

Family Policy, Women's Employment and Supranational Organizations

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Résumé

Au cours des trente dernières années, de nombreux états se sont unis dans des alliances commerciales visant à leur permettre d'être plus concurrentiels dans le cadre d'une économie mondialisée. Ces organisations supranationales, comme l'Union européenne ou l'Organisation internationale du Travail, touchent au domaine de la politique familiale quand elles adoptent des politiques ou rendent des décisions portant, par exemple, sur les droits des immigrants et de leur famille, l'équité salariale entre travailleurs à temps plein et à temps partiel ou les congés parentaux. Le présent article discute de l'impact de ce type de politiques et de décisions supranationales sur les travailleuses, explore les notions de la femme et de la famille ainsi exemplifiées et s'interroge quant à leurs répercussions sur l'autonomie nationale en matière de politique familiale. La conclusion est que les politiques nationales demeurent un facteur déterminant dans les réponses de l'État à la mondialisation et aux pressions des organisations supranationales en faveur de l'établissement de politiques sociales homogènes.

Abstract

In the past thirty years, a number of states have joined together to create trade alliances designed to compete more effectively in a global economy. These supranational organizations (such as the European Union and the International Labour Organisation) expand into the realm of 'family policy' when they make policies or pass legal judgments on such matters as the rights of migrant workers and their families, pay equity between part-time and full-time workers, and parental benefits. This paper discusses the impact of these policies and decisions on women workers, explores their underlying assumptions about women and family, and questions whether these supranational policies affect national autonomy in the area of family policy. The paper concludes that national politics remain a strong force influencing state responses to globalization and pressures from supranational organizations to harmonize social policy.

Introduction

The globalization of markets has encouraged nation states to join together to create new trading alliances in order to compete more effectively. These supranational organizations expand into the realm of family policy when they make policy or legal judgments on the movement of workers, equal pay among workers, and parental benefits. Increasingly, supranational organizations pressure national governments to harmonize their laws and social programs by placing certain issues on their agendas, but how effective are these attempts at policy convergence? Do similar international pressures lead to similar family policies at the national level?

Governments in most OECD countries have attempted to preserve equity between different types of families but continue to struggle with the gender-related aspects of paid work and caring (Jenson and Sineau, 2001). Although women's employment has increased since the end of the Second World War, substantial gender gaps persist in all industrialized labour markets (Gornick, 2000). Part-time work is primarily done by women, both paid work and unpaid domestic work are segregated by gender, and pay rates are lower for women. While mothers with young children are less likely to be employed in most countries, fathers are more likely than childless men to work for pay and to work longer hours. Despite more female employment, the persistence of gender inequalities and differentials raises questions about the adequacy of the welfare state in securing women's welfare (Daly and Rake, 2003: 172).

Researchers are only beginning to explore the implications of globalized labour markets, international trade, and investment agreements for social policy, and few have studied the specific implications for family policies. This paper approaches this task by examining efforts by several supranational organizations to restructure family policies relating to employment and caring responsibilities. Gendered assumptions are identified within family policy debates and some conclusions are drawn about the impact of supranational organizations on national policy decisions. Essentially, the paper argues that similar international pressures do not necessarily lead to similar social policy outcomes because other factors, such as national politics and existing social institutions, shape and constrain policy restructuring.

Supranational Organizations and Family Policy

The European Union (EU) provides a useful illustration of the impact of supranational organizations on family policy because it has a Social Charter that includes family-related issues and is a unique organization whose member states pool some of their sovereignty through negotiated treaties. However, the European Commission and some national governments have been reluctant to become involved in family policy,

preferring to focus on people's capacity as workers. Nevertheless, the current EU law as well as cases brought before the European Court of Justice illustrate that a number of family issues underlie the field of social security, the rights of migrant workers, parental leave and part-time work.

Although the Agreement on Social Policy or the Social Charter was originally created in 1961, the revised version gave a 'new salience' to social issues in 1997. Nevertheless, the ability of the European Union to act independently of national governments continued to be contested and constrained (Hantrais, 2000). The EU can impose sanctions for non-compliance and Hantrais (2000) argues that this has led to a gradual erosion of national autonomy in the social policy area. However, member states can veto EU social policy initiatives or bring court cases against the Commission. This means that very different welfare regimes and social circumstances continue to exist within member countries.

Despite policy differences among EU countries, Hantrais (2000: 129) shows that a trend is apparent towards individual rights in social insurance programs and income tax. As more women are employed, they become members of social insurance programs (such as unemployment insurance or sickness benefits) in their own right, rather than as men's 'dependants'. Few countries still base income tax on the married couple's income or provide substantial deductions to male taxpayers for a dependant wife, but instead base income tax on individual income. Furthermore, EU legislation ensures employment equity. The policy of paying equal hourly rates for part-time and full-time work has also raised women's wages relative to men's but cross-national variations are still apparent because not all EU countries have agreed to this policy.

Women's employment rates are rising but they remain lower than men's. The EU Social Charter has encouraged women's career advancement but it has been relatively ineffective in promoting convergence in the employment rates of men and women, in eliminating occupational segregation, or abolishing gender differences in job status or hours of work. Hantrais (2000) argues that as long as equal pay, equal treatment and access to social security depend on full-time continuous employment, as it does in many countries, large numbers of women will be disadvantaged. Many women work part-time in order to deal with the unpaid caring work at home but vast cross-national differences are apparent even within Europe. Among employed mothers with at least one child younger than six years, for example, 89.4 per cent worked part-time in the Netherlands compared to 9.1 per cent in Hungary in 2001 (OECD, 2003: 37).

Weiss (2000) reflected on the way that the EU has approached family issues from a gender perspective. She noted that many measures have been established to promote

gender equity in the labour force and both sexes have been given access to rights and benefits. The EU initially gave priority to heterosexual and legally married couples in social security benefits but the European Court has moderated discrimination based on family status and promoted gender equity. It has required parental benefits to be paid to both mothers and fathers, and part-time work to be given equal hourly wages to full-time work, which is a great advantage for women workers. However, she noted that unpaid family work is excluded from social security benefits and the EU continues to treat employment and family as separate spheres. Weiss (2000) argued for a strong 'progressive' model of family that 'corresponds to social reality'.

The definition of family has been contested in many jurisdictions because its membership has implications for immigration status, state social security and employment-related benefits. Gay marriages have been legal in the Netherlands since 2001 but when these couples travelled or worked in other parts of Europe, the rights that accompany marriage (to be considered a 'spouse', joint ownership of property, next of kin rights to pensions, and inheritance) were not always recognized (Arie, 2003). Denmark, France and Germany allow 'civil unions' that provide many of the same rights as marriage but are easier to dissolve, but in Italy and Greece, same-sex marriages are unacceptable. In September 2003, European Union ministers endorsed a proposed set of rules ensuring that same-sex married couples from the Netherlands and Belgium are recognized as married across the EU. However, this measure was strongly opposed by the Vatican (Arie, 2003).

McGlynn (2001) detailed how families have been regulated by decisions from the European Court that relate to sex equality and the movement of workers. Like other feminists, she argues that these decisions have been based on an outmoded model of family – a nuclear family comprised of a heterosexual married couple in which the husband is the principal breadwinner and family head and the wife is the main care provider. She found this ideological construction of family 'concerning' for several reasons. First, she argues that it limits the potential of the EU's sex equality laws to bring about real changes in the lives of women by reproducing traditional understandings and expectations. Second, this model of family limits entitlements to EU rights. Third, the dominant ideology of family and motherhood may form the 'normative foundation' for family law. In other words, these European Court decisions matter because they shape public discourse, national debates, current entitlements and future laws.

Although the EU has very little treaty power in the area of family policy, its institutions do a fair amount of 'soft' politicking in the form of informing and urging member states (Ross, 2001). The Social Charter, for example, was a 'solemn Declaration' or set of proposals for European social action, with no constitutional standing. Among other

entitlements, the Charter contains provision for paid maternity leave or security benefits for a minimum of 14 weeks. The revised Social Charter, ratified in Strasbourg in 1996, increased the maternity leave provision from the 12 weeks originally provided in the 1961 version (Council of Europe, 1961 and 1996, Article 8). The Charter also stipulates that mothers who are nursing shall be entitled to adequate time off work for this purpose and that it is considered unlawful to dismiss an employee during maternity leave, although there are some conditions attached (Council of Europe, 1996, Article 8; International Labour Organization, 2000, Article 8). Most EU countries have abided by these guidelines (United Nations, 2000: 142-43).

The International Labour Organisation (ILO) has also pressured national governments since 1919 to provide adequate maternity benefits and nursing breaks for female employees. The current ILO convention requires that ratifying states offer a minimum of 14 weeks paid maternity leave at two-thirds of previous income. Where paid leave is absent, ILO requires member states to provide social security payments (ILO, 2000, Convention 183). The Convention also requires that new mothers be provided with one or more nursing breaks or a daily reduction of work hours with remuneration to breast feed her child (ILO, Convention 183).

The ILO, like the EU, pressures national governments through 'soft politicking'. In 2000 it *recommended* that paid maternity leave be extended to least 18 weeks at 100 per cent of the woman's previous earnings (ILO, Recommendation 191, 1(1) and 2). Furthermore, it *recommended* that "Where practicable, provision should be made for the establishment of facilities for nursing under adequate hygienic conditions at or near the workplace" (ILO, Recommendation 191, 7). However, employers and member states could argue that such facilities are not practicable because the number of nursing employees is too small, there is no space for such facilities, or the cost would be too high. Thus, states are able to cling to their own welfare traditions with few ramifications. Consequently, cross-national variations remain, with some jurisdictions providing generous benefits while others fall below EU and ILO recommendations.

Hantrais (2004) argued that despite some similarities in policy concerns in the European Union, there is no universally agreed definition of family policy and no clear criteria to determine the boundaries of legitimacy and acceptability of state intervention either across or within European countries. Furthermore, the efficiency and effectiveness of policies are difficult to assess, as outcomes may be intended or unintended, wanted or unwanted, direct or indirect. The many attempts to measure policy outcomes, she argued, have shown that it is not enough to identify the presence or absence of a particular policy but is also important to assess the level and quality of the measure, the access and take up, and the public perception about its impact (Hantrais 2004: 198).

Hantrais (2004) identified clusters of European countries with similar family policies and identified factors influencing their development. She focused on the generosity of social benefits, any modifications of the gender regime and male breadwinner models, and the extent of 'defamilialisation' or extent to which people can maintain a socially accepted standard of living without relying unduly on family support. The four categories she developed are: 1. Defamilialised 2. Partially Defamilialised 3. Familialised and 4. Refamilialised (Hantrais, 2004 and 2000). In the first category, she placed such countries as Sweden, Denmark and France, where family policy is explicit, coherent, legitimized, co-ordinated, supportive of working parents and universal. The United Kingdom, Ireland, Austria and the Netherlands were in the second category, where family policy is implicit or indirect, rhetorical, partially co-ordinated and based on residence. The southern European countries were in the 'familialised' sector, where family policy is fragmented, non-institutionalized, weakly legitimized, uncoordinated and poorly funded. In the fourth category, she located countries such as Poland, Hungary and the Czech Republic, where family provision used to be universal during the Soviet era but has since undergone a shift towards a minimalist state. In these countries, family policy is implicit or indirect, rhetorical, pronatalist, semi-legitimized, uncoordinated, institutionalized, transitional and under-funded.

Hantrais further divided each of the four categories into two subgroups based on their historical development, institutional structures, funding, and delivery. Despite European Union policies and directives, she argued that variety in national policies has been encouraged by differences in political ideology, powerful lobby groups, and cultural values. The EU has been reluctant to devote resources to family policy as a specific policy domain but instead focuses on policies that enhance paid work and support family income (Hantrais 2004: 211).

Demand for childcare services has been rising in Europe but Jenson and Sineau (2001) also showed that policy responses are neither automatic nor the same in different countries. They argued that the level of provision and policy design varies with institutions, vested interests and cultural ideas. As well as having local lobby groups, states have their own political agendas with childcare policies, including the promotion of equality for employed women, a 'head-start' for low-income children, early childhood education and the well-being of future generations (2001: 15). Nevertheless, Jenson and Sineau reported some convergence in Belgium, France, Italy, Sweden and the European Union in the basic principles of childcare provision. This includes a trend towards less costly services, decentralization of services from central governments to local authorities, greater diversification in types of programs and access to them, more flexibility in the use of childcare, and maximizing individual choice. Jenson and Sineau (2001) argued that as states rethink their relationship to citizens and the mix between

private and public responsibilities, childcare has come to be the key testing ground for new thinking about equity (2001: 17).

Politics Influence Restructuring

Although supranational organizations such as the European Union and the International Labour Organisation continue to pressure national governments to improve family-related protections for employees, the restructuring of social programs is clearly influenced by national and local politics. The need for social security may have grown with 'flexible' labour markets and global trade but different jurisdictions choose different policy solutions. Policy restructuring remains heavily influenced by the activities of strong and effective lobby groups as well as the political alliances created between these groups and governments in power. In addition, governments operate within institutional constraints including existing patterns of social program delivery or welfare regimes. These institutional arrangements encourage policy makers to favour certain options and rule out others that require major reform or change the basic assumptions behind existing social programs (Pierson, 1994).

The 'liberal' welfare states, including Canada, USA, Australia, New Zealand and the United Kingdom (Esping-Andersen, 1990), have generally restricted access to income support. Within federal states such as Canada, where the provinces retain jurisdiction over many social programs, provincial policy differences reflect variations in local politics and culture (Bernard and Saint-Arnaud, 2004). Nevertheless, most liberal jurisdictions have contracted out more services to local governments and private providers, and relied more heavily on volunteers, including family members.

McDaniel (2002) argued that new unspoken expectations are being created for women in 'globalizing western democracies'. Decentralization shifts responsibilities further downward, under the guise of democratic accountability. As more states privatize caring activities for children, persons with disabilities and the frail elderly, women are expected to perform more unpaid caring work within their families, and this work becomes further devalued. Individual responsibility is stressed, with punishments for parental neglect or lack of supervision. In addition, employment insecurity and the erosion of social benefits and other protections have led to a 'bullying normativity', where employed and prosperous taxpayers feel compelled to deride those who have less.

Jackson and Sanger (2003) noted that the Canadian government vowed that its social policies would not be compromised by its international trade obligations. However, unless greater caution is taken in the negotiations involving the World Trade Organization and the Free Trade Area of the Americas, social programs could be

exposed to greater trade-driven privatization and commercialization. Many of Canada's social services are delivered by not-for-profit agencies and Jackson and Sanger argued that Canadian negotiators need greater assurances that the risk of trade challenges will be minimized for programs delivered in this way rather than directly by government.

In recent years, liberal welfare states have strengthened 'welfare-to-work' programs, requiring additional categories of beneficiaries to search for paid work and exit from social benefits earlier (Baker and Tippin, 1999). These policy reforms tend to disassociate people from kinship ties or family responsibilities by assuming that paid work is morally superior to caring work and that all rational people will strive to maximize their employment wages rather than to focus on other aspects of their lives. In our research in New Zealand, however, we found that low-income mothers with young children do not always choose to maximize their employment wages. Instead, many give priority to their maternal responsibilities and accept local jobs with low responsibility and low wages in order to be there for their children (Baker and Tippin, 2002; Baker, 2004).

In a global labour market, some employees are able to move to areas with better employment prospects and higher pay, taking advantage of bilateral or multilateral agreements that permit the free flow of labour from one country to another. But others are unable to relocate due to low assets, poor employment skills, low education and confidence, or family obligations. Those who benefit from globalized markets and employment migration tend to be young men and women who are childfree, educated, and geographically mobile.

Gendered employment patterns reflect the persistent expectations that women retain responsibility for caring work and domestic labour. This includes childbearing, child rearing and housework, but also elder care and the 'emotional labour' involved in keeping a family together (Chwialkowska, 1999; Beaujot, 2000). These expectations and their subsequent life patterns are reflected in women's employment patterns and earnings but major cross-national variations are apparent. In OECD countries, the difference between male and female median full-time earnings varied from just over 10% in Belgium and Denmark, to about 28 % in Canada, to just under 40% in Japan and Korea (OECD, 2001: 69).

The size of the gender gap is declining over time with the rise in both educational attainment and job tenure for women relative to men. In Canada, Fast and Da Pont (1997) found that women continue to experience work interruptions for family reasons but that these are becoming shorter and more concentrated at childbirth. Brooks, Jarman and Blackburn (2003) noted that occupational gender segregation in Canada declined

from 1981 to 1996, as women strengthened their full-time participation in paid work and improved their earnings relative to men. At the same time, there was an increase in part-time work for men and some traditional male occupations experienced both decline and some influx of female workers.

Researchers often highlight gender differences in employment outcomes but the real barriers to employment equity in many OECD countries are not gender or marriage, but rather motherhood and the expectation that women will give priority to child rearing rather than paid employment. Substantial differences are apparent in employment rates between mothers with young children and all women, as well as between sole mothers and partnered mothers, but employment rates for various categories of mothers also vary cross-nationally. Among mothers with children under six years old, employment rates tend to be the highest in Sweden, Norway and Portugal and the lowest in Ireland, Spain and Japan (OECD, 2001: 45). This indicates that patterns of work are not always influenced by gender and parental status in the same way in different jurisdictions, reflecting local variations in social programs, labour market practices, public attitudes about employed mothers, and women's educational levels and job skills (Gornick, Meyers and Ross, 1997; Baker and Tippin, 1999).

Some countries have integrated programs for childbirth and childcare with employment initiatives in more effective ways than others. Scandinavian welfare states, for example, have provided broader legal protection for employees who are new parents and more generous funding for childcare services than most other OECD nations (Leira, 2002). Several European countries have used social policy reform to encourage husbands and fathers to increase their share of domestic responsibilities (Leira, 2002). Like Canada, they have ensured that both men and women are entitled to statutory employment leave at the time of childbirth or adoption, in the hope that men will take some leave and consequently form closer and lasting bonds with their children. Some governments have gone further to legislate that fathers must take some of the leave ('daddy days') or that portion will be forfeited in two-parent families (Leira, 2002). Most governments have also tried to enforce paternal child support when the parents no longer live together.

Some of the liberal welfare states, such as United States, Australia and New Zealand, continue to view childbearing and child rearing as private family matters that are of little concern to the state. They target childcare subsidies to the poor and offer parental benefits that are below the ILO minimum. For example, Australia and the United States still do not offer statutory paid parental benefits to all employees. New Zealand first provided parental benefits only in 2001: 12 weeks at a flat rate to employees who have worked for the same employer for one year (Baker, 2001). In 2004, the (Labour) Prime Minister announced that this would be extended to 14 weeks, after negative publicity

about New Zealand's violation of ILO standards and in anticipation of an election when the (Conservative) National Party was gaining strength. There is little acknowledgement in these three liberal states that women are still expected make trade-offs between paid work and having children.

Research shows that western countries vary considerably in their support for employed mothers, some offering better support for lone mothers than partnered mothers. For example, Christopher (2002) notes that Finland, Sweden and France offer the most generous employment supports for all mothers, and these countries also demonstrate low poverty rates and low poverty ratios between married mothers and single mothers. However, these policies focus on the care and support of children. Policies to encourage men to accept more responsibility for housework have been much more difficult to develop and enforce. Yet considerable research suggests that retaining the responsibility for cooking, cleaning, and shopping for a family contributes to working mothers' desire to work only part-time and therefore reduces income and career advancement (Bittman and Pixley, 1997).

Conclusion

Comparative family policy research shows that OECD countries have all developed laws, social policies and social benefits that influence family structure and gendered patterns of work. The state and family are clearly intertwined, with the state mobilising 'the family' for its own political ends (Haney and Pollard, 2003). State regulation can redefine an array of familial roles and responsibilities, encouraging mothers to stay at home and care for their children or pushing them into the labour force. If the state encourages maternal employment, it may or may not make public childcare accessible and affordable, or permit extensive leave for family responsibilities. The state may assist the integration of earning and caring, or leave parents to make their own arrangements. Cross-national variations in models of family and ideas about parental responsibilities and women's activities are apparent through national political discourse, existing social programs, and new laws and regulations.

In OECD countries, national family policies are influenced by some of the same transnational organizations, including the European Union, International Labour Organisation, United Nations, the OECD, the World Bank, and the World Health Organization. However, these organizations cannot force national governments to change their domestic policies or even to sign international agreements but they can exert considerable pressure through educational programs and negative publicity. If states are signatories to multilateral agreements, they are expected to abide by the organization's conventions and possibly by international court decisions. However, not

all states agree to sign these agreements, and some that sign default on their obligations or under-fund the social services that are necessary to fulfill the agreement. In addition, both trans-national organizations and national governments are pressured by international lobby groups, who often express competing concerns about human rights, women's rights, father's rights, gay rights, foetal rights, family values, and the cost of social security to employers and taxpayers.

Despite international pressures to harmonize family policies, cross-national variations remain. Some states continue to accept the male breadwinner/female caregiver model of family and encourage maternal child rearing at home, although most have introduced new incentives for lone mothers to move more quickly from 'welfare' to work (Baker and Tippin, 1999; Millar and Rowlingson, 2001). Other states more strongly support the mother/worker through programs such as pay equity, maternity benefits and public childcare (Leira, 2002). Although most states have established employment equity programs for women as well as certain minorities, these programs do not always fit comfortably with neo-liberal labour market practices. Furthermore, they do nothing for those outside the formal labour force.

Neo-liberal governments under conditions of market capitalism have been most resistant to attempts by supranational organizations to improve levels of family benefits and to create minimum standards of social provision. These governments provide mixed messages to parents by elevating the importance of paid employment and the acquisition of family assets, and thereby devaluing childbearing and family work. Neo-liberal governments, such as United States and New Zealand, continue to push 'welfare mothers' into employment without adequate job training, childcare services or public transportation. At the same time, they tend to blame mothers when their children misbehave or appear to be neglected.

Neo-liberal governments also send mixed messages to women by urging low-income mothers to work for a living but continuing to encourage middle-class mothers to rely on their husband's earnings and care for their children at home. Corporatist governments (Esping-Andersen, 1990) sometimes expect women either to become full-time workers without acknowledging their family responsibilities, or to remain at home as mothers. However, certain continental European countries, such as Belgium and France, have developed extensive childcare services for employed mothers. Social democratic governments have also provided generous support for both caring and earning by focusing on universal services and guaranteed incomes.

Clearly, global markets and the rulings of supranational organizations have impacted differently on women's employment and family policy in various jurisdictions. Gender

inequity persists in labour markets, even in those countries with the strongest social programs, but there is considerable cross-national variation in family policies. In a previous paper, I argued that family policy reform has been heavily influenced by existing 'welfare regimes' and ideas about citizenship and family, as well as the effectiveness of lobby groups, political interests and alliances (Baker, 2003). That being said, supranational organizations such as the European Union increasingly pressure their member states to harmonize their social programs and legislation, and frame national policy debates by placing certain issues on their agendas. Yet similar political pressures do not always create similar policy solutions, as national politics always intervene to alter policy outcomes.

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