product that can be marketable, a commodity, and Gender Mainstreaming then becomes the tool to able individuals to take their choices and improve the scores.

To sum up, Gender Mainstreaming does not stand alone in itself. Gender Mainstreaming is like the peel of an orange, and it is given body by the insides. What we see is that even in a peel of gender analysis, the insides respond to a different logic. If the insides are numbers instead of a structural analysis of the reproductions of inequalities, what happens when the numbers improve?

Section V:

What are we Mainstreaming when we Mainstream Mainstreaming? Evidence from the Official Documents of the Strategy

Through the implementation of mainstreaming in the development agenda, Council Regulation 2836 of 1998[128] established that "the Community shall provide financial assistance and technical expertise to support the mainstreaming of the gender perspective into all its development cooperation policies and interventions". In that document, mainstreaming became effectively the strategy "to support the adoption of a gender-sensitive approach in the conception, design and implementation of Community development policies and interventions at macro, meso and micro level, as well as in their monitoring and evaluation" (Council Regulation 2836/98). In the European Pact for Gender Equality 2011-2020, the Council of the European Union seeks to "promote women's empowerment in political and economic life".

We have established how the discourse of empowerment started to gain importance in the universe of gender equality strategies. First, in the global sphere and then in the European Union, especially used for development cooperation. In 2007, the Communication on "Gender Equality and Women Empowerment in Development Cooperation"[129]

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[128] Council of the European Union. 1998. Council Regulation (EC) No 2836/98 of 22 December 1998 on integrating of gender issues in development cooperation.

[129] COM (2007) 100 final. 2007. Communication from the Commission to the European Parliament and the Council of 8 March 2007. Gender equality and women empowerment in development cooperation.

determined that gender equality is crucial in itself as it is a fundamental human right and as a question of social justice. That Communication included the statement that "gender equality is essential for growth and poverty reduction" and declared that the eradication of poverty "demands that women and men be given equal opportunities in the economic and social spheres and have equal access to, and control over, the resources of society".

It is important to also analyze the European Union's framework for equality in development, since it is part of the promotion of gender equality as a matter of human rights, "the foundation of democratic societies and good governance, and the cornerstone of inclusive sustainable development" [130] (European Commission Joint Staff Working Document 2015). These discourses are of relevance to the conception of equality of the European Union, as they preclude Gender Mainstreaming as part of a "three-ponged approach" that includes political and policy dialogue, Gender Mainstreaming, and specific actions to "put gender equality more systematically on the agenda of the political dialogue with partner countries"[131] (EU Gender Action Plan 2016-2020 - European Implementation Assessment - (EIA-GAPII)).

In September 2015 the European Union presented the framework for "promoting gender equality and women and girls' empowerment in

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[130] European Commission. 2015. Joint staff working document. 'Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020', (GAP II). Brussels, 21 September 2015.
[131] European Parliament. 2017. 'EU Gender Action Plan 2016-2020 at year one - European Implementation Assessment'.

external relations in third and partner countries, as well as in international fora and agendas"[132]: "Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020" (GAP II), that replaced the old Gender Action Gap (GAP I). Based on the principles established in the European Consensus on Development, the goals are intertwined with the Sustainable Development Goals (SDGs).[133] In December 2016, the Parliament of the European Union, through the Conference of Committee Chairs approved the joint request of the Committee on Development (DEVE) and the Committee on Women's Rights and Gender Equality (FEMM) requested an implementation report on the GAP II - "Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020".

The key elements of the documents dealing with gender equality in development in the European Union state that: "Progress on supporting gender equality in EU external action demonstrates that there is an understanding at EU decision-making level that

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[132] As described in the EU Gender Action Plan 2016-2020 at year one European Implementation Assessment. (European Parliament, 2017).

[133] In this sense, the Council of the European Union in the Council Conclusions on Gender Equality and Women's Empowerment established that "The promotion of gender equality and the enjoyment of human rights by women and girls are goals in their own right and also instrumental and key to achieving internationally agreed development goals, including the Millennium Development Goals (MDGs), and the implementation of the Beijing platform for Action, the Cairo Programme of Action, and the Convention on the Elimination of All Forms of Discrimination against Women. The Council stresses the close inter-linkages between sustainable achievements in poverty reduction and development and the empowerment of women, including their political empowerment. Gender equality should therefore be a core aspect in the EU development policy's programming, implementation, monitoring and evaluation." (Council of the European Union, 2007).

empowering girls and women across the globe is not an option in our times, but a duty and a responsibility to future generations." (EU Gender Plan - European Implementation Assessment).

The European Implementation Assessment of the EU Gender Plan (EIA-GAPII) describes gender as the "social and cultural differences between men and women that assign value and create unequal opportunities in life. These characteristics are variable. Policies and structures play a very important role in shaping the conditions of life and, in doing so, they often institutionalize the social construction of gender". The document goes on to specify that the "the participation and commitment of men is thus fundamental in the gender mainstream paradigm to change the social and economic position of women". Gender equality, in turn is defined as "the absence of discrimination based on gender in the allocation of resources, benefits and access to services". While discussing the "role of men", the document states, "even if policies are directed at women only, the Gender Mainstreaming approach stresses that in order to remove imbalances in society both women and men must share the responsibility. This means involving and engaging men in gendering efforts."

These definitions offer some valuable points of analysis. Gender is devised as a social construction while sex is a biological difference, and there is a biological basis on top of which societies then generate a distinctive treatment. In Connell's words it is an "additive conception of society and nature" (Connell, 1987: 73). This binary distinction between male/female and masculine/feminine generate categorical

theories that while trying to decipher inequalities stray on the assumption that women and men are internally undifferentiated categories (Connell, 1987). There is a presupposition that there is a biological dichotomy that inevitably interferes with the analysis. The categories "women" and "men" are not analyzed or discussed and the structural conditions that engender inequality are not contested.

In this sense, this unchallenged biological dichotomy is the base of thinking of gender as a dimension of gender roles. In that sense, the EIA-GAPII explains that "gender roles and relations are crucial to understanding opportunities and obstacles to state-building" and describes gender analysis as the "the study of differences in the conditions, needs, participation rates, access to resources and development, control of assets, decision-making powers, etc., between women and men in their assigned gender roles". Moreover, "gender analysis" is defined as the "basis for Gender Mainstreaming" that "helps to understand gender inequalities in a given situation or sector and to formulate projects or (sector) programmes in a way that they address and redress the situation".

This perspective is based on the idea that stereotypes expectations generate inequalities. In turn, inequality will be eliminated by specific measures to combat role expectations (affirmative action programmes, training, equal treatment legislation, etc.). In that sense, the discourse of women's empowerment fits right in the middle to endorse equality: taking men as the norm, women need to be empowered (either self-empowered or empowered by education/labor opportunities or whatever other strategy) to get to the "same level" of fulfillment.

These strategies seem as the easiest path to equality (Risman, 2004). Role expectations are extremely important when analyzing gender in society. As Risman explains, socialization reproduces gender as a structure in the individual level and expectations work in the interactional level. The issue with role expectations as the sole approach is that it tackles only the interactional level, without properly addressing the reproduction of inequality.

What about Empowerment?

The Strategic Engagement for Gender Equality 2016-2019 establishes the protection and promotion of women's and girls' rights and gender equality as a policy priority for the EU's external relations. It recognizes gender equality as "essential pre-conditions for equitable and inclusive sustainable development, and important values and objectives in themselves". At the same time, women's and girls' rights and gender equality and the empowerment of women and girls are both described as a "stand-alone objective and as a cross-cutting issue integrated into the targets and indicators of all the sustainable development goals".

In these documents, empowerment is explained as dual sided: there is an aspect of self-determination as well as a given access to control over resources. In this way, the top-down approach and the bottom-up coincide in the concept.[134] These uncertainties and incongruities,

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[134] The top-down approach refers to when a state enacts policies in response to international pressure (from international organizations, for instance). The bottom-up approach is when a state's policy is the result of pressures from domestic

present in almost every document on gender equality, mix up notions of efficiency with human rights.

Empowerment is usually linked with notions of governance, accountability, ownership and efficiency. For example, in the EIA-GAPII it is recognized that the sustainable development agenda and gender equality Sustainable Development Goal (SDG) aim at achieving gender equality and empower all women and girls by 2030 and propose nine associated targets, "all with links to economic empowerment". They include: end all forms of discrimination against all women and girls everywhere; eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking, sexual, and other types of exploitation; eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation; recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate; ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life. All of these specific objectives are proposed to encourage gender equality and stimulate women's empowerment.

To put the empowerment plan into motion the EIA-GAPII pleads for a twin-track approach on Gender Mainstreaming and specific policy and programmes to "address gender inequalities and women's

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institutions such as NGOs.

empowerment and, on the other hand, ensure that specific measures to combat societal discrimination and gender inequality always accompany legal and policy commitments". According to the document then, there is a difference between actions to empower women and Gender Mainstreaming. In that rationale, actions address strategic issues concerning economic and political empowerment, which are complementary to Gender Mainstreaming. Again, this distinction is puzzling, as mainstreaming is an encompassing strategy. Empowerment is presented as a specific measure and not part of the Gender Mainstreaming approach; complementing mainstreaming and not part of the mainstreaming strategy. This in turn shows how empowerment is not understood as a re-setting of power relations of the disenfranchised, but as a target for women in particular. It is aimed at women and not at the power relations that disempower women. Rather than focusing on structural dimensions of power, it is focusing on women as commodities (Cornwall and Esplen, 2010).

In that regards, commodification is usually defined as the transformation of good, services, into objects of trade. In the analytical sense, it involves a process in which social relations and institutions replicate practices and discourses that are market-oriented. Values, relations, activities, ideas, which are not necessarily "goods" in an economic sense, get transformed into objects of trade (Fairclough, 2010). The commodification of gender equality generates discourses demarked with words of skills, training, and competitiveness.

This is connected to the trend of individualization of the problematization of issues (Bacchi, 2009). The focus of responsibility

is moved from the social to the individual, and then responsibility for unemployment, poverty, etc., is shifted from the government to individuals (Miller and Rose, 2008). That drift is exemplified by the use of words such as *opportunities* and *choice* related to employment, for example. Commodification and individualization are reproduced in discourses and further reify gender equality as a marketable product.

In these documents, empowerment is presented as something that is provided, that can be guaranteed or given. In that sense, this top-down approach to empowerment contradicts the notion of empowerment as self-generated (Kabeer, 1994). These two notions of empowerment live together in these documents. However, provided that context and culture are generally disregarded (Cornwall and Brock, 2005), and there is no possible way to assure that "those who have been denied the ability to make choices acquire such an ability" (Kabeer, 2001), the top-down approach is easier to sell than actual empowerment through a process of change, empowerment through mainstreaming and not empowerment as complementary of mainstreaming.

Empowerment as Efficiency Discourse

The idea of women's empowerment has been deflated from feminist meanings of social justice, and collective action to be replaced to a top-down approach to empowerment based on efficiency. EIA-GAPII states that "equality is not just a matter of social justice or of principles; it is also one of 'smart economics'. Women's participation in the economy is essential for sustainable development and economic

growth". Empowerment is conceived and measured in terms of economic growth, political participation and representation, by means of individuality and instrumentality.

Women's empowerment (as something to be given through "specific measures") is projected as the "solution" to the "problem" of inequality in European Union's documents of development cooperation. This thesis is based on the hypothesis that women's lack of engagement (in education, in the labor market, in STEM, in political activities) is one of the processes that generate gender inequality. Thus, in order to "solve" the problem, instead of focusing in the unequal structures, more women need to access the places that they have been neglecting. The category "woman" is mostly presented as lacking something.[135]

In development policies there is another troubling notion that equals gender equality to poverty reduction in that gender equality is a tool for development. The rationale is that gender is important because it affects fundamental aspects of development, then it should be taken into consideration to tackle the main goals (economic growth and poverty reduction).

Empowerment then, is presented as something that can be provided.

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[135] The Strategic Engagement for Gender Equality 2016-2020 reads "worldwide, women's fundamental rights continue to be violated and they face discrimination in access to education, work, social protection, inheritance, economic assets, productive resources and participation in decision-making and society at large. Women spend two to ten times more time on unpaid work than men, which is one of the main obstacles to economic and political empowerment" (European Commission, 2015: 8).

Instead of altering power relations and producing social change, it is aimed at women as wealth producers. As part of a discourse of gender equality motivated by efficiency that emphasizes the individualistic thread of empowerment (Eyben and Napier-Moore, 2009), empowerment has a strong place in agencies in a neoliberal model of equality (Cornwall and Brock, 2005). In the next section, we will develop the concept of agency as resistance, which is related to the theory of performativity discussed in Chapter 4. This concept will help us to think about potential changes in the strategy in order to bring it back to its original transformative conception.

Section VI:

Agency as Resistance

Agency in feminist theory has been a contested term that challenges the concepts of oppression, inequality, domination and patriarchy (Hinterberger, 2013). The concept of agency, in turn, becomes deeply enrooted with the theories of subjectivity and construction of subjectivities through systems of knowledge. In that sense, agency welcomes a new repurpose: as the ability of the subject to resist, negotiate and transform forms of power that operate on the external and internal spheres of the subject. The first feminist approaches to agency were based on challenging the exclusion of women as social actors or legitimate objects of study (Hinterberger, 2013).

Concerning this, Butler develops the concept of constrained agency that describes agency as embedded in discourses that exist in certain contexts where there are possibilities for resisting within the

constrictions of discourse and materiality (Butler, 1993). Butler claims that the iterability of performativity is a theory of agency that cannot disavow power as the condition of its possibility (Butler, 1993). The constituted character of the subject in turn becomes the precondition of its agency and the claim that the subject is constituted does not imply that it is determined (Butler, 1993). The constitution and production of the subject takes part in discourses and practices time and again. That permanent reiteration of norms in cultures is what enables the subversion of those norms from within (Butler, 1993). Instead of separating oppressive structures and agency, Butler claims that empowered agency "does not need to involve an outright rejection of oppressive norms but operates through displacement from within" (McNay, 2016). This is a non-voluntarist conception of agency that disrupts from the binary of domination/resistance that sometimes hinders feminist thought (McNay, 2000).

Based also on a poststructuralist view, Davies (1991) proposes an alternative definition of agency. Davies affirms "theorizing the person discursively constituted afresh through each discursive act appears to contradict the sense we have of ourselves as continuous" (Davies, 1991: 49). Davies recognizes that "sense of continuity" as being created through the "humanist discourses" that replicate the idea of an "essential self" achieved through a "number of other features of the discourses through which each person is constituted". Davies enumerates those features: the use of socially available repertoire of storylines, the inscription of the ways of being that are appropriate (taken from Grosz, 1990), features of dualism that are experienced as natural features that come from the structure of discourse itself (taken

from Butler, 1990).

The analysis of being positioned "differently within new discourses" can bring "dramatic personal changes", according to Davies and can present deep resistances even at a rational level and even when the change is regarded as desirable. Davies uses the example of a clash between feminist belief and the "feminine practice", to exemplify the idea of bodily inscription.

The male/female dualism is fundamental to all discourses, a dualism re-constituted in every linguistic structure and act of speaking. Davies explores the idea that agency without the male/female binary represents subjects aware of "the different ways in which they are made subject, who take the act of authorship, of speaking and writing in ways that are disruptive of current discourses, that invert, invent and break old bonds, that create new subject positions" (Davies, 1991: 50). In this poststructuralist framework, Davies compares the notion of agency to describe it in relationship with authority as:

- *The discursive constitution of a particular individual that is having access to a subject position in which they have the right to speak.*
- *The discursive constitution as author of multiple meanings and desires.*
- *Sense of oneself as to go beyond given meanings in any one discourse and build something new, through a combination of previously unrelated discourses. Taken from Irigaray (1985), "one would have to listen with another ear, as if hearing an "other meaning" always in the process of weaving itself, of embracing itself with words, but also getting rid of words in order not to become fixed, congealed in them". (Davies, 1991:51)*

This robust definition of agency implies that an agent is "someone who was able to speak with authority". Contrary to the liberal conception, the relation between rationality and agency is not correlative. The construction of the self is liberated from the burden of rationality. In poststructuralist theory rationality "controls, dominates, and negates feeling in favor of the abstract and a notion of the good which is not only probably not one's own, but which is coercive and judgmental of those not powerfully located in dominant discourses" (Davies, 1991: 51).

Dominant discourses are never monolithic, they are continuously changing, toughened, resisted and reverse. Within this changing unsteady nature lies the possibility of resistance. Resistance then becomes essential to the operation of power itself: "Where there is no power, there is resistance, and yet, or rather consequently, this resistance is never in a position of exteriority in relation to power" (Foucault, 1978: 96). There is a disruptive and reverse element to resistance that is unintended by power (Butler, 1997). Resisting dominant discourses implies challenging dominant sets of meanings that have enabled and constrained the subject.

Resistance lies in that contestation of dominant discourses. Foucault explains it as "not to discover what we are but to refuse what we are" (Foucault, 1982: 785). In the continuous process of becoming, the subject appeals to alternative discourses to disrupt dominant

discourses.[136] Critiques have pointed that Foucault's theorization of the subject is invalidating to make independent choices, based on the liberal definition of agency (Caldwell, 2007). Nonetheless, Foucault does not present the subject as a rational, autonomous, free-willed individual. The "death of the subject" indicates that the choices were not "independent" but "forced" through the discourses that have been drained to the subject (Davies, 1991: 46). In this conception, there is a subject constituted by power relations through discursive mechanisms (Davies, 2010).

Agency, in turn, is "never freedom from discursive constitution of self but the capacity to recognize that constitution and to resist, subvert and change the discourses themselves through which one is being constituted (…) It is the freedom to recognize multiple readings such that no discursive practice, or positioning within it can capture and control one's identity" (Davies, 1991: 51). Davies demolishes the conception that agency is autonomy in being an individual standing outside of social structure. On the contrary, according to Davies, autonomy becomes recognition that power and force "presume sub-cultural counter-power and counter-force" and that they can create new disruptive forms (Ryan and Connell, 1989). Poststructuralist agency then is the subject's capacity to resist, to critique, to modify and passage between and within discourses and refuse oppressive discursive mechanisms. The subject has agency not because of the independently made choices but because of the capacity of critiquing

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[136] Foucault has developed these notions to the analysis of sexuality, and the depathologisation of same-sex desire. Resistance to the homogenizing moralizing dominative discourses that condemned same-sex sexuality by resisting and opening up the political movement to same-sex rights.

meanings of oppressive discourses and drawing new available discourses. Thus, we can think of this poststructuralist agency, as agency as a resistance.

Gender Mainstreaming was indeed an opportunity to develop complex theories of gender. In its conception, Gender Mainstreaming was thought to engage with processes of the perpetuation and reproduction of inequality. In its area of contestation, at its best light, the possibilities to reframe gendering assumptions, practices, and stereotypes are endless. The process of mainstreaming allows for the reflection around the visibilisation of processes that permit and maintain "gender biases".

As we have explained in Chapter 2, the lack of definition of gender in EU policies on Gender Mainstreaming is a problem in itself. For instance, the prohibition of discrimination on Article 21 of the Charter of Fundamental Rights of the European Union reads, "Any discrimination based on any ground such as sex, race, color, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited". Sanja Ivic denotes that to be effective, the article should make reference to the "polyphonic nature of the main concepts it entails" (Ivic, 2016: 165). That is to say, the concepts of sex, race, age, among others, should be perceived as social constructions, not a natural given. Still, the Charter treats them as essentialist categories (Ivic, 2016).

The European Commission replicates this concept of gender while it

defined it as "gender refers to the social differences between women and men that are learned, changeable over time and have wide variations both within and between cultures" (European Commission, 1999 - "A guide to Gender Impact Assessment").

Throughout the application of Gender Mainstreaming, and the policies in place, there are not enough policies aimed at changing the conditions in which true agency is real, but instead, rationally taking decisions in the "best interest of women". That is to say, when efforts are being assigned to women in STEM, for example, there are rational decisions being taken from the male-centric perspective. "Science is good for society, we need more scientists to have better economic perspective, we need more women in science" are part of the rationale behind the allocation of resources for "equality".

Gender Mainstreaming is the story of what happens when a poststructural policy is devised and applied with liberal/women centric problematizations. There is a philosophical tension underneath that needs to be addressed and discussed. If not, all good efforts face the danger of being lost in the middle of contestation. Feminism poses a threat to the status-quo, and as such, it faces an almost impossible task.

The analysis we developed of agency as resistance to domination appears to be more closely devised with the initial notion of Gender Mainstreaming as a revolutionary strategy to integrate the "gender perspective" into policy. In this version of agency, norms that contour gender identity are mediated through individual practices that allow

for variation and innovation and can be micro acts of resistance to the disciplinary control of individuals (McNay, 2016).

The concept of "women" as a unitary category is a particular discourse and representation of women and the subject of feminism (Butler, 1990). In that sense, women, men and other subjects are all the results of certain discourses (Grosz, 1994). This is, in this perspective, why feminist critique needs to address how the category "woman" is produced and constrained by the structures of power that seek emancipation. The possibilities for change and resistance lie in the fluidity of the category of women that is being constructed in the numerous discourses. In this sense, "woman" becomes a term in process, a becoming, a constructing (Kantola and Lombardo, 2017). The practice is ongoing and open to intervention and resignification (Butler, 1990). This idea of resignification and the multiple discourses that it constructs work better with the concept of Gender Mainstreaming. To resignify practices and take reiteration as subversion can train and form habits so that symbolic associations change. That is compatible with the idea of mainstreaming in all policy levels and in all places. Symbolic gender norms reproduced in policy discourses shape particular social roles in that legitimizing act (Lombardo and Meier, 2014). To alter the reproduction is also a strategy of profound de-legitimization.

To conclude with this analysis, one simple example of micro acts of resistances that can de-legitimize the status quo and are consistent with this concept of agency as a resistance can come from the field of education. The imposition of short hair for boys and longer hair for

girls can be thought as a heteronormative oppressive discourse. Changing that disposition and allowing boys with long hair and girls with short hair from an early age can be a micro way to disrupt established pre-conceptions of masculinity and femininity. While this is a simple example, in the following chapter we will study more broadly the application of Gender Mainstreaming in the field of education. We will see how these philosophical tensions between a poststrucuralist approach and liberal feminist approach to Gender Mainstreaming come together in this field and how the concept of agency as a resistance can be a re-thinking of this application.

CHAPTER 6:

THE CASE OF EDUCATION IN THE EUROPEAN UNION

Section I:

Education: A Catalyst for Social Change? What Is Gender Education? Taking Back the Performative: How Gender Education Can Reshape the Construction of Gender Through the Transformative Power of Gender Knowledge.

Education is one of the most talked about instruments of equality and social change in the European Union. Policy makers usually hail education as the solution for both short and long-term problems in a variety of areas from the economy, violence, discrimination and social change. For example, the European Union has recently released a report named New Priorities for European Cooperation in Education and Training 2015[137] with the following statements in its introduction:

"There is a strong economic case for education and training as a growth-friendly sector to play a critical role under this new Agenda. Investment in human capital is money well spent. Good education and training help promote sustained economic growth, as well as sustainable development: they fuel R & D, innovation, productivity and competitiveness."

"The tragic outbursts of violent extremism at the start of 2015 sent a stark reminder that our societies are vulnerable. Education and training have an

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[137] Joint Report of the Council and the Commission on the implementation of the strategic framework for European cooperation in education and training (ET 2020) - 2015/C 417/04.

important role in ensuring that the human and civic values we share are safeguarded and passed on to future generations, to promote freedom of thought and expression, social inclusion and respect for others, as well as to prevent and tackle discrimination in all its forms, to reinforce the teaching and acceptance of these common fundamental values and laying the foundations for more inclusive societies through education — starting from an early age. Education and training can help to prevent and tackle poverty and social exclusion, promote mutual respect and build a foundation for an open and democratic society on which active citizenship rests."

More importantly, education is also considered, at least in official documents, as an integral part of Gender Mainstreaming in the European Union. In the last Strategic Engagement for Gender Equality (2016-2019) there are 18 references to the word education alone and it is given central importance as a tool to reduce the gender pay, earnings and pension gap and thus fighting poverty among women.

In the previous chapters, we have focused on the identification of points of resistance as one of the key elements of the analysis of Gender Mainstreaming in the European Union. In this sense, lack of involvement in gender education can also be considered a form of resistance. Furthermore, the type of gender education that is promoted can illustrate additional problems with the application of Gender Mainstreaming. For example, Forde (2012: 372) argues that if the educational strategy is based on binary differences, there is the risk that the learning experience, strategies and content are crystallizing these binary differences. Then, if the educational strategy is designed

to change the underlying structure and power relations consistent with the postmodern feminist logic presented in Chapter 5, it can become a powerful tool for actual positive transformations in terms gender equality.

The relevance of gender education and the type of education that is promoted as an essential means to the objective of gender equality is why we take the case of education in the European Union to monitor how it has evolved since the implementation of Gender Mainstreaming. The European Union has been stepping further away from European educational policies, and in that sense, limiting Gender Mainstreaming only to certain aspects of higher degrees of education, such as science. Provided that the type of education supported by the European Union is essential to the promotion of gender equality, less budget allocation to gender education and fewer programmes leads us to believe that there is a profound problem at how the European Union is aiming at gender equality. For instance, previous to the implementation of the European Programme for Higher Education Socrates, there was a ring-fenced budget allocation to projects designed to promote gender sensitization in education through the application of school materials dealing with gender stereotypes (Stratigaki, 2005: 177). With the implementation of Gender Mainstreaming policies, the specific budgets, which were run with the Equal Opportunities Unit, became irrelevant.

Added to that, resistance in the application of gender equality measures (such as Gender Mainstreaming) and failure to rethink European Union's structures and institutions show how much work

needs to be done in the field of gender equality and global governance. The educational system is deeply connected to influencing the relations between citizens, and also citizens and the state (Arnot, 2009). Similar to the evolution of gender equality policies, gender in education has also evolved from rejecting the impoverished education given to girls to criticizing the politics of "gender neutrality" in education. Education has been regarded as the fundamental stone in the creation of citizens for the twenty first century (Cogan and Derricott, 2000). Moreover, there is room for development in the role of feminist theory in democratic education (Arnot and Dillabough, 2000).

Tacit and unreflective individual gender knowledge is a reason why it is important to analyze questions about gender and education, especially if there is a commitment to gender equality. Scholars have been analyzing different shifts in pursuit of gender equality (Lombardo and Meier, 2006: 153) and there is an essential shift in the inclusion of gender education. In this chapter, we present in detail the history of educational programmes in the European Union with a detailed analysis on how Gender Mainstreaming has affected them. Moreover, we discuss the recent overreliance on benchmarking methods in educational policies and how that might generate resistances in terms of actual changes in education that lead to gender equality. Finally, we conclude on potential solutions to tackle these problems in terms of gender-sensitive education.

Section II:

Education in the European Union: An Unresolved Story

The relation between education and the European Union has been contested since the beginning. Provided that the main aim of the Union was to be an economic common area, the control of education was not an issue on the table. Some educational proposals were established during the 1970s in connection with vocational training and the education of migrant children (Van Vught, 2011). Still, education was a taboo topic for European Policy initiatives (Neave, 1984).

When the priorities of the Union began to shift and elements of social justice began to be incorporated into legislation, education came into the picture. In that way, the Treaty of Rome (Treaty on the Functioning of the European Union) did not mention education as a shared competency. However, the Treaty of Maastricht introduced the notion of education, students, and professional training in the European vocabulary. In fact, Article 165 of the Treaty introduced the idea that the European community "shall contribute to the development of quality education by encouraging cooperation between Member States, through actions such as promoting the mobility of citizens, designing joint study programmes, establishing networks, exchanging information or teaching languages". This shows a shift in the political view that the European Union can contribute to quality education and that in fact education is key to the fulfillment of the principles established in the Treaties. Legislative power for education would still remain at state level but the European Union

started to pursue a complementary role (Van Vught, 2011). However, this approach to education could possibly explain the jealousy of Member States in the European Union concerning education policies. Notice that Member States were reluctant on the European Union intervening in education, as it would compromise their national sovereignty.

On its current reading, Article 165[138] (former Article 149 TEC) expresses that the Union shall contribute to the "development of

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[138] The full Reading of the article states: 1. The Union shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organization of education systems and their cultural and linguistic diversity. The Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function. 2. Union action shall be aimed at: - developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States, - encouraging mobility of students and teachers, by encouraging inter alia, the academic recognition of diplomas and periods of study, - promoting cooperation between educational establishments, - encouraging mobility of students and teachers, by encouraging inter alia, the academic recognition of diplomas and periods of study,- promoting cooperation between educational establishments,- developing exchanges of information and experience on issues common to the education systems of the Member States, - encouraging the development of youth exchanges and of exchanges of socio-educational instructors, and encouraging the participation of young people in democratic life in Europe, - encouraging the development of distance education, - developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially the youngest sportsmen and sportswomen. 3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the field of education and sport, in particular the Council of Europe. 4. In order to contribute to the achievement of the objectives referred to in this Article: - the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt incentive measures, excluding any harmonization of the laws and regulations of the Member States, - the Council, on a proposal from the Commission, shall adopt recommendations.

quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organization of education systems and their cultural and linguistic diversity". The incorporation of this article was a prominent change in terms of highlighting education formally, which had been a taboo topic in the European Union.

Furthermore, there were changes with respect to vocational training as well. Article 166 states that the European community "shall implement a vocational training policy, which shall support and supplement the action of the Member States, while fully respecting the responsibility of the Member States for the content and organization of vocational training". This change was very similar to the one happening for education, as the importance of these topics was starting to be officially recognized by the European Union.

While this important shift towards education can be seen in 1992 with the Maastricht Treaty, there were efforts on education from a gender equality perspective some time before that. The first specific action programme on equal opportunities for girls and boys in education[139] was launched in June 1985, mimicking the equal opportunities approach as an equality strategy. The action programme was aimed at supporting national measures to raise awareness among all education actors (including teachers and educational curricula.

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[139] Council of the European Union. 1985. Resolution of the Council and of the Ministers for Education, meeting within the Council, of 3 June 1985 containing an action programme on equal opportunities for girls and boys in education (85/C 166/01). [Still in force.]

The resolution recognizes some distinctive and new elements in connection to education and the European Union. First, it establishes education as a "particularly suitable forum for effective action to achieve equal opportunities for girls and boys". This is the first time a document of the European Union considers the importance of education for gender equality. In this same trend, education and vocational training are described as "among the prerequisites for achieving equal opportunities for men and women in working life" and education as a contributor to the eradication of stereotypes, the encouragement of the acceptance of principles of "fair sharing of family and occupational responsibilities and prepare young people adequately for working life". Third, the Resolution introduces positive action as "necessary to bring about equality in practice". Again, this resolution is one of the firsts documents to recognize positive action as a strategy for gender equality and in fact advocates for its necessity for equality in practice.

The results on the project were drafted into a manual on equal opportunities for school, created by the Centre for Research on European Women (CREW). Furthermore, there were large-scale initiatives regarding vocational training after this. This enthusiasm was followed by the creation of the Improvement through Research in the Inclusive School (IRIS) project.

From this action programme onwards, there have been several educational programmes in the European Union. The most

recognized programme, ERASMUS, was launched in June 1987.[140]
ERASMUS was originally built around four key actions: (i) the
establishment of a European university network; (ii) the
implementation of an ERASMUS student grants budget; (iii) measures
to promote mobility through the academic recognition of diplomas
and periods of study; (iv) complementary measures to promote
student mobility in the Community. While many educational initiatives
were taking place in the European Union at that time, ERASMUS
rapidly became the fastest growing and most visible one.[141] One of the
advantages of ERASMUS was the support given by the European
Parliament, which provided ease to access financing.

At the same time of launching ERASMUS, in July 1987, COMETT I
was established. The aim of this vocational training programme was to
build bridges (contacts and exchanges) between the industry world and
the educational one. The objectives of the programme were:[142]

- *To give a European dimension to cooperation between universities and
enterprises in training relating to innovation and the development and application of
new technologies;*
- *To foster the joint development of training programmes and the exchange
of experience, and also the optimum use of training resources at Community level;*

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[140] Council of the European Union. 1987. Council Decision 87/327/EEC of 15 June
1987 adopting the European Community Action Scheme for the Mobility of
University Students (Erasmus). [No longer in force].
[141] One example of these other programs is the "Youth for Europe" initiative which
was the first with a support system for exchange students.
[142] Council of the European Union. 1986. Council Decision 86/365/EEC of 24 July
1986 adopting the programme on cooperation between universities and enterprises
regarding training in the field of technology (Comett). [No longer in force].

-        *To improve the supply of training at local, regional and national level with the assistance of the authorities concerned, thus contributing to the balanced economic development of the Community;*

-        *To develop the level of training in response to technological change and social changes by identifying the resulting priorities in existing training arrangements which call for supplementary action both within Member States and at Community level, and by promoting equal opportunities for men and women.*

It is noticeable that the programme mentions the promotion of 'equal opportunities for men and women', since this programme was following the first action programme on equal opportunities for girls and boys in education. COMETT I was, according to the European Union, a success and was broaden by COMETT II (1990-1994), with even more resources for this exchange programme.

Both the educational and vocational training programmes ERASMUS and COMETT, respectively, were becoming very popular. Between 1986-1990, several others were created such as Eurotecnet, FORCE, Lingua, PETRA, Tempus and Youth for Europe.

At that time, these action programmes, that were gaining popularity, were key to the recognition of the importance of education in the Maastricht Treaty, as mentioned above. However, with their proliferation, its fragmentation also grew. Moreover, with the recognition of education in the 1992 Treaty, there was a need to adapt specific education and vocational training programmes within the specific articles regarding these areas (the previously mentioned Articles 165 and 166). All of this paved the way for a substantial

change in the educational programme in the European Union. Between 1994 and 1995, both the Socrates and the Leonardo da Vinci programmes were created and absorbed, or served as umbrellas, to up to seven different action programmes that were established previously. Socrates would cover the areas of school and university education, while the Leonardo da Vinci programme was aimed at continuing and vocational training. They were adopted in December 1994 and March 1995, respectively.[143] The adoption of these two broad programmes with its sub components (the previously analyzed action programmes) was consistent with the global approach to education and vocational training established in Articles 165 and 166.[144] The Socrates programme consisted of mainly ERASMUS and LINGUA, plus new actions in different areas of education, with the majority of its budget geared towards higher education. The Leonardo da Vinci programme covered the vocational training area and was comprised of the previous action programmes COMETT II, Eurotecnet, FORCE and PETRA. One noticeable difference between the two was that the Socrates programme maintained the action programmes with their original names and acted as an umbrella initiative. Instead, Leonardo da Vinci incorporated the previous initiatives in vocational training, but there was no mention of their original names afterwards.

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[143] Council Decision OJL 340 of 6 December 1994 established the vocational training policy 'Leonardo da Vinci', while the Decision 819/95/EC of the European Parliament and of the Council of 14 March 1995 established the 'Socrates' programme.

[144] The only action programme that continued on its own was the "Youth for Europe" initiative, with its continuation established in Decision 818/95/EC of the European Council and European Parliament in 1995.

These programmes were evaluated throughout their life (1994-1999) and these evaluations reflected their lack of flexibility, its cumbersome decision-making process, and their obscurity in terms of publicly available results.[145] These results put an end to these programmes in December 1999 and gave birth to a second generation of broad initiatives in education and vocational training (Socrates II, Leonardo da Vinci II and Youth, 2000-2006). At the time, this renovation served to move on to a more quantitative assessment of these programmes, and a greater flexibility in terms of collaboration with other initiatives. Moreover, the Commission took advantage of the renovation in these programmes and started linking it with a broader theme that was gaining traction in the political developments in the European Union: "a Europe of knowledge". In that regard, the Treaty of Amsterdam showed clear signs of support for higher education and the development of knowledge at the highest level in Europe. This need and support for higher education and research at the highest possible level was reflected in this new generation of programmes. In fact, the Commission put forward a communication[146] reflecting these changes to be made. In this document, they state that:

The guidelines for future Community on education, training and youth-related matters are based on two major concerns:

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[145] This was recognized by the European Commission in "The History of European Cooperation in Education and Training". (European Commission. Directorate-General for Education, Youth, Sport and Culture, 2006).

[146] COM (97) 563 final. 1997. Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions. *Towards a Europe of knowledge.*

- *To make "knowledge-based policies" (innovation, research, education, training) one of the four fundamental pillars of the EU's internal policies, as put forward in the Agenda 2000;*

- *To raise the level of knowledge and skills of all Europe's citizens in order to promote employment.*

Additionally, the new programmes should focus on a restricted number of objectives: '(i) opening up access for European citizens to the full range of Europe's education resources; (ii) innovation in these resources; (iii) broad dissemination of good practice in education'.

Gender Mainstreaming was also having an influence in education and vocational training programmes. Its inception in the European Union in 1996, and the following five-year framework on gender equality impacted these programmes as they were renovated. Since it is a strategy designated to take into account a gender dimension in all sort of policies, these two areas were no exception. After the second version of Socrates and Leonardo da Vinci programmes, the European Union decided on streamlining them yet again into a broader program named Lifelong Learning Programme (LLP) from 2007 until 2013.[147] Its objectives were to 'support the development of quality lifelong learning' and only after that, to 'help Member States develop their own education and training systems'. After 2013, the LLP became part of what is now known as Erasmus+, an

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[147] European Parliament. 2006. Decision No 1720/2006/EC of the European Parliament and of the Council of 15 November 2006, establishing an action programme in the field of lifelong learning. This programme had six sub-programmes: Comenius, Erasmus, Leonardo da Vinci, Grundtvig, Transversal, and Jean Monnet, each covering different areas of education and vocational training.

encompassing framework for education, vocational training, youth and sports that comprise the different sub-programmes and initiatives contained in the LLP.

Section III:

The Open Method of Coordination: The Era of Educational Benchmarks

At the same time these programmes were evolving, there was an important development that would have a long-lasting effect on education and training in the European Union. In 2001, during the Lisbon Council for the realm of social policy, the open method of coordination (OMC) was officially born.[148] This method is a tool for governance in the European Union and it depends on the collaboration of Member States. The OMC uses benchmarking, indicators, guidelines, and other soft law instruments to assess the standings of its Member States on different policy areas. Being of a soft law nature, it lacks any official punitive capability, and relies importantly on the fact that no country wants to be seen as lagging behind others. In practice, the OMC is applied in different steps. First, the Council of Ministers sets the policy goals. Then, the different countries in the European Union translate these goals into national policies. After that, there is an agreement on the key benchmarks and indicators to follow in order to achieve objectives. Finally, there is a monitoring process of evaluation of results. Notice that throughout

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[148] During this Council the method was officially named. Similar concepts were applied in the European Union, especially in the areas of employment and the Economic Monetary Union.

this process, the role of the European Union is mostly based on the creation of goals and benchmarks, and in the supervision of them (this last one mostly exerted by the European Commission). It is the task of Member States to set different national and regional policies in order to achieve these targets and benchmarks.

In terms of education, the OMC found its place into this policy area in May 2003.[149] At that time, the Council established five different benchmarks for the improvement of education and training systems in Europe until 2010, in what became known as Education and Training 2010 (ET 2010). The five adopted benchmarks to be reached in 2010 were:

- *An EU average rate of no more than 10% early school leavers should be achieved.*
- *The total number of graduates in mathematics, science and technology in the European Union should increase by at least 15% while at the same time the level of gender imbalance should decrease.*
- *At least 85% of 22-year-olds in the European Union should have completed upper secondary education.*
- *The percentage of low-achieving 15 years old in reading literacy in the European Union should have decreased by at least 20% compared to the year 2000.*
- *The European Union average level of participation in Lifelong Learning, should be at least 12.5% of the adult working age population (25-64 age group)*

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[149] European Commission. 2003. Press release. 'Education Council agrees on European benchmarks', (IP/03/620). Brussels, 5 May 2003. [Available at: http://europa.eu/rapid/press-release_IP-03-620_en.htm. Last accessed: September 2018]

These benchmarks were consistent with the Lisbon Strategy and with the idea of adopting conclusion on "reference levels of European average performance". After the evaluation of these goals in 2009, the OMC in education and training had a new horizon and evolved into Education and Training 2020 (ET 2020). In this case, there were seven benchmarks to be achieved by the end of 2020:

- *At least 95% of children should participate in early childhood education*
- *Fewer than 15% of 15-year-olds should be under-skilled in reading, mathematics and science*
- *The rate of early leavers from education and training aged 18-24 should be below 10%*
- *At least 40% of people aged 30-34 should have completed some form of higher education*
- *At least 15% of adults should participate in lifelong learning*
- *At least 20% of higher education graduates and 6% of 18-34-year-olds with an initial vocational qualification should have spent some time studying or training abroad*
- *The share of employed graduates (aged 20-34 with at least upper secondary education attainment and having left education 1-3 years ago) should be at least 82%.*

The OMC has had a deep impact on education in the European Union. From the beginning of the 2000s, Member States are encouraged into conforming to these quantitative standards that the Council sets, and the Commission monitors. However, there is little involvement from the different government bodies of the European

Union into how these benchmarks should be achieved. In the next sections, we will delve in detail into the different problems in educational policies in the European Union from a gender perspective.

Section IV:

Education and Gender Equality through Gender Mainstreaming: Overall Problems

It is essential for a meaningful gender equality strategy to have a consistent approach to education. Nevertheless, in the field of education the European Union has limited competences as they are linked to economical needs. Neither gender awareness in education, nor gender sensitivity, are a part of the EU approach to gender equality. Moreover, education programmes have not even fully implemented the strategy of Gender Mainstreaming.

Nonetheless, it is important to notice that since the implementation of Gender Mainstreaming policies, the approach of the European Union towards education has been more and more disaggregated, and its results, less encouraging.[150] Before the implementation of Gender Mainstreaming, there was a more direct approach to education and gender equality. For instance, in 1985, the European Council and the Ministers of Education passed the "Resolution Containing an Action Programme on Equal Opportunities for Girls and Boys in Education", which aimed at making funds available to "promote awareness among

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[150] This is no coincidence, as the implementation of Gender Mainstreaming has meant a movement towards broader Roadmaps, Programmes and Strategic Plans that are hardly specific, as analyzed in Chapter 3.

all the participants in the educational process of the need to achieve equal opportunities for girls and boys".[151] The resolution containing the programme made the necessary funds available for each educational system in the European Union with the following objectives:

- *Ensure equal opportunities for girls and boy for access to all forms of education and all types of training;*

- *Enable girls and boys to make educational and career choices that will afford them equal possibilities with regard to employment and economic independence;*

- *Motivate girls and boys to choose non-traditional occupations in order that they have access to a more diversified range of jobs, and;*

- *Encourage girls as well as boys to participate in new markets, in particular, information technologies and biotechnology.*

This Programme not only made funds available specific to education in relation with gender, but also contained among its objectives awareness raising activities and the eradication of persistent stereotypes in classroom material and lectures.[152]

Consistent with this Resolution, prior to the implementation of the European Programme for higher education SOCRATES, there was a

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[151] Council of the European Union. 1985. Resolution of the Council and of the Ministers for Education, meeting within the Council, of 3 June 1985 containing an action programme on equal opportunities for girls and boys in education (85/C 166/01).

[152] Related to this programme, thirteen years later, in 1998, the European Commission distributed a manual for "Gender Equality for Primary and Secondary Education in the European Union", which emphasized the importance of gender equality from the early stages of the educational process. (European Commission, 1998b).

ring-fenced budget allocation to projects designed to promote gender sensitization in education through the application of school materials dealing with gender stereotypes (Stratigaki, 2005: 177). As mentioned above, with the implementation of Gender Mainstreaming policies, several specific budgets that were part of the Equal Opportunities Unit, were discontinued. This is reflected very well in the recent Strategic Engagement for Gender Equality 2016-2019 in where the European Union funding in support for gender equality is relegated to "Gender equality concerns are mainstreamed in Erasmus+, the EU funding programme for education, training, youth and sports (2014-2020)". As can be noted, there is no guidance on how the mainstreaming is going to be implemented, and it leaves no room for specific programmes of gender equality within the broad programme for education Erasmus+.

Additionally, gender equality objectives in educational policies of the European Union have been limited to recruitment in scientific and technical studies. For instance, in the Horizon 2020 Programme, which tackles scientific education and research, the encouragement of girls to study science and female students to embrace a career in research seems to be the key action employed to close the gaps in the participation of women. This promotion of higher education and research in the gender equality strategy can be observed in the Strategic Engagement for Gender Equality 2016-2019:

"3.2 Reducing gender pay, earnings and pension gaps and thus fighting poverty among women

Key actions to reach objectives:

- *Consider introducing further measures to improve the gender balance in economic sectors and occupations; using the Grand Coalition for Digital Jobs to support measures enhancing digital skills among women and girls and promoting female employment in the Information and Communication Technologies sector (2016-2017)"*

This strategy lacks a comprehensive and widespread approach. It is uncertain how only by tackling higher levels of education the gender gap could be eliminated. Because of the doctrine of exclusive competence of national authorities in education and the European Union's education perspective, based on the "competitive and knowledge-based economy",[153] the efforts on gender education are mostly sterile.

There is a large literature in education showing that gender bias lies within the education system and its own teaching practices. For example, Younger and Warrington (1996) show that most teachers believe that they treat boys and girls equally. In the same study, they present evidence that teachers direct more questions, attention and reprimand more often boys than girls. In the same spirit, Davies and Brember (1995) show evidence of girls being perceived as better behaved and more motivated than boys, and thus teachers demanding less of them. Therefore, as long as there is no approach to education from a gender equality perspective, social change will be far more superficial. The reasons why the European Union has decided not to

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[153]See European Training Foundation, 2010.

engage in a more direct approach towards gender equality in the early educational stages are not clear. There is no deep analysis of the gendered nature of education and vocational training[154] in any of the education strategies of the 2015-2020 programmes. As we have discussed above, the OMC has also influenced educational policies and there has been a movement towards an overreliance on statistics and benchmarks. In the next section we will analyze how this has affected how gender inequality is combatted from an educational perspective.

Section V:

The Benchmarking Effect on Educational Policies: When "Gender" Becomes a Number. Stereotypification as the Main Problem

The objective of this section is to conduct an analysis on the educational policies in the European Union from a gender perspective. We will analyze what types of resistances Gender Mainstreaming has faced in the field of education. On top of that, we will discuss how gender inequality is reproduced in educational practices and which conception of gender is being used in the classroom, curriculum or teaching. Furthermore, we will examine policies that tackle inequalities in the educational setting, to understand how they reflect the problems they encounter. The overall thesis is that educational policies are based on numerical parities, and on getting gender equality in numbers. We have already seen how the OMC has affected the newest education

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[154] See Rees, 1998.

and training strategy, ET 2020, which is based on quantitative benchmarks. In a very similar way, this method has affected Gender Mainstreaming (Verloo and Van der Vleuten, 2009). This combination forces gender equality in education into a numerical equality, which follows the narrative of "getting girls into schools" and "how to get girls into sciences and math", with an important focus into numerical access. The rationale behind this approach seems to be that when the numbers are equalized (equal access to education), gender equality will be achieved.[155] Educational policies are thus designed to increase the performance or ratio of boys versus girls or vice versa in a specific area. Then, ideas of gender equality are being constructed in one-dimensional terms: "gender problem" is a number problem and "equality" must be a numerical equality (Forde, 2012). In this way, gender taken as an essential quality residing in girl and boy bodies can be added or subtracted. Then, statistics are formulated to (dis)prove gender parity in schools and achievement in educational testing. There is clearly an overreliance on statistics and on quantitative goals with no qualitative analysis.

This is a dangerous notion of equality as it fails to address the role of education in the reproduction of existing inequalities. Statistics do not provide insight into the experiences and the institutions that perpetuate and reproduce inequality. For example, equal access to

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[155] One example of the focus on access as an equality measure can be seen in the Gender in Education and Training publication from the European Institute of Gender Equality. This document is "an integral part of EIGE's Gender Mainstreaming Platform". In it, one of the guidelines is "Mainstreaming gender equality in education and training policy remains crucial in countries where equal access to education is taken as a given, which is the case in the majority of EU Member States". (EIGE, 2016).

schooling does not entail equal access to curriculum, or the subjects comprising the course of study.

Moreover, this measurement mentality fails to address the role of education in the perpetuation of stereotypical gender roles. For example, within the common curriculum or course of study, there are no women in history lessons or in literature, to give two examples. Women are usually cast in maternal roles, while men are decision makers. In the same line of argument, there are also resistances in the teaching process, such as the notion that girls are not inclined to like math or science subjects. Teachers need to be aware of their own biases and stereotypes, which might also influence and perpetuate bullying, racism, sexism and homophobic behavior.

Furthermore, there is the question of how policies are framed, what they represent and, in line with the analysis in Chapter 2, what they are problematizing. This becomes patent when looking at two examples from two different official documents:

"Boys, especially from disadvantaged backgrounds, drop out of school more than girls and encounter many more difficulties reading." (Strategic Engagement for Gender Equality 2016-2019)

*"Yet despite the legal equality in the European Union, inequalities persist because of the **educational choices that girls make**, which may prevent them from achieving the potential they show earlier in education. Moreover, **care needs to be taken** not to ignore the problem of low-performing boys, a phenomenon sometimes overshadowed by the success of men generally."* (Infographic Briefing

by the European Parliament – March 2015 – European Parliamentary Research Service)

Notice that the official documents in terms of education in the European Union are making use of gendered categories to measure gaps in achievements. On the one hand, "girls" success is framed through an oppositional dynamic of boys' failure. This is akin to a very neoliberal logic, in where if someone is benefiting, someone else might be harmed. Additionally, being focused on the individual and drawing attention to the gendered (embodied) differences generates the production of gender binaries. It is also important to note that even in a recent official document (2015), the European Union seems to be suggesting that girls make bad choices that prevent them from reaching full potential.

Related to this narrative, several authors highlight how this discourse of boys' failures in education framed through a feminist triumph creates a false sense of achievement in terms of gender equality (Ringrose, 2007). Additionally, Ringrose (2007) alerts to the problem of this narrative that "contribute to a much wider neoliberal, meritocratic cultural shift, where girls' educational success comes to signify equality, progress, girl power and girls' having 'come a long way, baby'" (Ringrose, 2007: 472). Also, Ringrose argues that this discourse of girls benefiting 'too much' from the feminist movements in education and boys being unable to achieve as much has weakened the efforts for real change in education to achieve equality (Ringrose, 2013). The risk here is that real issues are lost in competition. Additionally, in this binary framing, other factors, such as class and

race, are not taken into consideration.

In a very similar argument, Natasha Walter (2010) criticizes that the watchwords for feminism 'Empowerment, liberation and choice' have been 'co-opted by a society that sells women an airbrushed, highly sexualized and increasingly narrow vision of femininity' (Walter, 2010: 5). These buzzwords are also across several official documents that speak about the development of young people in Europe. In that sense, the joint staff working document (SWD) Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020 not only states it in the title, but also in a section under the "beliefs" of the European Union:

"Gender equality and girls' and women's empowerment are part of the formula for economic progress. Girls' and women's economic empowerment is a driver of development that addresses poverty, reduces inequalities and improves development outcomes."

Additionally, one important problem towards implementing policy actions that attack the core of gender inequality in education is that the European Union lacks any type of enforcement. This is one of the problems with the application of Gender Mainstreaming within the multi-level governance structure in the European Union highlighted in Chapter 2. The policy's character of soft law, combined with the jealousy of Member States in designing and controlling their own education systems, leaves very few degrees of freedom for the European Union to pursue actual change in the field of education with

regards to gender. As discussed in Chapter 3, the application of Gender Mainstreaming should have been coupled with a change in competences within the multi-level governance structure of the European Union to have a more direct impact and long-lasting impact.

This lack of enforcement by the European Union in education is consistent with the movement towards a higher reliance on statistics to evaluate Member States. Once again, the OMC is based upon the notion of leaders and laggards and of exerting peer pressure across Member States in order to achieve results and is, therefore, a soft law policy. In fact, more recently the European Union has been alerting Member States of the importance of gendered stereotypes that affect the educational and employment outcomes of boys and girls. For instance, in the 2015 Joint Report of the Council and the Commission on the implementation of the strategic framework for European cooperation in education and training (ET 2020) there is a paragraph analyzing these problems:

"Gender gaps in education and training, which are also based on the continuation of gender stereotypes, must be tackled and gender differences in educational choices addressed. Bullying, harassment and violence in the learning environment, including gender-related, cannot be tolerated."

In the same vein, the Council of Europe Gender Equality Strategy 2018-2023 also has a section among its goals and objectives that is named **Prevent and combat gender stereotypes and sexism**.[156]

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[156] In said section, the Strategy states that: "Structural inequalities and persisting gender stereotypes affecting women and men, girls and boys continue to be present

This also appears in the Strategic Engagement for Gender Equality 2016-2019 under the key actions to reduce gender pay, earnings and pension gaps and thus fighting poverty among women:

"Activities to raise awareness of educational and vocational training choices (2018-2019); promoting gender equality in all levels and types of education, including in relation to gendered study subject choices and careers, using existing policy cooperation tools and funding instruments as appropriate, in line with the priorities set out in the "Education and Training 2020" framework (2016-2019)."

This excerpt is showing how the European Union recognizes some of the problems with their own educational policies with regards to gender equality. Nonetheless, in terms of action, it mentions policy cooperation tools and funding instruments in line with the priorities set up in ET 2020. However, ET 2020, in its own benchmarks, does not mention gender inequality. On top of that, the fact that the actions should be in line with ET 2020, reflects that to monitor whether the actions are making a difference, we should focus on quantitative benchmarks, which goes back to the original problem mentioned at the beginning of this section.

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in the education and childcare system and extend all the way to the labour market". Moreover, they reflect some of the problems described in this section: "Gender stereotypes are preconceived social and cultural patterns or ideas whereby women and men are assigned characteristics and roles determined and limited by their sex. Gender stereotyping presents a serious obstacle to the achievement of real gender equality and feeds into gender discrimination. Such stereotyping can limit the development of the natural talents and abilities of girls and boys, women and men, their educational and professional preferences and experiences, as well as life opportunities in general".

Notice how beyond the inherent enforcement problem in the Gender Mainstreaming strategy, these documents also reflect the analysis in Chapters 3 and 4. All of these documents present a clear tension within the European Union. On the one hand, they reflect the problem with a rhetoric that represents the forefront of gender issues. However, they lack any clear action to try to attack the very same problem. Once again, we observe how this acts very much as a "Firework Effect". All the noise and colors provided at first fade if no action is taken to change the problem at hand.

In the end, the European Union is still reproducing liberal strategies aimed at getting more girls to opt for subjects such as math and science, instead of aiming at the core of the inequalities reproduced in the educational system. This overreliance on statistics and the hype for benchmarks misses the understanding of gender as a socially constructed set of variable traits rather than trying gender to naturalized "sexed" bodies; it does not account for how femininity and masculinity are a set of qualities that are granted hierarchically valued attributes through historical and social processes (Butler, 2011). Furthermore, classroom research finds that girls continue to be less confident than boys, which is another problem that educational policies do not address.[157] In the next section, we will analyze how this could be changed from the perspective of a gender-sensitive education.

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[157] For example, Bian, Leslie and Cimpian (2017) show that, already at the age of 6, girls are less likely than boys to believe that any member of their gender is "really, really smart". They also show that this confidence gap affects permanently children's interests.

Section VI:

Gender-Sensitive Education as a tool for Gender Equality

From policy design, we see what the underlying construction of a gender position is and its consequences. On the one hand, gender is profoundly important on the understanding of the self through the creation of an identity. But, in any case, gender should not determine educational outcomes. The one-dimensional approach of male versus female generates conflict. Moreover, if the educational plan is based on binary differences, there is a danger of 'crystallizing specific learning strategies, content and intellectual domains' (Forde, 2012: 372).

Instead, "gender-sensitive" education takes gender into account when it makes a difference and ignores it when it does not (Martin, 1981). More importantly, it does not reinforce stereotypical constructions of gender appropriateness. It makes use of 'deliberative strategies to re-balance the socio-political processes of the classroom' and is based on making overt the power regimes that underpin gender and other social factors (Forde, 2012). The idea is to understand the concept of gender in itself and consider ways in which gender is reproduced in the classrooms and curricula Additionally, gender-sensitive education calls for awareness in teachers in order to act on the spot to topics such as gender stereotypes that might come up throughout a course. It nurtures from deliberative strategies to bring equality in terms of the 'socio-political processes of the classroom' (Forde, 2012: 372). Notice that the term sensitive is related to the adoption of a questioning stance in terms of the concept of gender that is being used in the

course/classroom/curricula.

Thus, gender-sensitive education is a very powerful transformative tool. As argued by Butler, gender is performed through a set of repetitive stylized acts and it is real only to the extent that it is performed (Butler, 1990). According to Butler, "gender is, thus, a construction that regularly conceals its genesis; the tacit collective agreement to perform, produce, and sustain discrete and polar genders as cultural fictions is obscured by the credibility of those production" (Butler, 1990: 178). Because gender is "no essence", not a fact, but a social construction, a fiction, it is open to change and contestation. In this sense, Butler reverses the hierarchy: gender is performance through language and social exchange, through repetitive signifying that is regulated by discourses of hegemony. The definition and concept of gender used in policies allow us to reveal the regimes of power that perpetuate and regulate gender.

Therefore, discursive practices (cumulative and consolidating) embody a potentially transformative effect on its flexibility. Gender performativity enables agency to challenge power regimes. Gender as performative provides new tools to reveal power relations that perpetuate and regulate gender. These are theoretical positions that ought to be considered when drawing policies. In that way, we can 'recognize and challenge dominant discourses where assumptions and practices serve to reify existing patterns of gender discrimination' (Fordes, 2012: 374). This should involve a more active role and a deeper state of analysis to understand the operation of hegemonic discourses. Introducing a performative perspective in the

configuration of curricula, educational policies and pedagogy could be a tool to challenge rigidified definitions of gender and equality. This should be a tool for ongoing debates on school uniforms, class depiction and construction.

CONCLUSIONS

This thesis presented an analysis of feminist tensions in the representations and discourses of gender equality in policy texts in the European Union. We critically analyzed how gender is described in the context of the application of the Gender Mainstreaming strategy and how the meanings of the concepts of gender and equality are introduced in policy. This has been used to assess the introduction of a gender perspective in policy documents. This thesis has been building a bridge between policy theory analysis and philosophical perspectives that are the backbone of the policies. We have shown an analysis of the policy of Gender Mainstreaming from a policy perspective and from a philosophical perspective, to conclude that a policy devised with a poststructuralist approach in mind, aimed at a transformative gender approach in all structural levels of government ends up being driven by a liberal approach.

These tensions that occur in the development of a strategy could be productive if made out in the open. Bringing the tensions to light through the analysis of problematizations can prove to be a useful tool for devising equality policies and the effects of their implementations. By showing how gender is constructed into mainstream policy, we have shown that there is no clear gender perspective.

We presented the benefits of understanding gender as a social structure, process and practice. A malleable understanding of gender as social practice allows for addressing each and all the dimensions of the social mechanisms that produce gender in an individual,

interpersonal and institutional level. All of these levels contain social mechanisms that reproduce gender as a structure and need to be addressed to allow for social change.

The idea behind Gender Mainstreaming is to take "gender" into account in all stages of policy planning, decision-making, and implementation in all departments. This is what "mainstreaming" is thought to be: to make available to the whole general institutional structures a "gender perspective". This strategy was developed between the 1980s and 1990s and provided a revolutionary approach to gender inequality at the time. This revolutionary aspect attracted the attention of feminist activist and allow for a quick embracing of the strategy. It became very appealing to gender equality activists and organizations because of the novelty it entailed: including a gender perspective into every policy-making area (Rees, 1998; Squires, 2005; Walby, 2005).

Despite its popularity at the time, Gender Mainstreaming also lacked an unequivocal definition or description of the strategy. This lack of common understanding and the wide variety of actions taken by international organizations and states generate uncertainty when applying (or trying to apply) the strategy. Additionally, there is still no consensus over what is the "gender" or gender analysis that is being tried to mainstream, creating additional sources of uncertainty. Lastly, how the act of "mainstreaming" should be implemented, when it is considered to be properly mainstreamed, and how to measure the different strategies, actions, and plans also adds to this uncertainty.

We take the claims of Judith Butler that women is the man's other, and within the terms of productive power, there lies an oppression that works not merely through the mechanism of regulation and production but by foreclosing the very possibility of articulation (Butler, 1996). The various acts of gender create the idea of gender, and without those acts, there would be no gender at all (Butler, 1990). From that perspective, to tackle inequality, we ought to study and analyze gender knowledge, especially when illustrating political strategies. We take the case of Gender Mainstreaming, the European Union strategy for gender equality, and argue that as long as there is no understanding that the construction of gender is a constantly renegotiated phenomenon, and that micro and macro resistances will not shift because of legal regulations, real equality will be more difficult to accomplish. We deem that to condemn discrimination against women, we need to tackle gender production. As Butler states, regulation is always generative, producing the object it claims merely to discover or to find in the social field in which it operates. In this description, power is more insidious; discrimination is built into the very formulation of sex (Butler, 1996). We believe that only through a deep sense of awareness and educational programmes at every level that there will be a transformation of gender relations. In Butler's words, to challenge the status quo it is important to "analyze the operations of exclusion, erasure, foreclosure and abjection in the discursive construction of the subject" (Butler, 1993).

Starting from the understanding of policies as gendering, they produce and reproduce categories such as women and men. This idea is deeply intertwined with the idea of gender as a doing, as presented by the

work of Judith Butler. The effects of policies in the production and reproduction of gender ought to be taken into account before devising policies. Analyzing the ways in which gender is done can also provide a better mapping of policies that produce transformative change (challenging the norms and practices that produce inequalities) (Bacchi and Eveline, 2010: 102).

As Bacchi and Eveline explain "accepting ourselves as always located social subjects (whether as researchers, policymakers or teachers) requires us to be reflexively vigilant in thinking through the forms of social explanation we produce, including the inevitably provisional meanings we attach to the concepts and categories we adopt and their constitutive effects" (Bacchi and Eveline, 2010: 113).

Throughout this doctoral thesis, we use these concepts to study, analyze and discuss the evolution and application of Gender Mainstreaming in the European Union, one of the most fertile environments in the world. Chapter One presents the historical evolution of the strategy in the context of other gender equality policies such as equal treatment and positive actions, analyzing the different tensions in the application of these policies to combat gender inequality.

Chapter Two presents a detailed account of gender governance in the European Union and the different major institutions, actors and organizations that are part of this structure and interact in policy making and in the production of meanings in terms of gender. Furthermore, we introduce the important concept of problematization

by Michel Foucault and apply the What's the Problem Represented to Be? approach by Carol Bacchi as a public policy methodology analysis. We then show how the actors, institutions and organizations create the "problem" of gender inequality in the European Union.

In policy texts we have seen that gender is defined and understood as a fixed category, as part of a binary that can be assigned value: male or female. This destabilizes the practice of Gender Mainstreaming in the European Union. For the strategy to work as devised, gender needs to be understood as a process. Gender Mainstreaming was conceived to transform the gender structure. We show that changing a fixed structure proves to be a futile attempt. All of the dynamic elements of gender get erased when presented as a dichotomy. The gender structure is reproduced at all levels, and it is necessary to generate mechanisms to address all those levels. Focusing on role expectations, the focus is placed on women, not in changing gender as a relation. At times, the term gender appears to be a mere replacement of the word women. Placing the focus, for example, on care responsibility, legislation of paternal leaves, could be examples of policies that tackle the conception of gender.

We have shown that in European Union policies there are no mentions of structural inequality; the emphasis is placed on stereotypes and role expectations. Indicators of inequality are at times confused with causes of inequality, such as the case of schooling for girls, which is presented as one of the "solutions" for gender inequality. Focusing on numbers as the "solutions" to inequality creates a false sense of security that not necessarily entails a challenge

to unequal relations.

Gender equality has been described both as a value and as an instrument; the idea of equality "sold" as women as resources for the economy and as an issue of human rights. Again, tensions between utilitarian arguments and human rights arguments are identified. In a neo-liberal world, gender equality is commodified and presented as a useful tool.

Concerning the organizational context of the European Union, we have studied that there are resistances in the application of mainstreaming and the dynamics of the gender governance system in the European Union. The European Commission seems to be the predominant actor concerning gender equality, which in times counter values the intended approach of mainstreaming (to be mainstreamed in all-policy making processes). Mainstreaming is supposed to be everywhere but, in the end, it is nowhere and there is no real accountability. Lack of commitment, lack of budget and lack of training are also issues that make the success of the strategy of mainstreaming harder. The danger is that this dilutes the intentions of mainstreaming as a strategy of change and brings more to the false sense of the idea that gender inequality is "solved" with the incorporation of mainstreaming.

Aside from the institutional mishaps and misunderstandings of accountability and over bureaucracy, the failure of mainstreaming can also be accounted to the fact that it intends to mainstream a de-politicized notion of gender, leaving feminist tensions outside.

Mainstreaming is presented as a consensual process without attaining to existing power relations and resistances to the implementation. This de-politization conceals the fact that there are power plays in the gender structures of society.

The academic debate in Chapter Three shows that Gender Mainstreaming in the European Union has not lived by the promise of being a transformative strategy. In said chapter, we discuss the problems in the actual implementation of Gender Mainstreaming. We argue that the strategy is being applied without any serious change in the underlying structure of the European Union, leading to important tensions across the different institutions, actors and organizations that are part of the gender governance process. Furthermore, we show that there has been a decrease in terms of the impact and budget of the strategy, with important problems in its discursive openness.

In Chapter Four, we dig deeper into the philosophical bases for the "What's the Problem Represented to Be (WPR)" problematizations approach developed in Chapter Two. We elaborate on the analysis of feminist poststructuralism and the work of Judith Butler to fully understand the meaning of a fluid conception of gender. This provides a first bridge from theory to practice. In turn, we analyze the uses of gender from gender as a fixed concept to the benefits of using gender as a fluid concept, as a verb. In the end, we use these tools to analyze Gender Mainstreaming as a policy embedded with poststructural ideas.

However, in Chapter Five, we argue that, in its application, Gender Mainstreaming has embedded a feminist liberalism view. For that, we

develop Nussbaum's view on liberalism and how she develops its capabilities approach into a feminist liberalism. Additionally, we argue how this view ends up implying a necessary movement towards being able to measure progress in terms of statistics. Moreover, we show that Gender Mainstreaming, an originally transformative strategy based on a poststructural feminism ideology, ends up being applied in a world where equality is overly assessed by numerical equality. As a result, the strategy is deeply related with a feminist liberal view that prevents its transformative efforts. We end this analysis with a discussion on how the strategy might be re-thought through the poststructuralist view.

Finally, in Chapter Six, we take the very concrete example of how the issue of gender equality is dealt with in education in the European Union, one of the fields in where a successful application of this transformative strategy should lead to long-term benefits. Education is recognized as the cornerstone to social change, and in this case we see again the feminist tensions portrayed, as the number-driven approach is gaining space when devising gender equality educational policies. Education serves as another good example of the effects of problematizations in the determined meanings of equality.

We have depicted the incorporation of Gender Mainstreaming into the European and the world arena as the "Firework Effect": A lot of shinning bright lights on to an apparently new and innovative strategy in the pursuit of gender equality. What we do through this thesis, in our very own personal fashion, is to show the ways in which there are unresolved feminist tensions that get caught up in the production of

policy. To do so, we draw from different levels of analysis: through the political science to the philosophical questions that underlie the policy application up to the educational policies. We do this to show that interdisciplinary analysis is possible and richer than one-side analysis and to build a bridge between the two colliding worlds of feminist policy and feminist theory. Our grain of salt is to provide a new account on why the strategy of Gender Mainstreaming is failing in the most fertile possible ground of application and what are those discussions that need to be addressed in policy application. We believe in rethinking mainstreaming, see the fireworks, appreciate them but still strive for light.

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