

**Moral Sovereignty and the European Union:  
Is Gender Equality a Supranational Concept?**

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Recent analysis of European Union (EU) policy on women supports the historical institutionalist model of the EU as a multi-tiered supranational entity. This scholarship also indicates that in addition to examining the political and social effects of European integration on state sovereignty, its moral effects also require examination. What is the ethical significance of European integration? In this paper, I outline some of the key theoretical issues surrounding this question, such as whether states should be the ultimate arbiters of issues of justice, and whether policy on women ought to be made at the supranational level. To do so, I draw from communitarian theory and feminist theory. These different approaches suggest that the EU is not and perhaps cannot be a force for moral justice within member-state borders. Interestingly, however, it appears that scholars may reach different conclusions according to the geographical location they examine. For example, feminists may support EU infringement of state sovereignty in the south, but may oppose it in the north. Moreover, the fact that some nonfeminist women's views of the EU coincide with at least one northern feminist perspective on the EU, indicate that scholars must begin examining the effects of European integration on what I term state moral sovereignty. That is, we must begin analyzing the extent to which, and the conditions under which, European integration affects states' ability to advance, adjudicate, and defend certain notions of the good and of citizenship. The paper concludes with an outline of the questions raised by this project, and with suggestions for possible areas of research.

## Introduction

European Union integration scholarship has focused primarily on the extent to which the European Union (EU) infringes on member-state sovereignty. Within this debate, some scholars have focused on EU social policy. Several argue that the British opt-out of the Social Charter and the regulatory nature of EU social policy prove that the EU does not infringe on state sovereignty.<sup>1</sup> More importantly, studies of EU policy on women suggest that it is time to explore the ethical, as well as the political or social, implications of decreasing state sovereignty. This is because evidence indicates that not only is the EU more than an intergovernmental institution, but also that the EU project threatens to infringe on member-states' ability to advance, adjudicate, and protect specific definitions of the good and of citizenship. I argue that this development has serious moral implications for EU member states and EU citizens.

The purpose of this paper, therefore, is to begin an ethical analysis of European integration. I do this as part of a larger project, in which I investigate the extent to which the EU erodes what I term member-state moral sovereignty, and what the ethical implications of the EU are for EU citizens. In this larger project, I will attempt to determine the conditions under which and the extent to which European integration may cause states to alter the ways in which they advance, adjudicate, and protect certain notions of the good and of citizenship -- for example, by causing them to redefine the limits of the market in citizens' lives. I expect to focus on EU policy on women, and to investigate how integration alters state policy on women, if at all.<sup>2</sup> I choose this body of policy because recent analysis of EU policy on women indicates that not only does the EU infringe on member-states' ability to set their own policy agendas, but also that such a dynamic infringes on what I term member-state moral sovereignty -- that is, state ability to advance, adjudicate, and protect specific definitions of the good and of citizenship.<sup>3</sup>

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<sup>1</sup> See for example, Streeck, Wolfgang, "From Market Making to State Building? Reflections on the Political Economy of the European Social Policy", in Liebfried, Stephan, and Paul Pierson, eds., *European Social Policy: Between Fragmentation and Integration*, The Brookings Institution, 1995, (389-432). Judging from his argument, it seems only evidence of a conscious effort by EU policy makers to infringe on states' moral sovereignty would satisfy Streeck; nothing else proves states' loss of sovereignty. I believe this approach causes him to miss important dynamics in EU social policy creation, as we shall see.

<sup>2</sup> I explain further the particular aspects of this project below.

<sup>3</sup> EU policy on women does this, for example, by regulating state control of or intervention in the market, in ways which redefine the role of or identity of women in that state, and hence, impacting state value structures.

Presently, however, I will confine myself to a more abstract ethical analysis of the European project. I will explore what the EU looks like through the eyes of one communitarian political theorist, Michael Walzer. Then I will explore what the European project -- as embodied, for example, in its equality policies -- looks like from the perspectives of southern and northern European feminist analysts. I will demonstrate how Walzer's analysis differs and coincides with these latter perspectives. This will enable us to understand more concretely what ethical concerns are at stake in the creation of the European Union.

The paper will read as follows. First, I provide a brief overview of the development of EU policy on women in general, in order to show how the EU is more than an intergovernmental institution. While states may determine the ultimate form some policies take, states are not always the agenda-setters in the EU. This is demonstrated by the development of and implementation of EU policy on women, especially its Equal Pay Directive, as well as other Directives. Recent accounts of this policy indicates that in general, historical institutionalism best describes policy processes in the European Union.<sup>4</sup> Subsequently, I outline Walzer's argument for "complex equality", and what I believe his perspective on the EU would be. I find that Walzer would consider the EU project ultimately unjust, because it is arguably not a project based on any particular political community's<sup>5</sup> notion of the good, and because its policies appear to impose on states certain notions of the good and of citizenship derived outside any specific political community.

Then I conduct the comparison of Walzer's view on the EU with the view of southern and northern European feminist analysts, as noted above. I find that from a "southern perspective"<sup>6</sup>, Walzer's argument might actually privilege community cohesiveness over equality, but also that southern feminist skepticism of the EU is well-founded. I find that "northern feminists" would agree unequivocally with a negative Walzerian assessment of the European project -- although they

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Indeed, some theorists -- particularly some communitarian theorists -- would argue that the very goal of regulating state-market relations -- a central aspect of EU policy -- is morally significant, because it infringes on states' ability to define relations between goods in ways that are not native to the state in question.

<sup>4</sup> If theorists wish to use the criterion of accuracy in predicting outcomes in order to select the best integration model, however, historical institutionalism may not be their first choice.

<sup>5</sup> I use Walzer's definition of the political community here. See the section on Walzer below.

would probably not agree with his assessment of state redistribution. This is because they argue that the EU threatens to undermine certain notions of citizenship (as embodied, for instance, in northern states' policies on women).<sup>7</sup> Finally, I discuss a "nonfeminist" interpretation of EU activity. Interestingly, this perspective seems to rest on some of the same concerns about the EU raised by Walzer and by feminist EU analysts. These converging interpretations of EU activity, emanating from very different sources, highlight important instances in which EU activity has moral and ethical implications, and demonstrate that European integration holds important moral implications which deserve investigation. These arguments all show that if the EU does indeed undermine state moral sovereignty, EU citizens may have reason to be concerned.

In my conclusion, I provide a brief recapitulation of my argument, then outline what I think are the most important questions raised by the foregoing discussion. I also discuss specific policy areas that appear particularly useful for further exploration of the ethical implications of the EU.

## **Section I The European Union and the erosion of state sovereignty**

There seems to be a general consensus among scholars of EU policy on women that the EU is a multi-tiered entity, whose equality policies are developed through a complex process, and are implemented in various ways and to varying degrees in the different member states. In addition, all of these analysts note the fact that EU policy on women is centered on neoclassical economic and liberal individualist models of society. Numerous references are made to the private sphere and the public sphere, and how EU policy on women reinforces the distinction between these spheres -- often to the detriment of women's position, and ultimately, many analysts argue, to the detriment of EU equality policy itself.

All of this indicates that to a certain extent, the historical institutionalist model of integration is most applicable, at least to this area of EU policy. Indeed, even those analysts who refer often to the recalcitrance of member states and the problems of noncompliance with EU policy, or

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<sup>6</sup> This is shorthand for what may or may not be a more coherent view of the European project as voiced by feminists from southern (or studying southern) states.

nonimplementation of that policy, indicate a general feeling that member states are locked in to a specific policy trajectory, whose economic and political (much less moral) implications they may not have recognized at the time they joined the EU. Thus, in this section, I demonstrate why historical institutionalism seems the best model by which to describe EU policy on women. In the following sections, I will show why this conclusion has moral implications.

EU integration scholars have debated endlessly the nature of EU-state relations and the extent to which the EU undermines state sovereignty. Throughout this debate, three prominent models of EU integration have appeared: intergovernmentalism, as exemplified in particular by Andrew Moravcsik's several articles<sup>8</sup>; neofunctionalism, as applied to the EU by Wayne Sandholtz<sup>9</sup>; and historical institutionalism as applied by Paul Pierson.<sup>10</sup> In the interest of conserving space, and because of the similarities of the latter two approaches, I will focus primarily on the debate between the first and the third approaches to EU integration, in this section.

Despite this ongoing debate, most scholars of EU policy on women discuss only indirectly the issue of state sovereignty. These scholars tend to focus instead on the extent to which EU policy on women meets the needs of women EU citizens. Nonetheless, their analysis contributes strong evidence for the argument that the EU erodes member-state moral sovereignty. Insofar as these scholars deal with the debate about state sovereignty, their analysis supports an historical institutionalist perspective on EU integration, wherein member-state policy options are constrained by past policy decisions. If we consider two separate accounts of the development of EU women's policy -- in particular the Equal Pay Directive (EPD) -- we find that historical institutionalism best characterizes EU integration. While analysts of EU equality policy indicate

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<sup>7</sup> However, the "northern feminist" I address below would disagree with Walzer that action taken by northern states on behalf of women is itself unjust. On the contrary, the feminist discussed below would consider northern state action on behalf of women fair and just activity.

<sup>8</sup> See for example, Moravcsik, Andrew, "Negotiating the Single European Act", *The New European Community*, Westview Press, 1991. In this article, Moravcsik argues that the Single European Act occurred when it did, contained the agreements that it did, and succeeded because the preferences of the largest EU member states converged.<sup>8</sup>(42, 68) His analysis is guided by three principles: intergovernmentalism, which states that international-level politics is domestic politics by other means; lowest-common-denominator bargaining, which states that bargains struck reflect relative power positions of EU member states; and protection of sovereignty, which says that only sovereignty-related reforms occur at the international level.<sup>8</sup>(47) In short, Moravcsik's thesis is that power is determined by the international system (a realist argument) but that state interests are domestically determined (a departure from realism, as Moravcsik notes). (48)

<sup>9</sup> Sandholtz, Wayne, "Membership Matters: Limits of the Functional Theory of International Institutions", manuscript version, 1994.

that states are not always as path-dependent as historical institutionalism sometimes suggests, this model's concept of the "multi-tiered" structure seems most applicable to EU equality policy.

To some extent, Catherine Hoskyns's analysis of the 1973 Equal Pay Directive (EPD), in her book *Integrating Gender*,<sup>11</sup> supports the intergovernmentalist idea that supranational policy agreement and compliance will not occur without the preference convergence of the largest states. She notes that even after the Directive was determined necessary, endorsement by trade union representatives and government experts "would not have been decisive if senior government representatives had opposed the measure for strongly held political or financial reasons." (88) Hoskyns also says that states maintained control of enforcement and monitoring by including these functions in the EPD itself. Including enforcement and monitoring functions in the Directive itself, Hoskyns says, gave governments a much greater "degree of flexibility", allowing them "to achieve these objectives 'in accordance with their own national circumstances and legal systems.'" (90) It appears that states' decision-making powers were not severely constrained by the EU on this issue.

Yet Hoskyns's account of EU equality policy in general suggests that historical institutionalism explains more accurately the developments in the EU regarding women. Her discussion of the Article 119 negotiations, including Commission reports, labor union and employer involvement, as well as state debates, reveals that member states had little direct involvement in the process. Rather, it seems that states overlooked the (faint) warnings by experts during the Treaty of Rome negotiations, who argued that common economic policy might have repercussions for state social policy and policy on women.<sup>12</sup> Indeed, Hoskyns seems to draw from the historical institutionalist lexicon when she attributes the introduction of the EPD to the existence of Article 119 in the Treaty of Rome: she says, "the potential for a stronger implementation of equal pay<sup>13</sup> was embedded in the history of the article." (57) Moreover, her comment that states enjoyed a degree of flexibility in

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<sup>10</sup> Pierson, Paul, "The Path to European Integration: A Historical Institutional Analysis", manuscript for the Russell Sage Foundation, 1995.

<sup>11</sup> Hoskyns, Catherine, *Integrating Gender*, Verso, 1996.

<sup>12</sup> Hoskyns gives the example of the Ohlin Report -- a report on social policy solicited by participants in 1955 Treaty of Rome negotiations, led by Bertil Ohlin from Sweden. This report argued that "from an economic perspective at least, few social policy measures would be required to implement the common market", even as it noted the possibility that "distortions within a particular industry [might] entail some intervention." (49) Interestingly, one example of distortion was "difference in the extent to which the member states applied the principle of equal pay between men and women." (49)

implementation of the 1973 EPD demonstrate the accuracy of historical institutionalism's "multi-tiered" depiction of the EU.

Similarly, Sonia Mazey's analysis of "The development of EU equality policies"<sup>14</sup> contains aspects of the intergovernmentalist model of integration, and initially seems to support the intergovernmentalist principle of EU policy will take. For example, Mazey notes that the major problem with EU equal pay and equal treatment activity has been a lack of knowledge of the issue, including "the absence of a proper concept of 'equal value'." (599) Other problems revolve around the recalcitrance of member states. Because "Directives are not automatically directly applicable and therefore have to be implemented by member states before they become law," nonimplementation and noncompliance are problems. (599) In addition, even when they approve of EU-level changes, states have flexibility in applying directives, and the directives are of limited scope. Finally, Mazey argues, judicial interpretation (at the member state level) may further limit their scope (e.g., by "provid[ing] employers with useful legal loopholes"). (599-600) All of this seems to suggest that intergovernmentalism, particularly as described by Moravcsik, is a more accurate model of EU integration. Nonetheless, it is clear even in Mazey's account, just as in Hoskyns's account, that states are not setting the agenda, and are simply reacting to policy proposals presented at the EU level.<sup>15</sup> Overall, it appears that historical institutionalism does a better job of explaining the development of EU policy on women.

Of course, these analyses of EU policy on women also indicate that historical institutionalism will have to refine its notion of path-dependency. Member states do play a large role in determining what form policy on women eventually takes within their borders. Indeed, some accounts of EU policy on women, in particular Mazey's account, indicate that the intergovernmentalist perspective has more clout in this area than might be expected for explaining

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<sup>13</sup> i.e., the EPD, which passed sixteen years after the Treaty of Rome was signed.

<sup>14</sup> In this article, Mazey reviews the steps taken by the EU (spurred by Article 119) on behalf of women, including the three Equality Directives passed from 1975-86 -- Equal Pay, Equal Treatment, and the 1978 Directive (which established equal treatment in statutory social security benefits excluding retirement ages and survivors' benefits), as well as other equal treatment directives.

<sup>15</sup> For example, Mazey notes that the "rolling snowball strategy used by EU" actors has led to trade unions adopting EU "codes" or suggestions (emphasis added, 603-604). The snowball image reflects Pierson's idea of unintended consequences, and suggests that the EU may have more leverage in initiating policy -- and ultimately, in implementing policy -- than intergovernmentalism suggests.



“low political” (i.e., non-security) issues like policy on women. Nonetheless, Mazey’s account agrees with Hoskyns’s in important aspects. For instance, both analyses indicate that private interests or the interests of particularly important constituents may prevail in policy disputes, thereby causing states to relax their definition of state preference in order to satisfy these constituents. In other words, states may overlook some implications of policy in order to satisfy their (more powerful) constituents.<sup>16</sup> Such action would narrow the range of policy options available to states. Add to this the proactivity of certain EU institutions on specific policy issues, and it appears that EU integration does indeed erode member-state sovereignty. Finally, Hoskyns’s and Mazey’s analyses coincide with that of other EU feminists.<sup>17</sup> Based on such evidence, I will argue that in general, historical institutionalism describes best the development of EU equality policy (if not EU policy generally).

The development of EU policy on women has other implications, as well, implications that move beyond how states make policy decisions, to how those decisions may reshape states’ ability to define, defend, advance, and adjudicate notions of the good and of citizenship. Thus, we need to investigate more thoroughly the moral significance of supranational policy making. It is to this larger project that I now turn.

## **Section II A liberal communitarian interpretation of the EU**

The preceding analysis highlights an important point about EU policy on women, namely, that even as states exercise some control over integration processes, state influence on policy

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<sup>16</sup> See for example Hoskyns’s discussion of the 1955 Ohlin Report.

<sup>17</sup> Another argument in support of the historical institutionalist approach, and the one from which I draw the idea of a “multi-tiered polity”, is Ostner, Ilona, and Jane Lewis, “Gender and the Evolution of European Social Policies,” in Liebfried, Stephan and Paul Pierson, eds., *European Social Policy: Between Fragmentation and Integration*, The Brookings Institution, 1995, chapter 5.

In this piece, Ostner and Lewis read EU policy on women as a case of “normalization” of state policies, along liberal individualist lines: “The European Commission and the European Court of Justice (ECJ) have had much success in promoting, monitoring, and interpreting the rights of working women, forcing major revisions of national practice.” (159) But they also note that because “the EU builds on a narrow notion of equality that implies treating working women like working men[,]...Only the family concerns of continuously employed wage earners attract political attention.” (160)

The EU’s neglect of family policy, and its concentration on economic issues and women, sometimes has a detrimental impact on women’s lives. For instance, Ostner and Lewis observe how the quest for equality between genders has resulted in the situation where, under pressure from Community principles to incorporate “disadvantaged groups” such as women, “member states have frequently opted to remove discrimination by reducing the benefits of privileged groups. ‘Husbands-only’ benefits were abolished in

implementation or the shape policy ultimately takes may not guarantee the protection of state moral sovereignty. Indeed, this analysis suggests that while states may privilege the protection of sovereignty in policy disputes, it is difficult to predict when policy making or policy compliance will narrow the range of policy options in the future. This means that state ability to advance, adjudicate, and protect particular notions of the good and of citizenship may be undermined by state membership in and compliance with EU policy.

What ethical implications does this development hold? In this section, I will attempt to explore this question by analyzing developments in EU policy on women from the perspective of ethical-political theorist Michael Walzer, as exemplified by his argument in *Spheres of Justice*. Walzer's argument provides an ideal framework for my project because it addresses directly two central issues in EU policy activity: the preservation of community distinctiveness and the quest for equality. Clearly, activity surrounding EU policy on women touches on each of these issues.

#### **II.A. Outline of Walzer's argument**

In *Spheres of Justice*, Walzer is concerned with creating a just society based on the distribution of goods according to the meanings of those goods, as determined by specific political communities. He calls this kind of system "complex equality." Some goods are market-related, and hence belong in the sphere of the market (or the sphere of money, as Walzer sometimes calls it), and should be distributed according to market forces. However, one of Walzer's major concerns is to demonstrate that many goods, such as political influence, should not be distributed according to the distribution of other, nonrelated goods. This is what Walzer calls "dominance", and is, along with monopoly, one of the two basic forms of injustice according to Walzer.

Dominance occurs when any particular good (e.g., money) has influence over the distribution of unrelated goods (e.g., public office). Walzer says, "I call a good dominant if the individuals who have it, because they have it, can command a wide range of other goods...Dominance describes a way of using social goods that isn't limited by their intrinsic meanings or that shapes

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Germany and in Ireland; married male employees had to adapt to the less privileged situation of their female counterparts." (176)

those meanings in its own image.”<sup>18</sup> Thus, simony is not a just practice according to Walzer: an individual should not be able to purchase herself the promise of a better afterlife. Rather, such a promise should rest on other behaviors or characteristics, which can and ought to be determined by the political community of which this individual is a member, but which should not, according to Walzer, have anything to do with how financially successful she is.<sup>19</sup> In addition, Walzer is concerned with monopoly, another form of injustice. Monopoly is “a way of owning or controlling social goods in order to exploit their dominance”. (11)

According to Walzer, dominance is the primary source of injustice. He says other theories of justice have addressed only the problem of monopoly and have failed to address the problem of dominance. For example, theories of justice which call for the state to enact redistribution<sup>20</sup> simply allow the state to monopolize the dominant good of political power, which ought to be distributed equally among all citizens, as in a democracy.<sup>21</sup> This particular form of injustice is a central concern of Walzer’s. He calls it “simple equality”. The problem with simple equality is that such a system “would require continual state intervention to break up or constrain incipient monopolies and to repress new forms of dominance. But then state power itself will become the central object of competitive struggles.” (15) Walzer calls simple equality a form of tyranny, because “the use of political power to gain access to other goods is a tyrannical use.” (19) He suggests therefore that we “focus on the reduction of dominance--not, or not primarily, on the break-up or the constraint of monopoly. We should consider what it might mean to narrow the range within which particular goods are convertible and to vindicate the autonomy of distributive spheres.” (17) Towards this

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<sup>18</sup> Walzer, p. 10. Thus, he does not consider fungibility a social good.

<sup>19</sup> Likewise, political leaders should hold office simply because they have donated more money towards a certain cause than other leaders. Such a system would represent dominance of the sphere of money, or what Walzer calls “market imperialism”. This particular form of dominance is especially inimical, according to Walzer.

<sup>20</sup> Such as that offered by John Rawls in *A Theory of Justice*.

<sup>21</sup> Walzer says “The citizens must govern themselves...Democracy is a way of allocating power and legitimating its use--or better, it is the political way of allocating power.” Democracy offers inclusiveness, but only of arguments--“all non-political goods have to be deposited outside [the forum]: weapons and wallets, titles and degrees.” (304) Interestingly, he acknowledges that “Democratic politics is a monopoly of politicians”; one might “save” his argument for democracy as the least exclusive form of government, however, if we concede that in democracy, all persons play at one point or another (though certainly not always, as Walzer recognizes), the role of politician. (304)

end, Walzer suggests creating complex equality, which is “the opposite of tyranny.” (19)<sup>22</sup>

Complex equality can only be created in a political community; therefore, I will define first the political community, and then complex equality.

Walzer says that “political communities are the appropriate setting” for complex equality. (28) This is because political communities offer four goods necessary for establishing complex equality: a “world of common meanings”; membership; closure; and territory.<sup>23</sup> Walzer says the political community is “probably the closest we can come to a world of common meanings.” (28) We need worlds of common meanings because “in matters of morality, argument simply is the appeal to common meanings.” (29) Without worlds of common meanings, there would be no framework in which to determine the distributive criteria for goods. The political community is essentially Walzer’s conception of the protective territorial state, and judging from his argument against simple equality, it is the one form of state (as opposed to the bureaucratic state) that Walzer considers just.

What are the advantages of complex equality in a political community? According to Walzer, complex equality does not eradicate inequalities; rather, it prevents inequalities in one sphere from translating into inequalities in other spheres. Indeed, Walzer claims that in complex equality, “different social goods are monopolistically held--as they are in fact and always will be, barring continual state intervention.” (17) However, neither will any “particular good [be] generally convertible...Though there will be many small inequalities, inequality will not be multiplied through the conversion process.” (17) Thus, there must be a plurality of spheres within a

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<sup>22</sup>Walzer draws from arguments made by Pascal and Marx to develop the concept of complex equality: “The first claim of Pascal and Marx is that personal qualities and social goods have their own spheres of operation, where they work their effects freely, spontaneously, and legitimately...There is something wrong, Pascal suggests, with the conversion of strength into belief. In political terms, Pascal means that no ruler can rightly command my opinions merely because of the power he wields. Nor can he, Marx adds, rightly claim to influence my actions: if a ruler wants to do that, he must be persuasive, helpful, encouraging, and so on.” (19) Thus Walzer calls for a society wherein goods are distributed independent of unrelated goods, and in which “no citizen’s standing in one sphere or with regard to one social good can be undercut by his standing in some other sphere, with regard to some other good.” (19)

<sup>23</sup> The political community also offers membership, which is “The primary good that we distribute to one another...what we do with regard to membership structures all our other distributive choices: it determines with whom we make those choices, from whom we require obedience and collect taxes, and to whom we allocate goods and services.” (31)

Additionally, the political community offers closure, which Walzer argues is necessary because “The distinctiveness of cultures and groups depends upon closure...If this distinctiveness is a value,...then closure must be permitted somewhere.” (39) Finally, the political community protects what Walzer calls “a kind of territorial or locational right” (even though the right to a particular plot of land is not necessarily protected). (43) He recognizes that states’ and individuals’ claims to territory may conflict, but argues that this does not negate the need for territory: “because so many critical issues...can best be resolved within

community, each determining the distribution of related goods. In addition, complex equality within different political communities allows for the fact that different communities exist, and suggests that the infiltration of one community by another -- for example, by a redistribution of goods based on foreign notions of the good -- is unjust. Complex equality would take different forms in different political communities, based on how the members of that community define goods.<sup>24</sup> Finally, Walzer's view provides a strong ethical defense for the notion of the sovereign state, at the same time as it recognizes the political necessity of statehood for citizens.

Yet even as Walzer's argument seems to be a blatant defense of the sovereign states, I believe Walzer's framework is useful for analyzing the ethical implications of the European project, particularly in light of its policy on women, for two other reasons. One, this structure is attractive from certain feminist perspectives. It suggests that if possession of the male gender were considered a good in some aspects, according to a particular political community, the possession of that good ostensibly would not spill over into other areas of influence, if that community operated under complex equality. (Although as we shall see below, some feminists will probably disagree with Walzer's assessment of supranational institutions such as the EU.) Two, Walzer's dual perspective on the state, as either a bureaucratic form of dominance ("simple equality") or a site for the just distribution of goods, plus his concern for equality, indicate that Walzer will give us a nuanced lens through which to analyze European integration. Ostensibly, we could view the EU as a more attractive alternative to the state, if the EU actually represented a political community in which goods might be distributed more justly (i.e., according to the logic of complex equality). I will explore this analysis in the following section. Subsequently, I will compare a Walzerian assessment of the European project to two different feminist interpretations.

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geographical units, the focus of political life can never be established elsewhere." (44) In short, complex equality, which is Walzer's vision of the just society, can only occur in a political community.

<sup>24</sup> Though whether the definition of goods must be undifferentiated is unclear, as we shall see below.

## II.B. The EU from a Walzerian perspective

Walzer's analysis suggests two possible interpretations of the EU, as represented in particular by EU policy on women. On the one hand, the EU may be a force for justice. The EU appears to undermine national dominance or simple equality at the national level, by forcing states to adhere to distributional principles which they may not have institutionalized. While EU activity may look like a violation of state sovereignty or a violation of states' abilities to protect their worlds of common meanings, it may also represent a force for complex equality. The EU may potentially provide a site for political community on a larger scale, and hence for the creation of complex equality at a European level. On the other hand, Walzer's argument suggests that the EU may merely represent a force for supranational (as opposed to national) dominance, or for supranational simple equality, or finally, for market imperialism. In other words, EU integration may be an unjust process that can take several forms. Which assessment is more accurate? Is the EU a morally just actor, breaking down the dominance of the state (and hence, potentially creating complex equality). Or does it simply encourage international-level tyranny, by threatening states' ability to protect their worlds of common meanings?

Walzer's analysis in general, and his analysis of international-level actors in particular, suggests that he would look on the EU with a wary eye. In fact, he apparently does not consider legitimate any actor above the state level -- even if that actor promised to break down extant forms of simple equality. I argue this based on two items. One, Walzer's vision of complex equality is imminently local. Walzer does not envision large-scale communities, and it seems difficult at present to envision a large-scale community which shared a "world of common meanings". Two, Walzer's discussion of supranational political activity indicates deep suspicion of entities above the state level. At one point in his argument, Walzer claims that "The only plausible alternative to the political community is humanity itself, the society of nations, the entire globe." (29) While this does not discount the EU as a political community, Walzer's subsequent argument against the "global state" indicates suspicion of something like the EU.

Walzer explains that he cannot address the "entire globe" as a political community. He says the

agreement to create a global-level community “could not be enforced without breaking the political monopolies of existing states and centralizing power.” (30) Such an agreement “would make not for complex but for simple equality--if power was dominant and widely shared--or simply for tyranny--if power was seized, as it probably would be, by a set of international bureaucrats.” (30) In either case, complex equality would be impossible. People would have to live with “the continual reappearance of local privilege [or] the continual reassertion of global statism,” and maybe with “difficulties that are considerably worse.” (30) The “global state” is highly undesirable, he says, because it would result in “the world of the political economists...a world of radically deracinated men and women.”).<sup>25</sup> (39) Walzer says these are “reasons enough to limit myself to cities, countries, and states that have, over long periods of time, shaped their own internal life.” (30)

From this perspective, the EU looks like a moral tyrant, undermining member-state sovereignty without legitimate support of the people, and without the resource of a world of common meanings. Walzer’s argument suggests that before joining the EU, states may have distributed goods according to a world of common meanings specific to that state, and may now find themselves distributing goods according to criteria external to their worlds of common meanings and determined at the EU level. That is, values are adjudicated and advanced according to meanings advocated by the EU.

Yet there may be problems with such an assessment of the EU, particularly if we consider the EU from the position of different citizens, such as women. From some feminists’ perspectives, it seems that Walzer’s assessment may condemn a positive force in women’s lives. Indeed, Walzer’s negative view of the EU may occlude the fact that most member states were probably not operating under complex equality before joining the EU, and that in fact, dynamics of the EU may not require people to live with “the continual reappearance of local privilege [or] the continual reassertion of global statism”, but rather, with something more complex, nuanced, and perhaps

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<sup>25</sup> Notably, Walzer’s views on supranational entities suggest that they endanger individuals, rather than, for example, empowering entities which provide individuals with additional protection against the vagaries of the market or of political decisions within their states, as some feminists might argue.

even potentially helpful to previously underprivileged citizens. (30) That is, the EU may represent a force for equality which some of its member states sorely need. To the extent that Walzer is an egalitarian theorist, the EU may actually represent a just institution, despite his refusal to consider supranational institutions as forces for justice. On the whole, however, it appears that most feminists would agree with Walzer's skepticism about the European project, albeit for reasons that seem to differ along geographical lines.

In the following section, I will outline one example each of the "southern" and "northern" feminist approaches to the European project. This discussion will demonstrate more clearly and more specifically the moral and ethical implications of European integration for some of its citizens.

### **Section III The EU from two feminist perspectives**

#### **III. A. A "southern feminist's" interpretation of the European Union**

We mentioned in the first section of this paper that analysis of EU policy on women indicates that it rests on an impoverished notion of equality. As Mazey notes, the EU has not determined what exactly "equal value" means. Interestingly, analysis of the EU's definition of women employees reflects a similar problem. Analysts of EU policy in southern Europe suggest that the EU operates on a masculine, northern, and thus wholly inadequate definition of workers. They argue that this in turn disadvantages southern women. Does this perspective mean that EU integration is inherently unjust? To explore this question, I will look at one "southern feminist's" analysis of EU employment policy.

In the piece "Women's work and everyday life in southern Europe in the context of European integration"<sup>26</sup> Dina Vaiou paints a rather grim picture of EU policy on women, because of its masculine, northern notions of workers. Vaiou argues that

The pattern of work to which most research, official documents and policy-making refer at national and European levels is that of lifelong, full-time employment for a family wage, in unionized big workplaces, in industry and/or in the services, i.e. the pattern of work of the (usually male) collective mass worker. (Pahl 1988). His figure lies behind most analyses

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<sup>26</sup> Vaiou, Dina, "Women's work and everyday life in southern Europe in the context of European integration", in Maria Dolors Garcia-Ramon and Janice Monk, *Women of the European Union: the politics of work and daily life*, Routledge, 1996, pp. 61-73.



and proposals while all other forms and combinations of work (usually undertaken by women) are left out, defined as 'other,' less important and bound to decline. (63)

Vaiou notes that much of women's work is labeled "atypical", and has not been treated as a distinct, nationally-important category for research. Moreover, she argues that European integration will have a divergent effect on women in Europe. This is in part because "In northern Europe the 'protective net' of the welfare state has led to a progressive emancipation from the family of all of its members. In the South, the welfare state has been relatively undeveloped. The family serves as an alternative 'protective net', emancipation from which, by means of the labour market, is not necessarily seen as a value in itself." (68) This means that in contrast to women of northern Europe, for "women of the South,...European citizenship generalized after Maastricht is not a passport to improved conditions of work and life. In a multitude of ways...barriers are reconstituted, leaving them to bear the cost (or enjoy the benefits?) of the Single European Market in their area of residence." (70)

In keeping with the tone throughout her article, Vaiou ends the piece on a rather pessimistic note about European integration. She discusses the Euroskeptics' arguments "that authoritarianism and democratic deficit accrue and form the underside of European citizenship, as ever more power of decision concentrates in the hands of appointed bodies and of the growing bureaucracy." (70)

Does this analysis mean that the EU is an inherently unjust entity, as Walzer would argue? On the one hand, it appears that a southern feminist might consider the EU a potentially benevolent force -- on condition that it take care to redefine workers. Such a perspective would not wholly condemn the EU project. This perspective on the EU actually encourages a proactive role for the EU, as long as the EU takes seriously the varying issues of equality in the various member states. The EU is not, according to this view, an inherently unjust institution.

Accordingly, the only way the EU could be considered a force for justice in southern Europe is if we abandon the warnings of Walzer. If we take this optimistic view of the EU, we would be discounting Walzer's argument against simple equality, as well as his suspicion of the imposition of market values on a political community from an outside source. However, I think Vaiou is right to be skeptical about the prospect that the EU would change its definition of workers to reflect the

situation of southern women. Thus, I would encourage a more skeptical view of the EU, and would suggest that Vaiou's article simply proves one suspicion of Walzer's -- namely, that supranational institutions may simply impose extra-community definitions of goods on citizens, thereby disempowering those citizens (perhaps even more than the citizens' own states do). The fact that the EU uses masculine, northern definitions of workers simply points to one important instance in which EU activity may prove ethically harmful.

Thus, the Southern perspective highlights two important points about the ethical implications of the European Union: on the one hand, the EU could represent a force for women's equality, insofar as it encourages southern states to take measure (which they may not have not taken before) on women's behalf. Southern feminists might actually welcome EU activity as a force for justice, in contrast to Walzer's assessment of the EU. On the other hand, the EU could be seen as an imposition of extra-community definitions of goods. In this respect, the EU is and always will be unjust, from both the southern feminist and Walzerian perspectives.

I think Vaiou's skepticism recommends the latter assessment of the EU, especially in light of our description of the EU as model of historical institutionalism. It seems more prudent to be skeptical of the possibility that the EU will actually conform its policy prescriptions to the needs of citizens of weaker states, given the dynamics of EU integration as we discussed them above. Even if the EU is a multi-tiered entity, the role states have in altering EU policy is not strong, and southern states are arguably even less able to alter the definitions of employees and of equal value than are northern states. As we shall see in the following section, the northern feminist perspective recommends a similar conclusion about the EU. Indeed, the northern feminist perspective does not seem to find any redeeming quality to the EU, in contrast to its southern counterpart.

## **II.B. A "northern feminist's" interpretation of the European Union**

In this section, I will draw from Katie Verlin Laatikainen's article "Gendered Integration?".<sup>27</sup> In this article, Laatikainen examines the potential effects of EU policy -- particularly its monetary policy, on Swedish and Finnish women. Laatikainen notes that the four freedoms of movement-- goods, services, capital, and labor-- in combination with centralized coordination of monetary policy in the EU, "privileg[e] business and productive interests and consequently recreat[e] bourgeois liberal dichotomies" between the public and private spheres. (31) Laatikainen says that as a result, the EU's vision of gender equality puts women in general at a disadvantage, by failing to recognize the productive and reproductive activities women engage in. She argues that European women are disadvantaged because the "unpaid and unacknowledged social reproductive work that women undertake based upon their functional capacity inhibits their ability to participate as fully integrated members of the public sphere." (9). In addition, Laatikainen says, EU policy on women fails to integrate the demands of production and reproduction which women bear. Thus, any goods distributed according to employment status or status within the capitalist market are less likely to go to women. (9)

Insofar as all European women do more social reproductive work than men, regardless of their location within the EU, this argument coincides with Vaiou's assessment -- women are disadvantaged to men in the European integration process. On this point, the EU looks like an equally unjust entity, whether one is a feminist from the North or the South. However, it appears that the EU has no redeeming factors for northern feminists such as Laatikainen. This is because EU policy endangers extant northern (in this case, Swedish and Finnish) policy on women. Put in Walzerian terms, the northern feminist argument demonstrates the injustice inherent in the EU, given that it represents the dominance of the market.

Laatikainen says northern women are particularly disadvantaged by EU policy because Swedish and Finnish welfare state policies, which do in fact integrate the demands of production and reproduction, are threatened by EU membership. Laatikainen acknowledges that "While

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<sup>27</sup> Katie Verlin Laatikainen, "Gendered Integration? A Feminist Analysis of Nordic Membership in the European Union," European Community Studies Association conference paper, Charleston, South Carolina, 11-14 May 1995,.

subsidiarity policy indeed does not interfere with the social security systems of member-states, and while subsidiarity is ostensibly a way to allow national social welfare preferences to manifest themselves," the EU's "centralized monetary policy and a currency union effectively stri[p] away the tools that the Swedish and Finnish welfare states have used in the past to support their social systems." (34) She argues, for example, that "If Finland and Sweden join the single currency, there will be a loss of macro-economic instruments that have been used to support the Nordic welfare state." (32) Laatikainen bases this argument on the fact that "Historically, the Swedish and Finnish monetary approaches have...used macroeconomic instruments to maintain a policy of full employment, often at the cost of inflation." (33) Moreover, these states' policies of full employment have benefited both men and women. Thus, "As members of the single currency monetary union, such a macroeconomic choice and the macroeconomic maneuverability of interest currency rate changes are impossible." (33)

Laatikainen's argument provides support for the Walzerian argument that supranational entities ultimately "deracinate" citizens. It illustrates the potential effects of putting women at the mercy of the market, outside the protective (albeit in this case still unjust, because of its simple equality nature) realm of the state *and* outside the political community's world of common meanings. Thus the northern feminist perspective also provides reason to be skeptical of the European project. Interestingly, this perspective seems to coincide with the perspective of apparently nonfeminist individuals, as we shall see in the following section. This final discussion will demonstrate how the EU might be considered morally problematic even from a less "radical" point of view than the feminist perspectives discussed above.

#### **Section IV Nonfeminist perspectives on the European project**

In this final section, I will discuss how nonfeminist analysts may also view the EU as a morally intrusive and unjust institution. The purpose is to demonstrate again that Walzer's assessment of the EU may privilege community cohesion over the concerns of women, as we

noted in the southern feminist perspective, but more importantly that a Walzerian perspective raises concerns about the EU held by feminists and nonfeminists alike. This supports my argument that further examination of the EU is crucial to understanding its effects on EU citizens.

Both feminists and nonfeminists alike recognize that the EU's neglect of family policy, and its concentration on economic issues and women, sometimes has a detrimental impact on women's lives. For instance, Ostner and Lewis observe how the quest for equality between genders has resulted in the situation where, under pressure from Community principles to incorporate "disadvantaged groups" such as women, "member states have frequently opted to remove discrimination by reducing the benefits of privileged groups. 'Husbands-only' benefits were abolished in Germany and in Ireland; married male employees had to adapt to the less privileged situation of their female counterparts." (176)

In one sense, this looks like a particularly positive outcome: dominance was erased. That is, goods (pensions and other employment benefits), ceased to be distributed according to the distribution of an unrelated good (gender identity). As in the more optimistic version of the "southern feminist" perspective, EU activity looks like a step toward gender equality (if not complex equality). But from the perspectives of some German and Irish women, the EU policy was particularly damaging. Ostner and Lewis note that as a result of this policy, "Women who once enjoyed more favorable working conditions with regard to retirement age or night labor had to adjust to male standards." (177) This put women at a disadvantage because "Treating women equally [as wage earners and tax payers] papers over gender inequalities outside employment." (177)

This analysis suggests what it seems Walzer suspects: that EU activity on behalf of women can only lead to confusion, erosion of states' abilities to protect and defend a particular notion of the good with something less nuanced and therefore less protective of women, and hence, ultimately less just (and even dangerous) at the supranational level.

The problem of establishing policies of gender equality at the supranational level are also clear in debates about contraception and abortion policy in the European Parliament, during the early

1980s. A discussion about these debates in the periodical “Women of Europe” illustrates this point well.<sup>28</sup> The article notes that during this time debate “never failed to trigger violent clashes, given the diversity of the moral, religious, and political convictions of its members.” (8) Yet some Italian women, who arguably might argue along the more optimistic southern feminist perspective, argued against harmonization of legislation on contraception and abortion (which had been proposed in 1980 by a French Socialist). The article notes that

Some female Italian Christian Democrats had opposed such a move, stating that...[the European Parliament] must mobilize the community’s entire planning ability to promote research projects in the areas of contraception, social organization, the situation of children and demographic forecasting, thereby recognising that the problem was not one of the female ‘body’ alone, but of the entire collectivity. (8)

This protest could be interpreted as anti-feminist, given its source and the tone of the argument (i.e., talking of the entire collectivity, rather than defending outright a woman’s right to reproductive control). But the two most striking aspects of it are its similarity to Walzer’s argument for in defense of a world of common meanings, and its similarity to Vaiou’s skepticism about the EU’s ability to deal with women in a more holistic manner.

Of course, this argument’s similarities to Walzer’s suggests that Walzer is recreating what he himself might term “the dominance of masculinity”<sup>29</sup>, because it seems anathema to the interests of women who want control of their reproductive capacities. Nonetheless, this argument also demonstrates that EU policy on women, and EU integration more generally, does not seem capable of dealing with the varying worlds of common meanings represented by EU member states, nor with the many intricate implications the EU project as a whole will have for EU citizens, particularly for women. These arguments suggests that even if we describe the EU as a multi-tiered entity, in which states do have some control over how EU policy will eventually take form within their borders, such a structure does not by any means guarantee that EU policy on women will encourage gender equality. Indeed, if we consider the concerns of Walzer and Laatikainen in particular, it appears that the EU may leave women and men more vulnerable to the vagaries of the

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<sup>28</sup> “Women of Europe: 10 years”, (also called “Women of Europe: Mirroring the course of women’s rights in Europe”), number 27, June 1988, Commission of the European Communities.

market and to statelessness than they were before European integration began.

Indeed, I believe most feminists and some nonfeminists would agree with Walzer. Judging from the arguments made above about the effects of EU economic and women's policy on southern European women, and on Swedish and Finnish women, it seems most feminists would call for more nuanced policy on women than that offered by (or even possible under) the European Union. Moreover, some of the actions called for by Italian Christian Democrats are precisely the types of action called for by many feminist analysts of EU policy on women. In this light, we can understand why scholars like Rossi Braidotti suggest that "Before becoming citizens of Europe, women in Europe must clarify the ways in which we belong to and are implicated with our own national contexts."<sup>30</sup>

## Conclusion

Are women better off under the EU? The southern feminist perspective gives the vaguest answer to this question. For southern women, it seems that the European project may be dangerous; however, these dangers may seem slight compared to the dangers of continuing under the kind of state systems which currently operate in southern Europe. By contrast, the northern feminist perspective is unwavering in its criticism of the EU. This analysis leads to the question, when does European Union activity on behalf of women threaten to simply "deracinate" them, and when might it actually permit states to develop policy which reflects more accurately the "world of common meanings" of their various communities? This is one of the questions I will investigate in my larger project.

This analysis raises other important questions. For instance, has EU activity in fact caused changes to state policy regarding women? That is, is there evidence of an intrusion of European meanings into the worlds of common meanings extant in state institutions? Some evidence

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<sup>29</sup> Wherein the possession of one good (masculinity) allows an individual to dominate the distribution of other, non-related goods (e.g., contraceptive devices).

<sup>30</sup> Braidotti bases her argument on suspicions that "the whole discourse around 1992" represents "an elaborate form of avoidance of the culture-specific problems women face today." Braidotti, Rossi, "The Exile, the Nomad, and the Migrant: Reflections on International Feminism," *Women's Studies International Forum*, 15, 1, 1992 (7). Interestingly, it appears that since she stated this, Braidotti has come out more in favor of EU

suggests that this is the case.<sup>31</sup> But much research needs to be done. The most convincing evidence that the EU has had a systematic (and hence ethically troubling, from a Walzerian standpoint) impact on state policy on women would be an instance wherein both northern and southern states' policies had to be altered to comply with European policy. Whether one can find policy on women that predates much of the EU policy on women in southern states is questionable. As Vaiou notes, much of "southern policy" is found in customs and behaviors not regulated by the state. (64)

If such a convergence in policy were found between most different systems, for example in Denmark and Spain, then there could be evidence that the EU has had an impact on state moral sovereignty. The implications of this development would be numerous, and certainly worthy of further research. While we can identify the basic values (or the world of common meanings) on which much EU policy is based -- neoclassical economic and liberal individualist principles -- we do not the extent to which these values may replace or undermine differing values in the different states-- such as universality or solidarity in Denmark, and perhaps family cohesion and collective action in Spain. Thus the EU may have great ethical importance, for ethical political theorists and EU citizens alike. Has the EU undermined state moral sovereignty, or have the protective measures of subsidiarity and the multiple tiers established in during European integration proven reliable measures by which to protect states and communities from the vagaries of supranational policy making and supranational trade? This paper demonstrates clearly that these questions deserve further attention.

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policy on women. (Notes from Comparative Welfare States and Gender conference, Madison, Wisconsin, January 1997.)

<sup>31</sup> Ostner and Lewis's article is particularly illustrative here. See my discussion above, and see their discussion of the Barber case.