BEYOND SOCIAL REGULATION? NEW INSTRUMENTS AND/OR A NEW AGENDA FOR SOCIAL POLICY AT LISBON?

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The consistent failure to match EU market integration with social policies provoked the development of new modes of European governance for welfare provision in the early 1990s. Based on policy co-ordination rather than integration, these new governance modes were consolidated as the 'Open Method of Co-ordination' (OMC) at the Lisbon Summit in 2000. This article analyses the scope and limits of the OMC, locating it in the context of broader trends and tendencies in governance and social provision. Indeed, the perceived 'success' of the OMC may reflect a deeper trend in social policy across western Europe and beyond, towards 'active' welfare policies. In many ways the OMC is consistent with the influential 'regulatory state' vision of the EU. Yet by 'activating' welfare the OMC may challenge market liberal theories of European economic regulation. The first seeks to integrate economic and social policies while the latter is premised on their separation.

INTRODUCTION

The Lisbon European Council of March 2000 has been hailed as (possibly) Europe's 'Maastricht for Welfare' (Martin Rhodes 2000). While the association with Maastricht might be an albatross rather than a garland for 'Lisbon', the comparison suggests that it is a 'turning point' for welfare policy. This claim is difficult to assess, not least because it is too early to evaluate 'Lisbon' definitively. Moreover, the identification of a 'turning point' is always tricky, as change is rarely unheralded and wholly encapsulated in one 'moment'. The significance of any particularly moment will depend on how the subsequent trajectory is understood at later points in history. Nonetheless, I argue that it may come to symbolize an important, if complex, change in (social) policy orientation across Europe, summed up in the slogan 'modernizing the European Social Model' by 'activating welfare policy'.

Evaluation of 'Lisbon' requires an assessment of its impact on policy instruments, techniques and methods (these are the discussed in section that follows) as well as the substance of its policy agenda (considered in the section on Lisbon on p. 542). At first glance, 'Lisbon' was not especially innovative as regards policy instruments. The EU has a long tradition of 'soft' policy co-ordination. Moreover, the strategic use of such co-ordination,

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driven more by the member states than the Commission, developed through the 1990s, for example in the European Employment Strategy (EES – see Goetschy 2000). Rather than creating new instruments 'Lisbon' suggested that various existing instruments, processes and strategies should be thought of as part of a new 'method', the 'Open Method of Co-ordination' (OMC). The OMC was able to rename, consolidate and extend practices associated with, for example, the EES and built on other policy 'Processes' and forms of policy co-ordination associated with Economic and Monetary Union (EMU). Its extended policy scope is potentially consequential: perhaps this means that it amounts to a 'method' alongside (or partly in competition with) the traditional 'Community method'. As we shall see, (over)extension may also turn out to be a decisive weakness of the OMC.

The political balance of the Union is constantly changing. If consolidated as a new method, the OMC could contribute to a change in this balance. However, the success of the OMC as a method will be linked to its substantive impact. Does 'Lisbon' mark a change in the substance of Europe's policy agenda? The gloss came off 'Lisbon' (the 'dot.com' summit, heralding Europe's dynamic 'new economy') partly because of the NASDAQ crash, but also, I would argue, for deeper reasons (for a relevant, sharp, analysis see Watson 2001). Increasingly, debate about 'Lisbon' as a potential turning point has become focused on social policy.

'Modernizing the European Social Model' by 'activating the welfare state' was the social policy slogan at 'Lisbon'. To attribute novelty to the social policy agenda associated with this slogan, we need to be able to distinguish it from two alternatives. Critics from the left might argue that 'Lisbon' is simply the continuation of a 'neoliberal' drive or one that attempts to generate a 'market conforming' social policy. This perspective is also associated with the importation of 'Anglo-Saxon' models, typically from the USA, by way of the UK. On the other hand, sophisticated market liberals, associated with the analysis of the EU as a 'regulatory order', could argue that 'Lisbon' represents an acknowledgement that the 'Community method' is increasingly tightly focused on 'regulatory' policy. The OMC might be seen as a form of symbolic politics or 'cheap talk', perhaps not even able to deliver effective 'co-ordination' across a range of policies and over a medium- or long-term period. If it does have longer-term implications, these are pitched at the national level, with no legally binding implications at EU level. As the form and meaning of the OMC is not finally settled (and the political complexion of Europe changes) it might develop in either of these directions (or both, if the OMC reconfigures national social policy in a market-conforming direction while leaving the Community method focused on efficiency policies).

Another possibility should not (yet) be wholly discounted. 'Active' welfare can take a variety of forms (although I would argue that even 'market conforming' varieties may not be strictly compatible with (neo)liberalism). 'Lisbon' might mark an 'activating' shift helping to alter the trajectory of social policy retrenchment/reform, in such a way that the space for social protection is defended or even enlarged. While confirming some aspects of the 'regulatory' theory, in another deeper sense 'Lisbon' may nonetheless challenge it.

In the first place, the legitimacy of the EU regulatory order depends on the separation of economics from politics or efficiency from redistribution. To the extent that the OMC is a reaction to pressures from EU level 'efficiency' or 'regulatory' policies, economics and politics have not been adequately separated. Moreover, 'active' welfare policies are premised on the integration of efficiency and redistribution, not their separation. Thus while the OMC appears to confirm the regulatory theory's account of the dominant form of policy at EU and national levels, it may challenge its account of legitimacy and the logic of economics and politics underpinning it. Second, the OMC may have an impact at the EU level. Thus far, the Commission has played a key role in the OMC, although one that is quite distinct from the one that it plays in the classic Community method. The resulting re-allocation of scarce resources within the Commission may become significant. Although its outcomes are not legally binding, the existence of the OMC as a 'method' may also come to influence the institutional and policy balance of the Union and, crucially, how the European Court of Justice understands that balance.

What does it mean to argue that 'Lisbon' symbolizes a turning point in European social policy? Clearly, 'Lisbon' and the OMC would hardly merit attention if they made no difference to Europe's policy trajectory. And they do build on pre-existing developments at both the national and European levels. Indeed, the 'activation' of welfare policies appears as something of a general trend across the western world. 'Lisbon' may stand as a symbol of and reference for this trend in Europe, not as the original source of change but for the fact that this moment is perceived to consolidate and entrench it.

THE OMC: TOWARDS A DEFINITION

The OMC can be minimally and technically defined as one of a range of new policy instruments that characteristically eschew the Community method. They are non-binding – they do not use formal, typically legal, sanctions (that is, they are 'soft' rather than 'hard') – but involve codes of conduct, benchmarking and inter-state 'co-operation' or 'open co-ordination' rather than the construction and enforcement of formally binding laws. Even aside from matters now subject to the OMC, such instruments are used in a wide range of areas. They are deployed in areas ranging from structural adjustment to the environment and from taxation to education. The OMC engages member states in an ongoing reflection on their programmes in given policy areas. This reflection feeds into the creation of guidelines and targets ('benchmarks'). Moreover, the method involves systematic monitoring of national policies, carried out in 'public', that is in front of the other member states.

As defined at Lisbon, the OMC is 'designed to help Member States to progressively develop their own policies' and has four key dimensions:

1. fixing guidelines for the Union combined with specific timetables for achieving the goals which they set in short, medium and long terms;
2. establishing, where appropriate, quantitative and qualitative indicators and benchmarks against the best in the world and tailored to the needs of different Member States and sectors as a means of comparing best practice;
3. translating these European guidelines into national and regional policies by setting specific targets and adopting measures, taking into account national and regional differences;
4. periodic monitoring, evaluation and peer review organised as mutual learning processes (Lisbon Presidency Conclusions, para. 37).

Equally, the Lisbon conclusions themselves stress that the OMC is a 'means of spreading best practice and *achieving greater convergence towards the main EU goals* (Lisbon Conclusions, para. 37, emphasis added). Clearly, best practice can be spread in this manner for specific policy instruments, a policy more generally, or even a policy 'model' or 'regime'. Whether or not convergence is occurring is at least partly a matter of the level at which its definition is pitched – for example, specific instruments, a policy more generally or an overall regime. Alternatively, convergence can concern processes and/or outcomes.

These different aspects do not necessarily nest neatly within one another. For example, fiscal co-ordination might properly lead to significant divergences in national policies, in pursuit of common conditions for the conduct of a single monetary policy (Jacquet and Pisani-Ferry 2001). At Lisbon, for practical purposes, convergence seems to have been understood as a matter of achieving targets set for particular goals. In some areas (notably employment policy) convergence may have another meaning – involving the generation of a common language and perhaps also a common desired policy trajectory or set of normative objectives for the policy sector (although this may be compatible with continued diversity in outcomes).

What is the scope of the OMC?

The scope of the OMC is not wholly clear. The notion of a *method* might suggest that the OMC is one technique among others that could be deployed in a variety of policy contexts. For example, the Commission has described the OMC as strengthening 'policy-making at EU level in a number of areas – innovation, economic reform, education and training, social protection' before going on to state that this 'method is now consolidated *within* the European Employment Strategy' (2000, p. 15, emphasis added). While these issues are far from settled, in place of the Commission's vision of the OMC as a technique used within, say, the EES, the latter is increasingly seen as an instance of the former. That is, the OMC is now used to refer to an overall 'method' (distinguished from but roughly on a par with the 'Community method') or 'mode of governance' that *encompasses* several other 'processes', such as the EES.

If the OMC is understood as a method in this broader sense, then the EES and a number of other aspects of social policy 'co-ordination' would certainly fall within it, but how broad is its scope? In particular, how far should we understand processes of economic reform and the setting of macroeconomic guidelines as falling within the OMC? In their analysis of the OMC, de la Porte and Pochet (2002a) consider the full gamut of 'new' economic 'governance', including the Stability Pact and the Broad Economic Policy Guidelines (BEPGs). Hodson and Maher (2001) appear to exclude the Stability Pact but include the BEPGs within the OMC. Wallace (2000) distinguishes new 'benchmarking' and 'soft' policy co-operation from the 'intensive transgovernmentalism' associated with EMU among other policy areas. The key issue here is to decide what it means for policy co-ordination to be 'open' (see below).

Is the OMC 'new'?

Emphasizing its 'novelty', the Lisbon Presidency Conclusions talked explicitly of the 'new' open method of co-ordination (2000, p. 2). Yet as we have just seen, the OMC builds on, and must be set in the context of, existing and emerging modes of governance based on non-binding policy co-operation and co-ordination, including the earlier 'Processes' created at Luxembourg (and related to the EES), Cardiff and Cologne. On the face of it the Lisbon conclusions distinguish these 'Processes' from the OMC. They state clearly that while existing ones need to be improved, no new 'Processes' are required. Yet the most successful applications or forms of the OMC – and particularly those that might mark a turning point in welfare policy – are largely synonymous with the EES and the Luxembourg Process. In this context, the OMC appears novel to the extent that it (re)names and consolidates an emerging tendency in EU governance. Once again, the issue seems to be the (re)positioning of the OMC as a broad method or mode of governance.

Beyond even the 'Processes' that prefigured the OMC, informal co-operation and non-binding policy instruments have a long history in the EU. Nonetheless, the leading role of the European Council in the OMC and related 'Processes' seems more original. Historically, 'soft law' has often been viewed as an approach used by the Commission to 'soften up' member states for a later transfer of competence (see Cram 1997). While the OMC may help to create the conditions within which such transfers become possible (Hodson and Maher 2001), this does not appear to be its main purpose.

More generally, the central role of the European Council in the OMC represents a potential departure, perhaps consolidating a developing tendency in EU governance. For example, the British Government claims a leading role in the development of the 'Lisbon' agenda, perhaps partly in an attempt to illustrate the potential for it to take the lead in European politics, countering the widespread impression that EU policies were imposed willy-nilly on the UK from Brussels (based on interviews in the Cabinet Office). The Lisbon Conclusions certainly argued that the European Council should have 'a stronger guiding and co-ordinating role . . . to ensure more coherent strategic direction and effective monitoring of progress' (2000, p. 2). Yet the OMC does not necessarily bypass the Commission. Where OMC-type Processes have been most effective that institution has been crucial, albeit in a role quite distinct from the one it plays under the Community method. Indeed, the Lisbon Presidency Conclusions set out a least a dozen significant new tasks for the Commission (many connected to the OMC) as well as several other more minor new jobs. Any potential threat to the Commission is more in the reconfiguration of its role and the additional tasks it is given (without significant extra resources) than in the risk of it becoming redundant.

Elements within the Commission seem keen to 'tame' the OMC. For example, the Commission's White Paper on European Governance proposed tight limits on the OMC while seeking to enhance Community method (Scharpf 2001; Wincott 2001b). (Discussion by the Governance 'team' of 'building bridges' from the OMC to the Community method found its way into the White Paper in the following form: 'data and information generated [by the OMC] should be widely available. It should provide the basis for determining whether legislative or programme-based action is needed to overcome the particular problems highlighted' Commission 2001, p. 22). The attempt to depict the OMC as 'consolidated within the EES' and hence subordinate to it, may reflect a similar mindset.

How is the OMC 'open'?

In what sense is the OMC 'open'? In the most general terms, the 'open' quality of the OMC appears to be a synonym for the 'soft' or non-binding character of policies made using it, in contrast to 'hard law' and other modes of governance which deploy enforceable and tangible punishments or sanctions. The 'open' quality of the OMC in this sense is clearly closely related to the question of its 'scope', discussed above. Thus, many distinguish the Stability Pact from the BEPGs, identifying the former as an example of 'hard' policy co-ordination because of the possibility of a fine being imposed on that state which failed to achieve a target. The 'hardness' of the Stability Pact is, nonetheless, open to question. It may prove very difficult to implement fines and hence a reluctance to impose them may develop. Some commentators do include the Stability Pact analysis of the OMC (a valuable analytical exercise – see de la Porte and Pochet 2002a). Nonetheless, the family likeness is stronger between the BPEGs and (other forms of) the OMC (see Hodson and Maher 2001 who treat 'soft' economic policy co-ordination under the umbrella of the OMC).

There are other senses in which the OMC might be thought of as 'open', perhaps begging the question of whether it actually 'co-ordinates' policy.

First, the OMC sets targets, but leaves 'open' the means by which states achieve them. (Ironically (legally binding) directives – the main form of secondary EU legislation – are also 'open' in this sense. And of course, in the case of directives, achieving the objective is obligatory.) Second, it is less clear whether non-participation is 'open' to states (or indeed whether some states have the option of moving ahead together more quickly – 'enhanced open co-operation'). So far the OMC has included all states (whether or not in the Euro-zone), although the lack of sanctions always leaves open the option of half-hearted co-operation. Perhaps more important, third, the OMC may leave policy outcomes themselves somewhat open, especially at the macro-level (at the micro-level states either meet the targets set or they do not).

The 'openness' of the OMC and the aspiration that it should lead to 'convergence' may not be easy to reconcile. While there is evidence of a convergence in policy discourses concerning the modernization of the European Social Model and the activation of welfare, the extent of policy convergence is still difficult to assess. Many of the targets or objectives set through the OMC could be met in a variety of ways. In other areas it focuses more at the level of particular policy instruments – on which there are sometimes important lessons to be learnt across countries. However, as even elementary accounts of policy transfer illustrate, if the national regimes within which particular practices are embedded are different, then the policy 'transferred' may have a quite different – and perhaps even perverse – impact (Dolowitz and Marsh 1996 review 'policy transfer' debates). Finally, the convergence in policy discourse might be part of a process of convergence on a broad 'model' of welfare. Yet within such a broad 'model' the scope for distinct forms to develop might still be considerable. Indeed, as states most committed to a particular objective are likely to implement it more enthusiastically, the OMC may lead to divergence.

More generally, whether addressing the potential of particular policy instruments in differing contexts or an overall policy model, it is clear that the 'openness' of the OMC means that its effectiveness is likely to depend on sustained political will to address the issue at hand. It will be interesting to see how the electoral turn to the right taken by several European countries in 2002 influences the Lisbon agenda. While some scepticism about the more ebullient claims made for the Lisbon Summit is justified, there is something new about the scope, importance and sustained quality of forms of co-operation that operate without punitive and/or enforceable sanctions. The enthusiasm and rapidity with which member states have taken up these policy instruments and extended them to a wide range of areas is significant. Since 'Lisbon', the OMC has been used in a number of new policy areas. In some of these areas – such as pension policy – the potential of the OMC appears to be considerably weaker than it is in the activation of labour market/welfare policy. Indeed, differences 'within' the OMC may weaken any claim that it amounts to a broad method or new mode of governance.

One OMC or several?

While treating the OMC as a single entity is important for any claim that it is a new method, it may be misleading to do so. There is certainly a major difference between its broadly 'social' and 'economic' dimensions, even leaving aside economic policy co-ordination, associated with EMU. (Subsequently the OMC 'label' has been used for other aspects of economic policy, such as the issue of taxation – see the discussion by Radaelli in this volume. The phrase may (come to) be applied to the semi-formal networks used in the governance of some economic sectors in Europe – see Eberlein 2003 and Eberlein and Kerwer 2002. These areas may exhibit different dynamics.) At Lisbon, the 'economic' aspect related primarily to the 'new economy' and associated aspects of innovation. Even before the bursting of the 'dot.com' bubble, while inherently of potential value, there is a hollow core to these proposals. They address such matters as national research and development policies and the structures that facilitate or constrain innovation (see the Lisbon Presidency Conclusions, p. 5). But, particularly where legally binding structural policy has not yet generated fully European capital markets, the use of the OMC to address, for example, the interface between companies and financial markets, is unlikely to succeed. The development of a 'European' approach to the 'new economy' using the OMC is undercut by the robustly national reactions of major economic players, particularly financial markets, to reform proposals aimed at creating European scale market structures, such as the proposed European technology market, EASDAQ (Watson 2001). The irony here is that the actors (and structures) most closely associated with European and global market liberalization seem both concerned and able to resist change in their own immediate working contexts. The hey-day of the new economy, when it seemed able to inject dynamism into the European economy and hence to smooth the path of monetary union, was glamorous, but brief. Yet even before the collapse in the price of technology shares, when faced by entrenched and powerful opposition the non-binding forms of policy co-ordination associated with the OMC were unlikely to be effective in this policy area.

Even within its application to social policy, significant differences emerge across policy sectors. The OMC has now been 'applied' to a variety of areas, including employment/labour market policies and the 'activation' of related dimensions of welfare provision, social exclusion and protection, education and pensions. It seems likely that it will be applied to health care in the near future. At least for the moment, even within the sphere of social policy, two distinct 'open methods' seem to exist. Essentially, there appears to be a major difference between the activation of labour market related dimensions of welfare policy and all the other policy sectors. At 'Lisbon', a series of clearly defined and tightly specified targets were set in the area of labour market policy (broadly defined). Moreover, a common language of debate developed which emphasized the modernization of the European Social Model and the activation of the welfare state. While remaining 'open', established policy co-ordination here has a more 'top-down' feel than it does in other areas of social policy (which is emphatically not to argue that it is imposed from the European level). There is more chance of actual co-ordination here, as we shall see, largely because it builds on an existing tendency in the employment–welfare policy area.

In other areas, the actors involved have been charged with developing benchmarks and targets on which all states might agree, not an easy task in relation to pensions and social exclusion. The 'bottom-up' feel to the OMC in these areas means that national political and bureaucratic experts seek to identify areas of best practice and/or problematic performance, nationally, to bring up to the European debate. As is well known, the impact of policy instruments does change when they cross national boundaries. The OMC might still make a significant contribution to deliberation over social policy priorities, assuming that those involved were prepared to acknowledge that a given instrument may have a quite different impact in the context of a different policy pattern or policy regime. If the 'bottom-up' version of the OMC provides a forum for the discussion and evaluation of a variety of policy instruments, it is rather less likely to produce convergence on a new policy model or regime or to be a major turning point in European welfare policy. (Although we should not rule out *a priori* that it could facilitate a wider convergence in these areas.)

Differences between employment and other policy areas are reflected in the organizational structures for the OMC below the level of the European Council. For most of the social policy sectors brought under the OMC more recently, the Social Protection Committee (SPC) carries out much of the work. This Committee was created by the Finnish Presidency at the end of 1999, shortly before the Lisbon Summit (see de la Porte, Pochet and Room 2001). The SPC was modeled on the longer established Employment Committee, itself partly based on the Economic Policy Committee (EPC) which deals with economic policy co-ordination, particularly in connection with monetary union. The policy parameters set by the European Council in these areas are much less specific and leave much more work of definition to the lower level actors in the SPC.

The key question is whether these differences reflect structural variation across Europe or the maturity of OMC-type processes. Although these evaluations are difficult to make, it may be that national patterns are more deeply entrenched or institutionalized in the areas of pensions, education and health care than in those of employment or fiscal policy (see Swank 2002 on convergence on 'simple' tax systems). Alternatively, over time we might expect to see a common agenda emerge in the SPC. Sophisticated and fine-grained institutionalist scholarship could make a major contribution here.

The OMC now has many of the characteristics of a policy 'fashion'. At 'Lisbon' and in subsequent meetings, the European Council may have created a threat to the OMC. Its credibility as an alternative mode of governance may be weakened as it is extended or applied to many different policy sectors. The danger is that it is used as a form of 'cheap talk' or of action that is only symbolic. Because various different policy sectors which have distinct characteristics and problems have been tied together in the OMC, a widespread perceived failure of its 'bottom-up' versions might undermine the credibility of the method in other areas, such as labour market reform.

THE 'LISBON' SOCIAL POLICY AGENDA

Ultimately, the perceived success of the OMC and 'Lisbon' turns on issues of substance. If the 'Lisbon' agenda marks an important change, it is related to 'activating' the relationship between social policy and employment. To repeat, the key point is not that these changes originated at 'Lisbon'. Some European states have long histories of 'active' policies, while many others were already turning towards activation. Moreover, these changes appear to reflect a more widespread trend in western democracies (Jessop 1999 – Cerny's 1997 discussion of the 'competition state' is also relevant). These issues were addressed at the EU level before Lisbon through the EES and the Luxembourg Process. Nonetheless, 'Lisbon' consolidated and hence may come to symbolize this approach. Instead, the issue is whether activation represents a significant shift in Europe's policy orientation or trajectory.

It is widely agreed that since the start of the 1980s, Europe has turned towards the market. The activation of social policy may appear as a continuation and deepening of this trend. It might be seen as a form of neoliberalism, in which 'the social' is subordinated to economic priorities. Some forms of active welfare policy at least do appear to entrench segmentation within the labour market, itself sometimes associated with neoliberalism. Thus, Peck and Theodore describe the US 'workfirst' style workfare as 'neoliberal (yet highly interventionist)' (2000, p. 135). Of course, a good deal hinges on how neoliberalism is defined. If it amounts to an overwhelming preference for market-based solutions and a confidence in the ability of markets to clear, then active labour market policy is hard to reconcile with neoliberalism. Such policies imply an ongoing state responsibility for social and economic outcomes combined with the continuing commitment to intervention and the assumption that labour markets do not clear (in an acceptable manner).

(Social) regulation, the market and (neo)liberalism

The theory of the emergence of the Regulatory State in Europe – and especially within the EU – provides a subtly but significantly different account of the turn towards the market (see Majone 1996, 1998, 2000, also Dehousse 1998). According to this account, market liberalization does not remove the need for the state, but fundamentally changes its policy mode from 'redistributive' intervention to 'regulation'. According to Majone, the leading exponent of this approach, the turn away from economic stabilization and redistribution towards regulation and the market occurred at the national as well as the EU level, although the latter is the primary source of its dynamism (see Majone 1996, p. 55).

The EU has had great success in introducing regulatory policy instruments in the social sphere, but gained little reward when it attempted to develop redistributive policies (Cram 1993, 1997; Majone 1993, 1998). Expanding from the initial observation that the EU lacks the financial resources to develop wide-ranging redistributive policies, Majone has developed an argument which states that such policies would be fundamentally illegitimate (see especially Majone 1998). Ultimately, a European identity strong enough to sustain redistribution between individuals across European states does not exist. The prospects for an EC/EU welfare state are poor. Although it proposes policies in core areas of redistributive policy (such as pensions and social protection), in an important sense, the application of the OMC to social policy can be seen as the culmination of this logic. It acknowledges – even trumpets – that certain forms of social policy are developed through 'open co-ordination' among states, not legally binding supranational policies.

On the other hand, Majone argues that the EU's supranational, market-oriented regulatory regime has a strong (potential) basis in legitimacy. In essence, this legitimacy is rooted in the strict separation of efficiency from redistribution or of economics from politics. It is hard to overstate the force with which Majone *insists* on this point (Majone 1996, pp. 296 and generally 294–6). In other words, it is by maximizing efficiency, undistracted by redistribution, that the EU wins legitimacy (Majone 1998). Viewed from this perspective, many challenges to the legitimacy of the EU are rooted in the failure to detach regulatory mechanisms from direct political-democratic control: the failure, in other words, to make them sufficiently 'independent' (Majone 2000).

Conceiving of the EU as a regulatory order of this kind amounts to a sophisticated form of market liberalism. Although widely used, there is little agreement on the content of concepts of 'economic' liberalism, in particular on how cognate concepts (economic liberalism, market liberalism, neoliberalism, *laissez-faire* and so on) relate to one another. Although a few anarcho-capitalists see little or no role for the state (or politico-legal authority) broadly market-oriented analysts disagree, but usually without providing a clear account of the scope and limits of the role of the state (Mount 1992 provides an internal critique of this neglect). By contrast, Majone provides a clear, well-developed analysis of the role of politico-legal authority in the construction and maintenance – in short of the regulation – of a market order. In particular he insists that every *de*-regulation is also a *re*-regulation (Majone 1990). This approach implies that the 'unregulated' order is a chimera. It is – I would add – a dangerous mirage for neoliberals.

The *positive* scope for social regulation within an efficient market order requires emphasis. While the European market is often conceived as the product of *negative* integration, a number of socially valued objectives (the protection of the environment, employment/pay equality between the sexes and so on) can be – and have been – pursued through regulatory techniques.

Resistance to such 'social regulation' from powerful economic actors notwithstanding, these policy instruments can in principle remain consistent with the efficiency perspective as it is developed by Majone. One way of thinking about these issues is to emphasize the potential for multiple varieties of regulatory order, each operating at (near to) the Pareto frontier, but at different places along its curve. In any event the key point is this: regulation should be understood as an essential element of an efficient market order, not as its antithesis.

Majone's vision of the relationship between the national and European levels is certainly complex and perhaps not wholly clear. We have seen that he believes that a fundamental turn towards the market has occurred across Europe, at both EU and national levels. He seems to acknowledge that 'cradle to grave' welfare provision can be legitimate when rooted in relatively homogenous national democracies, within which 'the delicate value judgements about the appropriate balance between efficiency and equity which social policies express' can be made (1996, p. 298). Yet he also argues that there is an 'inherent tension' between (social) regulation and social policy. 'Sooner or later, voters have to choose between expanding *or even continuing* welfare programmes and devoting sufficient resources to environmental protection and other types of social regulation' (1996, p. 52, emphasis added). In sum, he seems to argue that Europe is (and Europeans are) turning away from the welfare state towards the market, with the EU at the leading edge of these developments.

There is a potential difficulty with this account. Even if Europe is turning more towards the market, and EU level redistribution is impossible, Europeans still seem to value their national welfare states highly. If the EU Regulatory State and market liberalization put pressure on valued national systems of redistribution, or make them unsustainable, then as far as the public is concerned, redistribution and regulation are intimately connected, not strictly separated (as is required for regulation to be legitimate, see Wincott 1998). Indeed, Martin Rhodes and others have pointed to the 'subversively liberal' impact of EU market integration on national welfare policies (1996).

Yet the relationship between market integration and welfare provision is complex, as we shall see in connection with EMU. It would certainly be a mistake to look for changes only in terms of the *amount* of welfare spending; alteration in the *form* of social policy is at least equally important. Whether it is understood as deepening, redirecting or controlling the drive towards 'market conforming' social provision, change in response to EU and other pressure is associated with new forms of welfare policy. These new policy 'forms' reflect a fundamentally different philosophy to that embedded in 'regulatory liberalism'. In sharp contrast to Majone's strict separation of efficiency and redistribution, 'activation' of welfare policy is based on the *integration* of economic and social objectives and the using of welfare policies to enhance efficiency (Vandenbroucke 2001; Wincott 2001c; see also Jessop 1999; Cerny 1997).

The impact of EMU

EMU provides important context for 'Lisbon' and the OMC. First, at a general level, the movement towards EMU was a clear example of EU 'efficiency' policy encroaching on national traditions of redistribution, with implications for the perceived legitimacy of the States and the EU. Second, the European Central Bank (ECB) has altered the EU's institutional balance, ironically perhaps slightly displacing the Commission. Third, and relatedly, EMU has provided both context and pressure for new forms of economic policy co-ordination to emerge and new institutional relationships to develop. However, the significance of EMU can be misunderstood and exaggerated, particularly in relation to open co-ordination in social policy. There is a need for a more nuanced account.

At a general level, the logic of EMU is a particularly intense version of the widely reported tendency of European market integration to have a subversive (Martin Rhodes 1996) impact on national patterns of economic intervention and welfare policy. The convergence process during the 1990s that led up to EMU was a particularly clear and deliberate example of this kind. The ECB's 'sound money' regime also circumscribes welfare and wider public policies in Europe. It is worth emphasizing, further, that the creation of EMU emphatically was *not* a regulatory race to the bottom among European states, sparked by the dominance of 'negative' (barrier removing) over 'positive' (institution creating) integration. The (positive) construction of the ECB was a complex and painstaking process. Secondly, the impact of convergence was felt mostly on policies whose primary orientation is redistributive more than it is regulatory. It is probably best understood as an alteration in the overall balance between different *types* of policy, with regulatory policies tending to win out over redistributive ones.

Once in place, the new monetary policy regime has an ongoing impact at the national level. While the influence of the 'dominant paradigm' of 'sound money' policies is striking, it can lead to a potentially unhelpful homogenization of these policies and, indeed, of the conceptual frameworks of wide range of economic policy actors. 'Sound money' can take a variety of forms. An analysis of the interplay between institutional actors shows that embedding EMU involves a contest and negotiation over its precise form. Particularly important are the dynamics between the ECB and the 'committees' on Economic Policy (EPC), Employment, and Social Protection (SPC).

Essentially, the Central Bank has issued a number of statements about the necessity of various forms of economic and welfare reform, which it sees as integral to the success of EMU. The implication is that the Bank will have to operate a more tightly constraining, even punitive, monetary policy unless appropriate 'market conforming' economic and social reforms are undertaken. In addition, the ECB may spell out in didactic, almost hectoring, terms the 'correct' causal model connecting national policy trajectories and European monetary policies (see Dyson 2000, p. 180). However, the ECB's ideal would be for national governments individually to adopt these reforms, insisting that the national social partners and governments are responsible for them. The Bank is certainly seeking to avoid collective, *ex ante* policies, especially those that transfer powers to the supranational level. Such an approach might push the member states into a competitive retrenchment of social policy spending (Martin Rhodes 2000).

It is not clear that the finance ministers – or indeed the EPC – *fully* accept the ECB's preferred version of this framework. The EPC has issued a range of statements about the pressures it intends to place on several social policy sectors, mainly from the perspective of fiscal and budgetary control. Gradually, the Broad Economic Policy Guidelines have come to provide the synoptic forum for a range of policies, including social protection as well as macro-economic policy and employment. In effect they help to 'co-ordinate the co-ordination' since Lisbon (Martin Rhodes 2000; de la Porte and Pochet 2002a and b). After 'Lisbon' the opinions of other Council formations should inform ECOFIN's decisions on the BEPGs. Although the balance seems to have changed, economic may still dominate social policy priorities.

Socially oriented actors – embodied in the Employment Committee and SPC – have sought to wrest the lead in the processes of reform away from the EPC and economically oriented actors, seeking to impose some social priorities within them (de la Porte and Pochet 2002a and b). This dynamic may account for the increasing range of policy issues that are being pushed onto the SPC, despite a lack of evidence that it is able to come up with workable guidelines, benchmarks and the like to operate effective open co-ordination within them.

In sum, the launching of the euro during a period when there was social democratic control of government led to various efforts within the general framework of 'sound money' to increase the scope for economic and social policy co-ordination. For example, within the ECB-centric Euro-zone '. . . the reshaped political context of Social Democratic ascendancy provided the Euro-11 Group with a new opportunity to shift the policy agenda and debate towards a greater concern with growth, employment and social integration' (Dyson 2000, p. 15).

If 'social democratic' governments have sought to carve out a space for policy co-ordination, they have also incrementally adjusted to some of the 'realities' of monetary union under the ECB, as the evolution of policy advice to the Jospin Government in France illustrates. Most analysts see the French as having been most committed to shifting EMU from the Bundesbank model. Reflecting the views of Pierre Jacquet, a French Planning Commission Report of 1999 sought to build a case for 'the economic government of the Euro-Zone' on the introduction of greater flexibility into the Stability and Growth Pact (see Dyson 2000, p. 22). By 2001 the position seems to have changed. Together with Jean Pisani-Ferry, Jacquet argued that:

> to speak of an 'economic government', as some Frenchmen still like to do, is misleading, for it suggests that something like a government exists or is

> about to exist in Europe. We prefer to speak of 'economic governance', which suggests a plurality of actors and the necessity to define and adopt 'best practice' in a number of economic policy areas. (2001, p. 14)

'Activation' and Lisbon – European and general trends

EMU – and the creation of new institutions and re-negotiation of existing institutional relationships that it entails – is clearly an important influence on the development of the European social policy agenda. But the trajectory recommended for social policy at 'Lisbon' should be regarded as neither an automatic nor simply a hastily cobbled together response to EMU, at least in the field of employment–welfare linkages. In this area the OMC is comparatively well developed and substantial and the Lisbon aspiration that it should lead to policy convergence appears relatively realistic (although hardly easy, never mind inevitable). It builds on a previous practice – the Luxembourg Process, the Employment Provisions of the Amsterdam Treaty, policies initiated at the Essen European Council of 1994 and, ultimately, the Delors-inspired White Paper on Growth, Competitiveness, Employment (1993) – that simply does not exist in the other policy spheres.

It is important to identify the actors and processes involved in constructing these European foundations for 'Lisbon'. Johansson (1999) depicts the Amsterdam employment title as emanating from initial activism of the Party of European Socialists (and especially to its Nordic members, as organized through the SAMAK forum). The European Employment Initiative – launched in September 1993 – was one of the most active working groups in the history of the PES and largely set the tone for the European Employment Strategy and then the Employment Title at Amsterdam. Johansson's analysis provides an evaluation of the relative roles of national governments and transnational actors in the formation of the Employment Title. It largely finds in favour of transnational – party political – actors. Strikingly, this process-tracing analysis does not invoke EMU to explain employment policy developments. The influence of Nordic socialist parties – during the period when Sweden and Finland were joining the Union – seems more significant. These parties were able to draw upon distinctive and deep-rooted 'active' welfare traditions, particularly in Sweden.

Indeed, the 1993 White Paper on which these developments built may also have roots in changing national policy concerns and patterns. Coron and Palier (2002, pp. 113 and 129) find evidence of Paris influencing Brussels from the drafting of the Delors White Paper in 1993 through to post-'Lisbon' discussion of the quality of work. Preparatory work for the eleventh French National Plan and the Commission's White Paper, both published in 1993, reached remarkable similar conclusions on employment policy. As an author of the French report puts it:

> Obviously we had an *alter ego* [in Brussels] who kept a very close eye on everything we were doing, and as far as I know Jérôme Vignon

> [a Commission employee close to Delors] was largely responsible for drafting the relevant part [of the White Paper]. I believe he kept a very close eye on what was going on here and relayed it to the Community. (quoted in Coron and Palier 2002, p. 113)

Thus the developments that culminated at 'Lisbon' seem to have been directly influenced by French policy-makers. They reflect and arguably reinforce deeply rooted, if not widely celebrated, policy changes in France related to the encouragement of employment. Such changes were occurring in several other European countries, and indeed beyond Europe.

'Active' welfare and employment policy can take many forms. Swedish active labour market policies differ significantly from West Virginian 'workfare'. In the 1980s and 1990s, a number of states, including Australia and The Netherlands, Denmark, France and the UK, developed various kind of 'workfare' and active labour market policies, mostly under the auspices of left-of-centre governments (see, for example, Becker 2000; Schwartz 2001; Torfing 1999). From punitive 'workfare' to inclusive, high quality training, the impact of any given form of 'active' policy will also vary with the broader characteristics of the policy configuration into which it is inserted (see Goetschy 2000; Vandenbroucke 2001). Nonetheless, it is clear that such policies represent at least an international policy fashion and may constitute a significant general tendency in welfare state development.

The recent influence of: (1) conceptions of path dependence that emphasize policy inertia; and (2) the pervasive division of the developed capitalist world into three or more distinct welfare regimes may distract our attention from new general trends in social policy (albeit with differing national forms). Understood properly, each of these theoretical orientations offers valuable insights, but common usage creates a danger of both of them becoming misleading parodies. Path dependency finds its roots in theories of complex adaptive systems, where it is as much a theory of the unpredictable potential of such systems for rapid transformation as it is one that focuses on their 'inertial' properties (for a 'political science' discussion see Pierson 2000). Welfare regime theory posits three or more 'models' or 'ideal types'. Reifying these models distracts our attention from the complexity and impurity of national patterns of social policy (Wincott 2001a). If each of these rightly influential concepts is at risk of becoming a caricature, taken together they may suggest that every idealized national welfare configuration is 'locked-in' to a given trajectory, leaving us with at best an etiolated capacity to analyse general trends and (national) peculiarity in social policy change.

Active welfare policy *is* deeply rooted in some states. It is longest established and most integral to the overall political economy in 'social democratic' Sweden. As a policy whose purpose was to reconcile the necessity for national adaptation to structural economic change with social protection, active labour market policy was a much-studied cornerstone of the Swedish 'model' of social democracy. It has been influential outside Sweden, showing early influence on the German Employment Promotion Act (EPA) of 1969, arguably the apex of social democratic achievement in the Federal Republic (Esping-Andersen 1990). Subsequently, however, the EPA did not develop into a model along similar lines to the Swedish one and probably failed to become a significant mechanism for social inclusion in Germany. The comparatively early development of this form of employment policy and its consolidation in a relatively 'conservative' form (focused on enhancing the skills of core workers more than the inclusion of marginal ones) may help to account for the relative weakness of German welfare reform.

More striking is the turn towards 'active' policies in countries with quite different policy traditions. Paradoxically, the absence of a large-scale legacy of 'active' policies, rather than locking in passive welfare, may have provided an opportunity for their development in the 1980s and 1990s. For example, The Netherlands was a 'late starter' in welfare state development. During the 1960s, it rapidly developed one of the world's most generous welfare states (see van Kersbergen 1995). Generosity was only matched by the passivity of Dutch social policy, reflecting the continuing influence of powerful social and religious 'pillars'. These pillars could accept a generous state, but found a directive one irksome. So far from making a transformation towards active welfare policy impossible, this policy legacy provided significant opportunities for policy entrepreneurs to 'activate' welfare, in the right conditions (see Levy 1999 for an analysis of this process in a number of continental European states). An important literature has developed on the role of 'social pacts' in this context (see, for example, Martin Rhodes 2001).

Equally, the UK training policy, among other areas, was traditionally a matter of collective bargaining, with a limited role for the state. Historically, Labour politicians are particularly reluctant to intervene in this bargaining. Nonetheless, under Thatcher and Major (strongly influenced by US 'workfare' models), active policies linking benefits to work and training have become a defining feature of British social policy. Under 'New' Labour this emphasis has been strengthened, although its form may also have changed with the degree of continuity between the Conservatives and Labour contested.

The substance of the Lisbon 'activation' approach is rooted in a widespread – perhaps even common or general – trend in welfare policy in the developed capitalist world (Jessop 1999; Cerny 1997). We can talk of such a trend notwithstanding the fact that it takes sharply different forms and has a distinct meaning in various national (and other) contexts. This trend helps to explain why the Lisbon approach seems more deeply embedded for employment and activation policies than in other policy areas. It begs the question about the novelty of the OMC in this area once again. The finding that an important change occurred 'all at once' *should* surprise social and policy analysts. We should expect to find a change of this kind prefigured, or even well established, *before* the moment that eventually comes to symbolize it. Moreover, Lisbon did make significant changes to the pre-existing form of the EES and the Luxembourg Process, giving it a much more 'top-down' feel, even if the policies it embodies also had (bottom-up) roots in some member states. Equally, Lisbon may have helped to cement the presence of these policies at the EU level.

CONCLUSION: BEYOND SOCIAL REGULATION?

By naming a set of policy instruments as the OMC, 'Lisbon' has contributed to extending their use in a number of policy areas. Although in themselves these instruments are not new, in this form they may make a contribution to policy 'puzzling' in areas such as pensions, education and innovation. As yet they have not led to dynamic policy or large-scale convergence in Europe. Indeed, aspirations to consolidate the OMC as a European 'method' or mode of governance may be damaged by its (over)extension to areas where it is unlikely to have a strong impact. As all forms of the OMC depend upon ongoing political support, the apparent shift to the right shown in elections across Europe in 2002 may test it, perhaps particularly in the areas to which it has been extended more recently.

'Lisbon' is not the origin of a new policy approach. Instead, especially in relation to employment and 'activation', where it appears most successful, it builds on, consolidates and extends pre-existing European and national policies. Nonetheless, 'Lisbon' may stand as a symbol of change in European social policy, representing the European form of a trend towards 'active' welfare manifest across the western world. Although some analysts interpret (certain forms of) 'workfare' policies as 'neoliberal', active welfare can take other forms. There are well-known examples of such policies in 'socialist' and 'conservative' welfare state regimes. Workfare is interventionist even where it is identified as 'neoliberal'. 'Active' policies are defined by their attempt to integrate efficiency and redistribution or social protection.

In terms of policy areas, 'Lisbon' goes 'beyond social regulation'. Yet because the OMC does not develop binding supranational rules, there is an important sense in which it is consistent with the influential 'regulatory' theory of the EU. Soft policy co-ordination may be the only way in which social policy issues can gain a legitimate presence at the EU level. Yet in another sense, the approach adopted at 'Lisbon' represents a challenge to the regulatory theory. Particularly in its social democratic form, 'active' welfare policy seeks to avoid the putative 'big trade off' between equity and efficiency which lies at the heart of the regulatory theory (Majone 1996, p. 298). Moreover, from punitive 'workfare' to social democratic active labour market policy, 'active' welfare aims to integrate efficiency and redistribution (although with differing emphases), while regulatory liberals aim to separate them.

If the 'Lisbon' approach does become deeply entrenched, it will represent a change of trajectory from that discerned by regulatory theorists. If the supranational EU concentrates on regulation and 'activation' is restricted to intensive transgovernmentalism, Europe may be able to live with the profound difference in philosophy. New research is urgently required on whether such a *modus vivendi* is possible.

As European regulation has an impact on national redistribution, so 'Lisbon' may come to have increasing impact at the EU level. For example, the Commission's new responsibilities under the OMC may limit its regulatory policy capacity, especially as it is unlikely to be given significant extra resources. Moreover, although the OMC is by definition non-justiciable, the European Court of Justice is well known for taking some such policies into account in its interpretation of the overall meaning of the EU legal regime, embedding its interpretation of any particular legal provision in this overall 'system'. Historically, of course, its use of this approach has generally contributed to the construction of a remarkably robust non-state supranational legal order. The Court may be chary of using a new governance 'mode' led by the European Council as an interpretative tool. However, such developments may have an impact on its view of the balance between market integration and social protection.

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