

The Social Policy of the European Union

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CERTIFICATE

This is to certify that the dissertation entitled, *The Social Policy of the European Union*, submitted by **Manisha Dahiya** in fulfillment of six credits out of total requirement of twenty-four credits for the award of the Degree of Master of Philosophy (M. Phil) of the University, is her own work according to the best of our knowledge and may be placed before the examiners for evaluation.

A handwritten signature in black ink, appearing to read 'B. Vivekanandan', is written above the name.

Prof. B. Vivekanandan

Supervisor

A handwritten signature in black ink, appearing to read 'R. K. Jain', is written above the name.

Dr. R. K. Jain

Chairperson

To

My Parents

&

Loving Vishu and Rizul

Preface

The Social Policy in Europe is an exciting theme. It helps us to understand the European states and societies in general. Also, it provides a key to the study of the process of European integration and policy-making. The development of social policy in the European Union (EU) has been heavily conditioned by economic changes in Europe. Although progress towards economic integration has proceeded rapidly, the social policy has been sidelined in the process. This dissertation is an attempt to highlight the largely ignored social dimension of the European integration, to find out the historical roots of the EU's social policy, and its key determining factors as well as its broad features, which also shape its future direction in the move towards social Europe.

This study has covered the EU's social policy from the 1951 Treaty of Paris to the 2000 European Council summit in Nice. Its social policy is deeply rooted in European values and experiences. Europe in this respect is distinct from other regions of the world in the sense that there is a commitment to achieve social policy goals. This commitment is based on common European values, viz. democracy, human rights and social welfare. European nations, irrespective of their government's political leanings, have long-standing social policies and spend a significant proportion of their budgets supporting these policies. The social policy of the EU is derived from the common values of Europe's religious and ideological heritage.

I have attempted to demonstrate that Europe has gradually evolved as a social entity, and the social policy of the EU has promoted a

decent quality of life for all people. The social policy-making in the EU involves multiple actors, both official and unofficial. They include primarily the EC Commission, the Parliament, the European Court of Justice (ECJ), the Council of Ministers, and the member states. However, the demarcation between official and unofficial actors has blurred, and the social partners often play roles on both sides of demarcation. Their roles have been changed as the result of new treaties. The Commission acts as the initiator of the legislation on EU's social policy. The Council of ministers decides the agenda to be pursued. However, the Single European Act, the Maastricht Treaty and the Amsterdam Treaty have increased the Parliament's role. The ECJ acts as the watchdog of EU's social policy. The Economic and Social Committee (ESC) and the Committee of the Regions (CoR) act as advisory bodies. Also, the NGOs play significant role in the implementation of the EU's social policy.

This dissertation is the outcome of the support, co-operation and contribution of many individuals and libraries. I am indebted to many people in the completion of my work. First and foremost, I express my profound sense of gratitude to my supervisor, Professor B. Vivekanandan for seriously going through my drafts and giving me critical comments and suggestions at every stage of my work. He rendered all the possible intellectual support to me to complete this work.

I am obliged to the staff of the JNU Library, the British Council, the American Library and the Teenmurti Library for their kind

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I am alone responsible for the views expressed and whatever shortcomings in this work.

Manisha
MANISHA DAHIYA

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CHAPTER I

Development of the European Community's Social Policy

Introduction

The European Community (EC) is an example of institutionalized international policy co-ordination in the contemporary world. From the signing of the Treaty of Rome in 1957 to the making of Maastricht in 1992, the EC has developed through a series of intergovernmental bargains, each of which set the agenda for an intervening period of consolidation.¹ Nevertheless, the path of European integration has never run smooth. Also, the EC displays features of an inter-governmental entity as well as an autonomous supranational entity, thereby representing an international organization of a unique type.

EC's social policy has developed out of a unique policy environment shaped by European history, values and norms. Although current needs and conditions give the necessary impetus for taking immediate initiative for a social policy, historical parameters and societal norms and values grant legitimacy to such a policy. However, social policy in Europe is unique in the sense that no other region of the world has developed a comparable body of social protection for its people. Social policy is primarily a national phenomenon, but it is an EC phenomenon as well. It is because the political forces responsible for EC's social policy have their roots in the welfare societies of Europe. It is held together by the national policies designed to secure benefits for large number of people, viz. the women, the youth and the disadvantaged sections of the society.

1. Andrew Moravcsik, "Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach", *Journal of Common Market Studies* (Oxford and Boston), Vol. 31, No. 4, December 1993, p. 473.

Seen in a historical perspective, it can be held that Europeans had an inclination to perceive themselves as part of a Community and, considered their personal interests and those of the Community to be linked. However, these generalizations do not constitute the ground for historical determinism. Also, all the Europeans do not fit the profile, particularly the British. History and geography designate peoples on both sides of the English Channel as 'Europeans', yet take note of the British exceptionalism. Therefore, it is quite easy to understand that Britain had more difficulties than any other member state in accepting a common EC social policy. The British draw a sharp distinction from their fellow members of the EC while moving towards social Europe.²

Each member state of the EC possesses a particular set of historical and cultural influences that shape its national social policy. However, all of them also share certain common influences as well, which set parameters for EC's social policy. Four characteristics/ features give concrete shape to the EC social policy. They are as follows:

- i. Group- based orientation of continental Europeans;
- ii. The ideologies sharing a social rather than an individualistic orientation, particularly socialism and democratic socialism;
- iii. The absence of a strong laissez-faire attitude in continental capitalist systems; and
- iv. The deep roots of European welfare states.

However, they apply to continental Europe than to the United Kingdom (UK). These characteristics provide a strong supportive environment for EC's social policy to grow.

^{2.} Arnold J Heidenheimer, Hugh Heclo, and Carolyn Teich Adams, *Comparative Public Policy: The Politics of Social Choice in Europe and America* (New York: St. Martin's Press, 1983), p. 17.

Community Integration and Decision-Making

Among the approaches of integration of already existing states, federalism has the longest history. It has been frequently applied to a limited geographical area. Advocates of international federation failed to deal with a number of its implications and with the possibilities of bringing it into effect, while regional federation (European) proponents went beyond it. The demand for a world federation was strong during and soon after the Second World War. The post-war European federalist thought developed out of the growing pessimism generated by the two world wars, questioning the capability of the nation-state system to preserve peace within Europe.

One of the basic principles of federalism is the creation of the supranational institutions as the best method for uniting people sharing some common features such as language or culture or geographic proximity. By implication, federalism seeks to adapt institutions that operate at a national level for use on a regional basis. Despite the different times at which it was conceived and written about, there is continuity in the federalist thought. Mainly, it is a method of obtaining political union among separate states. It believed that the nation state was obsolescent and must be transcended, although they disagreed about the arrangement for replacing it.³ Federalism requires political authority and power to be shared between the central and regional authorities which should remain independent of each other, but act in a coordinated fashion.

The post-war federalists were divided into two factions, viz. radical federalists and gradual federalists. The main divergence between these two factions was over whether to use existing intergovernmental cooperation as an

³. Michael O'Neill, *The Politics of European Integration* (London: Routledge, 1996), p.21.

instrument for integration or to bypass governments by mobilising public opinion. However, they failed to provide an adequate explanation as to why governments or masses would necessarily choose to integrate in a federalist framework. Here, the role of interests was not taken into account. The two notions of interest and power, which formed the basic tenets of realism, were also crucial to understanding the dynamics behind integration. However, inconsistencies emerge while reconciling the pursuit of power and interests on the one hand with the compliance of states with international norms on the other. Regarding this problem, Keohane and Nye raise the question: which self and which interests?'⁴ This illustrates a serious shortcoming in the analysis of the dynamics of integration. It is impossible at any given time to determine the actual interests of states within the international system.

Federalism presented a direct challenge to the nation-state. Its leading European advocates such as Altiero Spinelli, Henri Brugmans, and K. C. Wheare propagated a firm political prospectus that encompassed unprecedented changes in the European political order. European federalists presented a clear alternative to the national atavism they identified as the principle cause of war, by calling for disaggregating power away from centralised government in nation-states, and its relocation among separate (but connected) levels of authority within a multinational federal state.⁵ They were concerned to secure and institutionalise the fragile continental peace. It drew heavily on the classical federalist doctrine of nation-building, which had been evolving in both theory and practice since the eighteenth century.

Federalism's contribution to the development of European integration turned out to be much less significant than was anticipated in 1945. The

4. Robert Keohane and Joseph Nye, *Power and Interdependence: World Politics in Transition* (Boston: Little Brown, 1977), p. 252.

5. Michael O'Neill, n.3, p. 23.

constraints of national politics, the frequent appeal of national interests underpinned by a revived or continuing sense of national identity, the unpredictable impact of events and, the movement's failure in these fluid circumstances to win over key elites or to convert public opinion to its cause led to deep internal tensions that eventually engulfed the movement in debilitating factional squabbles. Nevertheless, federalist principles continued to exercise influence on both the debate and procedures of European integration. At the same time, the tradition of social and cultural pluralism, i.e., the indigenous European federal tradition, has been shaped by the continent's own unique historical configurations.

There has always been a social dimension to the EC's integration. The Treaty of Paris contained provisions for the High Authority of the European Coal and Steel Community (ECSC) to promote research into occupational safety in the two industries concerned, and to give grants for the retraining of redundant Coal and Steel workers. One of the ECSC's objectives was "to promote improved living and working conditions for the workers."⁶ Thus, the social policy of the EC originated in the ECSC. It was closely involved with the social questions arising out of the rationalisation of coal production in Western Europe.

Neo-functionalism as an approach to regional integration provides a firm ground for explaining EC integration. It does not look for the creation of world governments as envisaged by the federal approach, but a number of regional governments or decision-making units wherever possible. Ernst B. Haas described neo-functionalism as, "the dissection of the actual process in order to derive preposition about its nature."⁷

^{6.} S.F. Goodman, 'The Social and Economic Integration of Europe', *The European Union* (London: Macmillan, 1996), pp. 233-34.

^{7.} Ernst B. Haas, *The Uniting of Europe: Political, Social and Economical Forces, 1950-1957* (London: Stevens & Son, 1958), pp. 31-2.

In his accounts of European integration, Charles Pentland held that the federalist initially at least (and still implicitly) supplied a model of the end product – a supranational state; the functionalists provided the dynamics of change in the idea of a structural evolution based on socio-economic pressures.”⁸ Though neofunctionalism is an amalgam of federalism and functionalism with certain methodological scientific additions, certain differences can be brought out among these approaches. The process, as envisaged by neo-functionalists, is as follows:

- i) A sector of the lives of sovereign states is brought together, which is the same as functionalism.
- ii) This process of integration in a limited technical area becomes successful to the extent that interest groups and political parties also become involved.
- iii) Eventually with the spillover effect, this process of integration will come to include the area of high or sensitive politics where vital interests are concerned. The result is the emergence and growth of an embryonic political community.

Neofunctionalists recognize the fact that there already exist sufficient political and economic interdependence from where the theory is derived. Pentland held that

The great contribution of neofunctionalism has been to break with the monolithic view of the nation-state and to perceive it as a complex of interests and issue areas, some of which have more integrative implications than others. Rather than refer to states in the holistic sense, then, neofunctionalists prefer to identify them with governments or political elites. These elites - consisting of political leaders and bureaucratic official - interact at the national level and international levels not only among themselves but with

⁸. Charles Pentland, *International Theory and European Integration* (New York: The Free Press, 1973) p. 113.

the representative of interest groups and parties and with influential individuals. National governments then are both the foci of political activity (group conflict and decision-making) at one level, and actors in political processes, alongside other types of actors, at the international level.⁹

In neofunctionalism, the key groups in each state and their acceptance of integration are very important and, they form the general starting point. In this sense, integration is adopted as a goal. Haas maintained that the process of community formation is not achieved by a few Europeans with goodwill who wish to build a regional community, but is actually done by national groups with specific interests and aims willing to adjust them to supranational means when it is more profitable.¹⁰

Haas' analysis of the ECSC, in which he put forth his theory of the formation of supranational institutions and considered their impact on cooperation in a given regional area, provides a fundamental basis for the study of the process of European integration. The most important feature of Haas' work is his insistence on a theory of regional integration, which challenges the conventional idea that the nation-state is the sole or dominant actor on the international scene. Instead, Haas emphasized the roles played by other national and international actors (especially corporations), while pointing to the potential advantages of forming supranational institutions. Therefore, Haas defined integration as:

the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities toward a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states.¹¹

9. Ibid, pp. 122-3.

10. Ernst B. Haas, *Beyond the Nation State* (Stanford: Stanford University Press, 1966), p. 34.

11. Ernst B. Haas, n.7, p.16

Haas held that the integration process would end in the creation of fulfilled states. Such states will enjoy the loyalties and respect of the people as states in today's sense, but such entities will have a regional identity as well. The loyalties of the masses may be divided between the new entity and the old state. To quote Haas and Schmitter:

Integration, ...means the process of transferring exclusive expectations of benefits from the nation-state to some larger entity. It encompasses the process by virtue of which national actors of all sorts (government officials, interest group spokesman, politicians, as well as ordinary people) cease to identify themselves and their future welfare entirely with their own national government and its policies. This notion of integration of course, is entirely compatible with the concept of divided loyalties and segmented identification on the part of individuals.¹²

Neo-functionalism was developed and refined between 1955 and 1975 by Haas, Philippe Schmitter, Leon Lindberg, Stuart Scheingold, Donald Puchala, Joseph Nye and many others. The neo-functionalists' central prediction was that European economic integration would be self-sustaining. The theoretical basis for this prediction was the concept of 'spillover', whereby initial steps toward integration trigger endogenous economic and political dynamics leading to further co-operation. This demonstrates how a cumulative integration process acquires sufficient momentum to erode the nation-state eventually and build a new supranational state.¹³

Spillover has several variants. It is usually understood referring to the basic process whereby political cooperation conducted with a specific goal leads to the adoption of new goals, which required a further expansion of

12. Ernst B. Haas and Philippe C. Schmitter, "Economics and Differential Patterns of Political Integration: Projection About Unity in Latin America", *International Organization* (California, Massachusetts), Vol. 18, Autumn 1964, p. 710.

13. Alan S. Milward, *The Frontier of National Sovereignty: History and Theory, 1945-1992* (London and New York: Routledge, 1993), p. 2.

political cooperation. That in turn leads to the adoption of more new goals. Lindberg presented his general formulation of the spillover process as:

In its most general formulation, 'spill-over' refers to a situation in which a given action related to a specific goal creates a situation in which the original goal can be assured only by further actions, which in turn create a further condition and a need for more action and so on.¹⁴

Neo-functionalists identify two sorts of spillover, each of which deepens and widens integration by interest group pressure, public opinion, elite socialization or other domestic actors and processes. The first, functional spillover, occurs when incomplete integration undermines the effectiveness of existing policies, both in areas that are already integrated and in related sectors of the economy, which in turn create a further condition and a need for more action, and so forth.¹⁵ Thus, it creates pressure for deepening and widening policy co-ordination. Functional spillover is economic and reflects the tightly interlinked nature of modern economies, in which government intervention in one sector engenders economic distortions elsewhere. This process is described by Haas: "Sector integration....begets its own impetus toward extension to the entire economy even in the absence of specific group demands."¹⁶

The second, political spillover, occurs when the existence of supranational organizations sets in motion a self-reinforcing process of institution-building. It describes the process of adaptive behaviour, i.e., the incremental shifting of expectations, the changing of values, and the coalescing

^{14.} Leon Lindberg and Stuart Scheingold, *Europe's would be polity – Patterns of Change in the European Community*, (New Jersey: Prentice Hall, 1970), p.117.

^{15.} Leon Lindberg, *The Political Dynamic of the European Integration* (Stanford: Stanford University Press, 1963) p.10.

^{16.} Ernst B. Haas, n.7, p.297.

at the supranational level of national interest groups and political parties in response to sectoral integration. According to Haas “the spillover process, though rooted in the structures and motives of the post-capitalist welfare state, is far from automatic.”¹⁷

Like Haas, Lindberg also looks for the creation of a political community. Lindberg’s political community is simply a legitimate system for the resolution of conflict, for making authoritative decisions for the group as a whole. To quote him:

I am interested in political integration, in the process whereby a number of nation-state come to construct a single political community. The essence of a political community,...is the existence of a legitimate system for the resolution of conflict, for the making of authoritative decisions for the group as a whole.”¹⁸

The regulation of a modern integrated international economy requires technocratic oversight by supranational authorities. In the case of the EC, these are officials, judges and parliamentarians in Brussels, Luxembourg and Strasbourg. These authorities inevitably gain a certain measure of autonomous initiative. Neo-functionalists stress in particular the role of the EC Commission, which was regarded to be in a unique position to manipulate the fact of domestic pluralism and international interdependence so as to push forward the process of European integration even against the resistance of national governments. Joseph Nye describes the distinctive feature of political spillover in following way:

Problems are deliberately linked together into package deals, not on the basis of technological necessity but on the basis of

^{17.} Ernst B. Haas, ‘Technocracy, Pluralism, and the New Europe’, in Joseph Nye, *International Regionalism* (Boston: Little Brown, 1968), p.165.

^{18.} Haas and Schmitter, n. 12, p. 710.

political and ideological projections and political possibilities.¹⁹

In the neo-functionalist view, contradictions and crises provided basic conditions for integration. The Community emerged in a period of crisis and its growths implied change, which was usually characterized by stress and conflict. In this view, crisis and conflict are so important that Lindberg calls the community “a crisis system.”²⁰ Lindberg and Scheingold go to the extent of saying, “when there is no more crisis the system will have ceased to grow.”²¹

In neo-functionalism, the process of integration is not the necessary cause or conditions to precipitate the evolution of Community. The main dynamic of integration is based on elite behaviour. Therefore in the neo-functionalist theses, integration will not develop simply because of altruistic or idealistic motives or because of a re-established consensus to have integration as a condition for building a Community. Haas maintained that spillover is not an automatic process and depends on the political will of the actors involved. He explains that spillover will occur if the actors driven by their self interests, ‘desire to adapt integrative lessons learned in one context to a new situation’.²² The driving force seems to be national interests, since apart from this there is no explanation as to why actors would adapt lessons which they have learnt from previous experiences of integration.

^{19.} Joseph Nye, ‘Comparing Common Markets: A Revised Neofunctionalist Model’, in Lindberg & Scheingold (eds), *Regional Integration – Theory and Research* (Cambridge: Harvard University Press, 1971), p.202.

^{20.} Leon N. Lindberg, “Decision-making and Integration in the European Community”, *International organization*, Vol. 19, Winter 1965, p. 79.

^{21.} Lindberg and Scheingold, n. 14, p. 106.

^{22.} Haas, n. 10, p. 48.

Furthermore, apart from the expectations of losses and gains by elites within each nation-state, neo-functionalism provides no explanation as to why nation states would be prompted to integrate with one another in the first place. It is not clear whether calculations of losses and gains made by elites would result in decisions to integrate with other states. It is not always the case that elites form the sole decision-making units within each nation-state. In fact this is one of the premises of neo-functionalism, which was modified later on by several writers, including Haas when he held that

The study of regional integration is concerned with explaining how and why states cease to be wholly sovereign, how and why they mingle, merge, and mix with their neighbours so as to lose the factual attributes of sovereignty while acquiring new techniques for resolving conflict between themselves.²³

Since the experiences of the 1960s, neo-functionalists have been updating their doctrine to correspond with historical developments in the integration process. By the mid-1970s, the neo-functionalist writers, viz. Keohane and Nye concluded that although policy interdependence existed in Europe, this did not necessarily lead to policy integration. On the whole, there is no empirical evidence of a continuous process of spillover in Europe. Integration has been sporadic rather than continuous. The ECSC experience was merely a part out of history that corresponded to the process of integration in neo-functionalism. But since then, this has not been repeated on a continuous scale as the neo-functionalists had expected.

Also, they started to examine the effects of external dynamics on integration. Earlier studies of neo-functionalism had focused on internal

^{23.} Haas, "The Study of Regional Integration: Reflections on the Joy and Anguish of Pre-Theorizing," *International Organization*, Vol. 24, Autumn 1970, p. 610.

dynamics such as elite calculations of losses or gains. Both Haas and Nye used the term externalization to denote the extent to which national leaders and elites within a particular regional community find it necessary to develop common positions with other integrating states within their region towards outside parties, such as governments and organizations which are not part of the integrating region. The development of common positions towards external factors was seen as a measure of integration by neo-functionalists.

Up to early 1970s, neo-functionalism enjoyed widespread support among researchers. However, support for the theory declined and for a lengthy period neo-functionalism lost its appeal as a result of the general sluggishness in the pace of European integration. But during late 1980s and early 1990s, when co-operation in the EC regained its dynamism, there was a revision of neo-functional theories. Even critical observers such as Peter Taylor and Martin Holland recognized its relevance. According to Taylor:

The student of the European Community in the 1980s, therefore, needs to return to the writings of a group of scholars-the neofunctionalists-whose writings for many years have been unfashionable. They provide the essential context of theory in which to place the practice of diplomacy and even the speeches of Prime Ministers so that they might be better understood.²⁴

The most sophisticated and persuasive account of European integration as an intergovernmental process can be traced back to Stanley Hoffmann. He recognized that throughout the postwar era both the logic of internal circumstances and external constraints had induced Europe's states to revise their approach to regional issues and, the traditional model of sovereignty had become obsolete. Under the prevailing conditions regional integration was

²⁴. Peter Taylor, *International Organization in the Modern World –The Regional and the Global process* (New York: Pinter, 1993), p. 77.

certainly a fact, but it remained a modest interstate arrangement.²⁵ Hoffmann remained entirely unconvinced of the claims by supranational theorists in general, and the neo-functionalists in particular, to have recognized a unique functional momentum, which threatened to erode national sovereignty, and thereby to replace the nation-state as the focal point of international politics. In Hoffmann's accounts of the limits of European integration, the nation-state remained the principal actor in the regional process.

According to Hoffmann's thesis, the nation-state persists as the main agent and the critical building block for the conduct of the international politics. He shared fundamental realist precepts about the logistics of the international system.²⁶ Accordingly, states continue to collide in an anarchic universe and, even then retain their elemental and ubiquitous qualities. They represent natural and timeless, rather than merely conditional human needs. As such, they are a more culturally rooted, organic and, conservative force than is envisaged by the proponents of either the federalist or functionalist paradigms.

Hoffmann put the condition of contemporary European politics as,

The past lives on ... as a series of problems, tensions, atavisms - old institutions, modes of authority.....models of rationality that no longer fit the advanced industrial societies of Western Europe...The future too, of course, is viewed in national terms because of those same idiosyncrasies that have kept the Western European nations from building a common state; they are partly deep residues of the past, partly distinctive features of their present political and social

25. Stanley Hoffmann, "Reflections on the Nation State in the Western Europe today", *Journal of Common Market Studies*, Vol. 21, 1982, p. 35.

26. Stanley Hoffmann, 'Obstinate or Obsolete? The Fate of the Nation State and the Case of Western Europe', *Daedalus* (Cambridge, Massachusetts), Vol. 95, Summer 1966, pp. 863-6.

systems. Old blinders or worries, present crises, and opportunities loom large in such visions.²⁷

In essence the nation-state remained for Hoffmann the obstinate rather than the obsolete player in international politics. According to him:

Thus, the nation state survives by the formidable autonomy of politics, as manifested in the resilience of political systems, the interaction between separate states and a single international system, the role of leaders who believe both in the primacy of 'high politics' over the kind of managerial politics susceptible to functionalism, and in the primacy of the nation, struggling in the world today over any other form, whose painful establishment might require one's lasting withdrawal from the pressing and exalting daily contest.²⁸

The set-back suffered by the European community during the mid-1960s in its efforts to increase the power of supranational organization and the failure to establish a common defence and external policy established the fact that even if all other members are willing, one member state could make a halt to the process of integration. Thus, the integration movement was based on pragmatic politics, which was stalled by the opposition of one member state whose government viewed increase supranationality as detrimental to its own conception of a proper European foreign policy and defence posture. Hoffmann also holds the same viewpoint:

The failure (so far) of an experiment tried in apparently ideal conditions tells us a great deal about contemporary world politics, about the chances of unification movement elsewhere, and about the fictional approach to unification. For it shows that the movement can fail not only when there is a surge of nationalism in one important part, but also when there are differences in

^{27.} Stanley Hoffmann, "Fragments floating in the here and now", *Daedalus*, Winter 1979, pp. 13-14.

^{28.} Stanley Hoffmann, n. 26, p. 901.

assessments of the national interest that rule out agreement on the shape and on the world role of the new, supranational role.²⁹

During the 1980s, he acknowledged that things were no longer same as they used to be in the heydays of realism. Even then, he was confident of the nation-state's resilience to co-exist with the European enterprise', rather than being subsumed within it. He agreed with those realists who continued to argue the case that regional integration had come to the rescue of the European nation state, and had enabled it to adapt to the new exigencies of global political economy rather than burying it in altogether new political arrangements.

Indeed, the relations between the Community and its members are not a zero sum game; the Community helps preserve the nation-state far more than it forces them to wither away.....The most striking reality is not the frequent and well-noted impotence of the so-called sovereign state. It is its survival, despite the turmoil.³⁰

Inter-governmentalist theory seeks to analyze the EC as the result of strategies pursued by national governments acting on the basis of their preference and power. The major agenda- setting decisions in the history of the EC, in which common policies are created or reformed, are negotiated inter-governmentally. The member states have delegated formal agenda-setting authority to the EC Commission.³¹ Thus, like many international negotiations, EC decisions of this kind can be regarded as a game of policy co-ordination with distributional consequences. Negotiations create value by facilitating mutually beneficial exchanges, but excessive costs of identifying, negotiating and enforcing bargains may obstruct co-operation.

29. Ibid, p. 867.

30. Stanley Hoffmann, n. 27, p. 21.

31. Mark A. Pollack, "Delegation, agency, and agenda setting in the European Community", *International Organization*, Vol. 51, No. 1, Winter 1997, p. 106.

International institutions can help to ameliorate some of these problems by proposing agreements, providing rules for decision-making, and the adjudication of disputes. The second problem concerns the distributional implications of interstate bargaining. The choice of a specific outcome from among many possible ones determines the distribution of expected costs and benefits among national governments.

The following three assumptions provide us a plausible starting point for the analysis of EC decision-making:

First, intergovernmental co-operation in the EC is voluntary. Neither military coercion nor economic sanctions are threatened or deployed to force agreements.³² Democratic governments are risk-averse and tend to avoid the high costs of conflict. They decline to wage war against one another, and also to use economic sanctions in trade disputes among the liberal capitalist states. Thus, fundamental decisions in the EC can be viewed as taking place in non-coercive unanimity voting system.

Second, the environment in which EC governments bargain is relatively information-rich. National negotiators are able to communicate at low costs and possess information about the preferences and opportunities facing their foreign counterparts, as well as the technical implications of policies that are of the greatest interest to them.³³

Third, the transaction costs of intergovernmental bargaining are quite low. Negotiations within the EC take place over a protracted period of time, during which member governments can extend numerous offers and counter-offers at relatively little costs. Also, side-payments and linkages can be

^{32.} Lindberg and Scheingold, n.14, p. 69.

^{33.} Andrew Moravcsik, n. 1, p. 498.

effectively put into practice. The governments can commit themselves to substantive policies through explicit institutional arrangements.³⁴ Technically, it is possible to design efficient institutions to monitor and enforce any agreement at any desired level.

In the inter-governmentalist view, the unique institutional structure of the EC is acceptable to national governments only insofar as it strengthens, rather than weakens, their control over domestic affairs. It permits them to attain goals otherwise unachievable. EC institutions strengthen the power of governments in the following two ways:

First, they increase the efficiency of interstate bargaining. The existence of a common negotiating forum, decision-making procedure, and monitoring of compliance reduces the costs of identifying, making and keeping agreements. This explanation relies on the functional theory of regimes, which focuses on the role of regimes in reducing transaction costs. The essence of the EC as a body for reaching major decisions remains its transaction-cost reducing function, as explicated by contemporary regime theory.³⁵

Second, EC institutions strengthen the autonomy of national political leaders vis-a-vis particular social groups within their domestic polity. By augmenting the legitimacy and credibility of common policies, and by strengthening domestic agenda-setting power, the EC structures a two-level game that enhances the autonomy and initiative of national political leaders with a few exceptions. EC institutions appears to be explicable as the result of conscious calculations by member states to strike a balance between greater efficiency and domestic influence, on the one hand, and acceptable levels of

^{34.} Ibid., p. 499.

^{35.} Ibid., p. 508.

political risk, on the other. Finally, each state's relationship to the outside world differs reflecting Haas' idea of "differential enmeshment of the member states in the world economy."³⁶

The EC differs from other international regimes in two salient ways: by pooling national sovereignty through qualified majority voting rules and by delegating sovereign powers to semi-autonomous central institutions. These two forms of transferring national sovereignty are closely related. Qualified majority voting, for example, not only makes the formal decision-making of any single government more dependent on the votes of its foreign counterparts, but also on the agenda-setting by the EC Commission.

EC Social Policy till the 1960s

Many writers take the view that EC policy-making is characterized by inter-governmentalism, which perceives national governments as the central actors in the process. The governments' importance is institutionalized in the European Council and the intergovernmental machinery. However, there is another dimension to the centrality of national governments, as William Wallace has noted:

National governments have been relatively successful at retaining control of the processes of Community policy-making, in most areas, and at maintaining their position therefore as the most important intermediaries, the continuing focus for national lobbying and national debate in Community issues.³⁷

^{36.} Ernst B. Haas, "Turbulent Fields and the Theory of Regional Integration," *International Organization*, Vol. 30, No.2, 1976, p. 196.

^{37.} H.Wallace, W.Wallace and C. Webb (eds.), *Policy-Making in the European Communities* (London: John Wiley, 1977), p. 302.

Policy-making in the EC is a deep political activity. For governmental and non-governmental actors, their activities in the Community are an extension of their regular activities in the domestic arena. These activities include negotiation, bargaining, persuasion and coalition building, which are important features of all policy-making.³⁸

In order to examine the national policy-making process we may adopt the term “policy style” a concept, which has been used in a comparative analysis of national politics in Western Europe. A policy style has been defined as, “ the interaction between the government’s approach to policy-making and the relationship between government and other actors in the policy process.”³⁹

In this case the others actors are those in the domestic politics. The term domestic politics is used to explain how EC policy-making is affected by behavior within the nation-states.⁴⁰ Each state’s polity has a different set of social and economic conditions that shapes its national interests and policy content. Also, each state has different ideological set-up, which determine the extent of consensus among them.

Policy-making process in the EC primarily relies on interaction between the national and EC bureaucracies. It implies that there is little scope for parliamentary institutions, whether national parliaments or the European Parliament (EP), to intervene in this process. In the early history of the EC, inter-governmentalism and the veto powers of individual nations were always

^{38.} Ibid., p. 315.

^{39.} J. Richardson (ed.), *Policy Styles in Western Europe* (London: Allen and Unwin, 1982), p. 13.

^{40.} Simon Bulmer, “Domestic Politics and European Community Policy-Making,” *Journal of Common Market Studies*, Vol. XXI, No. 4., June 1983, p. 352.

strong enough to preempt or modify centrally made decisions.⁴¹ The important distinction between formal institutional structures and actual patterns of behaviour is very pronounced in connection with the role of national governments in the EC decision-making.

The Community social policy has principally developed alongside the common market. The Treaty of Rome (1957), which is basically laissez-faire document, mentions the need to achieve economic and social cohesion. There are also specific commitments to improve health and safety at work, to facilitate free movement of labour, and to harmonize social security provisions. Although, the Treaty raises the issue of harmonization of social security, it does not provide a clear basis for Community action in this field. However, during the early years, the EC Commission saw harmonization as the need for the member states' social security arrangements to avoid distortion of competition, and to encourage the mobility of workers.⁴²

The EC social policy is set out in Articles 117-22 of the Treaty of Rome. There is considerable ambiguity about the meaning of social policy in the treaty itself. It enumerates a number of social fields, viz. employment, labour laws and working conditions, vocational training, social security, occupational health and safety and, collective bargaining and right of association where Member States should co-operate closely (Article 118). Also, the Member States are urged to ensure that men and women should receive equal pay for equal work (Article 119). The social policy has two broad

41. Wolfgang Streeck and Phillippe Schmitter, "From National Corporatism to Transitional Pluralism: Organised Interest in the Single European Market", *Politics and Society* (London and New Delhi), Vol. 19, No. 2, 1991, p. 143.

42. Jorn Henrik Petersen, "Harmonization of Social Security in the EC Revisited", *Journal of Common Market Studies*, Vol.29, No.5, September 1991, p.507.

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components, viz. one represents technical matters and, the other EC's social conscience.⁴³ The technical matters include labour mobility, industrial relations, factor mobility, etc. and, the social conscience encompasses social improvement and social harmonization.

However, a significant social policy provision in the treaty, viz. the social security regime for migrant workers, is not found in the section on social policy. It is, instead, found in provision of free movement of persons, services and capital in the Title III of Part Two, Article 51 of the EEC Treaty.⁴⁴ Thus, to the frames of the EEC Treaty, social policy included the social security and the interpersonal and inter-regional distribution of income; elements of industrial and labour market policy, viz. vocational training, measures to improve labour mobility and; the social regulation, viz. primarily occupational health and safety and equal treatment for men and women.

Towards the end of the 1960s, there was a general increase in social concern in Western Europe. In 1968 the EC Commission produced a report that stressed the need for economic growth to be linked to social advance. The West German Chancellor Willy Brandt presented a paper to the 1969 Hague summit in which he called for economic and social development to move in step, and identified the harmonization of Community social policy as a minimum objective.⁴⁵ For the first time, it seemed that there was a genuine political acceptance among members to pursue the social goals on a Community level.

43. Juliet Lodge, "Social Europe: fostering a People's Europe," *The European Community and the Challenge of the Future* (London: Pinter Publishers, 1989), p.310.

44. Giandomenico Majone, "The European Community between Social Policy and Social Regulation", *Journal of Common Market Studies*, vol. 31, No. 2, June 1993, p. 154.

45. C. Brewster and P. Teague, *European Community Social Policy: Its Impact on the UK* (London: Institute of Personnel Management, 1989), p. 65-6.

During this period, workers throughout the EC gained new legal rights and labour laws developed at the national level. However, economic growth could not produce enough pressure for harmonization at the EC level.

The European Social Fund

The European Social Fund (ESF) is the primary policy instrument available to the EC in the social field. As social policy at Community level is primarily concerned with issues relating to work and employment, the ESF interacts with the manpower or labour market policies of the member states rather than the broader area of social policy. Manpower development relates to the training, motivation and productivity of human resources in public and private employment.⁴⁶ It provides benefits when skills and workers are in short supply in the EC.

The fund was established to improve the utilization of manpower in the member states. Its objectives are clearly stated in Article 123 of the EEC Treaty, which held that it should render easier employment of workers and, increase their geographical and occupational mobility through vocational training and resettlement allowances. The treaty specified its mode of operation and scope but allowed for periodic revisions and the granting of new tasks to the Fund.⁴⁷ It was operational roughly from 1962 and acted as a clearinghouse through which reimbursements were channelled by member governments to public bodies.

Between 1962 and 1968, almost one million people benefited from the

^{46.} Victor Petaccio, "The European Social Fund-Phase I in Positive Retrospect", *Journal of Common Market Studies*, Vol. 10, No.3, 1962, p. 249.

^{47.} *Ibid.*, p. 250.

fund's assistance. However, during 1965 discontent was growing over alleged inadequacies in reimbursements procedures of the ESF. It was suggested in the EC Council and EP that the fund was not keeping pace with labour needs by improving the situations of some native workers.⁴⁸ By the end of 1968, input of foreign workers increased considerably in the EC. Additionally, certain member states found the opportunity to export redundant workers away from labour surplus situations at home, which further complicated the problem. Therefore, the need for reform of the fund arose urgently.

In 1971 the fund was reformed for the first time and its scope of action was widened considerably.⁴⁹ It operates on the basis of two main areas of intervention, which are as follows:

Article 4: the fund may intervene when the employment situation is being affected by special measures adopted by the EC Council in the framework of Community policies. This article requires a specific decision of the Council to become operational.

Article 5: the fund may intervene where employment in certain regions, certain branches of the economy and certain groups of undertakings is threatened. The main emphasis is on long-term structural unemployment.

The ESF like the other structural funds available to the Community is a co-financier with the national authorities. It pays 50% (in many cases 55%) of the cost of approved programmes and can be defined as a "parallel instrument." The 1971 legislation on the reform of the ESF required the EC Commission to produce yearly guidelines on the management of the fund, which should be

^{48.} Ibid., p. 251.

^{49.} Council Decision 71/76/EEC in the *Official Journal of the European Communities*, No. L 28, 4.2.1971.

geared to the economic and social situation in the Community. This would take account of ensuring the harmonious development of the Community, the extent of the imbalances in the labour market and, the economic capacity available for correcting them.

The operation of the ESF entails a number of different activities that shape the work of the ESF directorate. Each year the applications for assistance must be processed, payment claims assessed, control procedures enacted. Also, an Annual Report on the activities of the fund and guidelines for the management of the ESF are drawn up.⁵⁰ These activities generate a considerable workload, which is at peak during certain periods in a year.

The ESF Committee is made up of national delegations representing central governments and the social partners. The participation of the social partners reflects the characteristics of this policy segment at national and EC level. The Committee meets twice or thrice in a year to receive the applications of aid. Prior to this, a working party examines all applications and only marginal cases are presented to the Committee for detailed discussions. Over the years the Committee and the EC Commission had developed a flexible case law approach to the granting of aid.⁵¹ A profile of the type of application under each area of intervention submitted by the member states is built up. Ongoing national programmes are given aid in a fairly automatic fashion provided that they fall within the guidelines and sufficient resources are available. New programmes, which involve certain principles, are the subject of intensive and often heated debate at the Committee stage.

^{50.} Brigid Laffan, "Policy Implementation in the European Community: The European Social Fund as a Case study", *Journal of Common Market Studies*, Vol. XXI, No. 4 June 1983, p. 396.

^{51.} *Ibid.*, p. 397.

The EC Commission in its role as administrator of the Fund emphasizes consensus- building among the participants at the implementation stage of the policy process. Thus, it fosters close ties with the national and sub-national officials. Disagreements may emerge at the implementation stage among the participants in the Fund Committee and, between the Commission and the individual member states. However, these disagreements are constrained by the agreed framework established at the Council stage and the tacit rules of the game.⁵² A common purpose develops between the Commission and the officials, who manage or run training programmes at national levels. Thus, it develops a clientele relationship with the training agencies in the member states to a certain extent.

In each member state one ministry has the responsibility for the management of the fund, as the regulations stipulate that only member states are competent to forward applications for assistance. The national government's ministry plays a multiplicity of roles in relations to the management of the ESF. It acts as a clearinghouse for applications and payments bringing it into contact with the public and private agencies engaged in training. Prior to forwarding applications to Brussels, national officials ensure that the applications are in accordance with the legal requirements of the fund.

These are a large number of agencies benefiting from the ESF finance, viz. central government ministries, state agencies, voluntary organizations and private industries. An important feature of the fund is that the beneficiary agencies get finance directly; it is not absorbed by the central exchequer. The importance of ESF finance varies from country to country. In 1976 it was estimated that it provided 5-10% of the total training budgets of the member

^{52.} Ibid., p. 398.

states.⁵³ The fund has been of particular importance to Ireland and the Mezzogiorno as these are classified as priority regions and, thereby benefit from a higher rate of intervention.

The fund can be assigned a valuable role in the Community's social integration and vocational development. The ESF justifies what Sergio Barzanti has once expressed. He wrote:

The Social Fund is of the greatest importance. It could even become the nucleus around which a European system can evolve that guarantees economic security to workers, and could also give a certain degree of stability as far as labour is concerned to the enterprises undergoing modernization. If adroitly administered, the Fund could become one of the chief instruments in reconversion of the European economies and help to smooth the process of integration.⁵⁴

EC Social Policy during the 1970s

In the October 1972 Paris summit, the European leaders called for concrete measures to be taken in the social field, and for corresponding resources to be devoted to this end. The EC Commission was asked to prepare a Social Action Programme, which would provide a framework for the future Community action. In response, the Commission produced a Social Action Programme in 1973, which was accepted by the EC Council of Ministers in January 1974 for implementation in 1974-6.⁵⁵ It contained a long list of social

^{53.} Ibid., p. 397.

^{54.} Sergio Barzanti, *The Underdeveloped Area within the Common Market* (Princeton: Princeton University Press, 1965), p. 163.

^{55.} Stephen George, 'Social Policy', in *Politics and Policy in the European Community* (New York: Oxford University Press, 1991), p.203.

needs to be tackled on a European level and embodied a wide field of intervention in this regard.

The programme included action to achieve equality between men and women as regards access to employment and vocational training, and as regards working conditions including pay.⁵⁶ With the first Social Action Programme (1974-76), several important directives were adopted concerning collective redundancies, employees, rights on transfer of undertakings, and protection of employees in the event of their employer's insolvency. A number of directives were also adopted in the area of equal treatment between men & women, and health & safety of workers.

As the Treaty of Rome did not sanction the programme, its implementation relied upon the support of the member states of the EC. At that time, there was great enthusiasm for the programme; but when economic problems became more pronounced in the later years of the decade, many of its objectives were set aside. Even then, action on woman's issues was undertaken seriously and substantially. Therefore, woman's welfare is often cited as a major achievement of the programme.⁵⁷ It included a series of three directives, viz. direct aid from the ESF, various studies and surveys, and other executive actions in this field.

During 1970s, with the rise of women's movements demanding measures on sex equality, the EC Commission came under considerable pressure to act, and produced three major directives that were accepted by the

^{56.} Michael Shanks, *European Social Policy: Today and Tomorrow* (Oxford: Pergamon Press, 1977), p. 11.

^{57.} Harriet Warner, "EC Social Policy in Practice: Community Action on Behalf of Women and its Impact in the Member States", *Journal of Common Market Studies*, Vol.23, No. 2, December 1984, p.147.

EC Council. They were: the 1975 Equal Pay Directive (75/117); the 1976 Equal Treatment Directive (76/207), which made discrimination against women illegal in access to employment and training, and the respect to rights concerning dismissal; and the 1978 Social Security Directive (79/7), which required equal treatment in state benefits covering sickness, invalidity, unemployment benefits, and non-contributory benefits such as supplementary payments by the state to people below a nationally determined poverty line.⁵⁸

Brussels has long worked to ensure the free movement of Member State workers and the cross-border recognition of European certifications and diplomas. Even after the 1974 Social Action Programme, Brussels failed to implement any sweeping agenda of Community-wide employment regulation. The “Vredeling Directive” on procedures for information and consultation of employees in large national and multinational companies was published in 1980. It embodied EC Commission thinking that the principle of employee rights could be protected without the requirement for works councils, which were disliked by some Member States.⁵⁹ It aimed at providing information and consultation rights for employees in multinational enterprise. The proposed directive would have required head offices of large companies to inform and consult employees of subsidiaries or separate establishments through the local management structure. Also, it would have required that employee representatives be regularly informed both about the subsidiary in which they were employed and the group as a whole. The Economic and Social Committee (ESC) endorsed the objectives of the proposed directive and held that such

^{58.} Stephan George, n.55, p.211.

^{59.} European Commission, *Proposal for a Directive on Procedures for Informing and Consulting the Employees of Undertakings with Complex Structures, in Particular Transnational Undertakings*, COM(80)423 final (Brussels, 1980).

legislation ought to be harmonized in order to ensure that the common market would function properly, because divergences could lead to distortions of competition. However, the United States (US) administration at that time indicated that such a directive would damaged US- EC relations, and a number of proposals were presented in the US Congress to protect US multinational interests against enforced information disclosure. The directive became a bone of contention and a number of amendments (over two hundred) were introduced to it which rendered it useless.

Conclusion

When the ECSC was founded in 1951, social policy was not seen as a priority. Reflections on social issues did not go beyond the questions about how social costs affected competition. The founders of the Treaty of Rome (1957) were convinced that if they did not do anything substantial to promote the social issues, a strong economy would automatically provide prosperity to people. However, they obliged heads of states to pay heed to the essential objective of improving living and working conditions of their people.

In the early history of the EC, the social policy progressed very slowly. The objective of the Treaty of Rome could be realized only when EC social policy took on a new orientation during 1970s. It began to set minimum social standards to be improved on a regular basis. The way appeared open to developing an EC social policy that would simultaneously encourage upward convergence of social policy in the member states and establish EC norms based on European social values.

However, two obstacles thwarted the realization of these objectives, viz. the requirement that social policy directives be accepted unanimously by

the EC Council, and the economic crisis in Europe during the late 1970s. The British government under Margaret Thatcher consistently obstructed the passage of social directives in the EC Council. At the same time, the economic crisis increased unemployment and weakened the bargaining power of labour in Europe.

Domestic politics emphasized the lower tiers involved in EC policy-making. But literature on the subject dwelled mainly on the upper tier, that is, the formal institutional framework of the Communities. Domestic politics also underlined the fact that the lower decisional tier of the EC was rooted in the policy environments, which differ between member states and within them, according to the policy area concerned. In order to illustrate different environments, the concept of policy style was used as an analytical framework to examine policy-making in the EC.

Neo-functionalism provided some very useful concepts such as the spillover effect, the learning process, the shared political commitment between elites and leaders, the attainment of a sense of Community, externalization and the value of contractual agreements, which shed light on the integration process and provide answers concerning the development of the EC's social policy. However, it failed as the EC used to work on the basis of supranational institutions in the execution of such tasks. Decision-making was a complex process involving many actors, viz. the member state governments, the EC Council, the EP and the EC Commission.

The neo-functionalist model was full of drawbacks. One major drawback was that it paid little attention to the role of individual political actors in the European integration process. Also, it did not describe what situation, events or conditions were most favorable to these actors. In addition, it overemphasized the concept of spillover, which was not much visible in the actual working of

the EC. Yet, it remained the coherent and comprehensive theory of European integration and decision-making process.

From the beginning, Brussels tried to regulate some notable areas of social life, viz. employment, equal opportunities for men and women, the workplace's standards of safety, and basic co-ordination of social security rules. It also worked to ensure the free movement of member states' workers, and the cross-border recognition of their certificates and diplomas. Important measures were taken for the women' welfare during the 1970s, viz. the 1974 Social Action Programme and the three directives, viz. the 1975 Equal Pay Directive, the 1976 Equal Treatment Directive and the 1978 Social Security Directive. However, the Community failed to implement any meaningful Community-wide social laws throughout the 1970s.

CHAPTER II

Move towards a People's Europe

Introduction

Although economic aims were instrumental in the drive towards European integration, the social issues were also gaining momentum. The European Commission frequently held that economic union could not be achieved without social union. The counter-argument was that European social legislation would hamper competitiveness, and would not take account of local conditions. This case was put most frequently and forcibly by the British government, which believed that social legislation should be the domain of the national governments.

The Vredeling proposal became very controversial, and was discarded in 1982. In this atmosphere the need for greater flexibility in the social policy of the European Community (EC) arose. The Community was also deeply concerned at the large number of young people out of work. As there was no simple solution to this problem, it was important to coordinate all the measures affecting jobs. These concerns were reflected in the various EC Council resolutions on the part-time work, temporary work and, a Council recommendation on the reduction and reorganization of working time. There was also a renewed effort to ease the position of professionals and to harmonize technical standards. Now, the EC Commission adopted the approach of encouraging mutual recognition of qualifications.¹ Professionals qualified in one member state would then be allowed to practice in another member state if they could pass a simple test to demonstrate that they had a basic working

¹. Stephen George, *Politics and Policy in the European Community* (New York: Oxford University Press, 1991), p. 208.

knowledge of the appropriate national system, and of the language of the country.

Thus, the Community concentrated on the pressing social problems, viz. the spread of unemployment and the rising insecurity at the workplace. It started a campaign against the social disintegration resulting from long-term unemployment, particularly youth unemployment. The conclusions of the Presidency of the European Council held in Stuttgart in June 1983 referred to the various social and employment problems, viz., youth unemployment, further reform of the European Social Fund (ESF) and vocational training.² The Council completed its discussions on the further reform of the ESF.

At the same time, the Barbagali report (1983) echoed the EC Commission's concern for the reform of the ESF. The Ministers adopted a common position on the basic decision and the implementing Regulation, which would determine the allocation of ESF resources in future years.³ The compromise reflected the Commission's proposals and comprised the following elements:

- I. Assistance from the fund would be granted to promote the employment of young people under the age of 25, at least 75 per cent of available resources would be devoted for the purpose;
- II. Unemployed persons, women wishing to resume work, handicapped persons, migrant workers, persons employed in small- and medium-sized firms and vocational guidance or placement experts would also be eligible for assistance from the fund;
- III. 40% of available appropriations would be provided to schemes to

². 'Employment and social policy', *Bulletin of the European Communities* (Brussels), Vol. 17, No. 6, 1983, p. 46.

³. *Ibid.*, p. 48.

promote employment in the Greenland, Greece, the French overseas departments, Ireland, the Mezzogiorno and Northern Ireland. The remaining appropriations would be concentrated on measures to develop employment in other areas of high and persistent unemployment; and

- iv) Assistance granted from the fund for specific operations to implement projects of an innovatory nature would not exceed 5 per cent annually of total fund appropriations.

In order to attain the harmonious development of European society, to remove obstacles to the free movement of people and to maintain social cohesion, the EC embarked upon an initiative entitled, *Policy for society* in September 1983. It was designed to build on Community achievements in the fields of social, regional, educational, cultural, environmental and consumer policies and, equal opportunities for women.⁴ Starting from the Community patrimony, it was meant to enhance competence in the following matters:

- i. Employment,
- ii. Law on labour and working conditions,
- iii. Equality between men and women,
- iv. Vocational training and further training,
- v. Social security,
- vi. Protection against occupational accidents and diseases,
- vii. Hygienic working environment,
- viii. Trade union rights and collective negotiations between employers and employees,

⁴. 'Policy for society', *Bulletin of the European Communities*, Vol. 16, No. 9, 1983, p. 14.

- ix. Forms of worker participation in decisions affecting their working life.

In order to fulfil these tasks, the Community embarked on eliminating any discrimination at work and the allocation of social security benefits between employees of the member states of the EC. It encouraged their social integration into the country of residence, which was designed to provide active support for equal opportunities for men and women. It would approximate social security and assistance rules drawn up to cover maternity and children's allowances, sickness and disability aid, and old age and unemployment benefits.⁵ Also, it would maintain social and pension insurance rights in transfers between member states; promote qualified, practical and work-related vocational training with Community-wide validity of diplomas and qualifications; prevent accidents at work and occupational diseases. In order to create conditions for the social dialogue and Community-wide wage contracts and, collective agreements between employers and employee organizations; it would devise rules for the participation of employees in decisions at work and for the organization of undertakings.

Social Security in the EC

Gradually social concerns were gaining currency in the Community's functioning. In this vein, in November 1983 the Ministers for social affairs held a meeting in Athens devoted exclusively to the social security for the first time in the history of the EC. They held a wide-ranging discussion on the problems facing social security systems in a period of economic recession in Europe. In the end, a consensus emerged on exchanging ideas and experience regarding on

⁵ Ibid., p. 15.

exchanging ideas and experience regarding problems common to all the on exchanging ideas and experience regarding problems common to all the Member States.⁶ The Community selected the following areas for action:

- i. Job creation and the recruitment of women;
- ii. Vocational guidance and training of women;
- iii. The social infrastructure, particularly public facilities enabling family and occupational responsibilities to be shared more equally;
- iv. Collection of data on the situation of women in the labour market;
- v. Information campaigns about greater awareness of the problems in order to tackle discrimination against women at the work place.

In these accounts, the EC was perceived as a nation-state. Here, nationality provided citizens with a common world of meanings, which were explicitly linked to a political unit capable on acting on them. In such a situation, a common culture could sustain a mutual sense of solidarity amongst people. This common culture would help people to identify with each other and would commit them 'to dividing, exchanging and sharing social goods'⁷ amongst themselves according to the agreed principles.

In May 1984, Ivor Richard, the Member of the EC Commission with special responsibility for social affairs, presented a document entitled, *Reflection on Community Social Policy*. This paper took stock of social action at the Community level and outlined the four broad objectives of social policy: to promote the greater and wider availability of employment; to reinforce social

⁶. 'Employment, education and social policy', *Bulletin of the European Communities*, Vol. 16, No. 11, 1983, p. 31.

⁷. Michael Walzer, *Spheres of Justice: A Defence of Pluralism and Equality* (Oxford: Martin Robertson, 1983), p. 28.

solidarity within and between Member States; to improve living and working conditions and to facilitate change by the achievement of consensus through negotiations.⁸ Therefore, the Community was requested to initiate work in the following areas/fields:

- i. To define the principles of forward labour management, in particular analysing new demands for skilled personnel;
- ii. To identify short- and medium-term sectoral trends, in particular the prospects of employment resulting from the implementation of new technology;
- iii. To strengthen cooperation between industry and the training-institutions in order to impart new skills to people whose employment is affected by technological innovations; and
- iv. To encourage the systematic study of the related ergonomic implications, taking into account the occupational and social integration of vulnerable categories of workers, particularly the handicapped.

A Seminar entitled, *Employment Policy and the Labour Market* was held in Amsterdam from 27 February to 1 March 1985. It was organized as a part of Misep (Mutual information system on employment policies), which played an important role in coordinating Community's policies. The themes discussed were concerned with the influence on labour market trends of unemployment insurance systems, the rules governing the registration of job seekers, and the role of placement services in implementing employment policy in the EC. The European Parliament (EP) gave a favourable opinion on the EC Commission's communication to establish the order of priority

⁸. 'Employment, education and social policy', *Bulletin of the European Communities*, Vol. 17, No.5, 1984, p. 84.

while granting the ESF assistance to the regions.⁹ Then, it made the list of priority regions on the basis of the proposed statistical machinery so that they could be used in assessing the grants to be given. Also, the EP adopted a resolution on the women's rights.

The Standing Committee on Employment in May 1985 discussed matters focused on the employment situation in the EC. It would pursue employment-generating patterns of stable, non-inflationary growth by strengthening Europe-wide measures to create more jobs. It stressed that no policy measure or initiative could be effective without a genuine social dialogue.¹⁰ Also, it proposed specific measures to enhance the social dialogue in the EC. They were as follows:

- i. Creation of a modern labour market to meet the needs of all the parties concerned while ensuring equal opportunities between men and women;
- ii. New technologies to provide a means of combating unemployment and creating jobs, to acquire a leading position in the fields of future and to develop new products and services.
- iii. Further initiatives to encourage the development and regeneration of the economy and employment, especially in areas suffering from underdevelopment, undergoing major structural changes or experiencing high levels of unemployment.
- iv. The creation of a large and barrier-free market, which would bring dynamism to the European economy and would provide for new

9. 'Employment, education and social policy', *Bulletin of the European Communities*, Vol.18, No.3, 1985, p. 31.

10. 'Employment, education and social policy', *Bulletin of the European Communities*, Vol.18, No.5, 1985, p. 36.

employment opportunities. It must go hand in hand with the creation and organization of a European social dimension based on a genuine social dialogue.

Social Dimension of the Single European Market

In June 1985 the EC Commission put forward a White Paper under the title, *Completing the Internal Market*, which set out 1992 as the target for achieving the Single Market. In this vein, the Single European Act (SEA) negotiations began. The European Council meeting in Luxembourg in December 1985 adopted a social dimension to the European Union (EU).¹¹ The document was signed in February 1986 and, it largely ignored the social aspects of the Single European Market (SEM), particularly the social dimension.

The SEA negotiations can be held as a process of limiting the scope and intensity of reform. The maximalist programme of broad reform was progressively adopted in place of the minimalist programme limited to those procedural and substantive changes required to liberalize the internal market.¹² Three supranational factors repeatedly emerged in the accounts of these reforms: pressure from the EC institutions, particularly the EP and the European Court of Justice (ECJ); lobbying by transnational business interest groups; and the political entrepreneurship of the EC Commission.

The SEA was instrumental to liberalise the EC market with a number of reforms, viz. creating an area without internal frontiers in which the free

11. Juliet Lodge, "The Single European Act: Towards a New Euro-Dynamism?", *Journal of Common Market Studies* (Oxford and Boston), Vol. 24, No. 3, 1986, p. 209-10.

12. Andrew Moravcsik, "Negotiating the Single European Act: National Interests and Conventional Statecraft in the European Community", *International Organization* (California), Vol. 45, 1991, p.19.

movement of goods, persons, services and capital was ensured. Migration among member states had declined since the Treaty of Rome became effective.¹³ To increase mobility in the Community, the EC leaders embarked upon certain issues, viz. the comprehensive liberalisation of trade in services and removal of domestic regulations that act as non-tariff barriers. Thus, it can be held that the White Paper only highlighted the technical aspects of the internal market, viz. dismantling the barriers in the free movement of capital, goods, persons and services within the EC and, ignored any meaningful social policy initiative. The SEA implemented the White Paper by amending the Treaty of Rome, thereby providing legitimacy to the SEM.

The SEA came into effect in July 1986 and enhanced the prospects of the European integration. In this process the EC became more independent and no longer remained firmly controlled by individual member states. Instead, it acquired the characteristics of a supranational entity, possessing extensive transnational bureaucratic competencies, unified judicial control, and significant autonomy to develop, modify or sustain policies.¹⁴ Although the SEA streamlined decision-making by means of qualified majority voting on issues related to the single market, the social policy issues remained subject to unanimous consent.

In the mid-1980s social Europe was considered as a very volatile concept. It was owing to the fact that the single market's future was not yet secure. However, the social Europe advocates tried to put the social dimension

13. Willem Molle and Aad Van Mourik, "International Movements of Labour under Conditions of Economic Integration: The Case of Western Europe", *Journal of Common Market Studies*, vol.26 no.3 March 1988, p.336

14. Stephan Leibfried and Paul Pierson, "Prospects for Social Europe", *Politics and Society* (London and New Delhi), Vol. 20, No. 3, September 1992, p. 333.

at par with the SEM and, demanded a social dimension to parallel the single market for goods. It aimed at protecting the jobs of Northern European workers and, preventing the exploitation of the Mediterraneans'.¹⁵

Delors at that time called for the creation of a European social area. He held that "the creation of a vast economic area based on market and business co-operation is inconceivable without some harmonization of social legislation. Our ultimate aim must be the creation of a European social area. This idea was rejected as Utopian, dangerous, and irrelevant to the Community venture a few years ago. Today its purpose is clear: to ensure that economic and social progress go hand in hand."¹⁶ However, the social policy component of the internal market was once again relegated to a secondary role with regard to the economic objectives in the EC.

The social policy sector remained a potential source of dissent and only minor agreements could be reached in the field. The White Paper and the SEA gave the appearance that changes in the EC market would be irreversible. Yet, they were designed to promote only those policies considered necessary to achieve greater economic integration. Thereby, social dimension of the internal market was assigned a low status, which can be referred to as "served to meet economic needs."¹⁷

It can be held that there were limits to the institutionalisation of corporatist style governance in the EC, because of the absence of a balance of

15. Paul Teague, *The European Community: The Social Dimension* (London: Kegan Paal 1989), pp. 77-80.

16. Jacques Delors, 'Programme of the Commission for 1986', *Bulletin of the European Communities*, Supplement 1/86, p. 9.

17. Ruth Nielsen and Erica Szyszczak, *The Social Dimension of the European Community* (Copenhagen: Handelshoj - Skolens Forlag, 1993), p. 46.

class or sectoral interest at the European level. Streeck and Schmitter argued that the attempts to create Euro-corporatism failed, and a centralized pattern of interest politics did not emerge at the European level, despite their belief that it was common at the national level.¹⁸ They note that in the lead-up to the SEA “the project of European integration became finally and formally bound up with a deregulation project.”¹⁹

The European Council meeting in June 1988 stressed the need to recognize the social aspects of the internal market. It held that the large single market would offer prospects of employment by increasing prosperity in the EC. It maintained that the internal market must be conceived in a manner so as to benefit all people of Europe.²⁰ It emphasized that it would not diminish the level of social protection already attained in the Member States.

In September 1988, the EC Commission adopted a working paper on the social dimension of the internal market. It held that Community social policy must give priority to solving the grave problem of unemployment and reducing the unevenness of its impact.²¹ It examined that the Community’s unemployment rate remained almost unchanged over the last few years, at about 11 per cent of the labour force, which meant that more than 16 million Europeans willing to work were unable to find employment.

18. Wolfgang Streeck and Phillippe Schmitter, “From National Corporatism to Transitional Pluralism: Organised Interests in the Single European Market”, *Politics and Society*, Vol. 19, No. 2, p. 139.

19. *Ibid*, p. 149.

20. ‘Hanover European Council’, *Bulletin of the European Communities*, Vol. 21, No. 6, 1988, p.4-5.

21. ‘Social dimension of the internal market’, *Bulletin of the European Communities*, Vol. 21, No. 9, 1988, p. 8.

The Cecchini Report (1988) assessed the effects of the SEM on the European economy, employment levels, and the potential redistribution of employment within the twelve member states. While the enterprises' priority was for a market Europe, the trade unions' priority was for a social Europe.²² Therefore, it became imperative that the single market and the social dimension should be pursued simultaneously. The report held that the internal market would suppress certain constraints, which hampered the efficiency of enterprises. However, neither the EC governments nor the enterprises showed interest in the co-operative strategy proposed in the report.

Social Dialogue in the EC

The SEA established the social dialogue in the Community. It proved a milestone in the move towards people's Europe. This was manifested in the Standing Committee on Employment in December 1985 which discussed the matters regarding the social dimension in the Community. It criticized the neglect suffered by the social dimension by the EC Commission and the member states' governments. The European Trade Union Confederation (ETUC) took up the matter Delors, and complained to him about this serious neglect which had adversely affected the interests of the wage-earners of the EC. It demanded mutual agreement to avert unfair competition in the single market detrimental to the interests of workers.²³ Also, it made its support to the SEM conditional upon simultaneous implementation of the social dimension.

The social dialogue was covered by the SEA's Article 118B, which

^{22.} B. Vivekanandan, 'European Community and the Social Dimension,' *In Retrospect: Issues in World Politics, 1975-2000* (New Delhi: Lancer's Books, 2001), p. 428.

^{23.} 'Employment, education and social policy', *Bulletin of European Communities*, Vol. 18, No. 5, 1985, p. 36.

held that the EC Commission should develop the dialogue between management and labour at European level based on a mutual agreement if the two sides considered it desirable. It was re-activated to secure areas of consensus between European employees and trade unions on a large number of matters.²⁴ The principles of this social dialogue were:

- i. A progressive approach to the agreed solutions rather than the imposition of pre-ordained models;
- ii. The use of flexible instruments like joint opinions, framework agreements and joint declarations rather than rigid solutions like directives;
- iii. The primary initiative should be left to the social partners to search for common ground, with the EC Commission playing a role of facilitator rather than of initiator.

In a joint opinion of Val Duchesse in March 1987 the social partners recognised the need to use the economic and social potential to enhance growth in the EC. It emphasised the importance of information and consultation practices in the European enterprises. It can be regarded as a first open concept for social change within European enterprises and, as such one of the main achievements in the social field. The dialogue led to several joint opinions, out of which the double agreement of March 1987 on the new technologies (training and motivation, information and consultation) provided guidelines of major importance for the two sides of the industry throughout the EC.²⁵

^{24.} European Foundation for the Improvement of Living and Working Conditions, *Workplace Involvement in Technological Innovation in the European Community, Vol. II: Issues of participation* (Luxembourg: Office for Official Publications of the European Communities, 1993), p.33.

^{25.} Ibid.

The European Council meeting on employment and social affairs in May 1987 approved the conclusions regarding the development of continuing in-firm vocational training for adult employees. It discussed an action programme for the training of young people. It also had an in-depth exchange of views on the basis of a communication from the EC Commission entitled, *Problems of Social Security - Areas of Common Interest* on the financing of social security, the impact upon it of demographic trends and the situation of persons not covered (or inadequately covered) by social security schemes like the new poverty.²⁶ The Council achieved an agreement on the question of the internal adaptation of firms in relation to employment and discussed a EC Commission memorandum to combat long-term unemployment. It also adopted a Directive on the vocational training and protective legislation for women in the Member States.

The Standing Committee on Employment in November 1987 devoted its attention to the problem of long-term unemployment on the basis of a memorandum from the EC Commission.²⁷ The decision taken were as follows:

- i. The fight against long-term unemployment required comprehensive action to sustain growth;
- ii. Specific targeted operations aimed at reintegrating the long-term unemployed in the labour market were necessary;
- iii. Early and systematic assistance for the unemployed and development of services providing information and advice to them; and

^{26.} 'Employment, education and social policy,' *Bulletin of the European Communities*, Vol. 20, No. 5, 1987, p. 34.

^{27.} 'Employment, education and social policy', *Bulletin of the European Communities*, Vol. 20, No. 11, 1987, p. 36.

- iv. Redefining the assistance provided by the structural Funds and a substantial increase in such assistance was indispensable to the successful completion of the internal market and the genuine implementation of the social policy.

The general argument, on which the development of a policy to maintain social cohesion rested, was as follows: the internal market, while providing a net social benefit to the EC, would polarise opportunities over a period of time.²⁸ These opportunities would tend to centralise on a European scale with new market forces and influence vulnerable groups and regions in the EC. Therefore, the encouragement of new forms of mobility provided support both for marginalized social groups and geographical areas, and as such it constituted the major adjustment mechanism on which the Community's Social Policy is based.

A Community policy for social cohesion has three inter-related elements.²⁹ They are as follows:

- i. Workforce mobility
- ii. Establishing minimum social regulation, and
- iii. Developing solutions in local areas which has a mobility component.

The European Council meeting in Rhodes in December 1988 discussed the social dimension of the internal market and the associated policies. It held that implementation of the provisions of the SEA on the

^{28.} European Foundation for the Improvement of Living and Working Conditions, *Mobility and Social Cohesion in the European Community – A Forward Look* (Luxembourg: Office for Official Publications of the European Communities, 1990), p. 76.

^{29.} *Ibid*, p. 77.

completion of the internal market must be accompanied by its provisions on social policy, particularly Articles 118A and 118B.³⁰ The decision taken were very important in the context of the further progress of the social dialogue in the Community. They are as follows:

- i. Completion of the single market could not be regarded as an end in itself, and it should pursue a wider objective, viz. to ensure the maximum well-being of all;
- ii. Citizens should have access to the direct benefits expected from the single market as a factor of economic growth;
- iii. The EC action should contribute towards exploiting the available human resources to the maximum use. Reforming training schemes, including vocational training, would be a determining factor in achieving this objective.

The EC Commission made an attempt to revive the process in January 1989 at a meeting in Brussels. It was agreed to set up a steering group of the representatives of the European Trade Union Confederation (ETUC), the Union of Industrial and Employers' Confederation of Europe (UNICE) with the Commission to sustain the momentum of the process.³¹ It was decided that the subject-matter of the dialogue should include all areas of the Social Charter, with emphasis on education and vocational training and, the discussions about the question of a European company statute.

The measures were discussed in details in the member states of EC. Although the initiative had the support of the governments of most member states, the British government condemned it. This clearly indicated the

^{30.} Rhodes European Council', *Bulletin of the European Communities*, Vol. 21, No. 12, 1988, p. 8.

^{31.} Stephen George, n.1, p.215.

fundamental difference between the British government and the government of the other member states. The Conservative government under Prime Minister Thatcher rejected the proposal. The European social dialogue, therefore, progressed completely against the British disapproval.

The Social Charter & 1989 Social Action Programme

The idea of a Community social charter was designed to create a basis for the protection of individual and collective rights in the EC. To realize this objective, in May 1989 the EC Commission adopted a *Preliminary draft Community Charter of Fundamental Social Rights*; a vital aspect of the social dimension of the internal market in the context of the SEA.³² It consisted of the following contents:

- 1) Improvement of the living and working conditions in the Community: It concerns first and foremost the organization and flexibility of working time. This would also have to involve the development of some aspects of labour law, such as procedures relating to collective redundancies or bankruptcies.
- 2) Right to freedom of movement for employed and self-employed Community on the same terms as nationals of the host Member State, subject to the provisions of the Community law. They must be entitled to social protection on the same terms as national of the host Member States.
- 3) Employment and remuneration: All employment must be fairly remunerated, and this implies that a fair wage must be established by law or by collective arrangement at every level. Wages may not be

^{32.} 'Preliminary draft Community Charter of Fundamental Social Rights', *Bulletin of the European Communities*, Vol.22, No.5, 1989, p 9-11.

withheld, seized or transferred except in conformity with national regulations.

- 4) Right to social protection: Every Community citizen is entitled to adequate social protection. This principle must apply to all workers whatever their status. Also, workers unable to find employment must be entitled to a minimum income and appropriate social assistance.
- 5) Right to freedom of association and collective bargaining: Every employer and every worker in the Community has the right to belong freely to the professional and trade union organizations of their choice. This right implies that contractual relations may be established between the two sides of industry at European level if they deem this desirable. In this context the social dialogue should be encouraged at every level.
- 6) Right to vocational training: Every worker in the community must be able to continue vocational training throughout working life. Arrangements for continuing and permanent training schemes must be made, particularly as regards training leave.
- 7) Right of men and women to equal treatment: Equal opportunity and equal treatment for men and women must be guaranteed and developed, particularly the right to equal pay, access to employment, social protection, education, vocational training and career advancement.
- 8) Right of workers to information, consultation and participation: It must take into account the legal provisions, contractual agreements and practices in force in the Member States. Companies or groups of companies with undertakings in several Member States, in particular, must recognize this right.
- 9) Right to health protection and safety at the workplace: Every worker must enjoy satisfactory health protection and safety conditions at the

workplace. Appropriate measures must be taken to continue upward harmonization of conditions in this area.

- 10) Protection of children and adolescents: The minimum working age must be 16 years. All young people over this age must receive fair remuneration, and labour law must be adapted to take account of the special nature of their situation.
- 11) Elderly persons: All citizens of the Community in retirement receive incomes, which guarantee them a decent standard of living. Any person, who has reached retirement age but is not entitled to a pension and no other adequate means, must be entitled to a minimum income.
- 12) Disabled persons: To achieve the fullest possible integration of disabled persons into working life, measures must be taken in respect of vocational training and occupational rehabilitation.

The European Council meeting in Madrid in June 1989 took note of the preliminary draft and the ongoing initial debates. The final draft was completed in September 1989. At the same time, the EC Commission requested the Council to empower it to prepare an action programme for the implementation of the Charter so that it might give concrete and operational expression to these principles. The Commission faced tremendous opposition from some member states, particularly the United Kingdom (UK) while proposing legislation in this field: first was the Member States' opposition to an active European social policy, and second was the national hostility to the shift of power from the national bureaucracies to the European institutions.³³ However, these problems were resolved by means of negotiation, conciliation and collective bargaining.

³³. 'Charter opens up new chapter in battle over workers' rights', *Financial Times* (London), 12 December 1989.

In November 1989 the EC Commission adopted the “Action Programme relating to the Implementation of the Community Charter of Basic Rights for Workers”, which detailed legislative proposal to be submitted to the Council. The Social Charter and the 1989 Social Action Programme together outlined a grand design for regulating workers, pay, conditions and rights.³⁴ It was discussed at Ministerial level and adopted in December 1989 by eleven Heads of State or Government meeting (in Strasbourg) under the title, *Community Charter of the Fundamental Social Rights of Workers*.

The Social Charter was not a treaty but a declaration without the binding force of law. The Charter was both a declaration of intent by Member States’ Governments and the foundation for the future development of Community’s social policies. The preamble of the Charter emphasized the principle of subsidiarity.³⁵ The Charter laid down fundamental principles of social policy in twelve main areas. The action programme announced forty-seven new initiatives. Because the programme is a substantive elaboration of the Charter’s broad principles, it is imperative to discuss them together. The substantive social rights set by the Charter are as follows:

1. **Freedom of Movement:** This right was already legally established in the Community in Articles 48-51 of the EEC treaty. Difficulties arose in the application of this right due to discriminations in the granting of social benefits. The Charter reiterated the right of freedom of movement by declaring that “every worker of the Community shall have the right to freedom of movement throughout the territory of the Community,

^{34.} The federal Devil, *The Times* (London), June 25, 1991.

^{35.} By virtue of the principle of subsidiarity, responsibility for the initiatives to be taken with regard to the implementation of these social rights lies with the Member States and, within the limits of its power with the EC.

subject to restrictions justified on grounds of public order, public safety or public health.”³⁶

The action programme contained a number of workers’ rights initiatives, which dealt with the coordination of supplementary social security schemes. Other initiatives in this field included a ‘Proposal for a Community Instrument on the Introduction of a Labour Clause into Public Contracts’ and a ‘Communication from the Commission to the Council on the Living and Working Conditions of Community Citizens Residing in Frontier Regions and of Frontier Workers in Particular.’

2. Employment and Remuneration: The Charter stated, “All employment shall be fairly remunerated.”³⁷ The Commission also expressed concern that atypical forms of employment, such as part-time work, casual work, and fixed-term work have increased considerably in recent years, which present a risk of social dumping and competitive distortions at the Community level.
3. Improvement of the Living and Working Conditions: The Charter articulated principles for living and working conditions that could have far-reaching consequences for the labour laws of Member States. It adopted the harmonization of the duration and organization of working time forms of employment other than open-ended contracts, such as fixed-term contracts, part-time working, temporary work and seasonal work.³⁸ The Charter further stated, “The conditions of employment of every worker in the Community shall be stipulated in laws, a collective

^{36.} European Commission, *Community Charter of the Fundamental Social Rights of Workers* (Luxembourg: Office for Official Publications of the European Communities, 1990), Article 1.

^{37.} *Ibid.*, Article 5.

^{38.} *Ibid.*, Article 7.

agreement or a contract of employment, according to arrangements applying in each country.”³⁹

4. **Social Protection:** The Charter established the principle that every worker in the Community was entitled to adequate social protection, whatever his status and whatever the size of the undertaking in which he is employed.⁴⁰ Moreover, it held that workers unable to find employment are entitled to a minimum income and social assistance. The action programme included a recommendation on converging social protection programmes.
5. **Freedom of Association and Collective Bargaining:** This right existed in all EC Member States. It recognized an individual’s freedom to join or not to join organizations without suffering any personal or occupational damage, such as being assigned to a lower position. Finally, the right of collective action, including the right to strike is recognized, as the need to develop conciliation, mediation, and arbitration procedures to facilitate settlement of industrial disputes.⁴¹
6. **Vocational Training:** The Charter provided every worker the right to vocational training. It goes on to say that there shall be no nationality-based discrimination in access to such training.⁴² It called upon the public authorities, companies, and the two sides of industry to set up permanent training programs. The Action Programme contained new initiatives, including a proposal for a Community instrument on access to vocational training.

^{39.} Ibid., Article 9.

^{40.} Ibid., Article 10.

^{41.} Ibid., Article 11.

^{42.} Ibid., Article 15.

7. Equal Treatment for Men and Women: The Charter called for the equal treatment of and equal opportunities for men and women in all fields, particularly regarding access to employment, remuneration, working conditions, social protection, education, vocational training, and career development. It further stated that measures should enable men and women to reconcile employment with their family obligations.⁴³
8. Information, Consultation, and Participation of Workers: The Charter called for significant worker participation guidelines. Specifically, it would seek to impose the requirement of information, consultation, and participation of workers in companies or groups of companies present in two or more Member States⁴⁴ in the following circumstances: upon introduction of technological changes with major implications for the workforce; in case of restructuring or mergers that affect employment; in collective redundancy procedures; and when employment policies affect transfrontier workers.

In the social action programme the Commission committed to propose instrument to promote the information, consultation, and participation of workers in companies with a European dimension.

9. Protection of health and safety at the work place: This area led to the adoption of several directives following the release of a framework directive in 1989. This was an attempt to create Union-wide standards of good practice. The fishing, mining and construction industries are the major targets for improvements in health and safety practices .The Charter provided for measures when evaluating the risks incurred and

^{43.} Ibid., Article 16.

^{44.} Ibid., Article 17.

the steps taken to eliminate or reduce them.⁴⁵

10. Protection of Children and Adolescents: The Charter established that the minimum working age must not be lower than 16, with youth employment being subject to labour regulations geared to the needs of young people. It also intended to establish the right to two years of vocational training after the end of compulsory education. However, the Charter provided a potential loophole in its qualifier, “save in the case of certain jobs laid down in national legislation or regulations.”⁴⁶
11. Protection of the elderly: The Charter proclaimed, “Every worker of the Community must, at the time of retirement, be able to enjoy resources affording him or her a decent standard of living”.⁴⁷ Moreover, the Charter expressed the wish that any person who has reached retirement age, but is not entitled to a pension and did not have other means of subsistence, should be entitled to a minimum income, social and medical assistance.
12. Protection of the disabled: This aimed at giving every disabled person the right to benefit from measures for training, rehabilitation, and social and occupational integration. It included vocational training, ergonomics, accessibility, mobility, transportation, and housing.⁴⁸

But Margaret Thatcher, the staunch Conservative, regarded the Social Charter as a socialist intrusion, and monetary union as an infringement of British sovereignty. She said that harmonising welfare levels as envisaged in

^{45.} Ibid., Article 19.

^{46.} Ibid., article 22.

^{47.} Ibid., article 24.

^{48.} Ibid., article 26.

the Social Charter would mean to penalise Britain and West Germany (the too big net contributors to the Community budget) at the cost of subsidising the poorest members, like Spain, Greece, Portugal and Ireland.⁴⁹

The demand for a Social Charter arose out of the fear that the advent of the single market would lead to social dumping in the long run. The view prevalent among the affluent countries with better social provisions was that the advent of the single internal market would result in free movement of workers and their families to their countries, thus placing a heavy burden on them for social provision as well as creating housing, employment and educational demands. Also, the differences in wage levels and working conditions would tend to shift its location to their countries. This aspect of social dumping would adversely affect those nations with better provisions in the areas covered by the Social Charter.

The UK was apprehensive of this aspect and the British Prime Minister Margaret Thatcher held that the new regulations would make Europe's labour market less competitive with overseas suppliers. She said that the regulations eliminated in her own country were being sneaked in through the back door by Brussels bleeding-heart bureaucracy.⁵⁰ She asserted that Britain would never sign any such legislation.

In this vein, the UK refused to sign the Charter in 1989 and it was defended on the grounds that the areas covered by Charter were the responsibility of the individual governments and the Community was an economic institution, not a social one. The attack on this package by UK was

^{49.} 'Another EC – Thatcher war', *The Times of India* (New Delhi), 26 June 1989.

^{50.} 'Thatcher Unhappy with EC Charter', *The Hindu* (Madras), 19 August 1989.

considered as an act of treachery. However, the Charter can be regarded as a first step towards social Europe.

Towards European Union and Social Protocol

Pressures to move ahead on social issues intensified in 1991. The intergovernmental conferences (IGCs) on the Economic and monetary union (EMU) and the political union provided for the future monetary policy Arrangements along with the democratic legitimacy, with particular reference to the involvement of the EP in the appointment of the members of the EC Commission and the introduction of a co-decision procedure involving both the EP and the Council of Ministers.

The European Council meeting in Luxembourg confirmed the proceedings of the various IGCs to progress towards greater integration but regretted the slowness of progress on the Social Charter. It held that the progress made in the completion of the internal market had not been accompanied by comparable progress in the field of social policy.⁵¹ In the meeting Major held that the proposal of a social dimension remained one of the most awkward bridges to cross and, that Britain would not go back to outdated labour practices that would make the EC nations uncompetitive in the global market.⁵² He made it clear to his fellow leaders that he would never sign a new European treaty on political Union if it contained a commitment to federalism.

The European Council meeting in Maastricht in December 1991

51. 'Luxembourg European Council', *Bulletin of the European Communities*, Vol. 24, No. 6, 1991, p 7.

52. 'Major refuses to sign treaty committed to federalism', *The Times* (London), 29 June 1991.

reached agreement on the draft Treaty on European Union (TEU). One key aspect of the TEU was a more cohesive social Europe, called the “Social Chapter.”⁵³ The main aims of the Social Chapter were to improve living and working conditions, to promote employment, to encourage dialogue between the two sides of industry and, to ensure social protection in the EU. The signatory countries were required to deal with the following matters by means of the qualified majority voting system:

- i. Health and safety;
- ii. Working conditions;
- iii. Worker information and consultation; and
- iv. Equality at work between men and women.

The Social Chapter became a bone of contention and the European leaders found it very difficult to agree treaties on political and economic union. However, John Major succeeded in removing a clause giving the EC Council powers over working conditions, labour law and social security.⁵⁴ With the removal of all references to federalism, the Social Chapter was taken out of the TEU.

The unwise decision to excise the chapter from TEU left a vast field of law-making in lurch, creating both “a legal mess and an ominous political precedent.”⁵⁵ While Britain opted out of the Chapter entirely, the other eleven signed and renamed it as the “Social Protocol”. It was because the reconfigured

^{53.} ‘Social dimension’, *Bulletin of the European Communities*, Vol. 24, No. 12, 1991, p 8.

^{54.} ‘Major wins all he asked for at Maasstricht’, *The Times*, 11 December 1991.

^{55.} ‘Devilry in the detail,’ *The Times*, 14 December 1991.

agreement was appended to the end of the treaty rather than incorporated as a chapter within it.

The Social Protocol represented a major innovation in Community social policy-making. It contained a number of provisions on direct co-operation between the member states on social and labour market policy, and on the involvement of the social partners. In particular, it set forth three key innovations, viz.

First, it expanded the number of social law subjects on which a qualified majority can pass instruments.⁵⁶ It included any issue involving health and safety, working conditions, worker information and consultation, sexual equality or the integration of persons excluded from the labour market.

Second, the Protocol granted a legislative role to the social partners, the pan-European lobbying associations representing employers and unions.⁵⁷ In a unique provision, the Protocol required the Commission to submit all draft social instruments to the social partners for nine months of consultation and collective bargaining. Also, a Member State could delegate implementation of social instruments to the social partners within that state at their joint request.

The Protocol's third substantive change pertaining to social law was affirmative action regarding sexual equality.⁵⁸ The text of the original 1957 EEC Treaty had laid down the basic goal of sexual equality as a straightforward

^{56.} Peter Lange, "Maastricht and the Social Protocol: Why Did They do it?", *Politics and Society*, Vol. 21, No. 1, March 1993, p.12.

^{57.} Donald C. Dowling, "From the Social Charter to the Social Program 1995-1997: European Union Employment Law Comes Alive," *Cornell International Law Journal* (Cornell), Vol. 29, No. 1, 1996, p.55.

^{58.} Ibid.

ban on discrimination. The Protocol went further by allowing Member States adopting measures to provide for specific advantages to make it easier for women to pursue a vocational activity and to prevent (or compensate for) disadvantages in their professional careers.

Nonetheless, the treaty extended the scope of previous treaties by opening up new social policy fields, like education and health as well as granting new powers to the EP. It placed more emphasis on member states' closer co-operation to bring about improvements and raise standards. It also attempted to involve people in the decision-making process. Article 2, Title II of the treaty summed up the social goals as:

To promote throughout the Community a harmonious and balanced development of economic activities, sustainable and non-inflationary growth respecting the environment, a high degree of convergence of economic performance, a high level of employment and social Protection, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.⁵⁹

Welfare Schemes in the Member States

The welfare states in Europe can be classified into three types: liberal, social democratic and corporatist.⁶⁰ The liberal welfare systems, characterized by the UK, are limited systems in which low benefits are given on the basis of entitlement rules. Individualism and the work ethic are principles

^{59.} Commission of the European Communities, *Treaty on European Union*, (Luxembourg: Office for Official Publications of the European Communities, 1992), p. 11-2.

^{60.} See, Gosta Esping-Anderson, *The Three Worlds of Welfare Capitalism* (Cambridge: Polity Press, 1990).

associated with liberal welfare systems. The social democratic system is associated with consensual, egalitarian countries such as Sweden and Norway. It includes the principle of universal rights and acceptance of high taxes. The corporatist type is associated with countries like Germany with strong state traditions and structured relationships among labour unions, employers' associations. This type is associated with the state in the administration of welfare.

The Maastricht Treaty committed the EU to a high level of employment and of social protection, the raising of the standard of living and quality of life, and economic and social cohesion and, solidarity among member states. While member states owed responsibility for fulfilling the ideals set by the treaty, the EU also had an obligation.⁶¹ The EC Commission delineated four groups according to these broad characteristics. These were as follows:

1. Denmark, Finland, and Sweden: everyone was entitled to a basic level of income and, those in employment also to earnings-related benefits. Unemployment benefit was separate from the state system and was voluntary.
2. UK, Ireland: social protection covered everyone, with a common basic rate and means testing. In Ireland, the health service was free of charge only for those on low incomes.
3. Austria, Benelux countries, France, and Germany: benefits were earnings-related and linked to employment categories. There was also a social assistance scheme to cover gaps. In the Netherlands there were some overall systems, e.g. for pensions.

⁶¹. Vivienne Kendall, "Social Protection in Europe - National Prerogative or an EU Concern?", *European Trends* (London), 1996, p. 83.

4. Greece, Italy, Portugal, and Spain: there was a fragmented, incomplete mixture of insurance-based schemes. Pensions could be generous, but health-care was not available free except in Italy.

Another major difference between the schemes is that of retirement age. This averages about 65 for both men and women, but in some countries it is lower, e.g. 62 for men and 57 for women in Italy, 60 for both in France. In Denmark men as well as women work to the age of 67.

Conclusion

The social concerns gradually gained currency in the drive towards people's Europe in the form of initiatives like Policy for society, social security conference in Athens etc. With Delors announcement in March 1985 that no new social policy initiatives would be undertaken without a social dialogue between Europe's trade unions and employer's organizations, the move towards people's Europe movement gained momentum. However, little progress was made in the field, mainly because UNICE participated on the basis that outputs should only be non-binding joint opinions. UNICE continued to act as a brake in the move towards people's Europe. Nevertheless, the agenda had been set and could not be reversed.

When the SEA came into effect in July 1986, it was realized that the removal of barriers to trade should be balanced by some progress towards the harmonization of social conditions and social legislation in the member states. The mobility issue played a central role in the development of the internal market either by direct assistance to individuals and families, or indirectly by improving their quality of life as a result of the movement of firms and capital to their area. Regarding mobility and migration in the Community, three issues

stand out to be of particular concern:

- 1) To ensure individual rights of free movement as embodied in the Treaty of Rome and as developed in the SEA;
- 2) To ensure sufficient occupational and geographical mobility in order to maximise the benefits of the development of the internal market; and
- 3) To maintain social cohesion across the EC and to avoid certain negative effects of previous migrations, particularly by encouraging economic development in the regions of emigration and underdevelopment.

The Charter emphasized that every worker in the Community must enjoy satisfactory health and safety conditions. It further directed that measures must be taken in order to achieve further harmonization of conditions in this area while maintaining the improvements already achieved. In particular, it considered the importance of training, information, consultation, and balanced participation of workers while evaluating the risks incurred and the steps taken to eliminate or reduce them.

However, the Social Charter was full of drawbacks. It had a basic weakness that it frequently referred to terms such as 'decent', 'fair' and 'equitable' without adequate definition or reference to monetary levels. This was bound to cause problems because the use of such subjective terms starts a discussion in confusion. A consensus may develop about the meaning of these terms in relation to absolute levels of income, benefits and provisions but there is ample scope for the development of several interpretations based on the national self-interest.

Measures discussed under the Social Charter and the 1989 social

action programme made very slow progress. Some were dormant for lengthy periods, while others were so diluted that they became irrelevant to the member states already having more stringent social protection legislation in place, for example, employment legislation for pregnant women and maternity leave. Margaret Thatcher's government was strongly opposed to the Charter. In the post-Thatcher era, this attitude softened, but only marginally. The subsequent government of John Major was still opposed to the Charter as well as the Social Chapter, which was adopted as the Social Protocol without the UK's involvement.

Therefore, it can be held that the Social Charter and the Social Policy Protocol failed to provide a substantive social dimension to the EC. Despite the fact that these documents refer to explicit social policy goals and objectives, they do not impose substantive obligations on the member states in the end. As a result, the EC has relied primarily on economic growth and prosperity to improve the social condition of its peoples since its inception.

Chapter III

The Role of Various European Institutions in the Social Field

Introduction

The realization of social legislation in the European Community (EC) or the European Union (EU) involves multiple actors, both official and unofficial. The roles they play have changed over the years as a result of new treaties. The demarcation between official and unofficial actors sometimes overlaps, and the social partners play roles on both sides of demarcation. The official role of national governments in the transposition of directives is now shared with the social partners.

The main players in the determination, transposition, and implementation of European social legislation are the major EC institutions: the EC Commission, the European Council, the European Parliament (EP), and the Economic and Social Committee (ESC). These institutions attach different priority to the social concerns. The roles they play have changed through the years as a result of new treaties and the evolution of the EU as an organic entity.

These institutions are collectively responsible for the entire administrative and legislative procedures of the EU. The EC Commission acts as the formulator of proposed EU legislation; the EP and the ESC are involved in the formal consultation process on the proposed legislation; and the EC Council acts as the collective forum, where national governments make decisions on whether to approve these proposals or not. The European Court of Justice (ECJ) has also been a prime mover in the enforcement of the social legislation by pursuing its agenda at the expense of national sovereignty. However, the Committee of the Regions (CoR) is only an advisory body, and a relatively new one in which hopes are invested for the future.

The Role of the EC Commission

The EC Commission has a major role in the development of the European social policy. It has exclusive control over the initiation of the legislation and, therefore, the power to set the EC's agenda. Its other responsibilities include proposing and developing policies; management of EC finances, and supervision of member states' policy implementation; and guarding the legal framework, that is, monitoring compliance with EC law.¹ Moreover, it controls the type and timing of legislation, thereby postponing a proposal likely to fall short of the support in the EC Council or the EP.

In September 1980, the EC Commission with the assistance of CEDEFOP (European Centre for the Development of Vocational Training) organized a seminar with the objectives of providing vocational education to women so as to improve their professional status and, to propose guidelines in implementing some pilot projects on a wide scale.² The main conclusions of the seminar can be structured on the basis of two important phases of development. They are as follows:

- i. The Introductory instruction would form part of the normal schooling process, and the transitional period from school and into the workforce, called 'preparatory vocational training.'
- ii. The actual vocational training would be offered following normal schooling and, to those qualified for subsequent professional

1. Neill Nugent, *The Government and Politics of the European Union* (London: Macmillan, 1994), pp 85 – 122.

2. CEDEFOP (Berlin) and Commission of the European Communities (Luxembourg), *Innovative Training and Employment of Women, A Seminar Report, 1983*, pp 66-7.

employment. The discussions included various educational means and initiatives in connection with the re-introduction of women into the labour market referred to as 'vocational rehabilitation'.

Preparatory Vocational Training: This can be divided into four separate aims/areas. These are as follows:

- i. Providing information to young people,
- ii. Access to information through education,
- iii. Techniques in educational programmes, and
- iv. Public service systems and an overriding policy as regards support in the choice of education and vocational training.

Vocational Training: It can be divided into the following categories:

- 1) Plans of action pertaining to vocational training and employment,
- 2) Intervention in areas having a direct bearing on the labour market,
- 3) Aims and means in public policy evaluated with a view to establishing equality in the labour market.

Jacques Delors, the President of the EC Commission, frequently held that the Community's economic strength, credibility and prosperity in the world arena would depend on its capacity to build an active, open and fair society, which could mobilize the energies and talents of its people and improve their quality of life, both as workers and citizens. He also held that the development of the single market should be accompanied by greater social integration and cohesion. In the European Council meeting in Brussels in March 1985, Delors announced that no new social policy initiatives would be undertaken without a social dialogue. In this spirit, the first conference on social dialogue was held in Val Duchesse in November 1985 on the initiative of the

European Commission.³

The EC Commission's competence also emerged in the area of non-vocational higher education with the initiation of the Erasmus programme to encourage student mobility and exchange of teaching staff between institutions of higher education. When proposed in 1986, Erasmus was subjected to vigorous objection from some member states, which were unsatisfied about the treaty base under which it was being brought forward.⁴ However, it was eventually agreed. Likewise, the Lingua programme to encourage the learning of foreign languages became a subject of controversy in 1989, when the British government threatened to veto any allocation of funds to it unless the Commission withdrew proposals to extend the programme from higher education to secondary education. Eventually the proposals were modified by the Commission in order to ensure funding for the higher education part of the programme. Under the compromise, Lingua was extended only to courses for students above the minimum school-leaving age.

In February 1988 the EC Commission laid down the broad lines of European social policy for the years ahead. The aim was to complete the internal market in a way that would strike a balance between economic and social considerations. In this respect, a response was to be given to the legitimate concerns expressed by the trade unions regarding the potential social consequences of the single market.⁵ During this phase social exclusion acted as

3. European Foundation for the Improvement of Living and Working Conditions, *Workplace Involvement in Technological Innovation in the European Community, Vol. II: Issues of participation* (Luxembourg: Office for Official Publications of the European Communities, 1993), p. 32.

4. Brewster and Teague, *European Community Social Policy: Its Impact on the UK* (London: Institute of Personnel Management, 1989). p. 90.

5. 'Social dimension of the internal market,' *Bulletin of the European Communities* (Brussels), Vol. 21, No. 2, 1988, p. 24.

a key concept in the Commission's social policy discourses. Also, with a view to rapid implementation of Article 118a of the Treaty (as amended by the SEA), the EC Commission adopted a number of specific proposals relating to safety and health at work.⁶

Considering the social dimension of the internal market, the EC Commission focused its attention on the following three areas:

- i. Real freedom of movement for persons;
- ii. The social aspects of measures to bring about the large market.
- iii. The social changes that will be introduced or speeded up by completion of the internal market.

In order to realize these areas, the EC Commission encouraged improvements in the living and working conditions of the workers. It embarked on making favourable conditions for free movement in the EC. It also made various adjustments to strengthen economic and social cohesion, and promote dialogue between employers and workers throughout the EC. This was manifested when in May 1988; Delors from the European Trade Union Confederation (ETUC) platform in Stockholm began a crusade for the Community's social dimension. He held that the process of building the Community required greater economic and social cohesion, viz. reform of the structural funds, introduction and development of flanking policies, and grater solidarity between the Member States. Then, he pointed out that 'social dimension of building Europe' was both a condition and a goal for further progress in Europe and, it required exploiting the opportunities in the social field by the SEA to increase worker participation in the Community.⁷ Thus, the

6. Ibid.

7. 'Social dimension of building Europe', *Bulletin of the European Communities*, Vol. 21, No. 5, 1988, pp.8-9.

social Europe movement gained momentum when Delors called for a cohesive social Europe agenda to pursue.

In September 1988, the EC Commission adopted a working paper on the social dimension of the internal market. This was in accordance with the SEA, which incorporated a new Article 130a in the EEC Treaty for the strengthening of economic and social cohesion. It held that any social policy, whether Community or national, must give priority to solving the grave problem of unemployment. It examined that the Community's unemployment rate remained almost unchanged over the last few years, at about 11% of the labour force, which meant that more than 16 million Europeans wishing to work were unable to find unemployment.⁸ Furthermore, unemployment affected some age groups more than others, viz. rate among persons under the age of 25 was 22% which was more than twice that for other workers. It also had a lasting effect on some persons: about 50% of the unemployment had been out of work for more than a year, and 30% for more than two years. Finally, the impact of unemployment was highly uneven geographically ranging from 3% to over 30%. The other priorities were as follows:

- i. A policy designed to strengthen economic and social cohesion must tackle the handicaps suffered by underdeveloped regions, so as to attract productive capital there and, to promote their potential for internally generated development;
- ii. To raise the level of training of all workers and to establish close links between the educational system and the industry;
- iii. As regards harmonization of industrial relations and working conditions, fear of social dumping was unfounded in that social costs were not the sole factor determining a firm's competitiveness;

⁸. 'Social dimension of the internal market,' *Bulletin of the European Communities*, Vol. 21, No. 9, 1988, p. 8.

- iv. Completion of the internal market and greater economic and social cohesion would not solve all the social problems. This implied that the Community's social policy and that of the Member States would have to give priority to programmes aimed at increasing employment and social solidarity; and
- v. Dialogue between management and labour was essential in the building of social Europe.

In January 1989, Delors met the presidents and secretaries-generals of the national organizations affiliated to the ETUC, the Union of Industrial and Employers' Confederation of Europe (UNICE), and the European Centre of Public Enterprises (CEEP). The meeting, which was part of the social dialogue begun at Val Duchesse in November 1985, attached importance to the positive contributions by social and economic interest groups to the full implementation of the SEA.⁹ He presented the guiding principles of the EC Commission's programme:

- I. Priority accorded to the permanent vocational training and the existence of a European labour market;
- II. To set up a political-level steering group in order to provide a continuing stimulus for the social dialogue, to initiate and plan the work to be done on the different themes selected, and assess their follow up;
- III. To seek the opinion of the organizations represented in the social dialogue on the content of a social charter once the ESC has given its opinions; and
- IV. To consult these organizations on the proposed European company law.

In July 1990, the EC Commission launched three major new

⁹. 'Relaunching the social dialogue', *Bulletin of the European Communities*, Vol. 22, No. 1, 1989, p. 11-12.

initiatives under assistance from the European Social Fund (ESF).¹⁰ These programmes were:

- i. Euroform: It aimed to develop new qualifications, new skills and new job opportunities for the unemployed.
- ii. Now: It stood for the promotion of equal opportunities for women in the field of employment and vocational training.
- iii. Horizon: It aimed to promote the employment of handicapped persons and certain other less-favoured groups of workers.

In October 1990 the EC Commission adopted the third action programme on equal opportunities for men and women. It proposed to implement under a partnership system with the Member States and the two sides of industry, the promotion of participation of women in and their contribution to the labour market.¹¹ It laid down three priority objectives:

- I. Implementation and development of existing legal procedure with special reference to equal pay, the burden of proof, parental leave, social security and information on rights and obligations;
- II. Integration of women in the employment market, more particularly on the basis of the EC's Now initiative to encourage small businesses and cooperatives by their guidance, training and occupational reintegration; and
- III. Improving the status of women in society by means of awareness-raising measures designed particularly to promote a better image of women in the media.

^{10.} 'Social dimension,' *Bulletin of the European Communities*, Vol. 23, No. 7/8, 1990, p. 32.

^{11.} 'Social dimension', *Bulletin of the European Communities*, Vol. 23, No.9, 1990, p.2.

The EC Commission also adopted an action programme for the vocational training of the young people, their participation in adult and working life. It also extended the existing Petra programme with major innovation.¹² They are as follows:

- i. It gave young people undergoing vocational training the chance to get work-experience abroad and enhance their skills;
- ii. The programme on exchange schemes for young workers would be fully integrated and extended into the Petra programme; and
- iii. The European dimension of vocational guidance would be emphasized in the extended programme.

In November 1990 at a summit meeting of the Conference on Security and Cooperation in Europe (CSCE) in Paris, the Heads of the member states' and the President of the EC Commission signed the Declaration regarding "A New Area of Democracy, Peace and Unity in Europe."¹³ They affirmed that the ethnic, cultural and linguistic and religious identity of national minorities would be protected. They sought to reconstruct the new Europe on these precepts as the bedrock.

In May and June 1991, respectively the EC Commission adopted two important proposals for recommendation under the Social Charter: the first, which sought to increase the integration of the least advantaged sections of the population, called on the Member States to recognize the individual rights of people residing in the territory of a Member State. The second concerned the convergence of social protection systems between Member States, and the free

^{12.} Ibid, p 35.

^{13.} 'Charter of Paris for a new Europe,' *Bulletin of the European Communities*, Vol. 23, No.11, 1990, p. 126.

movement of persons. Therefore, it was primarily intended to take advantage from welfare national systems.¹⁴

The EC Commission adopted a proposal to assist disabled people in October 1991, called Helios II (1992-96).¹⁵ It aimed at intensified work on a comprehensive scale and, a consistent policy for the improved integration of disabled. Helios II extended its scope to the following fields:

- i. Prevention and early assistance
- ii. Functional rehabilitation
- iii. Integration of the disabled in schools and higher education
- iv. Access to creative activities, sports and tourism
- v. Access to new technologies.

In November 1991, the EC Commission adopted important measures in the field of higher education.¹⁶ These were as follows:

- I. Concerning the promotion of mobility in higher education, it strengthened cooperation between institutions of higher education in the Member States. Also, mobility among students and staff increased steadily.
- II. The Commission, in a memorandum, analyzed the socio-economic, political and cultural background to higher education, taking in the scientific and technological aspects too. It identified the new educational needs and, pinpointed various areas in which change was needed in order to enable higher education to impart effectively its role over the coming decades.

^{14.} European Commission, *General Report on the Activities of the European Communities* (Luxembourg: Office for Official Publications of the European Communities, 1991), p. 139.

^{15.} 'Social dimension,' *Bulletin of the European Communities*, Vol. 24, No. 10, 1991, p. 36.

^{16.} 'Social dimension,' *Bulletin of the European Communities*, Vol. 24, No. 11, 1991, p. 35.

III. The European dimension of higher education should focus on the students' mobility, study of the EC in the curriculum, the central importance of languages and the recognition of qualifications. Programmes such as Erasmus, Lingua and Comett would act as catalysts in this regard.

Announcing the Social Protocol in December 1991, Delors held that only via two-tier approach Europe could avoid the Social Charter and the 1989 Social Action Programme ideals to a low level. The Social Protocol, by requiring the EC Commission to consult the social partners from the earliest stages of a legislative initiative, provided unions and employers with an opportunity to shape the legislation.¹⁷ Indeed, by seeking to build a broad consensus prior to launching EC legislative action in this field, it also gave the social dialogue representatives a pre-eminent role in determining the future direction and shape of EC's social policy.

In December 1992, the EC Commission sought to enhance the role of the structural policies in the fight against social exclusion problem and, thereby, to expand its range of competences. Here, the Commission can be described as a 'purposeful opportunist,'¹⁸ owing to the fact that by unfair means it tried to enhance its competence by incrementally increasing its activities in areas which brought it into confrontation with the member states. It was feared that in this process it would stimulate demands for increasing transnational activities by funding transnational interest groups. Obviously, the Commission has been instrumental for developing transnational groups in the social field of the EU.

The priorities of the EC Commission regarding social cohesion were to

17. Elizabeth de Bony, "The Social Protocol: can Europe's Employers and Unions make it Work?" *European Trends* (London), 1993, p. 52.

18. Laura Cram, "Calling the tune without paying the Piper? Social Policy Regulation: The role of the Commission in European Social Policy," *Policy and Politics* (Bristol), Vol. 21, No. 2, p. 142.

increase mobility in the Community, and to address the problem in the context of social exclusion problem. Therefore, the Commission argued that

The concept of social exclusion is a dynamic one, referring both to processes and consequent situations....More clearly than the concept of poverty, understood far too often as referring exclusively to income, it also states out the multidimensional nature of the mechanisms whereby individuals and groups are excluded from taking part in social exchanges; from the component practices and rights of social integration and identity...it even goes beyond participation in working life: it is felt and shown in the fields of housing, education, health and access to services.¹⁹

This involved four main areas:

- 1) Long-term unemployment: It intended to disseminate information in the member states with a view to developing a Community approach to combat unemployment.
- 2) Local Economic Development: It included small-scale business generation in rural areas, encouraging local co-operatives and schemes to assist job seekers.
- 3) Special groups (women): Aid programmes to enable women to launch businesses and increase their occupational mobility. The equal opportunities programme within Directorate General (DG V) undertook a wide amount of work in the period of 1990-93.
- 4) Other special groups: To begin programmes to assist an ageing population, the disabled, the unemployed youth, the migrants and the refugees, etc.

^{19.} Commission of the European Communities, *Towards a Europe of Solidarity: Intensifying the Fight against Social Exclusion, Fostering Integration*, COM(92)542 (Luxembourg: Office for Official Publications of the European Communities, 1992), p. 8.

In July 1993, the EC Commission's personnel underwent a shuffle and the social affairs portfolio was entrusted to Padraig Flynn who was instrumental in crafting a new social agenda by issuing a Green Paper under the title, *European Social Policy: Options for the Union*. The Paper was designed to stimulate debate in the Member States regarding the role of EC's social policy. It first looked at the achievements of the Community in the social sphere, concentrating on the results of the implementation of the Social Charter. Then, it dealt with major challenges facing Europe: combating unemployment, the changing role of the Welfare State, issues of social justice, implications of the globalization of economic activities, and the changing nature of production. It emphasized that economic and social policies must be developed in a spirit of partnership as social and economic integration and income maintenance were the principle objectives of Community's social policy.²⁰ Finally, it described the major elements of the social policy: free movement of workers, the social dialogue, health and safety at workplace, role of the ESF in fostering economic and social cohesion, and international cooperation in the social sphere, particularly with the International Labour Organization (ILO).

In November 1993, the EC Commission adopted the first periodic report on social protection in Europe. The report adopted a three-fold approach²¹ First of all; it looked at the social protection situation in the community, identifying points in common and differences between Member States, and provided comparative data on the rates of benefits payable in

^{20.} Commission of the European Communities, *European Social Policy: Options for the Union*, COM (93) 551, A Green Paper (Luxembourg: Office for Official Publications of the European Communities), 1994, p. 12.

^{21.} 'Employment and social policy', *Bulletin of the European Communities*, Vol. 26, No. 11, 1993, p. 46.

specific situations. Secondly, it examined the major changes in the Member States since 1980s, with particular reference to the trends in social protection expenditure and the main legislative changes in this field. Thirdly, it considered major problems in connection with social protection, viz. the control of health expenditure, women' work and the responses of the various social protection systems to atypical social-demographic situations.

A number of fundamental questions central to the development of European social policy were also raised in the EC Commission's White Paper entitled, *Growth, Competitiveness and Employment: The Challenges and Ways Forward into the 21st Century*. It emphasized the principle that competitiveness was crucial for wealth and job creation and a re-orientation in this direction is required in the European labour market policies.²² It contained a number of measures which focused around certain principles for the future role of the Union. They were as follows:

1. Social and economic integration: The highest priority should be given to the creation of new jobs and to integrate people into society. This was seen as the only way of financing social policy systems.
2. Competitiveness and social progress: To compete in the world markets, the EU should develop an efficient, quality-based economy with significant investment in the new technologies. The key to this was a well-educated, adaptable and highly motivated population.
3. Convergence, which respects diversity: The diverse cultures of the EU should be converged and, certain common objectives to be adopted so as to accelerate the move towards social Europe.

^{22.} See, European Commission, *Growth, Competitiveness and Employment: The Challenges and ways forward into the 21st Century*, COM (93) 700, A White Paper (Luxembourg: Office for Official Publication of the European Communities), 1993.

4. A level playing field of common minimum standards: These standards should not over-stretch the economically weaker Member States. Low social standards should not be used to create a cheap labour society, which would result in unfair economic participation. The aim should be to improve standards across all Member States.

Thus, this paper stressed the need to widen considerably the access to work, to widen the concept of work, and to build a new solidarity based on using productivity gains to create new jobs rather than increase incomes of those in employment. In particular, it underlines the need to ensure that progress in achieving equal opportunities is further used, particularly in view of the increased participation rates of women, changing family structures and roles, and the need to maximize the potential of all the Union's human resources.

Commission's White Paper in July 1994 entitled, *European Social Policy: A Way Forward for the Union*. The Paper confirmed that the pursuit of stable jobs would be the Union's top priority. It held that social progress is not an obstacle to economic competitiveness and the resultant creation of jobs.²³ It advocated integration of social and economic policies and highlighted the following:

- i. Completion of the legislative programmes laid down in the Social Charter;
- ii. Proper implementation of existing legislation, particularly in the field of health and safety;

^{7.} European Commission, *European Social Policy: A way forward for the Union*, COM (94) 333, A White Paper (Luxembourg: Office for Official Publications of the European Communities, 1994), p. 12.

- iii. strengthening co-operation in respect of social security systems; and a new action programmes on equal opportunities for men and women along with measures to combat all forms of discrimination, racism and xenophobia.

The Role of the European Council

The European Council is the main source of EU's legislation, though it shares legislative power with both the EC Commission and the EP. It is the permanent negotiating forum to represent the interests of the member states of the EC. The Council's influence in the social field depends upon the political agenda of the national governments in power in the member states. Member state governments, in turn, assume the role of the President of the Council for six months. The country holding the presidency sets the agenda, which provides the presiding country to focus EC efforts towards the issues of its priority. For example, when France held the presidency, its socialist government was instrumental in the adoption of the Social Charter.

Under the Luxembourg compromise, which effectively governed decision-making in the EU from about 1966 (when the Treaty of Rome was drafted) till 1986 (when the SEA came into effect), the Council of Ministers dominated policy-making process. Figure 1²⁴ depicts this process. Though the formal right to propose legislation lied exclusively with the Commission, proposals could only become law if they were supported unanimously in the Council. This effectively gave all the decision-making power to the member state government with least interest in changing the status quo. Thus, there was a powerful lowest common denominator bias in Council deliberations and the

^{24.} Geoffrey Garrett and George Tsebelis, "An institutional critique of intergovernmentalism", *International Organization* (California), Vol. 50, No. 2, Spring 1996, p. 282.

pace of integration was accordingly slow, determined by the preferences of the least integrationist member state.

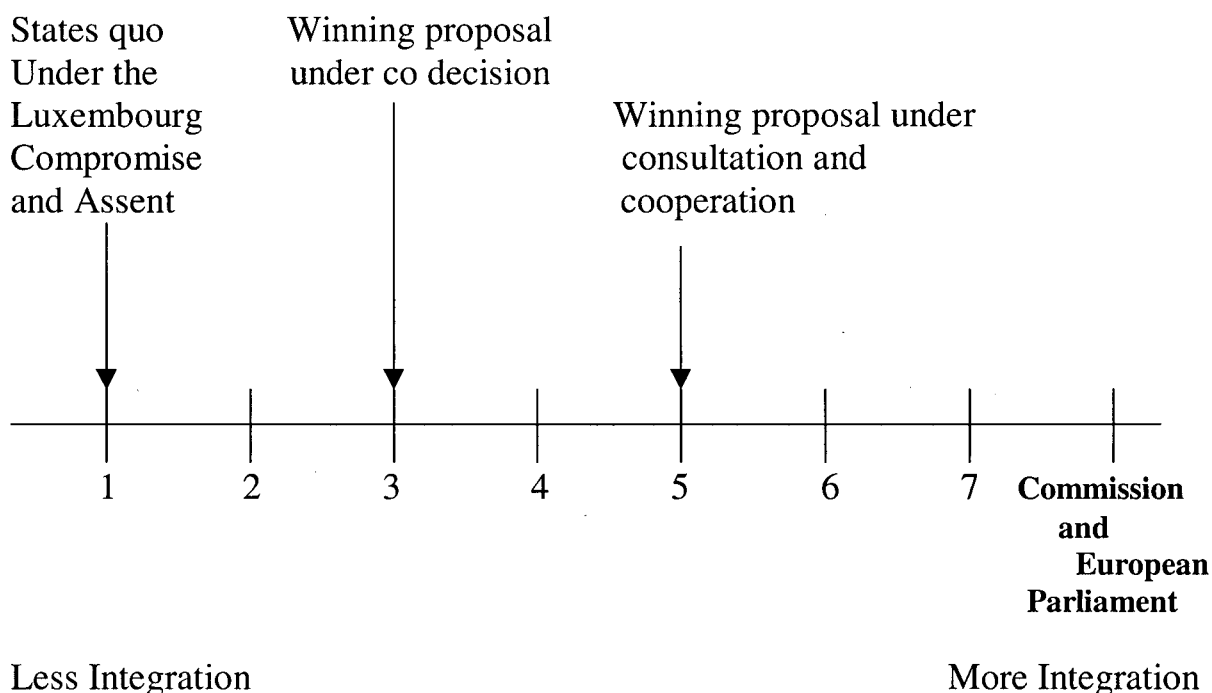


Figure 1: Decision making procedures and policy outcomes in the European Union, where 1-7 =governments' preferred positions.

The SEA replaced the Luxembourg compromise, which required decision to be taken by unanimity, with a qualified majority voting to the Council.²⁵ Now, the voting in the Council is weighted, and the total number of votes is seventy-six. In the qualified majority voting the Council proceeds as follows:

10 Votes: Britain, France, Germany, Italy

8 Votes: Spain

5 Votes: Belgium, Greece, Netherlands, and Portugal

3 Votes: Denmark, Ireland

2 Votes: Luxembourg

²⁵. Andrew Moravcsik, "Negotiating the Single European Act: National Interests and Conventional Statecraft in the European Community", *International Organization*, Vol. 45, 1991, p. 20.

A majority is then constituted by 54 of the 76 votes. Under this system, the consent of at least two of the largest countries is required to pass any directive, and the largest countries need to find allies among the small in order to create a majority. We will confine our study to specific Council meetings.

The European Council meeting in London in December 1986 stressed the importance of adopting an action programme for employment growth. It held that economic and social progress, and the constant improvement of the living and working conditions of the people of Europe were central goals of the Community.²⁶ It adopted a Directive on equal treatment between men and women in self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood.

The European Council meeting in Dublin in June 1990 attached importance to the development of the social dimension in all its aspects. It was held that the opportunities offered by the completion of the internal market should be fully exploited to the benefit of all of the people of the Community. It welcomed the measures adopted recently by the Council of Social Affairs on action to assist the long-term unemployed, on vocational training and on health and safety of workers.²⁷

The European Council meeting in Rome in December 1990 committed to give equal weight to the social and economic aspects. It held that the establishment of the single market must result in a genuine improvement in employment and, in the living and working condition of all Community

^{26.} 'Employment, education and social policy', *Bulletin of the European Communities*, Vol. 19, No. 12, 1986, p.

^{27.} 'Dublin European Council', *Bulletin of the European Communities*, Vol. 23, No. 6, 1990, p. 9

citizens.²⁸ This applied particularly to the proposals on health protection and safety at work. With regard to other proposals on working conditions and industrial relations, vocational training, free movement of workers and equal treatment for men and women, it requested the proceedings to be speeded up. It also emphasized the importance of the family as an essential aspect of solidarity and social cohesion.

The European Council meeting in Lisbon in June 1992 welcomed the progress made recently in social matters and urged the Council to continue its efforts in this field as the necessary complement to the realization of the internal market. It adopted a recommendation on common criteria concerning social protection systems in the Community.²⁹ It contained a number social assistance provisions in order to enable people to live with dignity.

The special meeting of Heads of State was held in Birmingham in October 1992. The main aim of this special summit, convened against the difficult background of monetary upheaval and public concern about ratification of the TEU, was to convey a message of confidence in the continuation of the Community venture.³⁰ It reaffirmed the importance of completing the ratification process as quickly as possible, without altering the text of the treaty. The EP hailed the summit as a first step towards greater transparency and democracy in the Community.

The European Council meeting in Edinburgh in December 1992

28. 'Rome European Council', *Bulletin of the European Communities*, Vol. 23, No. 12, 1990, p.13.

29. 'Social dimension', *Bulletin of the European Communities*, Vol. 25, No. 6, 1992, p. 61.

30. 'Birmingham European Council', *Bulletin of the European Communities*, Vol. 25, No. 10, 1992, p. 7

called on the Community to move forward and restore the confidence of people in the European venture. Mindful of the fact that social exclusion was the major challenge to European society, the Council held that solidarity was an integral part of the process of European integration. It held that the social aspect of the TEU made it imperative to combat exclusion as one of the basic objectives of the Community's social policy.³¹

Unemployment and the economic recession eclipsed all other issues in European Council meeting in Copenhagen in June 1993. It resolved to tackle the problem at Community level through a series of short- and long-term measures³² The Council confirmed the need for a concerted approach towards employment and social protection, and a call was also made for the adoption of a 'Solemn declaration on social exclusion', whereby the Community would help to finance activities carried out at local, regional, or national level.

The Role of the European Parliament

Primarily a forum, the European Parliament (EP) is the weakest institution of the EC system. However, it has gained some legislative power through the SEA's amendment of Treaty of Rome. The SEA associated the EP more closely with the adoption of Community legislation by means of the cooperation procedure.³³ After this, it became one of the driving forces behind the European social venture.

³¹. 'Social dimension,' *Bulletin of the European Communities*, Vol. 25, No. 12, 1992, p. 85.

³². 'Social dimension,' *Bulletin of the European Communities*, Vol. 26, No. 6, 1993, p. 7.

³³. Lord Plumb, "Building a democratic community: The role of the European Parliament," *Word Today* (London), Vol. 45, No. 7, July 1989, p. 112.

The EP has attained wide legislative powers through the Maastricht Treaty's co-decision procedure, with a conditional right to set the Council's agenda with the consent of the EC Commission. This has an important feature: in its final reading, it may by an absolute majority of its members reinsert amendments to the Commission's revised draft.³⁴

In order to combat social disintegration resulting from long-term unemployment (particularly of youth, women and other disadvantaged groups), the Parliament took an important decision in 1982 by adopting a proposal on the application of social security schemes to employed persons and their families moving within the Community. The Member States would have to take account of industrial accidents and occupational diseases under the legislation of another Member State, when assessing the degree of incapacity of an entitled person and calculating the amount of benefit due. It also favoured a special Community programme promoting greater mutual understanding between youth and the EC.³⁵

The main aims of the programme were:

- i. To improve cross-frontier social links;
- ii. To foster a sharp profile of the EC;
- iii. The historic, idealistic and forward-thinking case for closer union within the EC; and
- iv. The enhanced youth involvement in this process.

^{34.} Mark A. Pollack, "Delegation, agency, and agenda setting in the European Community," *International Organization*, Vol. 51, No. 1, Winter 1997, p. 123.

^{35.} Commission of the European Communities, *Economic and Social Committee* (Luxembourg: Office for Official Publications of the European Communities), Annual Report, 1983, p. 23.

The EP's views on social issues give rise to several Parliamentary resolutions, which are of great significance. We will discuss a few of them.

In November 1988, the EP adopted five resolutions on the European social area.³⁶ In first, it expressed regret at the lack of a consistent effort by the EC Council of Ministers in the social sphere and little interest shown by the latter with regard to its proposals. In second, it called on the EC Commission to establish the social area in a definite timetable. In third, it held that the social dimension of the internal market must be an integral component of Community's policies. In the final two resolutions, it called on the EC Commission to recognize the rights of employees in the form of a written contract.

In March 1989, the EP adopted a resolution on the social dimension of the internal market.³⁷ It contained the following themes:

- i. Free movement of persons and the right of establishment for greater integration of educational and training systems, and gradual harmonization of social legislation;
- ii. The need for harmonization of social security rules, standards and systems;
- iii. Employment policy based on the promotion and part-financing of national and regional programmes, forward planning for the labour market and, reorganization of working hours;
- iv. The underprivileged to be protected by the Community legislation binding in all the Member States;

^{36.} Commission of the European Communities, *General Report on the Activities of the European Communities* (Luxembourg: Office for Official Publications of the European Communities, 1988), p. 209.

^{37.} 'Employment and social policy,' *Bulletin of the European Communities*, Vol. 22, No. 3, 1989, p. 31.

- v. Fundamental social rights in the form of a directive and their application in the Member States; along with a formal undertaking in the form of a Charter.

In January 1990, the EP adopted a resolution on certain important legislative proposals in the social field to facilitate the harmonious development of the social dimension of the internal market.³⁸ These proposals were as follows:

- i. Labour market: strengthening and extending the scope of the employment programmes, with the emphasis on local employment initiatives, the campaign against long-term unemployment and access for young people and women to the labour market;
- ii. Employment and remunerations: directives on the right to equal treatment for workers with other than full-time employment relationships;
- iii. Improvement of living and working conditions: directives on protection against dismissal, on the reduction and adaptation of working hours, including maximum weekly and daily working hours;
- iv. Information, consultation and participation of workers: directive to guarantee trade union rights including the conducting of negotiation and activities including strike; and
- v. Equal treatment of men and women: directive on the protection of pregnant women at work.

Though the EP was disappointed by the Social Charter's lack of legal status and its applicability limited only to the working population, it welcomed the Charter as a first step in the right direction. In September 1990 the plenary

³⁸. 'Social dimension,' *Bulletin of the European Communities*, Vol. 23, No. 1/2, 1990, p. 25-6.

of the EP adopted a report by the Committee of Social Affairs on the social action programme, the 'Van Velzen report'. In this, it criticized the 1989 action programme, and suggested legislative measures for their implementation. It called for Community powers to be extended to the social area, more systematic use of the cooperative procedure, and the creation of a European Labour Court as a new division of the ECJ.³⁹ It set out the initiatives relating to:

- 1) Introduction of a minimum wage in the Member States;
- 2) Equal rights for Community and non-Community workers;
- 3) Reduction and reorganization of working time;
- 4) Harmonization of social security systems;
- 5) Transfer of social benefits from one Member State to another;
- 6) Trade union rights;
- 7) The setting up of a parity-based 'European Labour Council';
- 8) Information and participation of workers;
- 9) Equal treatment for men and women;
- 10) Protection of minors, the elderly and the disabled; and
- 11) Health and safety at work.

In September 1991, the EP adopted a resolution on the completion of the internal market. The social dimension stressed the need to improve the procedure for incorporating directives relating to the social dimension into national law. It called on the EC Commission to implement specific measures contained in the 1989 action programme and, to produce a new programme on the social rights of citizens, along with an action programme for further vocational training.⁴⁰ It also called on the EC Council to prevent adoption of

^{39.} Wim Van Velzen, "The Community's Labour Pains," *European Affairs* (Amsterdam), December 1991, p.64.

^{40.} 'Social dimension,' *Bulletin of the European Communities*, Vol. 24. No. 9, 1991, p. 25.

directives relating in particular to workers, unemployment, parental leave and social security schemes.

The EP in February 1993 adopted a resolution on employment, recession and investment in which it held that the Edinburgh Council failed to prevent a further increase in EC unemployment.⁴¹ It urged the EC Commission to adopt a more vigorous social policy and to support investment in poorer regions and areas threatened by economic decline. It also called on the Member States to combat all forms of social marginalization, and to improve coordination of their social and economic policies.

The Role of the Court of Justice

The Court of Justice (ECJ or Court) does not participate in the legislative process directly, but its role as the watchdog of the EC is crucial. For this purpose, the Treaty of Rome (1957) gave the Court considerable jurisdiction. The three articles of the treaty are of particular importance in this regard. They are: Articles 2, 118 and 177. The Court has interpreted these articles in terms of the obligations imposed on member states and the rights conferred on the individual. The primary functions of the ECJ are direct application of the EC law in certain cases, as in disputes among EC institutions; and interpreting the provisions of EC law for application in national legal systems.⁴²

Treaties are generally not considered as a constitution, which would provide individuals with enforceable rights based on the obligations incurred by

^{41.} 'Social dimension,' *Bulletin of the European Communities*, Vol. 25. No. 12, 1992, p. 85.

^{42.} Neill Nugent, n.1, pp. 220-34.

their signatory nations. However, the ECJ has interpreted the Treaty of Rome as a constitution, thereby making of the foundation of an international legal order that imposes substantive obligations on the Member States and confers corresponding rights on individuals arising from those obligations. As the Community is founded upon the principles of economic integration and liberalism, the Court can be assigned the role of the guarantor of the integration process.

The treaties are a de facto, if not a de jure, constitution of the EU, and thus of its member states. The legal mechanism whereby these treaties have so much power rest not only on the requirement that governments must revise their domestic legislation to come into line with the treaties and directives, but also, and on the doctrine of 'direct effect' whereby the treaties and all binding EU instruments, such as Directives, impact directly on all the citizens of the EU. This doctrine means that individuals can appeal directly to the treaties and Directives of the EU without having to wait for member states to take intervening domestic legislative reform to comply with the EU. This doctrine was established by the Defrenne vs. Sabena case in the ECJ in 1979. However, according to Walter Hallstein, the first President of the European Commission, the politicians who established the EC intended the ultimate development of a 'supreme court'.

In setting up a European Court of Justice our aim was very ambitious: to crown the constitutional structure of our community with a Supreme Court which was a truly constitutional body. This European Court was to be like the Supreme Court of the United States in the days of its greatest glory under Chief Justice John Marshall. It was under his guidance that the broad outlines of the American constitution were given content form, and body by the US Supreme Court.⁴³

^{43.} Walter Hallstein, *Europe in the Making* (New York: W.W. Norton. and Co, 1973), p.35.

The first reference to social policy in the EEC Treaty is found in article 2 which referred to the “accelerated raising of the standards of living.” The scope of Article 2 was addressed by the Court in *Zeara v. Instituto Nacional de la Seguridad* case. The applicant in *Zeara* addressed the scope of article 2, after retiring from civil service position obtained a job in private sector. He challenged a recently enacted Spanish statute that denied him retirement social security benefits because of his employment status. A Spanish court inquired of the ECJ whether it interfered with the Community’s task of promoting an accelerated standard of living.⁴⁴ The Court concluded that it cannot impose legal obligation on the member states or confer rights on the individuals.

The Article 118 provides for employment, labour law and working conditions, social security and the right of association and collective bargaining between employers and workers. The Court in *Germany & others v. Commission* case discussed the scope and applicability of article 118. At issue in the case was the validity of decision that required the member states to consult with it on matters relating to their immigration policies regarding nationals of non-member states.⁴⁵ The member states argued before the Court that they had exclusive jurisdiction over immigration policies dealing with third-country nationals.

The Court rejected the member states’ argument that they had exclusive jurisdiction in this area by pointing out that the employment market in

^{44.} Carlos A. Ball, “The Making of a Transnational Capitalist Society: The Court of Justice, Social Policy, and Individual Rights Under the European Community’s Legal Order,” *Harvard International Law Journal* (Cambridge, Massachusetts), Vol.37, No.2, Spring 1996, p. 320

^{45.} *Ibid.* , p.323.

the Community was liable to be affected by the migration policies of Member States. It gave the verdict in favour of the member states holding that Article 118 did not authorise the EC Commission to impose positive substantive obligations on member states. Thereby, it avoided the need for the actors to make exhaustive agreements that anticipate every dispute that might arise among them.⁴⁶ The domestic Court that followed its judgements, met this criterion on the ground that its ruling are consistent with the preferences of France and Germany.⁴⁷

The founders of the Treaty of Rome intended the Court and its staff to interact primarily with other Community organs and the member states. In this regard, Article 177 authorises the Court to issue preliminary rulings on any question involving the interpretation of Community law arising in the national courts.⁴⁸ Lower national courts can refer such questions to the ECJ at their discretion; while higher national courts are required to request the ECJ's assistance in this regard.

In practice, the Article 177 procedure has provided a framework for links between the Court and sub-national actors, viz. private litigants, their lawyers, and lower national courts. From its earliest days, the ECJ waged a campaign to enhance the use of Article 177 as a vehicle enabling the people to challenge the national legislation incompatible with Community law. The

^{46.} Geoffrey Garrett, "International Cooperation and Institutional Choice: The European Community's internal market," *International Organization*, Vol. 46, Spring 1992, p. 557.

^{47.} *Ibid.*, p. 559.

^{48.} Anne-Marie Burley and Walter Mattli, "Europe before the Court: A political Theory of legal Integration," *International Organization*, Vol. 47, No. 1, Winter 1993, p. 58.

number of Article 177 cases on the Court's docket grew steadily through the 1970s, from a low of 9 in 1968 to a high of 119 in 1978 and averaging over 90 per year from 1979 to 1982.⁴⁹ It transferred a large amount of work concerning interpretation and application of Community law away from the province of member states.

The entire process of increasing the use of the Article 177 procedure was an exercise to convince national judges of the usefulness of the ECJ. Through seminars, dinners, regular invitations to Luxembourg, and visits around the Community, the ECJ judges put a human face on the institutional links they sought to build.⁵⁰ Many of the Court's opinions reflected the same message. It succeeded ultimately in transforming the European legal system into a split one, in which the lower courts began to recognize two separate authorities above them, viz. their own national supreme courts on questions of the national law and the ECJ on questions of the European law.

With the implementation of the SEA, the Court retreated from its activist stand. It assumed traditional functions of constitutional and administrative courts. However, its jurisprudence reinforced a range of social policy goals, including easing travel barrier for workers and the principle of equal pay for equal work between men and women. Furthermore, the Court established that under certain circumstances, some precise and unconditional EC directives might be invoked directly by individual in national courts against a member states or a combination of the states.⁵¹ Finally, the Court is the

^{49.} Hjalte Rasmussen, *On Law and Policy in the European Court of Justice: A Comparative Study in Judicial Policymaking* (Dordrecht: M. Nijhoff, 1986), p. 245.

^{50.} *Ibid.*, p. 247.

^{51.} Anne-Marrie Burley and Walter Mattli, n.44, p. 48.

ultimate arbiter of disputes over whether a particular directive can be adopted by only qualified majority of the EC Council or if unanimity is required.

The TEU reflected a determination on the part of the member states to delimit the jurisprudence of the ECJ. The ECJ was entirely excluded from two of three pillars of the Treaty: foreign and security policy, and cooperation in justice and home affairs. In addition, a number of specific articles were very tightly drafted to prevent judicial manipulation. For example, the treaty provided that the EC Council should adopt necessary measures to achieve the common objectives set forth, “excluding any harmonization of the laws and regulations of the member states”.⁵² On the other hand, another amendment allowed the ECJ for the first time, at the EC Commission’s request, to impose a lump-sum or penalty payment on a member state that fails to comply with its judgement.⁵³

The Role of Other Bodies

The other bodies include, the Economic and Social Committee (ESC) and, the Committee of the Regions (CoR).

The ESC is purely an advisory body as established by the Article 193 of the Treaty of Rome. The EC Commission and the Council must consult it during the legislative process. It represents employers, trade unions, and other interest groups such as farmers and consumers. Its representatives are drawn from the EC countries according to the proportion of their population and are appointed for four-year renewable terms by unanimous vote of the EC Council.

^{52.} Commission of the European Communities, *Treaty on European Union* (Luxembourg: Office for official Publications of the European Communities, 1992), Articles 126-129.

^{53.} *Ibid.*, Article 143.

The ESC has always stood in the EP's shadow. Therefore, a demand for its winding up arose during 1980s. However, it succeeded to prove its usefulness. At the EC Commission's request, it produced a draft Social Charter approved by an overwhelming majority of its members.⁵⁴ Its opinions reflect the concerns of labour and management, and its positions may upset one or the other as it attempts to balance workers' rights and wealth redistribution against competitiveness and business flexibility.

During the 1990s, the ESC approved the amendments proposed by the EC Commission regarding accidents at work and occupational diseases. Also, it approved the Commission's draft directive on the implementation of the equal treatment for men and women in occupational social security schemes and agreed that it complied with Article 119 of the Treaty of Rome. It also favoured increasing the role of young people in the development of the EU's policies.

The CoR was established by the TEU as a consultative body. In 1994, it started working as prescribed by the treaty. During its first four years, the CoR embarked on fulfilling these tasks. The main task of the CoR is to see that EU policies take into account the interests of the decentralised governments, and their potential contribution to the European integration.

As a part of the political structure of the EU, the CoR provides an essential dimension to the EU policy-making and legislation. It is the guardian of the principles of subsidiarity and proximity in the EU. It believes in the principles of equal treatment and equal opportunities, and to this end, in fighting any discrimination based on sex, racial or ethnic origin, religion or

^{54.} Clause-Dieter Ehlermann, "The Commission lacks power in 1992 process," *European Affairs*, Spring 1990, p.73.

belief, disability, age or sexual orientation.⁵⁵ Also, it supports equal opportunities and equal access to education and social protection, thereby promoting social cohesion in the EU.

The CoR is firmly committed to the basic principles of democracy at all levels of government and in all sectors of society. It advocates the concept of a European citizenship and all its actions aim at the development of this concept. In the period 1998-2002, it would concentrate on a number of priority issues, which can be referred to as the Policy Programme.⁵⁶

Conclusion

The institutional set-up of the EC/EU is neither purely intergovernmental nor fully supranational. The institutions constitute a complex system of interaction and were merged into the Commission of the European Communities in a merger treaty in 1967. The EC Commission is more than a typical secretariat of an international organization and less than a normal national executive. It has more powers than the UN secretariat, but less powers and legitimacy than most governments of the member states of Europe. It undertook a wide range of programmes which covered most areas of social life, viz. employment, vocational training and equal opportunity for men and women.

Under the Luxembourg compromise, the Council of Ministers was instrumental in policy-making in the EC. However, the SEA assigned significant competences to the EP in this field. The EP came closer to the social

^{55.} Commission of the European Communities, *The Contribution of the Committee of the Regions to the construction of the Europe* (Brussels), December 1998, p. 10.

^{56.} Ibid, p.21.

issues owing to the fact that the SEA extended co-operation procedures to it, which greatly enhanced its social legislation. Furthermore, the TEU provided co-decisions procedures to the EP, which further increased its powers with regard to the EC Council. The policy-making is now shared among the various European institutions, rather than monopolized by one actor. The ECJ acts as the supervisor, while the ESC and the CoR render useful advice in this process.

A number of NGOs also participated in the social issues in Europe and established contacts with various European institutions. Although their involvement is only advisory, yet they influence the functioning of the social legislation in a variety of ways. Approved EC legislation has to be transposed into national legislation in a certain time-period, which is usually two years. This is the responsibility of national governments and their agencies. The actual implementation of the legislation involves a wide range of actors including the social partners (national and European employers' organizations and trade unions); the industrial relations actors within enterprises; labour unions and their workplace representatives; and national and local company management.

The social goals were achieved via a number of means, viz. legislation, collective agreements, financial incentives and support, encouragement of co-operation between Member States, and the analysis of future trends. There was an underlying emphasis on education and training. The key to prosperity was seen as a well-educated workforce, able to acquire new skills and retraining. Social exclusion was identified as a negative and damaging factor and efforts were made to ensure social integration of all groups in the EC, thereby promoting economic and social cohesion.

CHAPTER IV

Efforts for the Construction of Social Europe since 1995

Introduction

The Treaty on European Union (TEU) was put to the severe test of ratification in the Member States of the European Community (EC) after being signed in Maastricht on 7 February 1992. The Economic and Social Committee (ESC) endorsed the objectives of the TEU and welcomed the provisions enhancing the powers of the EC. During the ratification of the treaty, it became clear that people were confused by its terminology such as the concept of subsidiarity. Member state governments blamed the EC Commission in general and, its arrogant detachment from the people in particular. It was argued that the crisis of the EC governance relied upon a serious democratic deficit as never before.¹

As the ratification process became tortuous, member state governments began to insist that a democratic deficit existed within the ranks of the EC Commission also, viz. its proposals, practices and personnel were inaccessible and an affront to the conduct of democratic politics.² It was held that in order to rectify the democratic deficit, the Commission's lack of openness should be corrected. Protest was most pronounced in Denmark. The Danes feared that subsidiarity would not ensure that decisions were made close to the people. Also, they feared that the expanding scope of integration (particularly in areas of social welfare) would deprive the people of an effective say in respect of the content and, the financing of policies within the EC

1. Juliet Lodge, "Transparency and Democratic Legitimacy in the European Community", *Journal of Common Market Studies* (Oxford and Boston), Vol. 32, No. 3, September 1994, p. 345.

2. Ibid.

competence. People doubted that subsidiarity would enhance the prospects for a functioning participatory democracy.

In such a climate the EC Commission became the focus of public dissatisfaction. It was instructed to enhance transparency to remedy its alleged deficiencies. Thus, a range of forces converged to create a situation in which it had to adopt a more regulatory approach to social policy issues. It also attempted to lay down a series of benchmarks, which can be described as 'establishing institutional norms and precedent for future action'³ in various policy fora.

The Danish referendum of June 1992 rejected the TEU and, the EC ran into trouble as to how it might develop in the future. After the Danish vote, the EC Commission adopted a low profile. It decided not to annoy national governments any more than strictly necessary in order to safeguard ratification of the treaty.⁴ Following the rejection of the treaty in the Danish referendum, the Commission began to champion increased transparency in EU decision making.

After the Danish vote, Delors began to view transparency as a useful device for exposing the Council's secretive rules of procedures. In December 1992 the EC Commission insisted that it would no longer respond to the EC Council requests for legislation. It sought to concentrate on ways in which EC Council requests for detailed amendments created problems for the Commission to pursue its work.⁵ It announced that it would not accept any amendment proposed by the Council or the European Parliament (EP) which violated the

3. Laura Cram, *Policy making in the EU* (London: Routledge, 1997), p. 108.

4. *The Economist* (London), 18 July 1992, p. 29.

5. John Peterson, "Playing the Transparency Game: Consultation and Policy-Making in the European Commission," *Public Administration* (Oxford), Vol. 73, 1995, p. 474.

principle of proportionality, which held that any EU action should be the minimum necessary to achieve any policy goal.

The EC Commission started to work on a transparency package, which was designed to resolve the chronic management problem in its functioning. The package included rigid lines of the division between spheres of responsibility within the Commission, the strong loyalties of the Commission officials to their Directorate General (DG) and their clientele, a lack of clear rules governing access to information and the existence of rivalry between the Commission's DGs and Commissioners' cabinets.⁶ The package contained ten separate measures adopted by the Commission between 1992 and 1994. It contained three central features, viz. an altered time table for publication of the Commission's annual work plan; new procedures for consultations with affected interests as proposals are formulated; and clear rules on access to information.⁷ However, the Danes approved the Treaty in May 1993 and the way became clear for the further approval of the Treaty by other member states.

In October 1993 the EC Commission adopted a declaration entitled, *Democracy, Transparency and Subsidiarity*. The Commission and EP officials accused the EC Council of paying lip service to transparency while refusing to take meaningful steps to open up its own activities. While the Netherlands, Denmark and the Commission pushed for more transparency in the functioning of the EC, the other member states declined to accept the transparency package. The text finally agreed by the Council in December 1993 contained a clause which allowed any request for information to be refused if it was

^{6.} Ibid, p. 476.

^{7.} Ibid, p. 477.

‘manifestly unreasonable...[or] contrary to the efficiency and good order of the institution.’⁸

The Dutch voted against the text and declared that they would offer their citizens and the national Parliament access to most of the EC Council documents and would take legal action against the Council on this matter.⁹ This incident highlighted that the Council was not interested in the implementation of the transparency package. Meanwhile, the EC Commission adopted its own code of conduct on access to document in February 1994. To some extent, the package allow the Commission to take the moral high ground on the transparency issue vis-a-vis Council.¹⁰ Therefore, it can be held that the package represents the first step towards open governance in the EC.

The entry into force of the Maastricht Treaty on 1 November 1993 ended a bitter 18-month ratification process at a summit meeting in Brussels. The leaders said in their declaration that the ratification debate had been salutary to reveal the weaknesses of a Europe that “seemed distant, anonymous and interfering.”¹¹ They promised a Europe closer to the citizens and intervening only where necessary in order to pursue common interests.

When the new Maastricht procedure came into force in November 1993, the EC Commission announced that it would put into effect a European Works Council Directive (EWCD) which was first proposed in 1991 but could

8. *Financial Times* (London), 5 February 1994.

9. John Peterson, n. 5, p. 480.

10. *Ibid*, p. 481.

11. ‘Maastricht take effect, but unity is still far off,’ *International Herald Tribune*, (Paris), 1 November 1993.

not be implemented at that time. The member states adopted a common position on the draft directive in July 1994 except the UK, which excluded itself from the decision-making process through its opt-out from the Social Chapter of the Maastricht Treaty. However, in September 1994 the eleven Member States approved the directive. The EU had produced the first international legislation according to employees in transnational companies rights to information and consultation.¹²

Promoting the European Social Model

European Social Model (ESM) further progressed during this period. In January 1995, the EP in a resolution confirmed its commitment to the ESM. It held that binding legislative provisions constituted an effective instrument for the achievement of a social EU in parallel with the EMU.¹³ In particular, it called for further legislation in respect of the equal opportunities, the organization of working time and the cross-border employment in Europe.

Meanwhile, in March 1995, the EC Council adopted a resolution on the transposition and application of social legislation, in accordance with the objectives of the White Paper on European social policy. It held that the Community social legislation should become a tangible reality for citizens.¹⁴ To this end, it called upon the EC Commission and the Member States to

^{12.} EU Council, *Directive on the establishment of the European Works Council or a Procedure in Community Scale Undertakings and Community Scale Groups of Undertakings for the Purpose of Informing and Consulting Employees*, Official Journal of the European Communities (Luxembourg), No. 254, 30.9.1994.

^{13.} 'Employment and social policy', *Bulletin of the European Union*, Vol. 28, No. 1-2, 1995, p. 79.

^{14.} 'Employment and social policy,' *Bulletin of the European Union*, Vol. 28, No. 3, 1995, p. 50.

implement the existing directives in this field, particularly on health and safety at work and to encourage management and labour to play an active part in the social legislation.

In April 1995, the EC Commission adopted a medium-term social action programme (1995-97). In this, it set out detailed work in the social field, which would follow White Paper on European Social Policy. It focused on five major issues viz. employment in Europe, the consolidation and development of the social legislation, equal opportunities for men and women, an active society for all the people and, analysis and research in the social field.¹⁵ It featured eleven key areas of social activity, which were as follows :

- i. top priority was accorded to creating new jobs;
- ii. to promote education and training ;
- iii. building a European Labour Market;
- iv. promotion of higher labour standards, with emphasis on health and safety at work, information and consultation of workers and organization of working time;
- v. equal treatment for men and women in all fields;
- vi. social protection for all people;
- vii. to achieve higher standards of public health;
- viii. the social dialogue should be further enhanced;
- ix. social policy analysis and research should be promoted;
- x. more effective application of community law; and
- xi. international dimension of European social policy.

In May 1995, the EC Commission advocated a move for stronger and more integrated Europe. Jacques Santer, the new Commission President, held

¹⁵. 'Employment and social policy', *Bulletin of the European Union*, Vol. 28, No. 4, 1995, p 48.

that there would be pressure on Britain to end its opt-out from the Social Charter. He said that the member states could not just pick and choose where they wanted to participate.¹⁶ The 'Brussels document' for an overall constitutional review of the Maastricht Treaty enshrined his views, viz. countries could move at different speeds depending on their parliamentary and decision-making processes, but the goal had to be same for everyone. It implied that a EU member state was either a full member or no-member at all.

On the basis of comparison with national systems it can be argued that the EC Commission developed the potential and administrative instruments essential for formulating a coherent and comprehensive social policy. However, it was thwarted in its efforts by the limited financial base in this area, a great variety of disparate social systems and the numerous attempts to undermine its actions. It tried to accommodate necessary components of European social policy but was held back by other political actors from creating an autonomous system.¹⁷ Therefore, it can be held that social policy component of the EU remained a limited success, primarily because of the objections raised by some nation-states despite efforts made by the EC Commission in this regard.

In the fourth World conference on Women in September 1995, the EU represented by Pdraig Flynn played a very active role. Flynn addressed the plenary session and the NGO Forum, which took place parallel to the UN Conference proper. He said that EU action was based on the principle that women's rights were inalienable, indivisible and formed an integral part of

^{16.} 'Reform EU before enlarging,' *The Hindu* (Madras), 12 May 1995.

^{17.} Linda Hantrais, *Social Policy in the European Union* (Basingstoke: Macmillan, 1995), p. 210-11.

universal human rights.¹⁸ He also stressed the need to take account of equal opportunities in formulating and implementing all manner of policies and programmes. Finally, he emphasized the need for partnership between men and women in this regard.

The Conference concluded with the adoption of a declaration and a platform of action by consensus, albeit with reservations based mainly on religious values. The platform for action laid down precise measures in twelve fields, concerned particularly with poverty, access for women to education and health services, and women's rights as human rights. The EP expressed its satisfaction with the platform for action, and appreciated that the EU had spoken with one voice on behalf of the Member States. However, it regretted that the EU had accepted the final declaration with no reference to sexual rights, as well as the lack of a timetable for the implementation of the proposed measures. It called on the EC Commission and the Member States to implement the decisions taken on the platform for action and act as a catalyst with regard to efforts in achieving equality for women in all fields, thereby promoting the ESM.

During the first half of the 1990s, a new version of social exclusion emerged in the form of new poverty. By excluding a large number of people from full citizenship, the spread of social exclusion constituted a serious threat to social cohesion in the European Union (EU). In order to combat this problem, a Comité des Sages was setup in order to investigate how the social and political dimension of European integration might be pursued as part of the strategy of competitiveness with a human face. The Committee held that the time had come to systematize different form of citizenship and develop an EU

¹⁸. 'Equal opportunities,' *Bulletin of the European Union*, Vol. 28, No. 9, 1995, p. 41.

‘Bill of Rights’ which would consolidate and develop key social and political rights, thereby countering the excessive emphasis on the economic dimension of integration. Thus, the Committee held that

Economic progress, which is really only a means to an end, has become an end in itself – at a time when it is harder fought yet does not benefit one and all. The Committee thinks it useful to affirm that the object of the Union is to enable every citizen to realize his/her potential in conjunction with his/her fellows, bearing in mind the necessary solidarity with future generations, and that legal rights and economic and social progress must be subordinate to that aim.¹⁹

The changes brought about by the introduction of new technologies affected every aspect of European life. It was held that the advent of Information Society would bring many benefits in terms of access to educational opportunities, and improved information about services. At the same time, it would also increase the possibilities of exclusion of those, who cannot have access to it. In relation to direct job creation, the balance between the reductions of jobs in the shorter-term would have to be adjusted against the potential of job-creation in the longer-term. In the context of unemployment in the EU, the Committee held that

Unemployment threatens the welfare state itself, both by imposing a grater burden of public expenditure and by reducing the potential tax base from which resources can be redistributed. A high level of employment providing for full utilization of the available capacity is therefore indispensable if we are to apply effective social policies and enable everyone to benefit from the growing collective wealth. In more general terms, unemployment is just as much an economic problem as a social problem, for it exacerbates public spending deficits and prevents us from using existing resources to the full. In all these contexts, therefore, unemployment amounts to a collective

¹⁹. European Commission, *For a Europe of Civic and Social Rights* (Luxembourg: Office for Official Publications of the European Communities, 1996), p. 26.

failure which necessarily has a negative effect on the building of Europe.²⁰

Future labour market trends also suggested that these changes would increase rather than decrease. The labour market in the coming years would be significantly different, as the new technology would allow faster and easier communication of information. Also, there would be a general reduction in working hours and many people would be working on part-time jobs. As such, flexibility would be an essential pre-requisite for short-term contracts. At the same time, it was feared there would be less protection for workers and an overall sense of insecurity among them. The Committee also held that

People entering the labour market with no experience (particularly young people), and those with little or no education and training will still run a great risk of social exclusion, as will those without the necessary interpersonal skills, the disabled and older people. We must not forget that social ties have slackened, both among families and in the neighbourhood; the natural social shock absorbers no longer play the part they did in the past. The same is true of other traditional benchmarks. As a result, social exclusion may hit harder than in the past despite the fact that society is richer.²¹

The development of social rights in the Member States forced the EU to take a decisive step in this regard. These social rights, which tended to merge with civil rights, found expression in the Committee des Sages proposals. They are as follows:

1. Strengthen the sense of citizenship and democracy in the EU by treating social and civil rights as indivisible;
2. Decide how and where the Union should intervene in the social sphere, according to the principles of subsidiary and proportionality;

^{20.} Ibid, p. 27.

^{21.} Ibid, p. 28.

3. Facilitate policies to enable men and women to reconcile their family responsibilities and professional activities;
4. Consolidate all provisions concerning social policies, particularly the Protocol on Social Policy, under a single title in the treaty;
5. Apply qualified majority voting in the social field, except a few sensitive policy sectors e.g. social protection and participation; and
6. Make express provisions to combat social exclusion.

The first European Forum on social policy was held in March 1996. The forum was conceived as part of the EC Commission's response to declaration 23 of the Maastricht treaty, which stressed the importance of co-operation between the EU and the charitable associations, foundations and institutions responsible for social welfare schemes.²² It was designed to enhance social dialogue and interaction between the Commission and NGOs, the voluntary sector, the social partners and all persons actively involved in the social sphere. The discussions were focused on fundamental social rights with regard to the future situation within the EU, equal opportunities, employment and social protection.

John Major, the British Prime Minister, held that the bedrock of the EU was the independent democratic nation-state in a forward to the White Paper under the title, *A Partnership of Nations*. The paper rejected the concept of an ever-closer political Union, developing gradually to a United States of Europe. He held that others wish to see the UK's opt-out removed. However, his government's position was constant, "We were not prepared to accept the social chapter proposed at Maastricht. The UK will not give up its opt-out and

²². European Foundation for the Improvement of Living and Working Conditions, *Working on European Social Policy: A Report on the Forum* (Luxembourg: Office for Official Publications of the European Communities, 1996), p. 3.

cannot be forced to do so.”²³

In July 1996, the EC Commission emphasized that demography constituted a valuable element for depicting major trends in the society. It adopted a Green Paper entitled, *Living and Working in the Information Society: People First*, which reflected the priorities of the EU.²⁴ The paper aimed to stimulate the debate with other European institutions and the Member States, and to promote dialogue between social partners on the implications of the information society for the work organization, employment and social cohesion. It raised many questions for Europeans regarding future role of the social policy in their lives.

High levels of unemployment strained the social fabric of the EU. It was estimated that with the increase in labour market transitions, there was a corresponding increase in unemployment, thereby complicating the already tense situation. People without the education and skills to compete in new information led labour market were affected seriously. The challenge in Europe was to redefine the kind of society to be built given the new economic and social parameters. The social policy of the EU played a vital part in underpinning this process of change. The welfare regime was closely linked with the ESM advocated by Delors, which in turn was strongly linked to the market economy. Such a model of society would

seek to combine a system of economic organization based on market forces, freedom of opportunity and enterprise with a commitment to the values of internal solidarity and mutual support which ensures

²³. ‘Britain will be guided by the national interest,’ *The Times* (London), 13 March 1996.

²⁴. ‘Employment and social policy’, *Bulletin of the European Union*, Vol. 29, No. 7/8, 1996, p. 85.

open access for all members of society to services of general benefit and protection.²⁵

In September 1996, the EC Commission adopted a communication concerning the development of the social dialogue at Community level. It aimed to stimulate a debate between the social partners and the EC institutions on the future development of social dialogue. It suggested a number of measures in order to increase the effectiveness of the social dialogue.²⁶ It contained the following:

1. Adaptation of the representative criteria for the organizations concerned;
2. Optimization of the exchange of information on the social dialogue;
3. Reforms needed to improve inter-professional advisory committees and the Standing Committee on Employment; and
4. Possible changes to facilitate consultation and negotiations under Agreement on Social Policy.

Policy Legitimacy and European Integration

Since the entry into force of the TEU, European integration achieved an ever-widening range of policy competence. However, Europeification of decision-making, where the European political system supersedes the national system, could not become the unit of the policy process. Two distinctive elements of EU decision-making can be emphasized here one is Europeification

^{25.} Commission of the European Communities, *First Report on Economic and Social Cohesion 1996* (Luxembourg: Office for Official Publications of the European Communities, 1996), p. 13.

^{26.} 'Employment and social policy,' *Bulletin of the European Union*, Vol. 29, No. 9, 1996, p. 51.

and the other is lobbying.²⁷ The legitimacy crisis in the EU is rooted in the changing political order, in which people have to accept the new boundaries defining the European polity as a larger system consisting of integrated policies.

The structural demands imposed on the member states by modern economic management leads them to pool sovereignty and share in common policy competences across a range of issues. This in turn, has challenged the resistance of Europe's statesman to any form of international cooperation that dilutes the national sovereignty. It suggests that regional integration is propelled by a combination of forces which impinge on every nation-state.

At the same time, the complexities of the new international order raise questions about effective independent action by individual nation-states. Certainly, states have pursued their interests in a rapidly changing world order. The development of the European project suggests that the limits on sovereign independence are an important factor in the contemporary international equation. The reasons for this lie in the structural shifts that have occurred in global political economy. The interpenetration of modern states by global forces beyond their control, and the need to make adjustments to these prevailing forces is a fact of modern political life. It is a situation that demands compromises, precludes autarchy and imposes severe constraints on the state sovereignty.

The contemporary theorists have defined the paradoxes of regional integration in an approach called syncretism, which suggest that integration process is not driven by a singular dynamic, whether a statecentric or supranational one. Also, it is not propelled in any clear direction and towards any certain outcome. Instead, it is a hybrid process characterized by the

^{27.} Svein S. Anderson and Kjell A. Eliassen, *Making Policy in Europe: The Europeification of National Policy-Making*, (London: Sage, 1993), p. 43.

complex interaction of both national and transnational actors, which determine the shape, pace, and outcomes of the European project. Anderson and Eliassen have analyzed the process of European integration in the context of this new approach as:

the EC (is) a new type of political system. A fundamental aspect of this is the tension which exists between the member states and the emerging transnational authority at the EC level. A peculiar element of the new EC system is that institutional elaboration at the central level lacks the key dimensions which are normally found when studying the formation of a new state. There exists more transnational authority at the central EC decision-making and legislative levels than there does at the corresponding implementation and law enforcement stages. Formulations of legally binding intentions or objectives may follow procedures for transnational decision-making. However, there is almost no unified EC administrative structure or cohesive force which can reach into member countries.²⁸

The legitimacy crisis in the EU emerges from a lack of attention by the institutions' policy makers. It can be argued that legitimacy is the foundation on which the Community's institutional system is based. The EU exhibits a growing institutional resemblance to the established multi-tiered systems of traditional federal states.²⁹ Indeed, the EU has created new regulatory domains from other governments and, in this sense can be regarded as a new type of entity on the world stage.

In parallel to the thesis that increasing the powers of the EP can solve the Union's legitimacy problem, a view developed that the national parliaments should remain the primary source of legitimacy in the EU. Indeed most Union

^{28.} Ibid., p. 256.

^{29.} Stephan Leibfried and Paul Pierson (eds), *European Social Policy: Between fragmentation and Integration* (Washington DC: Brookings Institutions, 1995), p. 6.

documents, which called for the reconstruction of the institutional balance in favour of EP, held that this problem can only be solved if, the national parliaments are more closely involved in the process of decision-making along with the EP. Here, the concept of partnership plays an important role. It creates a space for the reception of voices hitherto excluded from the policy process.³⁰ It demands that Community's development operations be established through close consultations between the EC Commission, the member states concerned and the competent authorities and bodies within the framework of each member state's national rules and current practices. It included the social partners designated by the member states at national, regional, local or other level in the pursuit of a common goal. Therefore, partnership serves as a useful vehicle for the further progress of the integration process.

The rule of law is the main principle guiding European integration. The ECJ held that Community law, a concept reflecting judicial stability and infallibility, shapes popular belief in the legitimacy of supranational Europe. There is an extensive literature on the significance of Community law where the legitimacy of the European enterprise is emphasized. Under this view, Community law legitimizes not only the particular policies, but the entire European regime by virtue of process of community restructuring.³¹

New institutionalist explanations feature strongly in the work of recent ideas on European integration, in particular that of multi-level governance, which suggest that institutions shape preferences and outcomes. The complexity of policy making on multiple levels makes for dispersed and

^{30.} Joanne Scott, "Law, Legitimacy and EC Governance: Prospects for Partnership", *Journal of Common Market Studies*, Vol. 36, No. 2, June 1998, p. 191.

^{31.} Daniela Obradovic, "Policy Legitimacy and the European Union," *Journal of Common Market Studies*, Vol. 34, No. 2, June 1996, p. 197.

disjointed decisions, and for incomplete implementation. The national governments have struggled both to use the EC level to serve their own national objectives and to maintain control over inputs and outcomes, with varying success in different areas.³²

Moreover, sub-national actors have an increasing role to play in the formulation of EU's social policy as well as in its implementation. This does not mean that the member states' role has been reduced. However, it indicates that they no longer enjoy a monopoly on the representation of the national interests in the EU. The EU is a multi-level policy making system in terms of competences, the tiers of actors involved in the process, and the ability of the various actors to influence outcomes, which depends largely on the decision-making process. Interests are defined and acted upon both territorially and functionally. There is 'a growing dissociations between authoritative allocations, territorial constituencies and functional competences...a new form of multi layered governance without clear lines of demarcated jurisdiction and identity.'³³

Towards Common European Identity

All Europeans share some common values: the principles of democracy, human rights and social justice. These values serve to boost the common European identity and intend to legitimize a new European polity based on 'Europeanism', which is a mixture of Greek-humanist, Roman-legal and Christian-spiritual values. It indicates that this notion does not contain any new value, which is not found in the member states of the EU.

^{32.} Helen Wallace and William Wallace (eds), *Policy Making in the European Union* (Oxford: Oxford University Press, 1996), p. 445.

^{33.} Gary Marks, Fritz Scharpf, Philippe Schmitter and Wolfgang Streeck (eds), *Governance in the European Union* (London: Sage, 1996), p. 132.

The development of a European identity with common myths, values, symbols and memories drawn from common heritage served as a ground for establishing the legitimacy of the European enterprise. The success of the EU required the development of a common European identity. This idea lacked a genuine myth to provide it with emotional sustenance and historical depth.³⁴ Ethnic nationalists contend modern nations have their roots deep in the past. They see the EU as limited to a Union of Peoples by the lack of credible or deep European cultural, linguistics, and historical ties.³⁵ A view with potentially racist implications for immigrant populations, it suggests a European identity will always have to compete with the much stronger existing national sentiments. By contrast, civic nationalists accept that national communities are fabrications, with no genuine grounding in ethnicity. It implies that the generation of the European identity will create stable ground for the legitimization of a new European order. But it is not possible to transcend ethnic ties and to achieve common values all of a sudden.

The ideas about the common future of Europeans have sum mythical qualities, which are identified in the history of common origin. Here, the focus is hazy, the facts are exaggerated, and great political importance is attached to events selectively highlighted.³⁶ It implies that Europe can start a project oriented towards the future. It will not need ancient ethnic and cultural history in order to obtain legitimacy. Many European leaders, looking for new future, urged their people to be more expansive in their outlook for a common purpose

^{34.} Anthony D. Smith, "National Identity and the idea of European Unity", *International Affairs* (Cambridge), Vol. 68, No. 1, 1992, p. 62.

^{35.} *Ibid*, p. 65.

^{36.} Paul Howe, "A Community of Europeans: The Requisite Underpinnings," *Journal of Common Market Studies*, Vol. 33, No. 1, 1995, p.32.

In a significant development towards social Europe, the EC Commission submitted a report on the implementation of a programme called 'Poverty 3' or the *Medium-term Community Action Programme to Foster the Economic and Social Integration of the Least Privileged Groups*. It was set up in 1989 and terminated in 1994. The report described the background, implementation and impact of the programme to combat poverty. The programme was geared to a multi-dimensional approach to tackle poverty and social exclusion.³⁷ It was based both on the principle of partnership with private- and public-sector institutions and on the participation of the least privileged groups concerned. A total of 41 pilot projects were run, covering initiatives concerned with local development, job-creation, education, training, health promotion, and housing access, with ongoing transnational exchanges of information between the projects. This 1996 survey outlined areas for progress, examined the responsibilities of the sexes and considered the strength of collective and individual action respectively. It examined emerging priorities both in private sphere, viz. greater sharing of tasks and, in terms of public action at European level to bring about full equality of opportunities, viz. greater respect for the individual whether male or female.

In January 1997, the EP adopted a resolution entitled, *The Future of Social Protection: A Framework for a European Debate*. In it, the EP examined the effects of the member states' tendency to encourage citizens to make their own supplementary provisions to cover social risks in terms of social protection. It held that in context of EU's role in the globalization of trade, the EC Commission must ensure that environmental and social clauses along the lines advocated by the ILO should be included in the multilateral

^{37.} Rob Atkinson and Simin Davoudi, "The Concept of Social Exclusion in the European Union: Context, Development and Possibilities," *Journal of Common Market Studies*, September 2000, Vol. 38, No. 3, p.439.

agreements.³⁸

In April 1997, the EC Commission adopted a Green Paper entitled, *Partnership for a new organization of work*. The paper stimulated a Europe wide debate on new forms of work organization as a means of improving the employment situation and competitiveness in the EU. It highlighted three issues, viz. the changes in the organization of work, the policy challenges to be met, and the various possibilities for partnership in this area. It held that the organization of work required a more flexible process embracing changes in technology, the market and human resource management.³⁹ Also, it held that the social partners and the public authorities should build a partnership for developing a new framework for the modernization of work, thereby helping to bring about a productive, skill-building and participative organization of work without compromising employee's security. The EC Commission pointed out that the main policy challenges in terms of employment, education and social aspects lied in reconciling employees' security with the flexibility of businesses.

Britain's new Labour government in May 1997 vowed to put into effect Europe-wide social laws. Douglas Henderson, Britain's European affairs minister held that Britain would accept more qualified majority voting and, would support the EP in decision-making. On the Social Protocol, Mr. Henderson said, "We will be pursuing with vigor our signing up procedures."⁴⁰

The European Council meeting in Amsterdam in June 1997 brought

^{38.} 'Employment and social policy', *Bulletin of the European Union*, Vol. 30, No. 1/2, 1997, p. 60.

^{39.} 'Employment and social policy', *Bulletin of the European Union*, Vol. 30, No. 4, 1997, p. 61.

^{40.} 'Britain signals new era with EU,' *International Herald Tribune* (Paris), 6 May 1997.

the Protocol and the Social Policy agreement into a chapter included in the basic text of the document, thus eliminating the strange British opt-out. The Amsterdam Treaty granted the EU the right to adopt and enforce directives on employment; social dialogue; improving living and working conditions, ensuring proper social protection; and combating social exclusion.⁴¹

The treaty also contained several provisions important for women. The EU would commit to equal opportunity and equality at the work place. For the first time, positive action to bring about equality was allowed. The treaty broadened the definitions of equal pay to include work of equal value, thus incorporating a ruling of the ECJ. These provisions represented a partial victory for women's groups. But they focused on the workplace and failed to encompass other problems faced by women in their day-to-day lives.

The post-Amsterdam debate centered around the larger member states' desire to increase their grip on the EU polity. Instead of accelerating the move towards social Europe, the leaders put emphasis on closer co-operation frameworks avoiding the need to give up veto rights. They tried to reinforce their control over the EU through the reform of the Community-method, viz. neo-functionalism in the direction of a greater degree of national control. They held that neo-functionalism failed to provide either a stable policy-making environment or the means of involving the public in the process of decision-making.⁴² This trend towards a reassertion of national control undermined the move towards social Europe.

The EC Commission in April 1998 put forward the blueprint for

41. 'Employment and social policy,' *Bulletin of the European Union*, Vol. 30. No. 6, 1997, p.90.

42. Richard Bellamy and Alex Warleigh, "From an Ethics of Integration to an Ethics of Participation: Citizenship and the Future of the European Union", *Millennium* (London), Vol. 27, No. 3, 1998, p. 453.

European social policy from 1998 to 2000. This three-year social action programme focused on defining a framework for the future development of social policy in a period of dynamic change characterized by the completion of the single market, economic and monetary union and enlargement of the Community.⁴³ It further held the appropriate strengthening of social policy under the process set in motion by the Amsterdam treaty.

These activities envisaged by the EC Commission under the programme focused on three areas.⁴⁴ These were as follows:

1. Jobs, skills and mobility aimed at preventing unemployment and promoting free movement of workers.
2. The changing nature of work geared to modernizing work organization and promoting adaptability, anticipating industrial change, seizing the opportunities provided by the information society and, creating a safe and healthy working environment.
3. Creation of a more inclusive society, entailing modernization and improvement of social protection, achieving equality and combating discrimination, and encouraging a healthy society.

Efforts to Generate Employment in the EU

The European Council meeting in Madrid in December 1995 undertook the economic revitalization of Europe in a socially integrated framework. It held that the fight against unemployment and for equal opportunities were the priorities of the EU.⁴⁵ Conscious of the fact that job creation is the principal

^{43.} 'Employment and social policy,' *Bulletin of the European Union*, Vol. 31, No. 4, 1998, p. 11.

^{44.} *Ibid.*, p. 12.

^{45.} 'Employment and social policy', *Bulletin of the European Union* (Brussels), Vol. 28, No. 12, 1995, p. 107.

social, economic and political objective of the EU and its Member States, the council appreciated the procedure for monitoring employment advanced by earlier Council meetings. It pointed out that a convergence of views had been achieved on ensuring that economic recovery is accompanied by a more thoroughgoing improvement in the employment situation, and identified suitable priority spheres of action.

The interest in social issues was rising in the EU. Efforts were made during 1980s to combat unemployment, but could not solve the problem in substantial measures. It continued to hamper the development of the European societies. In order to mitigate the harmful effects arising out of this problem, at the G7 Conference on Employment in Lille in April 1996, several measures concerning the EU's social policy were taken. They included creating conditions for sustainable growth and job creation in the context of healthy public finances. It held that the G7 countries must endeavor to control public spending more effectively in order to reduce their deficits and would create a more favorable climate for private investments and growth in income against a background of moderate interest rates.⁴⁶ It would foster the emergence of the jobs of the future.

To this effect, the introduction and diffusion of new technologies was considered vital for generating employment in the EU. Also, the member state governments could play an important role in the dissemination of new technologies, particularly in the small- and medium-sized enterprises (SMEs). Investing in people was considered vital for building successful economy and society. Therefore, it was imperative to provide a framework to young people to acquire basic education and familiarity with the workplace. Every worker

⁴⁶. 'G7 conference on employment,' *Bulletin of the European Union*, Vol. 29, NO. 4, 1996, pp. 117-19.

should have access to vocational training and upward mobility to adapt to economic and technological changes. Furthermore, despite favourable dynamics created by technological progress and efforts to invest in people, some workers run the risk of being left aside. To prevent their exclusion from society, the need was to address insecurity about employment opportunities, pay and social benefits and, living and working conditions. Therefore, it can be held that the conference took important steps to generate employment in Europe.

The European Council meeting in Florence in June 1996 set out the framework of a pact under the title, *Action for Employment in Europe: A Confidence Pact*. The pact aimed at launching a collective movement involving the public authorities and the social partners in a comprehensive and coordinated strategy for employment.⁴⁷ It incorporated the fight against unemployment in a medium- and long-term view of society. The Council called on the EU institutions, the member governments, the regional and local authorities, and the social partners to take practical steps to promote growth and employment in the EU. It also stressed the role of the internal market, the trans-European networks, the SMEs and, the information society in creating employment and promoting competitiveness.

The European Council meeting in Dublin in December 1996 constituted a milestone in the fight against unemployment. It adopted a 'Dublin Declaration on Employment' which upheld that the fight against unemployment is not only the prime responsibility of the member states but also a priority task of the Union.⁴⁸ The declaration entitled, *Growth and Employment in Europe* –

^{47.} 'Employment and social policy,' *Bulletin of the European Union*, Vol. 29, No. 6, 1996, p. 64.

^{48.} 'Dublin European Council,' *Bulletin of the European Union*, Vol. 29, No. 12, 1996, p. 11.

The Way Forward, stressed the essential role of the internal market in promoting growth and employment in the Union. It upheld that enhancing the competitiveness of the SMEs has a crucial role to this effect.

The extraordinary European Council meeting in Luxemburg in November 1997 on unemployment approved a document to require member states to convert the guidelines into national targets and to review them regularly at future meetings. Despite all its limitations, the final document was hailed as a new departure in thinking and action. It was designed to promote convergence in job creating policies. Jacques Chirac, the French Prime Minister, said that the EU had justly been accused of ignoring the needs of its citizens in its drive toward monetary union.⁴⁹ The conference was a first step in creating a real social dimension in Europe as it opened a new chapter in the further development of the EU's social policy. The final document omitted any kind of quantifiable targets, including a proposal from the EC Commission to create twelve million jobs in next five years and to reduce the average unemployment rate for the whole EU to 7 percent from the present 11 percent. It held that young unemployed people should be offered jobs or training within six months of joining the unemployment register and the same benefits to be offered to adults out of work for more than a year. But it allowed the member states a grace period of five years to put these measures into practice.

On the basis of the Council's conclusion, the EC Commission adopted a proposal comprising guidelines for employment in December 1997.⁵⁰ These guidelines are structured around four main objectives, viz.

^{49.} 'New Guidelines but little solace for Europe's jobless,' *International Herald Tribune* (Paris), 22 November 1997.

^{50.} European Commission, *General Report on the activities of the European Union* (Luxembourg: Office for Official Publications of the European Communities, 1997), p. 62.

- i. improving people's employability with particular emphasis on combating unemployment among young people, and forestalling long term unemployment;
- ii. developing entrepreneurship by making it easier to start and run businesses, exploiting opportunities for new job creation and making the taxation system more employment friendly;
- iii. encouraging the adaptability of businesses and their employees; and
- iv. strengthening policies for equal opportunities.

The Luxembourg process is now the core of generating employment in Europe. It begins with employment guidelines issued by the Council, which provide the basis for the National Action Plans (NAPs). Each member state makes its own national plan, but now it has political incentive as well as the will to demonstrate its compliance with the guidelines. Both the EC Commission and the Employment Committee assess the NAPs individually and as a group. The Council considers their findings, and it may call on individual member states to make changes in their NAPs. Then, the EC Commission and the Council issue a Joint Employment Report. With the Luxembourg process, the EU has an employment strategy which keeps actors at the European, national, and social partner levels in almost constant dialogue about the employment issues.

The European Council meeting in Cardiff in June 1998 welcomed the progress made in connection with the NAPs for employment. It urged the EU member states to proceed with the practical implementation of these plans as quickly as possible.⁵¹ The Council outlined the key areas in which future work

⁵¹. 'Cardiff European Council,' *Bulletin of the European Union*, No. 6, 1998, p. 8.

would be undertaken, which include

- i. the development of a skilled and adaptable workforce;
- ii. strengthening action on equal opportunities between men and women in all employment policies;
- iii. promoting family-friendly working practices, including suitable child care and parental leave schemes; and
- iv. tackling discrimination against the disabled, ethnic minorities and other disadvantage groups in the labour market.

As requested in November 1997 by the heads of states at the Luxembourg European Council, the EC Commission presented its first report on employment rates in the EU in October 1998. It was designed to provide the basic statistical information on the member states' performance in the employment field. Highlighting areas where measures could be taken to improve the employment situation, the EC Commission advocated action on the demand side, viz. GDP growth and employment, expansion of the service sector, and part-time work and, on the supply side characterized by child care facilities and raising of skill-levels of the economy.⁵² It also suggested that the policy framework should be constructed in a manner to promote job creation.

In April 1999, the EP adopted a resolution on the older people in the 21st century. In this, it called on the EU, the member states and the social partners to prevent discrimination against older people. As regards job seeking, further training and reduction in staff numbers, it would promote innovative forms of transition from work to retirement, including a model of part-time work for older people.⁵³ It also called on to coordinate pension systems and

^{52.} 'Employment and social policy,' *Bulletin of the European Union*, No. 10, 1998, p. 13.

^{53.} 'Employment and social policy,' *Bulletin of the European Union*, No. 4, 1999, p. 14.

remove discrepancies between the provisions of labour law and social security legislation, e.g., raising the retirement age and fiscal incentives to continue work even after the retirement age.

The European Council meeting in Cologne in June 1999 adopted a European Employment Pact (EEP). The pact aimed at sustainable reduction of unemployment.⁵⁴ The Council approved the three pillars of the pact, which were as follows:

- i. Co-ordination of economic policies and improvement of mutually supportive interaction between wage developments and monetary, budgetary and fiscal policies through macro economic dialogue to preserve a non-inflationary growth dynamic;
- ii. Further development and implementation of the employment strategy to improve the efficiency of the labour markets by enhancing employability, entrepreneurship, adaptability of businesses and their employees;
- iii. Comprehensive structural reforms and modernization to improve the innovative capacity and efficiency of markets in goods, services and capital.

Towards Social Europe

In July 1999, the EC Commission adopted a communication under the title, *A concerted strategy for modernizing social protection*.⁵⁵ The EC Commission pointed out that recent developments in European society make it necessary to modernize social protection systems so that their traditional role

^{54.} 'Cologne European Council,' *Bulletin of the European Union*, Vol. 32, No. 6. 1999, p. 8.

^{55.} 'Employment and social policy,' *Bulletin of the European Union*, Vol. 32, No. 7-8, 1999, p. 12.

can be maintained. This strategy is based on four key objectives:

- i. Creating more incentives to work and provide a secure income;
- ii. Safeguarding pensions with sustainable pension schemes;
- iii. Promoting social inclusion, and
- iv. Ensuring the high quality and sustainability of health protection.

The special European Council meeting in Tampere in October 1999 upheld the need to create within the EU an area of freedom, justice and security.⁵⁶ In this area the Union would develop the capacity to act as a significant partner on the international scene. It would work in close co-operation with the member states of the EU and various international organizations in this regard. The summit agreed on a number of social policy guidelines and decided upon the practical arrangements for drawing up the draft EU Charter of fundamental rights.

In a presentation to the EP in February 2000 Romano Prodi, the EC Commission President, held that bringing Europe close to the citizens would be the key of the European social agenda during 2000 and beyond.⁵⁷ In this respect, modernization of the ESM was called for in the context of fundamental changes in the European society and economy, viz. globalization, technological innovation and demographic changes. These factors were regarded very crucial in the emerging knowledge-based society which called for the modernization of the social protection measures in the EU.

The special European Council meeting in Lisbon in March 2000

^{56.} 'Tampere European Council,' *Bulletin of the European Union*, Vol. 32, No. 10, 1999, p.9.

^{57.} Romano Prodi, '2000-2005 Shaping the New Europe,' *The Bulletin of the European Union*, Supplement 1/2000, p. 30.

emphasized that people should be the focal point of the EU's policies.⁵⁸ The summit focused on devising a new strategic goal over the coming decade, with the aim of boosting employment, economic reform and social cohesion within the framework of a knowledge-based economy. This strategy was designed to create conditions for full employment, and to strengthen social cohesion in the EU. In the meeting, the EP also adopted a resolution on the drafting of a EU Charter of fundamental rights.

The European Council meeting in Feira in June 2000 took stock of the ongoing work in the preparation of the Charter of Fundamental Rights. It emphasized the strategy set out at the Lisbon European Council and called upon the social partners to implement the guidelines for attaining employment. The Council also advocated sustainability of pension schemes and evaluated the impact of the member states social policies on social inclusion and the eradication of poverty. The Council set up a 'European Social Protection Committee.'⁵⁹ This Committee is an advisory body and its major tasks are to monitor social protection policies in the member states and the Community, to foster exchange of information, experiences and practices between the member state and with the EC Commission, and to prepare an annual report in this regard.

Jacques Chirac promised to give a boost to the economic development and to promote employment in Europe at the EP meeting in Strasbourg in July 2000. He pushed for a 'European social agenda' to be adopted and said, "economic growth and modernization of our society will only

^{58.} 'Lisbon European Council,' *Bulletin of the European Union*, Vol. 33, No. 3, 2000, p. 7.

^{59.} 'Employment and social policy,' *Bulletin of the European Union*, Vol. 33, No. 6, 2000, p. 48.

make sense if unemployment is rapidly reduced.”⁶⁰ He defined the social agenda as an ambitious European model for social justice.

In October 2000, the EP adopted a resolution on the EC Commission’s communication on the social policy agenda. In this resolution, it argued for a social policy in its own right, with its own objectives, and for a social agenda effective in mobilizing people.⁶¹ It called on the Commission to clarify the document according to these objectives and for a broad partnership of all the social partners in implementing the employment strategy. It also recommended strengthening social dialogue to cope with the industrial changes and called on the Commission to provide financing to enable the NGOs to contribute in this regard.

The European Council meeting in Nice in December 2000 can be regarded as a great step towards social Europe. The member states signed a Charter of fundamental rights. Highlighting the improvement in employment prospects in the EU, the Council endorsed the employment guidelines for 2001. It approved the European social agenda and invited the social partners to play their full part in implementing it.⁶³ It also paid particular attention to the sustainability of pension systems and a European strategy against poverty, social exclusion and all forms of discrimination. In addition, it agreed on the following future orientation of the social policy of the EU:

- i. more and better jobs;
- ii. anticipating and capitalizing on change in the working environment by creating new balance between flexibility and security;

^{60.} ‘Chirac pushes for European social agenda’, *The Hindu*, 4 July 2000.

^{61.} ‘Employment and social policy,’ *Bulletin of the European Union*, No. 10, 2000, p. 12.

^{62.} ‘Employment and social policy,’ *Bulletin of the European Union*, No. 12, 2000, p. 40.

- iii. fighting poverty and all forms of exclusion in order to promote social integration;
- iv. modernizing social protection;
- v. promoting gender equality and
- vi. strengthening the social policy aspects of enlargement.

Conclusion

During 1993, the EC Commission launched a wide-ranging consultation on the future role of European social policy. The purpose of the exercise was to develop a broadly based, innovative and forward-looking approach to European social policy. The entry into force of the TEU in November 1993 opened up new possibilities for Community actions in the social field, particularly by giving a stronger role to the social partners.

The ESM places considerable emphasis on maintaining social solidarity and ensuring that people are integrated into social and moral order. Thus, it rests on solid foundations. Nevertheless, it must be adapted to produce a new synergy between the functions of social protection and the creation of wealth. The development of the ESM entails reducing non-wage labour costs; developing vocational training, fostering high value-added forms of production, rejuvenating the social dialogue; enabling both men and women to reconcile family responsibilities and occupational obligations; and combating various forms of social exclusion.

In April 1995, the EC Commission presented a new social policy action programme for the period 1995-97, which emphasized that social policy can no longer remain static but has to adapt to the new circumstances. A report by the EP on the programme called for a more social vision of Europe. In 1996, the EU adopted a voluntary code of practice on equal pay for equal work.

Likewise, a number of initiatives arose which increased the momentum of the social dialogue in the EU.

The Amsterdam Treaty of June 1997 provided the policy makers with the most favourable environment for the strengthening of the social policy. It is because the British opt-out had ended; the veto had been removed as a barrier to the adoption of most directives on social policy and; the role of the EP has been elevated. However, this goal could not be achieved substantially, mainly because of the reluctance of the member states governments to proceed rapidly on the social issues. Despite this, important measures were taken in this field, viz. the adoption of employment guidelines in the Luxembourg summit in November 1997, the making of a Social Action Programme (1998-2000) in April 1998, the adoption of a European Employment Pact in the Cologne summit in June 1999, the formation of a European Social Protection Committee at the Feira EC Council in June 2000 and, the adoption of a Fundamental Rights Charter at the Nice summit in December 2000.

A common European identity formation is the pre-requisite for the achievement of a social Europe. There are tremendous problems to achieve this goal. It is based on the assumption that multiple loyalties are attainable, even if national identities are contained in the member states constitution. But it is very difficult to eliminate national identities all of a sudden. At present, it is not possible to speak of a European nation and a 'EU people'. It is still the fifteen member states constituting the EU, with plans to expand eastwards.

Conclusions

From the foregoing analysis, it may be seen that the European Union's social policy evolved during the last half-a-century. The Union's social policy can be traced back to the 1951 Treaty of Paris, which formed the European Coal and Steel Community (ECSC) where one of the objectives of the EU was to promote improved living and working conditions for the workers. Then, the 1957 Treaty of Rome provided for the free movement of goods, peoples, services, and capital, which formed an essential part of the EU's social policy till today. The Treaty of Rome demanded that harmonization would be upward to provide for improved working conditions. Article 119 of the Treaty contained the only reference in the EC to bring about equality between men and women.

The EU's social policy got a new orientation in the 1970s when it set minimum social standard for the Community to follow. The social policy became a worthwhile aim to pursue and, it seemed that the path became clear for the development of a social policy acceptable to all the member states. It aimed at free movement of workers, services, and capital. In 1974 the Community issued the 1974 Social Action Programme, which promoted women's rights substantially. However, Brussels failed to implement any sweeping agenda of Community-wide employment regulation. This aim couldn't be realized because of several obstacles, mainly the economic crisis in Europe during the 1970s and the opposition by British government under Margaret Thatcher, which obstructed the passage of social directives in the Council of Ministers.

The White Paper the EC Commission issued in June 1985 on completing the internal market did not contain any meaningful social policy

initiative. However, the Single European Act (SEA) in February 1986 assigned a number of new competences to the Community in the social field, particularly the social dimension that directly concerned the organized labour in the EC. Before this act, social policy belonged primarily to the competence of the member states, with the Commission's power of initiative, which was basically limited to promoting collaboration among them. This act replaced the Luxembourg Compromise, which required decisions to be taken by unanimity, with a qualified majority voting in case of certain measures aimed to establish the Single European Market (SEM). Furthermore, the social dialogue was established by this Act. The act also allowed the Council to adopt directives on health and safety measures by a qualified majority vote.

In 1989, the social Europe movement gained momentum when the then Commission President Jacques Delors called for a cohesive social Europe agenda to be pursued. A number of values, which formed the basis of the European social model, viz. democracy, collective bargaining, free market economy, equality of opportunity for all and, social welfare and solidarity, were encapsulated by the *Community Charter of Fundamental Social Rights of Workers*. This Charter was issued in Strasbourg in December 1989. These values were held together by the conviction that economic and social progress must go hand in hand and, that competitiveness and solidarity should be taken into account for building social Europe.

A discussion of employee rights began with the Community Charter of Fundamental Social Rights of Workers. The rights included in the Charter ranged from the right to freedom of movement originally found in the EEC treaty to the right of employees to information, consultation, and participation in the workplace. Other rights included equal treatment for men and women, social protection, decent working conditions, freedom of association and

collective bargaining, vocational training, freedom of employment, protection of youth, elderly, and the disabled people.

But the fundamental flaw was that the Charter did not actually provide justiciable rights for employees. Employees could not claim the rights provided in the Charter, and were not entitled to go to national courts or the ECJ to claim these rights. Moreover, the Charter was a 'Declaration', not a regulation. Yet the Charter can be regarded as a milestone in the move towards social Europe in that it assigned authority to the EC Commission and the member states to implement these rights.

The Treaty on European Union (TEU) defined economic and social cohesion as primary commitment of the EU. The Social Chapter of the TEU was an example of an attempt by the member states to achieve a balance between the economic and social dimensions of the active labour market by restricting the hours of work and addressing issues of child and family responsibilities. In fact, the controversy over the Social Chapter highlighted the EU's social agenda as never before. Britain opted out of the new Social Chapter entirely. The Council retained its previously existing authority to regulate in the social field.

However, new employment laws were passed under the Britain-less Social Chapter, but renamed as "Social Protocol". The Protocol set forth three key innovations. First, it expanded the number of social law subjects on which a qualified majority can pass instruments. Second, for the first time in EU's history, the Protocol granted a legislative role to the social partners. The Protocol's third substantive change to EU's social law introduced affirmative action regarding sexual equality.

The decisions taken at Maastricht constitute a breakthrough in the institutions governing EU's social policy. It is characterized by a shift from a set of rules that permit the member states to establish labour market regulations and to veto any proposed collective regulations, to a set of rules when they had to accept regulations acceptable to a qualified majority of the Council. It indicates that the smaller member states gain substantially in the new social policy provisions with more centralization.

The entry into force of the TEU opened up wide possibilities for community action in the social field, particularly by giving a stronger role to the social partners. Then, in 1993 the Commission launched a wide-ranging consultation on the future of European social policy, which was characterized by the Green and White Papers on social policy in 1993 and 1994 respectively. These papers aimed at developing a broad-based, innovative and forward-looking EU's social policy.

The first European Forum on social policy was held in Brussels in March 1996. It was designed to enhance dialogue and interaction between the Commission and the NGOs, the voluntary sector, the social partners and all persons actively involved in the social sphere. The discussions were focused on fundamental social rights, on employment, on equal opportunities, on social protection, and on future prospects at the workplace.

The Amsterdam Treaty made several contributions to the EU's social policy. It added some new provisions to the Maastricht Treaty, viz. the Social Protocol and the Social Policy agreement of the Maastricht Treaty were brought into a chapter to include in the basic text of the document, thereby eliminating the British opt-out. It gave the EU the right to adopt and enforce directives on employment and the social dialogue. This Treaty also contained several important provisions for women, viz. equal opportunity and equality at work

place, and positive action to bring about equality was allowed for the first time. During 1990s, EU's social policy was geared to combat unemployment, which had remained a chronic problem in Europe since the 1970s. Although efforts were made to combat unemployment in the past also, but in vain. The leaders began to search for certain concrete solutions, like greater flexibility and competitiveness. A major document, a White Paper entitled, *Growth Competitiveness, Employment: The Challenges and Ways Forward into the 21st Century*, provided various measures to combat unemployment. The leaders of EU embarked on another employment programme at the European Council summit in Essen in December 1994. They selected five priority areas to increase employment in Europe. They were: vocational training; greater labour market flexibility and competitiveness; reduction of non-wage labour costs; more effective labour market; and measures to assist certain disadvantaged groups such as women.

The Amsterdam Treaty made employment a common concern and an exclusive goal for the EU. Education, particularly vocational education, formed an important part of this policy. The member states took steps to instill greater flexibility in their labour markets and to contain the cost of labour in Europe. In this climate of doubt and growing concern, European leaders drafted the employment chapter in the Amsterdam Treaty to give the EU a stronger mandate to seek a solution to this problem.

At the extraordinary European Council meeting in Luxembourg in November 1997, EU leaders approved the *Employment Guidelines*, the most important document relating to employment in the post- Amsterdam era. It was addressed to the member states and set four lines of actions for them to follow: improving employability; developing entrepreneurship; encouraging adaptability in businesses and their employees; and strengthening the policies

for equal opportunities. These guidelines now form the core of generating employment in Europe.

Furthermore, the European Council Summit in Cologne in June 1999 discussed basic questions concerning EU policy over the next few years. It held that higher employment continued to be Europe's top objective. The Council, therefore, took the initiative for a European Employment Pact (EEP) aimed at a sustainable reduction of unemployment. The pact embodied a comprehensive overall approach binding together all the Union's employment policy measures.

The post-Amsterdam scenario is conducive for the further development of the EU's social policy. It is because the Amsterdam treaty removed many obstacles in the development of social Europe, viz. the veto has been removed as a barrier to the adoption of directives on social policy, and the role of European Parliament has been elevated so that it has a greater say vis-a-vis the Council of Ministers. The economic situation has also improved in Europe. Yet, member states' governments remain passive despite the fact that many of them are on the left. It is because they are part of the 'new left' and, approach social proposals cautiously.

During the 1980s the EC Commission acted efficiently to provide a firm foundation for the future development of the EU's social policy. However, the problems over the Maastricht treaty's Social Chapter proved a hindrance to achieve social policy goals. There was a general feeling among the member states of the EU that the Commission had over-stretched itself in the social policy arena, and was seeking to encroach on those policy areas that were the prerogative of member states. Thus, a number of factors created a situation in which the Commission had to adopt a recommendatory approach to social policy issues. Therefore, it ceased to be a forceful advocate for EU's social policy during the 1990s.

Furthermore, the EC Commission was weakened by the allegation of fraud, nepotism, mismanagement and neglect concerning budget. The forced resignation of the entire Santer Commission in March 1999 added uncertainty to the political milieu in Brussels. The ensuing crisis precipitated the resignation of all the Commissioners and the installation of the new Commission under Romano Prodi as the President and a mandate for root and branch reform. Since their appointment, President Prodi and his colleagues have inaugurated a series of reforms designed to improve the efficiency, accountability and cohesion of the EC Commission. The current reform programmes aim to make the EC Commission more efficient to act effectively in a more streamlined, decentralized and less bureaucratic fashion.

The Member states at present are not willing to accept a European bill of rights, which would bring charges against employers or EU institutions for violation of their rights as workers. However, the legislative programme for health and safety is largely fulfilled; viz. the 1995-97 Social Action Programme provided for four directives in this field and, the 1998-2000 Social Action Programme further added proposals that ranged from safety measures relating to scaffolding to the new standards necessary for the protection from biological hazards at the workplace. The objective now is to ensure that these directives lead to uniform protection for workers in the member states.

Equal opportunity between men and women is yet to be achieved, although many directives had been adopted in this field in the past, such as the 1975 Equal Pay Directive and the 1976 Equal Treatment Directive, etc. Also, EU launched three specific Community action programmes on the promotion of equal opportunity for women, viz. the New Community Action Programme 1982-85; the Second Medium-term Community Action Programme 1986-90; and the Third Medium-term Community Action Programme 1991-95. These

programmes were not given sufficient attention by the national governments and the employers and, as a consequence, they failed to provide equality to women at the workplace as well as in the society.

The policies pertaining to social dimension have not been a significant factor of the European integration process. The social dimension can be described as matters dealing with the labour market conditions and related social aspects like unemployment, sickness benefits, pension benefits, etc. It also includes matters related to democracy, solidarity and competitiveness in the EC for the development of the labour market, industrial development, vocational training, etc. The EU's social policy was consistently sidelined to other steps towards European integration. It is because the EU always had to act under the shadow of economic competitiveness. Even the new competences granted to the European institutions, particularly the Parliament, do not ensure to lead to a democratic restructuring of Europe in such circumstances.

Although it is true that the European Social Model (ESM) rests on solid foundations, it must nevertheless be adapted to produce a new synergy between the functions of social protection and the creation of wealth. This is extremely important as in the next twenty years the EU is set to experience profound demographic upheavals in the form of enlargement of the EU, particularly in the countries of Central and Eastern Europe. It is not merely an institutional and economic challenge as is commonly believed. It is also a profound social challenge. The former communist countries have a limited fundamental rights culture, which is not a match with the market economy of the EU. Integration of these countries into the Union is bound to strain the ESM in the form of rapid rise in inequalities and declining social standards. The social protection schemes will have to adapt to these developments. Furthermore, the strengthening of the social dialogue in the EU requires

involving trade unions, employers' organizations and voluntary workers.

Also, the ESM is not impermeable to influences from other parts of the world and the forces of globalization. The progressive globalization of the labour market is bound to jeopardize the less-skilled and the poor workers of the EU. Therefore, efforts at international co-operation, both bilateral and multi-lateral, will have to be continued, particularly as regards the social issues linked to international trade. Here, the challenge is the creation of a true European mobility zone, in which freedom of movement becomes not only a right but also a reality. This requires a more complex interaction of the social policy of the EU and that of the member states than in the past in order to build a social Europe.

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