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*As the European Union begins to play with LEGO[®],
what are the consequences for women?*

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Therefore, as we launch this debate about access and opportunity in Europe, I think it is important to focus on some key issues:

- why one fifth of school children don't reach the basic standards of literacy and numeracy;
- why one in six young people are still leaving school without any qualifications, when we know that fewer and fewer unskilled jobs will be available;
- why there is still a strong correlation between students achieving a place at university and the educational background of their parents. In the knowledge economy we have to ensure higher educational standards for a broad majority;
- why some Member States are so much better than others at integrating second generation migrants, enabling them to achieve more in the education system;
- why access to childcare is so patchy when the evidence is so strong that better childcare leads to higher fertility, more job opportunities for women and greater gender equality;
- why child poverty continues to blight the prospects of a fair start in life for a fifth of Europe's children;
- why work is a strain and stress for too many, and decent family life and traditional support structures are put under too much pressure;
- why so many older people drop out of the labour force too early when in an ageing society we can ill-afford to throw their talents and contributions on the scrap heap.

José Manuel Barroso, 5 December 2006, speaking of *The New Social Reality of Europe*¹

Over the last fifteen years most of the countries with liberal and social democratic welfare regimes have redesigned their social policy, undertaking what they describe as a “modernisation.” Social protection constituted the basic notion of post-1945 welfare regimes but pooling resources to protect against consequences of ageing, ill-health, or job loss is no longer considered an adequate response to social risks. Redesign has been in a shared direction, albeit with significant variations across regime types and cases. Policy communities now assert that economic dynamism depends on modernising social models, and they claim that the social policies of these models must involve investment because a principal goal of any new social architecture is to prevent intergenerational transfer of disadvantage. Now the idea is to be proactive rather than compensatory. One result of this shift in ideas is that the definition of the best policy mix often targets children and youth; attention to women and gender equality is flagging.

The European Union has only recently begun to manifest an interest in the new analyses that we have labelled the LEGO[®] paradigm (Jenson and Saint-Martin, 2006). The speech by Commission President Barroso quoted above reflects, however, this recent take up of the LEGO[®] rhetoric. Careful attention to this quote reveals that there is relatively little attention to women and gender equality. This is surprising in an EU statement on “access and opportunity.” There are long-standing claims of women's movements in many countries as well as at the level of the Union for greater opportunity for women and better access to all sites of decision-making and power. While many of the concerns of feminists – from family forms and relations to services such as childcare and access to higher education – are mentioned, they are framed quite differently and located in different kinds of arguments than earlier.

We might ask, therefore, what have been and might be the consequences for women of taking up LEGO-like ideas? In some countries where they are well advanced, policy attention to gender equality has been significantly side-lined (Dobrowolsky and Jenson, 2004). Is or will the same

¹ This speech was given at a meeting organised by the Policy Network in Brussels (Barroso, 2006).

thing happen in the European Union, where the governmental machinery for equal opportunities – now termed gender equality – has been so robust?

Answering such questions requires several analytic steps. A first is to document the move towards LEGO® at the EU level. The second is to tease out and untangle the consequences for the way the EU addresses gender equality, an objective which has been associated with the Union if not from the insertion of article 119 into the Treaty of Rome certainly since the 1970s. For some researchers, there has been backtracking on the more ambitious agenda of the 1990s. Maria Stratigaki (2004), for example, argues that the incorporation of the instruments to reconcile work and family life (childcare, parental leaves, working time improvements) into the European Employment Strategy (EES) constitutes a process of “cooptation,” because the original feminist potential of the instrument has been subordinated to market-oriented priorities. What the next pages document in the more recent chapters of this story is more than cooptation; it is one of writing women out of the plot or folding them in to other stories.

The European Union picks up LEGO®

Observed convergence around ideas for a social architecture that involves themes of modernization of social models via activation and new forms of investment have prompted us to identify a common shift toward a LEGO® paradigm (Jenson and Saint-Martin, 2006). The liberal welfare regimes have been in the lead on some dimensions while on others it is the social democratic regimes that have been policy innovators. The social investment emphasis was present in the analyses of Organisation of Economic Cooperation and Development (OECD) by the mid-1990s and in “third way” Britain by the late 1990s (Saint-Martin, 2000; Dobrowolsky and Jenson, 2005). The European Union has been significantly slower to move in these directions. In recent years, however, there are increasing signs of adaptation and adoption of many of the ideas by the Union.

The principles of this analysis are captured well in this paragraph:

Children are our role models. Children are curious, creative and imaginative. ... Lifelong creativity, imagination and learning are stimulated by playful activities that encourage “hands-on and minds-on” creation, fun, togetherness and the sharing of ideas. People who are curious, creative and imaginative, i.e. people who have a childlike urge to explore and learn, are best equipped to thrive in a challenging world and be the builders of our common future.²

This discourse of constant learning, knowledge and human capital acquisition, involvement, and engagement captures a good deal of thinking about the knowledge-based economy of the present as well as the need to invest now to ensure collective advantage in the future. Therefore, the LEGO® name serves our purposes in two ways. It is a metaphor, describing convergence around some basic *building blocks* of an emerging social architecture. It is also an ideal-type, capturing

² This quotation is from the webpage entitled fundamental beliefs, consulted 26 July 2005.
www.lego.com/eng/info/default.asp?page=beliefs

the key features of the future-oriented, investment-centred activation strategy currently advocated as a blueprint for welfare state redesign.

This quote from the corporate web site describing the company's philosophy illustrates at least three key features. First, while LEGO is a toy, involving play, it is also about a life-long commitment to learning in order to work. Indeed, play *is* work because work is – supposedly – creative and playful. Second, this philosophy is future-oriented. Children now are already creating the future.³ Ensuring future success will depend on what happens to them. Finally, for LEGO, successful play in childhood benefits more than individual children; it enriches our common future. Activity in the present is beneficial for the community as a whole. These three ideas can be seen as three principles, analysed in this section.

Security depends on employability and learning

In modern industrial societies, security has always depended upon the employment of a salaried or independent worker. However, over much of the 20th century, that employment was of a male breadwinner, whose wages could usually (and especially during the *trente glorieuses* after 1945) support a family of several dependents. Therefore, social policy was premised on the need to compensate for the unemployment, sickness, retirement or absence of the male breadwinner. In recent decades that pattern has changed in two ways. First, rising rates of female employment have reduced the place of the male breadwinner and second the restructuring of wages has decreased the capacity of the family to live on a single wage.

These changes have generated new ways of thinking about security. Policy analysts now claim that individuals' security depends less on protection from threats to male breadwinning and more on the capacity to confront challenges and adapt successfully to challenges over the life course or coming from unstable labour markets (Jenson and Saint-Martin, 2006: 435 and *passim*). Important challenges are defined as those at key life transitions such as entry into school, the school-work transition, breakdown of a couple relationship and so on.

Adaptation to these challenges comes first from increasing the capacity of all adults to be actively engaged in the labour market, and secondly to increase individuals own adaptive skills, primarily via the habits of learning. Ingrained habits supposedly foster acquisition of new or updated skills as well as flexibility. In particular, reliance on acquired human capital – rather than specific skills or training – is proposed as a response to the changes associated with de-industrialisation, the growth of services and, particularly, the emergence of a knowledge-based economy. It is touted as the way to ensure continued connection to a rapidly changing labour market and to ensure sufficient earning capacity.

Following the lead of the OECD as well as the Nordic countries, in a first series of moves towards activation, the European Union made commitments to activation and to “making work pay” the cornerstone of a sustainable European social model. As early as 1993 the White Paper on Employment, Growth and Competitiveness claimed that the new model of European society

³ This may seem little more than a banal statement, but controversy over addressing children “in the here and now” or treating them as “adults in becoming” is a lively one. See, for example, Lister (2003) and OECD (2001: 8). For the limits to treating the child as the “model citizen” see Jenson (2001).

called for less passive and more active forms of solidarity, to be achieved not only through greater flexibility in employment conditions but also active labour market policies to encourage mobility and life-long education (Ross, 2002: 73). These instruments were reinforced by the 1997 commitment to a European Employment Strategy. By 2003, the promotion of life-long learning had become one of three overarching and inter-related objectives that were transversal to the priorities of that strategy (Mosher and Trubek, 2002: 71-72). The same themes were present in the 10-year Lisbon strategy for growth and jobs launched in 2000. It started from the position that (European Council, March 2000, art. 25):⁴

Europe's education and training systems need to adapt both to the demands of the knowledge society and to the need for an improved level and quality of employment. They will have to offer learning and training opportunities tailored to target groups at different stages of their lives: young people, unemployed adults and those in employment who are at risk of seeing their skills overtaken by rapid change.

Improving life-long learning for these target groups was necessary (art. 28).

The EES and the Lisbon analysis of the economic problems facing Europe were, however, still anchored within the terms of the European social model as understood during the 1990s. When investment was mentioned, the commitment was to “modernising the European social model by investing in people” (art. 5; 25).

By the time of the mid-term review of the Lisbon strategy in 2004, however, the interpretation of the problem had been reconfigured. Both the conclusions of the June 2005 European Council and the Communication from the Commission (European Commission, 2005a) that preceded and helped shaped the discussion relied on two key terms that had been virtually absent from the Lisbon documents – youth and human capital.⁵ The Communication from the Barroso Commission entitled *A new start for the Lisbon strategy* set out the terms of a *European youth initiative* which included emphases on employment, education and training. Whereas youth had been one target among several in the original Lisbon strategy, during the mid-term review the needs and situation of young people were front and centre. The youth initiative, described in that paper, and indeed the communication as whole, was framed in terms of human capital; expanding and improving investment in human capital became one of the *Integrated Guidelines for Growth and Jobs* that was a major outcome of the mid-term review (European Council, 2005a: Annex II; Rodriques in Diamond, 2006: 51).⁶

By 2005 LEGO-like notions had begun, in other words, to circulate much more widely within the European institutions. In 2006, moreover, the framing of learning took a huge leap in this

⁴ All references to European Council Presidency Conclusions are to the versions available on http://europa.eu/european_council/conclusions/index_en.htm

⁵ The concept of human capital was mentioned only once in the Conclusions of the 2000 European Council, and only twice in the book published after the Portuguese Presidency (Rodriques, 2002) while young people were similarly absent from the academic and political conclusions.

⁶ The 2004 Kok Report, that shaped much of the midterm discussion, relied extensively on the concept of human capital, as did the 2003 Kok Report on employment creation (High Level Group, 2004; Task Force, 2003).

direction, as the DG Education and Culture (EAC) began to focus on investment in early childhood education and care (ECEC), thereby extending life-long learning backwards in the life-course. The investment-focused thinking of the communication on *Efficiency and equity in European education and training systems* led to the recommendation to concentrate spending in the early years. As the Communication put it in September 2006, “pre-primary education has the highest rates of return of the whole lifelong learning continuum, especially for the most disadvantaged, and the results of this investment build up over time” (European Commission, 2006a: 3).

This position was a clear innovation in euroanalysis, having been absent from the contributions of the Education, Youth and Culture Committee to the mid-term review (where early education was mentioned only as a factor for social cohesion and citizenship) and previous expert reports from the DG as well as the two Kok reports which had emphasised only investment in human capital. The spring 2007 paper from the Bureau of European Policy Advisors (BEPA – a DG that reports directly to the President of the Commission and acts under his authority) went even further, adopting classic LEGO[®] formulations, focused on children, youth and investments in human capital (BEPA, 2007: 1):⁷

Investing in youth means investing in human capital and social capital, starting early but not stopping there. Human capital needs permanent upgrading all along the life-course. The economy of tomorrow relies first and foremost on the use of its human resources. ‘Investment’ should be interpreted in a broad sense that includes personal investment by youth themselves, parents, schools, various layers of government and other stakeholders. The investment is not only monetary, but involves time, effort, and social and cultural investments too. If adequately managed, these investments may yield substantial private and social returns.

We see, in other words, that as the Commission increasingly defined its goals for “modernisation” of the social model in terms of maximising human capital investments, the instruments identified as the means to achieve successful investment also altered. Spending on ECEC in the early years took pride of place, while spending on remedial adult education began to receive less attention.

Orientation to the future

For those committed to the LEGO[®] principles, social policy is future-oriented precisely because it is investment-oriented and stresses human capital, which is developed during childhood and adolescence so as to be used later. Investments imply a particular notion of time; they generate dividends in the future, whereas consumption (labelled an expense by accountants) occurs in the present (Jenson and Saint-Martin, 2003: 83). This time perspective discourages “passive

⁷ This is a revised version of a paper from October 2006 which began in this way: “To speed up the *modernisation of our social model(s)* we have to think in terms of social investments. Investing in children and youth is a way to recast social protection and modernise social policies which fail to take into account the risks associated to changing family patterns and the needs of the labour market” (BEPA, 2006: 2 bold in original). The emphasis on children remains in the revised document, primarily in its first substantive chapter, which calls for universal early childhood education and care (ECEC) as the foundation of investments in human capital (BEPA, 2007).

expenditures” whose effects are only realised in the present and they encourage a focus on childhood because the returns on investment are supposedly better, as we see in this reference: “Investing early is much more efficient than repairing later” (BEPA, 2007: vi, emphasis in the original).⁸

For at least a decade there has been a future orientation to the Union’s thinking about modernising the social model; as the now classic quote from the Lisbon strategy puts it, the strategic goal of the Union is “to become the most competitive and dynamic knowledge-based economy” and with a time horizon of a decade. The difference between that formulation and one in terms of LEGO[®] involves a shift in instruments and settings to reach that goal.

Increasingly this future orientation has taken on a distinct LEGO[®] colouration via more and more attention going to opportunities for children to ensure their future. The notion that child poverty mortgages the future (a key element of LEGO[®] thinking) is relatively new one within Eurospeak. The basic idea, present in liberal welfare regimes and international organisations since the mid-1990s, is that a childhood of disadvantage significantly increases the risk of failure in the future. Lone-parent families and working poverty are, then, a “new social risk” not only (and perhaps less) for reasons of social justice in the present than because they represent greater chances of inequalities and – particularly – social problems such as school failure, encounters with the criminal justice system, low income and so on, in the future.

Present in a very limited way in some of the research documents associated with the Lisbon Council in 2000 (only Esping-Andersen in Rodriques, 2002), this focus made significant headway during the Belgian presidency of fall 2001 and subsequently. The focus on child poverty comes from two policy communities – one concerned with the sustainability of the European social model and one focused on social inclusion. They are intersecting but distinct, giving rise to analyses such as those in Esping-Andersen *et al.*, *Why we need a new welfare state* (2002) and those represented recently by Marlier, Atkinson, Cantillon and Nolan, *The EU and social inclusion. Facing the Challenges* (2006) as well as increasingly to the work of the Social Protection Committee and its social inclusion processes.⁹

The future was also front and centre in the recommendations for spending on ECEC in the 2006 Communication, *Efficiency and equity in European education and training systems*. The document includes a dramatic graph of the rates of return, with the curve being spectacularly high for pre-primary education, especially for children from disadvantaged backgrounds, and tailing off for spending on adult education.

⁸ Here the authors are clearly following the position of an epistemic community that includes academics and decision-makers. See for example, the quote from Gøsta Esping-Andersen, a member of the Group of Societal Policy Advisers (GSPA) of the BEPA: “As Esping-Andersen (2002) puts it, “There is one basic finding that overshadows all others, namely that remedial policies for adults are a poor and costly substitute for intervention in childhood. Solid investments in children and youth now will diminish welfare problems among future adults.” (BEPA, 2007: 2). On the GSPA, see BEPA. http://ec.europa.eu/dgs/policy_advisers/experts_groups/gspa_en.htm

⁹ The emphasis on child poverty has increased steadily over time in the annual joint reports on social inclusion.

We see in this – albeit limited – selection of quotations that there is an increasing tendency to make achievement of the Union’s future goals dependent on instruments and settings that themselves are designed for pay-offs in the future. Turning again to an epistemic community, this time economists (much influenced by *inter alia*, James Heckman) we read: “Research has highlighted that high quality investments in the care, the education and the well-being of young children have important long term returns” (BEPA, 2007: 5; also European Commission, 2006a: 5).

We all benefit from playing play with LEGO®

Public policy focused on the future and investments is meant to meet not only the needs of the individuals but also the whole community. Supposedly it will permit a more efficient use of resources, because investment now is less costly than remediation later. In addition, however, the mounting attention to European demography brings with it efforts to identify successful responses to the new social risks. By 2005 and the Green Paper on intergenerational solidarity, better organisation of childcare (parental as well as non-parental) was a key mechanism for avoiding major risk: “Never in history has there been economic growth without population growth. ... if appropriate mechanisms existed to allow couples to have the number of children they want, the fertility rate could rise overall....” (European Commission, 2005b: 5). The worry is that falling or low fertility rates may cause economic growth to falter, government budgets may be stretched to pay for pensions and health services, and there may be too few adults of working age to provide care and support for the elderly. In this way, the future of European society is explicitly linked to the capacity to address the new social risks, and particularly those linked to the basic relationship of any welfare regime – the methods for reconciling work and family responsibilities. Social care, especially child care but also care for the dependent elderly, has become an even larger concern for the Union.

Attention to child care is, of course, not new in and of itself. In the 1980s and 1990s the Commission participated in a wide-spread tendency to see access to reliable and affordable child care as a central plank in any agenda for equal opportunities between women and men (Ross, 2001). While the experts that promoted the development of child care always set the issue in an educational frame, it is only recently that such a frame, with its notion of win-win for individuals and society, has come to the fore in mainstream policy thinking (OECD, 2001 for example). For society, the benefits are in the present to be sure – higher employment rates: “... experience shows that Member States having comprehensive policies to reconcile work and family life for both men and women show higher fertility rates as well as higher labour market participation of women” (European Commission, 2005c: 3). But the benefits are also realised in the future, because ECEC provides the foundation for more human capital (that is better qualified future workers) and higher fertility rates (that is more future contributors to pension and other social programmes).

Are there consequences of embracing LEGO® – for women and for the EU’s strategies for gender equality?

In recent years the European Union has both constitutionalised equal rights and built up a significant amount of governmental machinery to advance these Treaty guarantees. The Treaty identifies equality between women and men as a fundamental value to be promoted (article 2)

and lays down the principle of gender mainstreaming (article 3)¹⁰. The Treaty also constitutionalises pro-active measures to combat discrimination based on sex as well as racial or ethnic origin, religion or belief, disability, age or sexual orientation (article 13). The employment chapters also provide widened protections and promises. As Jo Shaw writes (2002: 217): “In sum, Article 141 is now a much wider gender equality norm than was the original Article 119 and the changed opportunity structure for gender equality policy-making contributes substantially to the polity-defining and substantive aspects of constitutionalism.”

Directives underpin these guarantees,¹¹ and governmental machinery has gone from being a relatively small Equal Opportunities unit to a full Directorate within the D-G Employment, Social Affairs and Equal Opportunities, meriting not only its own four sub-units but also a part of the name of the Directorate-General itself. One of the units is primarily concerned with gender mainstreaming and specific actions, while a second is concerned with legal questions arising from the relevant directives.¹² Visibility of the issue of gender equality is also raised by the requirement – which is also a right – to make an annual report on equality between women and men in the European Union to the spring European Council.¹³ The European Council in March 2006 agreed to a European Pact for Gender Equality. And finally, in late 2006 a European Institute for Gender Equality was added to the institutional mix, to be located in Vilnius, capital of Lithuania.

Why worry then? Attention to achieving equality between women and men has a decades-long history within the institutions of the European Union. While its constitutional status may be shaky (Shaw, 2002), it nonetheless seems well armoured by institutionalisation to resist any decline coming from a shift in policy perspectives of the kind described here.

This section will document that the principles underpinning LEGO[®] thinking does seem to be weakening, if not eliminating, the EU’s commitment to gender equality and to its concerns for advancing women’s equality with men. Two mechanisms are at work, and can be labelled this way: (1) folding gender in and (2) writing women out. For each of three principles discussed,

¹⁰ This article “enshrines the principle of gender mainstreaming into the Treaty, providing that ‘in all the activities referred to in this Article [i.e. a list of E.C. policies], the Community shall aim to eliminate inequalities, and to promote equality, between men and women.’” (Shaw, 2002: 217). For a history of gender mainstreaming from an insider see Stratigaki (2005).

¹¹ In 2006 various directives on gender equality were consolidated into a single “recast” directive (2006/54, 5 July 2006). It regulates the implementation of the principle of equal opportunities and equal treatment of women and men in relation to employment and occupation, bringing together four previous directives: equal pay; the amended 2002 directive on equal treatment for men and women as regards access to employment; the 1986 directive on equal treatment in occupational social security schemes; and what is termed the burden-of-proof directive of 1997. For handy access to these documents see http://www.karat.org/enp/gender_equality.html#sec. There are also directives linked to article 13 for the other categories guaranteed protection against discrimination.

¹² On this division of labour, see http://ec.europa.eu/employment_social/gender_equality/index_en.html, consulted 21 March 2007.

¹³ For the reports to the Council since 2004 see: http://ec.europa.eu/employment_social/gender_equality/gender_mainstreaming/activity_reports_en.html

one or both mechanism is present, associated with a change in the objectives for gender and women's equality and with the links between objectives and instruments.

The method used to track these mechanisms is a comparative one, in which the treatment of women and gender before the EU began playing with LEGO[®] is compared, via a textual analysis of key documents in the realms of employment and social inclusion and via interviews with key informants within the Commission.¹⁴ This type of comparison is necessary for strong analytic reasons. If one looks only at the Union's actions on gender or on equal opportunity, as many studies of equal opportunities and mainstreaming do, a great deal of liveliness is visible. The machinery is actively operating. The argument of this paper, however, is that such work and the issues of women and gender more generally are actually being confined to a shrinking space within the discourse and actions of the Union. This space can only be mapped by looking beyond the official domain of equal opportunities.

Implications of the LEGO[®] principle that security depends on employability and learning

As mentioned above, raising employment rates has been an objective of European economic and social policy for over a decade. This goal underpins both the European Employment Strategy (EES) and the social inclusion process associated with the Lisbon Strategy since 2000. The notion is quite simply that Europe can not afford to have its employment rate lowered by high rates of non-participation in the labour market, whether by women substituting care for employment or by other categories without access to employment.

The initial Lisbon Strategy set an employment rate target for women of 60%, to be achieved by 2010; this remains the target. At the same time, there was an effort "to make work pay," not only so that low-wage work would be sufficiently attractive to induce participation but also that supports would be in place to enable people to take up employment. Childcare and other supports for "reconciling work and family life" were the preferred instrument for achieving the later. Indeed, quickly after putting the Lisbon strategy in place, a specific target for childcare spaces was agreed to at the Barcelona Council meeting in March 2002.

This focus on employment is not new. Equal opportunity interventions have always had a significant market-making focus (Lewis, 2006: 420-21). The initiation of the EES in 1997 coincided with the institutionalisation of gender mainstreaming and the original version of the strategy included "a high profile commitment to advancing gender equality and gender mainstreaming" (Fagen, Grimshaw and Rubery, 2006: 571). This commitment included "strengthening the policies for equal opportunities" as one of four pillars of the EES, and other grounds for discrimination were folded in with gender.¹⁵

¹⁴ Other central concerns of the equal opportunities agenda, such as access to decision-making or international actions, are not examined in this paper. In part this is for lack of time and space and in part because the three LEGO[®] principles primarily concern analyses of social and employment policies.

¹⁵ The 1998 Employment Guidelines, adopted by the Council on 15 December 1997 are found at: http://ec.europa.eu/employment_social/employment_strategy/guidelines_en.htm. Three blockages to equal opportunities were identified: gender gaps (in employment rates and some sectors of employment) and inadequate instruments for reconciling work and family life, for facilitating a return to work and for promoting the integration of persons with disabilities into working life.

But, the EES has been altered over the decade, and in each adjustment to the strategy, less is written about women and gender as well as less about equal opportunities.¹⁶ The Employment Guidelines associated with the EES have been steadily stripped of this objective over the years that correspond to the EU taking up LEGO[®]; the instruments intended to implement it have been assigned to other objectives.

In 2003 the equal opportunities pillar disappeared, when 10 priorities were listed instead of four pillars. A single gender equality guideline remained as sixth of 10, while Member States were instructed to “adopt a gender-mainstreaming approach across each of the priorities.” At the same time, LEGO[®] language made a strong entry. The third priority became “addressing change and promoting adaptability and mobility in the labour market” and the fourth was to “promote development of human capital and lifelong learning.”

It was at this time that the Lisbon mid-term review process was launched by the two Kok reports cited above. The second report proposed National Reform Programmes (NRP) to replace the National Action Plans on Employment. “In the NRP guidelines, the gender equality guideline itself disappeared” (Fagen, Grimshaw, and Rubery, 2006: 572). In the post-review context, the employment guidelines are integrated with those of growth and jobs and set on a three-year cycle, the first being for 2005-08.¹⁷ In the specifically employment guidelines (#17 to #24), there is none that targets gender equality. Instead, improving women’s employment rates and services and reducing gender gaps are dispersed across the guidelines. The new guidelines are, moreover, even more strongly LEGOist. In classically LEGO-like terms, there is a call for promoting “a life-cycle approach to work” (#18), “expanding and improving investment in human capital” (#23) and “adapting training systems in response to new competence requirements” (#24).

These changes have consequences. As the EGGsIE network’s analysis of reports submitted by Member States documents, the decline in emphasis in the guidelines has been accompanied by “reduced attention to gender mainstreaming and gender equality objectives in the reports” and in addition no gender mainstreaming has been developed for the integrated employment, growth and macro-economic guidelines (Fagen, Grimshaw and Rubery, 2006: 573). Instead, the attention of the Member States, and any pressure that the open method of coordination (OMC) process might exert, is going to objectives and instruments promoting investments in human capital and so on.

A second mechanism at work in the treatment of employment and activation is one that folds in women and gender to other programmes and uses the instruments of those programmes for promoting improvements in women’s situation and, to a lesser extent, gender relations. Three examples can be given: the redesign of the machinery of governance; the EQUAL Community Initiative within the European Social Funds; and the Progress initiative in the social inclusion process.

¹⁶ All employment guidelines are found at:
http://ec.europa.eu/employment_social/employment_strategy/guidelines_en.htm

¹⁷ The full list is in Rodriques in Diamond (2005: 51).

In jurisdictions where LEGO[®] principles have been longer in place, there has been a clear tendency to redesign the governmental machinery of gender equality (for example, Dobrowolsky and Jenson, 2004). In such cases, a general “diversity” frame is often preferred to one of gender equality. In several liberal welfare regimes gender has been folded into agencies dealing with all types of discrimination. For example, Ireland has established an Equality Authority, naming nine prohibited grounds for discrimination, one of which is gender. The Authority’s theme is “Equality in a diverse Ireland.”¹⁸ Beginning in September 2007, the Commission on Equality and Human Rights (CEHR) in the United Kingdom will merge the Commission on Racial Equality, the Disability Rights Commission and the Equal Opportunities Commission. The latter has had responsibility for ending sex discrimination.¹⁹

All Member States have not moved in such a direction, but there is nonetheless evidence that EU institutions are doing so, as the “anti-discrimination” themes gain visibility and as gender questions are increasingly treated alongside them. For example, within the College, the Group of Commissioners on Fundamental Rights, Non-Discrimination and Equal Opportunities was created in 2005 by President Barroso. It replaced the previous grouping of Commissioners on Equal Opportunities, that had existed since 1996. Its mandate is described as “to drive policy and ensure the coherence of Commission action in the areas of fundamental rights, anti-discrimination, equal opportunities and the social integration of minority groups, and to ensure that gender equality is taken into account in Community policies and actions, in accordance with Article 3§2 of the Treaty” (European Commission, 2006b: 18).

Begun in 2000 with a seven-year life-span, the EQUAL Community Initiative was a self-proclaimed “laboratory for new ideas to the European Employment Strategy and the social inclusion process.” Its mission is to promote inclusion at work by fighting discrimination and exclusion based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. It is, then, an initiative that follows directly from the broad anti-discrimination guarantees of article 13 of the Treaty. EQUAL was implemented by Member States and funded through the European Social Fund.²⁰ One of its four pillars was equal opportunities for men and women, with the focus on services as well as flexibility in order to promote successful reconciliation of work and family life. “Promoting equal opportunities for men and women forms an integral part of all the thematic areas chosen in addition to having specific actions reserved for it under Pillar 4.” The advantages of this dual approach were detailed in a report on EQUAL: “... making gender equality exclusively a cross-cutting principle may bear the risk of overlooking the need for positive actions. Taking gender mainstreaming seriously suggests therefore to adopt a combination of both.” (EQUAL Managing Authorities, 2006: 8, emphasis in original).

¹⁸ On the Irish Equality Authority see <http://www.equality.ie/index.asp?locID=3&docID=-1>

¹⁹ For a description, see <http://www.cehr.org.uk/content/purpose.rhtm>. The government of Quebec tried in 2005 to replace the gender equality agencies by a comprehensive equality commission but that was resisted by the women’s movement and state feminists and subsequently abandoned.

²⁰ Its home page is http://ec.europa.eu/employment_social/equal/index_en.cfm. Consulted 29 March 2007. See also <http://europa.eu/scadplus/leg/en/cha/c10237.htm>

The EQUAL Community Initiative is disappearing, however; its final projects have been funded and will come to an end in 2008. The 2007-13 programming cycle for ESF will be very different. Programming focuses on Transnational Cooperation, with a significantly reduced role for the Commission. Moreover, no priorities or pillars are identified; a list of possible “themes and sub-themes” is the only orientation, and gender mainstreaming is one of the possible themes, while “equal opportunities/increase the participation of women in employment and work-life balance” are two possible sub-themes for increasing integration. The new programmes of the structural funds, in other words, are characterised by both writing out and folding in. Gender mainstreaming and equal opportunities appear to be optional programme foci²¹ and women have become only one category of many potential programming targets.²² At the same time, interventions for improving human capital is singled out for attention.

Support for the EES and social inclusion will also come, beginning in 2007, from another new programme. Progress (Community Programme for Employment and Social Solidarity) will run from 2007 until 2013, and will have five sections: employment; social protection and inclusion; working conditions; antidiscrimination and diversity; and gender equality. Gender mainstreaming applies to all five sections (see the Official Journal, 15 November 2006). PROGRESS’ sections are discrete topics whose relationship to each other is not obvious, and this despite it is an explicit effort to implement “streamlining.” However, what is clear is that equal opportunities have been folded into a mixed programme with a set of other matters all transversal to the objectives of the EES and social inclusion.

Gender implications of the LEGO[®] principle of an orientation to the future

In the section presenting the LEGO[®] principles, we stressed the change in time perspective that is a key part of this new thinking. Present conditions may be subordinated to future benefits, and certainly investments made now are presented as key to that future. The investment metaphor is currently strong in the EU, as noted above. It became particularly prevalent as the mid-term review of the Lisbon strategy adopted the human capital perspective and those responsible for education and training turned their sights towards ECEC.

There are two results of these shifts that we can identify. Women and gender have been written out of the innovation focus of the post-review Lisbon strategy, even as investments in education and training – labelled as such or termed “human capital” – have dominated eurospeak. In the Communication from the President and Vice-President of the Commission to the spring Council meeting in 2005, the “new start for the Lisbon strategy” emphasised these investment instruments as the way to achieve the objectives of full employment, quality and productivity at work, and social cohesion and social inclusion. In this clarion call for reform and

²¹ The report of the EQUAL Managing Authorities (2006: 7, emphasis in original) expressed a clear concern in advance about the way gender mainstreaming was being presented, leading to the reminder that: “The **gender equality commitment of the Treaty** and the clear provisions in the proposed ESF Regulation are **obligations**, which ask for a material and not a symbolic response in the ESF Programming documents and should not be seen as an ‘optional extra’.”

²² See the Orientation Note of the Commission, as well as general information about the 2007-13 cycle on http://ec.europa.eu/employment_social/equal/news/200702-trans_en.cfm. Consulted 16 April 2007.

“modernisation,” women are mentioned only in the context of their labour market potential and the only blockage mentioned is the gender pay gap (European Commission, 2005a: 24).

This lack of attention is a significant silence compared to the Lisbon documents of 2000 which spoke not only of employment rates and the gender pay gap, but also of the need for equal opportunities and increasing the enrolment and success rates of women in science and technical education (Presidency Conclusions, March 2000; European Commission, 2003). Indeed, in the Social Agenda 2000-05, which was a direct emanation of the Lisbon agenda, providing “access of women to ICT and other scientific and technological jobs, particularly by enhancing the participation of women in relevant education and training” was one of the routes to success of the knowledge economy (Social Policy Agenda, 2000: 19; see also Rodriques, 2002).

It is also a significant silence in comparison to the attention lavished on young people in the same document. The President of the Commission used his important 2005 Communication to present detailed attention to youth and the European Youth Pact. Indeed, discussions of childcare and reconciliation of work and family life were transferred from chapters on women or adult workers to those on youth (European Commission, 2005a: 25).

In the key documents mentioned above, ones that display an orientation to the future via an investment focus, attention to women and gender is mostly absent. The BEPA (2007) paper on *Investing in Youth* does have a short section on “Gender equality as a leverage for the well-being of children,” and a consistent gender-based analysis of education, poverty and so on runs through the paper. But this paper is the exception that proves the rule.

Women and gender have been dramatically written out of the education field. After 2000, the Lisbon-associated documents made numerous references to gender imbalances in educational streams, particularly mathematics, science and technology. In the technical work around benchmarks, gender-differentiated statistics were presented. When benchmarks were proposed in 2002 this analysis of gender imbalance was fully developed and a benchmark proposed: “By 2010, all Member States will have at least halved the level of gender imbalance among graduates in the above mentioned fields whilst securing an overall significant increase of the total number of graduates, compared to the year 2000” (European Commission, 2002: 13-14; see also European Council, 2003). By 2005, however, the process of writing out women was in full swing. For example, the communication from the Commission, *Modernising education and training: a vital contribution to prosperity and social cohesion in Europe* (European Council and Commission, 2005), was part of the mid-term review of Lisbon Strategy. It presents a gendered analysis of the data, but is virtually silent on women and on gender differences in the narrative analysis, ... and this despite the fact that the analysis is framed in terms of equity as well as efficiency.

In places where in previous discussions where inequitable gender patterns had been observed and commented upon, the joint progress report from the Council and Commission turns to a classic LEGO[®] formulation and says (European Council and Commission, 2005: 11):

Investments should be targeted on areas where the social and economic returns are highest, thereby effectively combining efficiency and equity. In this respect, Member

States' efforts towards achieving the EU benchmarks related to early school leaving, completion of upper-secondary education, and key competences, need to be stepped up in the coming years. In particular, investment in pre-school education is of paramount importance for preventing school failure and social exclusion, and for laying the foundations for further learning.

This statement was explicitly preparing the way for the 2006 Communication analysed above. There, women are not mentioned in the Communication on efficiency and equity in education, and gender receives a single mention in a note. Nor are girls mentioned (European Commission, 2006a). Despite the gender analysis of the data which show only slight progress towards the benchmarks set after 2000, they have simply been written out of the investment discourse, replaced by a language of investment and ECEC as the instrument to achieve it. Then, in 2007 the 20 core indicators for monitoring progress towards the Lisbon objectives in education and training were headed by participation in pre-school education, a matter that had gone unmentioned in the list of indicators developed in 2003 for the work programme of *Education & Training 2010*. ECEC was also nowhere to be found among the benchmarks developed in these years, when a gender analysis had had their place.

Implications of the principle that we all benefit from playing play with LEGO®

With respect to this third LEGO® principle, most of the change has involved the identification of a new goal – a sustainable fertility rate – alongside the activation goal. Thus, the future of European society is supposedly assured by allowing adults to have the number of children they want. Access to good services is supposedly the instrument to achieve this goal (for example, SPC, 2006: 3).²³ This demographic focus is not new. It was a sub-theme in discussions, for example, when Jacques Delors was President of the European Commission, but then it took a definite second-place to an equality agenda of facilitating employment and the reconciliation of family and work life.²⁴ In recent years, the “problem” of demographic sustainability attracts much more attention. And here as well LEGOist terms are finding their place. Even the social dialogue process, one that emerged from the classic institutions of the European social model, has introduced the theme of “quality child care,” the vocabulary of those who focus on ECEC as a foundation for child development and not simply “daycare” as a service for working parents. Thus, the document for a *First-stage consultation of European social partners on reconciliation of professional, private and family life* (SEC [2006] 1245) is framed much more in terms of the need for quality care than was the spring 2002 Barcelona European Council, the meeting establishing explicit targets for service levels (“to provide childcare by 2010 to at least 90% of children between 3 years old and the mandatory school age and at least 33% of children under 3 years of age” – art. 32. The Council neglected to mention anything about the quality of child care, and this despite producing a document that stressed the “quality” of everything else European (jobs, health care, environment, and so on).²⁵ At the same time as ECEC rather than

²³ For a somewhat sceptical discussion of these claims see Jenson (2006).

²⁴ On demography and child care in the Delors years see Ross (2001: 188-89).

²⁵ This narrow focus and absence of concern about quality provoked criticism, including during the major conference on child care organised in fall 2004 by the Dutch presidency. See for example the comments by Peter Moss (2004), who in the 1990s headed the Expert Network on Child Care.

childcare becomes a target for successful investment in human capital, it is transformed into a policy for ensuring the future well-being of European society more than an instrument for promoting equality among adults.

Analytic conclusions: Why are the LEGO® principles associated with “writing out” and “folding in” women and gender?

The preceding analysis has shown that the European Union is reorienting its social policy analysis more towards learning for employability, towards investments and to the future, and that this has brought not only new policy goals but also greater attention to children and young people. It then showed that there have been simultaneously two processes that affect the attention to gender equality. One involves writing out women and gender and the other folding them in with other forms of discrimination and inequality. As the emphasis on human capital, investments, early education and reconciling work and family has risen, the traditional attention to inequalities of gender and between women and men in work, education, social inclusion and social policy has substantially lessened.

Why should this be the case? Why would such a reorientation toward a “modernised” social model have implications for the Union’s analysis of women and gender?

One reason that might be evoked is a change in political orientation. Perhaps because the Commission has shifted to the centre-right and enlargement has brought in countries with limited concerns about equal opportunities, the EU is simply no longer as committed to the goal of ensuring gender equality as it was in the heyday of the 1980s and 1990s. It is, of course, possible that commitment has weakened. Nonetheless, any too rapid embrace of such an explanation would have to take into account two counterarguments.

The first is the following. At the same time that attention to women and gender inequalities occupies less space in general social policy analysis – for example, in the mid-term review of Lisbon and subsequent adjustments – the machinery of governance of equal opportunities has expanded. The Gender Pact of 2006, the European Institute for Gender Equality, and the annual report on equality between women and men to the spring European Council are all innovations within the field of equal opportunities themselves. In other words, the policy domain is not being deinstitutionalised; it continues to function at full throttle, at the same time that the analytic lens of policy analysis moves on.

If there had been a full-scale and deliberate assault on the EU’s positions on gender, one would not have expected the machinery to hold. However, the lack of general attention is consistent with a mismatch between the machinery of government and the importance of a set of policy objectives. Such mismatches are, of course, not uncommon. Governments are always slower to dismantle existing machinery than they are to adjust their analysis. Institutions may maintain internal resources to function even when they no longer exercise much influence.

A second reason not to embrace too quickly the political explanation is that the EU is a large and varied policy machine. If one part, such as the Presidency of the Commission, alters its policy preferences, it is unlikely that all branches will immediately fall into line. Indeed, it is

interesting to note that the shift towards the principles of LEGO[®] is occurring in a variety of locations. The BEPA is close to the President, but other DGs, with quite different analytic traditions and approaches have also been promoters of LEGO-like approaches. Both the social inclusion process (including the practices of the open method of coordination) and the DG EAC, with its abstract economics analyses have been pushing these principles. Both those concerned with employment and those focused on social policy have adopted investment-oriented instruments.

It seems, in other words, that more is needed to understand better why women and gender are being written out and folded in with other anti-discrimination measures. Here I want to argue that the very principles of the LEGO[®] perspective make it very difficult to sustain attention to gender inequalities. This happens at several key points for policy.

A true investment focus, as both the BEPA paper (2007) and the Communication on equity and efficiency (European Union, 2006a) demonstrate, shifts attention to the young, whether children or youth. And, a focus on children and youth effectively eliminates the space for gender analysis. Neither pre-school nor even school-age girls can be shown to be at a disadvantage in comparison to their male counterparts. They achieve developmental milestones and do well in school at the same if not higher levels than do boys. Indeed, if there are gender-related issues in these age groups, the problems and risks are found more among boys than girls. Therefore, an analysis in terms of gender has little place as more attention goes to the early years.

Second, reliance on human capital as a key instrument for achieving investment and increasing innovation again narrows the space for gender differentiated analysis. Women have for several decades made significant strides towards increasing their investment in their own human capital. Again, if there are gaps they run in the other direction, with boys and men falling behind. Therefore, enthusiasm for prescriptions in terms of human capital provides little purchase for a thorough-going gender analysis. Since little policy attention has as yet gone to identifying the reasons why investments in human capital pay off less for women than for men, writing out women is a likely outcome.

Third, the emphasis on human capital and investment, especially in ECEC, provides a child-centred justification for one of the major programmes for enabling the reconciliation of work and family. This has had the unintended effect of displacing the attention of the needs of working mothers or even fathers for such services. They are increasingly being justified as an investment in human capital and the future, both via their short-term effects on employment rates and their long-term advantages for school success, more than as a key instrument to achieve equality between women and men.

Fourth, and perhaps the most important reason why LEGO-like ideas have resulted in a process of writing-out is that they are ultimately supply-side analyses. The emphasis is on preparing future workers for successful labour market participation. Yet, as decades of feminist analyses and whole libraries of publications have shown, gender inequalities are NOT the result of women's inadequate preparation, education, or lack of ambition. They are due to systemic and structural blockages to equal opportunities, whether due to direct discrimination or to the working of indirect mechanisms. These demand-side factors are rendered invisible, however, by

the emphasis on the supply of human capital and investments now for future returns. Supply-side analyses provide little purchase for classic gender analyses to reveal inequalities in the here-and-now or even for gender mainstreaming to reveal potential unequal effects. And, when the demand-side is addressed, the institutional attention to multiple forms of discrimination has resulted in women and gender being folded in with other disadvantaged groups.

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