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## 'Black Boxes' and 'fracture points': the regulation of gender equality in the UK and French construction industries

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### ABSTRACT

Gender equality was a founding principle of the European Union (EU) and has remained on its policy agenda ever since, yet delivery of policy goals has been uneven across countries and economic sectors. We draw on theoretical and empirical literatures from human resource management and policy science to explore EU gender equality initiatives and their enactment within one sector which has seen virtually no improvements in gender-based employment equality: construction. To help understand the possible reasons for this, we compare practice and experiences in two countries; the UK and France. In both, the construction industry remains resolutely male-dominated, with women employed primarily in support and administrative roles. We deploy the concept of Europeanisation, to provide an analytical framework to understand the potential gaps between policy goals and on-the-ground implementation, whilst a comparative approach allows us to see if different national approaches to EU policy implementation can help explain these policy failures. We identify three potential 'fracture points' where breaks in policy transmission and enactment may occur: between the EU and national levels; between the national and industry levels; and within the industry itself. We identify areas for further research, where unpacking the 'Black Boxes' of policy development and industry practices, can help more effective policy-targeting to deliver policy goals on gender equality.

### KEYWORDS

EU gender policy; gender equality; UK; France; construction industry; Europeanisation

## Introduction

Gender equality has been a central theme of European Union (EU) policy since the 1950s when the Treaty of Rome, which established the European Economic Community, called for equal pay for equal work. Since then, policy developments

have sought to promote broad-based equality, including measures addressing equal economic independence, equality in decision-making, dignity and the end of gender-based violence (European Commission, 2011). Since 1996 the EU has promoted 'gender mainstreaming' embedding a gender perspective in the development of all EU policies – not just those measures which are focused specifically on gender issues, such as those analysed here (European Commission, 2008). Moreover, member states are also subject to the 2009 Charter on Fundamental Rights, Article 23 of which refers to equality between women and men: 'equality between women and men must be ensured in all areas, including employment, work and pay'. This, therefore, reinforces specific gender-focused policy activity.<sup>1</sup>

In this paper, we analyse the issue of gender balance in employment, with a specific focus on one sector which is well known as a male-preserve, numerous policy initiatives notwithstanding: construction. Moreover, we do so in comparative perspective. We analyse recent policy developments in France and the UK, with two of the largest construction industries in the EU, as distinct and differentiated domestic responses to common EU Directives.<sup>2</sup> While cross-national comparative studies of the enactment of diversity legislation are not new (Klarsfeld, Ng, & Tatli, 2012; Tatli, Vassilopoulou, Al Ariss, & Özbilgin, 2012), our research is unique in that it examines a single, problematic, industry regarding gender imbalance in employment. By analysing a single industry across two countries, we reduce the likelihood of competing explanations caused by studying different industries in different countries.

The importance for developing greater understanding on these issues is profound and urgent, for society in general and the construction industry in particular. The Global Engineering, Design and Construction Gender Equality Survey (2013), shows that Europe lags behind Latin America in terms of women at senior levels in the construction industry and behind Asia for women at junior levels (data for different roles within the industry are not available). However, Clarke et al. (2015) show that 10% of those employed in professional roles and 3% of those at operative level are women; figures showing little change from nineteenth century levels. The French and UK construction industries provide an interesting basis for comparison as they are respectively the 2<sup>nd</sup> and 3<sup>rd</sup> largest in Europe with outputs of €164bn and €157bn (Eurostat, 2015; FIEC, 2015), yet Eurostat data show that women still only account for, respectively, around 12% and 11% of all employees, and then primarily in support roles (Clarke & Gribling, 2008; Fédération Française du Bâtiment, 2015).

Our research is informed theoretically by two extant and distinct policy debates: gender and Europeanisation. First, this study extends existing gender-focused research (c.f. Klarsfeld et al., 2012; Tatli et al., 2012) of cross-national diversity on labour market outcomes, to analyse questions around gender balance. It adopts from Human Resource Management (HRM) the empirically-driven approach of reporting on construction industry labour market issues, evaluated through a gendered lens.

Second, we draw on policy science to inform the mechanisms behind the transposition of EU initiatives on gender equality into policy and practice in Member States. As analysed below, there have been numerous policy efforts at the EU level, aimed at influencing national policy action on gender equality. To help frame our analysis of these policy processes, we utilise the concept of ‘Europeanisation.’ This describes both the *processes* by which EU decision-making manifests itself at the national level; and the *outcomes* of that EU decision-making. An important distinction in this process is that between hard-law and soft-law policy-making approaches in the EU, both of which are important channels for Europeanisation.

Hard law represents legally binding texts negotiated and agreed at the EU level. The dominant hard-law approach is based on EU Directives. This involves agreement between the member states on policy goals, followed by their transposition into national law, via measures intended to deliver those goals. The transposition process, however, can vary across countries, reflecting different legal systems, political traditions, etc., which can result in slow and uneven progress by member states.

Soft law, meanwhile, is an approach whereby member states negotiate on a particular policy issue, perhaps even agreeing to specific policy goals. The difference is that these goals are not legally binding: there is no legal consequence for failing to deliver the desired outcomes. However, soft-law approaches have encouraged national governments to discuss issues that are politically sensitive, and to set joint policy goals. Moreover, policy can begin as soft law, but lead to hard law measures. There is, however, no *a priori* basis for assuming that hard or soft law is superior in delivering on policy goals; it is, instead, an issue that requires empirical analysis, case by case.

In this article, we unify our different analytical strands through an exploration of differentiated national policy responses to the common starting point of EU gender-equality Directives, as it pertains to employment in the construction industry. We thus draw on the construction industry as critical case study to explore two aspects of Europeanisation. First, it is used to facilitate an exploratory analysis of whether different policy approaches to Europeanisation in different countries, France and the UK in our case, can help explain variations in on-the-ground policy outcomes in different countries. Second, our case study allows us to explore novel aspect of the Europeanisation and policy implementation literatures: France and the UK have taken different legislative approaches in trying to tackle gender employment inequalities in the construction industry, yet neither has reduced employment inequality.

We thus link the gender and Europeanisation debates, drawing on analytical traditions from policy science and HRM, adding a sector-specific focus to the emerging literature (Liebert, 2003; Martinsen, 2007), examining what ‘should’ happen in the drive towards greater gender equality in the construction industry, but then challenge this with an empirical account of what is actually happening. The manifest failure to promote equality and diversity can lead not only to

penalties for policy non-compliance, but also practical economic consequences, such as high employee turnover which may cause reputational damage (Global Engineering, Design and Construction Gender Equality Survey 2013).

These empirical observations of the failure to reduce gender-based employment inequalities in construction offer a powerful basis for informing a re-evaluation of Europeanisation processes. Specifically, because the challenges faced in agreeing and transposing EU policy at the national level are considerable, there is the potential for the policy to fracture. By this we mean one or both of two discontinuities in the policy process: the policy as implemented moving away from the policy as conceived and designed, and/or the policy as implemented not delivering the desired policy outcomes. We identify three potential fracture points in the transposition of policy in to practice: in the enactment of EU-led initiatives at the national level; from national government level into industry; and within the industry. For such research, empirical exploration via small-N in-depth case studies (George & Bennett, 2005; Steinberg, 2007) can provide a powerful analytical tool. Our comparative study can provide important insights into how and where these fracture points can arise.

The paper proceeds as follows. In the next section we introduce the concept of Europeanisation and its relevance to the implementation of EU policy at the national level. We then consider hard law and soft law approaches to EU gender policy implementation. We then turn our attention to gender diversity initiatives in our two focus countries, France and the UK, unpacking the policy 'Black Box' whereby EU policy goals may or may not be delivered, as policy is implemented in the member states. We consider this first at the national level, before going down to the industry level. Through both of these sections of the paper we highlight the possible fracture points, where implementation and delivery can deviate from policy goals set earlier in the policy process. We conclude with reflections and suggestions to improve alignment between national policy outcomes and EU policy goals. In this we explore policy design, policy processes and also the discourse around gender policies and how this can hinder or facilitate the delivery of improved gender outcomes in employment in the construction sector.

## **Europeanisation**

Diversity as an EU policy concern, and our focus on the construction industry, lie within wider debates on EU membership and its impact on member states' policies. The concept of multi-level governance (MLG) explores how different 'levels' of governmental authority (e.g. the EU and the member states) interact (Stephenson, 2013). This provides a framework for reflecting on the different 'levels' of government involved in EU policy governance: 'EU', 'national' and, in the case of gender equality in construction, 'local'; but also the specific actors involved and their inter-relationships. MLG can thus handle key features of EU

structures such as its polycentric nature and the multiplicity of tasks delegated from the EU level.

Second, there is Europeanisation itself. Although this concept embodies notions of policy processes and policy outcomes, its exact meaning remains contested (Buller & Gamble, 2002; Radaelli, 2004; Sittermann, 2006). MLG, however, helps sharpen focus on the fact that EU policies must pass through at least one intermediate layer of governance (the national government). Crucially, whilst the term Europeanisation might suggest convergence, harmonisation or homogenisation of policies and policy practices across member states, empirically there is often diversity in the transposition of EU Directives across member states (Lodge, 2002).

One factor helping to explain this is domestic institutions (Börzel, 1999). Here we take a broad definition of institutions, which include the 'norms' that are central to French and British policy discourse over diversity and equality. Indeed, we emphasise below the relevance of discourse and ideas to the Europeanisation process. A further analytical concept which can add understanding to the complexity of national policy responses is the literature on policy means and policy ends (Howlett, 2009; Kay & Ackrill, 2010), which shows there are different ways of delivering on a given policy goal. Thus a single policy design, whether laid down in EU Directives or soft law, can give rise to diversity in policies as implemented in the member states. That said, as argued below, evidence from the construction industry suggests variations in policies as implemented can fail equally to deliver on the desired policy goals. This is an under-researched area of the Europeanisation literature which we wish to explore in the present paper.

### **Hard law, soft law and their roles in shaping EU gender policy**

The dominant hard-law approach on issues of EU gender and equality policy has involved the use of Directives, with important early examples during the 1970s being Council Directives 75/117/EEC regarding equal pay and 76/207/EEC for equal treatment in employment, vocational training, promotion and working conditions.<sup>3</sup> The use of Directives means that the primary focus of EU legislation is on the delivery of the desired, commonly-agreed, policy outcomes or 'ends', rather than the imposition of a common set of policy instruments, or policy 'means'.

The literature analysing problems with a hard law approach to Europeanisation has focused primarily on issues of timing and delays in implementation; and on 'irregularities' in implementation (see, *inter alia*, Vollaard & Sindbjerg Martinsen, 2014). The general finding, of often slow and uneven progress by member states in transposing Directives into national law, has also been found in the specific case of translating EU gender norms and legislation into national policy (Liebert, 2003). Given the absence of an *a priori* basis for determining the advantages or disadvantages of Directives, however, answers to such questions as whether variations in on-the-ground enactment of EU policy in different member states undermine the delivery of common policy goals, or whether flexibility increases

the chances of successful adoption and implementation of Directives, by accommodating different national legal traditions, political preferences, etc., requires case-by-case empirical investigation.

This applies *a fortiori* to soft law approaches, which lack any legal imperative for member states to act. That said, they have encouraged national governments to discuss collectively issues that are politically sensitive, and then set policy goals. Moreover, whilst soft-law approaches lack the legal obligation to act on soft-law policy goals, member states do nonetheless respond to such policy approaches (Ferrero & Ackrill, 2016).

We identify four key strengths of a soft-law approach. Firstly, it can supplement existing hard law by helping with its interpretation, or helping to shape subsequent legislation (Trubek, Cottrell, & Nance, 2005). Secondly, soft law can help guide actions through a socialisation process, ‘encouraging compliance though it is not legally required’ (Beveridge, 2012, p. 34). Thirdly, it opens up policy discussion to a wider audience than is possible through the sole deployment of hard law, thus enabling empowerment of more marginal parties. Fourthly, soft law aids the establishment and wider integration of policy by the shared use of language and common terminology, termed ‘Eurodiscourse’ (Beveridge, 2012, p. 35). As a case in point, influenced initially by the US governmental model of positive discrimination (Simon & Madoui, 2011), new soft law concepts are becoming prevalent in the wider political discourse, with the increasing use of such terms as ‘positive action’, ‘equality of opportunity’, ‘diversity’ and ‘inclusion’.

As the use of soft law expands, increasingly soft and hard law approaches coexist in a given policy area. Beveridge (2012) uses the example of sexual harassment, where an EC Recommendation and Code of Practice, from 1992, coexist with hard law (based on Articles 141 EC and 157 Treaty of Lisbon). Beveridge argues that the low level of understanding and awareness of the issue by policy-makers meant hard law alone was unlikely to deliver on the policy goals. Thus soft law can be a way of getting sensitive or little-understood policy issues onto the negotiating table in the first place, in a way that can lead to soft law outcomes, possibly with a subsequent shift to hard law.

In addition to these broad elements of the EU policy process, there are also specific gender-related issues. ‘Gender mainstreaming’, referred to earlier, ‘is not a policy goal in itself, but a means to achieve gender equality.’<sup>4</sup> As such, it is neither hard nor soft law, but a guiding principle that should be embedded into all policy activities, whichever approach is utilised. Further, the commitment under the Charter of Fundamental Rights, set out earlier, also applies to hard and soft law. It applies *de jure* in terms of EU legislation, such as Directives. It then applies *de facto* to soft law measures: the Charter applies to member states when implementing EU legislation (i.e. hard law); but it also makes clear that in other cases those same fundamental rights are protected ‘under the constitutions or constitutional traditions of EU countries and international conventions they have ratified.’<sup>5</sup>

The foregoing discussion challenges those who see soft law as ‘second best’ to hard law (Lombardo & Meier, 2007), or those who see the issue as an either-or binary structure of mutual exclusivity (Ter Haar & Copeland, 2010). We would argue, however, that with gender and equality issues, hard law often focuses on what not to do, underpinned by sanctions in its breach, whereas soft law highlights the potential and the expected gain. This distinction is explored further below, in the analysis of through our case study.

Indeed, flexibility in policy approaches is critical to the development of EU-wide gender-equality policies, given the extent of normative diversity across member states as explained by Schmidt (2012, p. xiv), gender-related issues are often at the heart of [countries’] values system, whether about roles in the family, the order of society, or the division of labour in the workplace.’ Yet initially, gender and equal opportunities enjoyed a relatively high profile position, from the initial policy on equal pay for equal work, through to the launch of the European Employment Strategy (EES) in 1997 (Smith & Villa, 2010), with quantitative targets being set regarding female participation in the workforce, to be met by 2010.<sup>6</sup> Subsequent reviews and the relaunch of the strategy (focusing to a much larger extent on soft law) in 2005 resulted in the declining importance of policy efforts towards equal opportunities and gender equality.

Moreover, Rubery, Grimshaw, Smith, and Donnelly (2007) note that while EU policy was making significant progress in terms of gender equality, the actual position at the Member State level remained poor. Both EU enlargement, which led to greater diversity in and challenges to the values systems noted by Schmidt; and the economic crisis, which changed focus from better jobs to more jobs, have made progress towards greater equality of opportunity and gender equality more challenging. In addition, Smith and Villa (2010, p. 540) argue that the move towards the greater use of soft law processes are undermining efforts to deliver on the targets in the EES, given that ‘Although the soft law approach does seem to exert an influence in some areas, it does not have the longevity of hard law when priorities change’.

From this we need to consider, first, how EU policy processes have influenced national policy-making on gender-equality; and second, the extent to which national policies deliver on EU policy goals. We consider these next.

### **The national level – gender diversity initiatives in the UK and France**

France and the UK offer an important comparative case study regarding equality and diversity in general, and employment in the construction industry in particular. Similarities in the poor employment positions of women in both cases cannot be explained by political differences or industry-specific differences, for example the highly fragmented nature of the UK construction industry, dominated by subcontracting, self-employment and ‘false self-employment’ (Behling & Harvey, 2015). Most UK construction companies are ‘hollowed-out’ (Harvey,

2001), organising and managing the construction process rather than providing the materials and labour (Thiel, 2007). Behling and Harvey (2015) analysing Labour Force Survey and Eurostat data, show that between 1995 and 2013, 42–57% of UK construction workers were self-employed whilst, in France, the figure was less than 20%. We must therefore delve deeper in the policy processes in each country.

The concept of diversity management in France is relatively new, in contrast to the UK. Equality is a fundamental aspect of French society, enshrined in the Constitution (Woehrling, 2008) with the emphasis on egalitarianism ‘before the law for all citizens without any distinction of origin, race or religion. It respects all beliefs’ (French Constitution: author’s translation). Despite this, the notion of diversity as a distinct concept emerged only at the end of the twentieth century, focusing primarily on race and ethnicity. Given this growing recognition, and influenced by emerging EU legislation, France has changed its discourse, moving from a focus on eliminating discrimination by punitive methods, to a more ‘positive’ and inclusive approach to diversity.

The French model is based on ‘equality of rights’ (Klarsfeld, 2010), and draws on both hard law and soft law to act against discrimination and promote the role of women in the workplace. The French Diversity Charter, a ‘Commitment text’, aims to ‘institutionalise equality at work’ (Diversity Charter, 2015). Triggered by the EU Diversity Directives from the 1970s (see earlier), it identifies seventeen criteria, such as gender and age, which organisations must work not to discriminate against. Companies apply for certification via one or both of the Diversity Label and/or the Gender Equality Label. Alongside this is hard law, such as the equal representation of women and men on boards of directors and supervisory boards. Initially, 20% of positions should be held by women, a figure since raised to 40%.<sup>7</sup>

The transposition of EU Directives in this area is potentially contradictory to existing French practice. Directive 2006/54/EC introduced the notion of indirect discrimination, which is largely perceived as a threat to organisations because it increases the possibility of legal risk and corporate responsibility (Brousillon, Pierre, & Seurat, 2007). Indeed, indirect discrimination in the European Directive (Directive 2006/54/EC) focuses on what is less noticeable and “informal” (Kofman, 2002; Piguet, 2006; Tissot, 2005). Informal discrimination remains (McGuire, 2002), but its intangible nature and difficulties in its identification make it problematic to prove (Ono, 2002). An example of indirect discrimination given in the Charter, is where a job advert might specify an age range 28–32, which would be considered discriminatory to women as it may coincide with family formation ([www.charte-diversity.com](http://www.charte-diversity.com) 2016). Soft law is useful here, because it does what hard law cannot: educate businesses, encourage them to adopt more creative ways of thinking, and strengthen diversity through learning, without threatening legal reprimand.

Among soft law approaches, Charters and Certifications feature prominently in France. While Charters play an advocacy role, introducing a new discourse,

Certification goes further because, although not a legal requirement to obtain, requirements such as audits of compliance are conducted if companies are to get and maintain these certificates. These focus primarily on quantitative indicators such as the number of CVs received, the number of interviews, etc. That said, they ignore more ‘qualitative’ but potentially more significant indicators, such as formalising management practices and integrating diversity measures throughout the organisation. While adopting the Charter is entirely voluntary, over 3300 companies have signed since 2004, of which only 193 are in the construction sector ([www.charte-diversity.com](http://www.charte-diversity.com) 2016). That said, although less than 6% of signatories, this figure is comparable to similar sectors such as transport and logistics. Unsurprisingly the proportion of signatory organisations from female-dominated sectors, such as retailing and health and social care, is much higher. Fewer still have obtained the Diversity Label with 11 in total from construction. Gender equality requires a shift in intangible factors human attitudes and corporate culture whereas certifications are process-oriented by which companies are ‘seen to be doing something’ rather than addressing rather more fundamental issues.

In contrast to the hybrid approach taken in France, the UK approach consists primarily of legal compliance. The UK Equality Act 2010, extending earlier legislation, forms the legal basis for enforcement, but the onus remains on organisations, regardless of size, to implement and manage their own equality and diversity policies.

In the UK, as mandated by government, the focus is on policy existence, not goal-delivery. Consequently, rather than putting the emphasis on the positive aspects of equality and diversity, social dialogue focuses primarily on providing a minimum legal standard, monitored by stakeholders such as the Equality and Human Rights Commission, trade unions, or quasi-legal bodies like charities and commissions. However, while public bodies are required by the Public Sector Equality Duty (PSED) to advance equality of opportunity, within the private sector the emphasis is on hard law.

This last point indicates the complexities within the Europeanisation debate. The relative merits of hard and soft-law approaches can be seen as secondary, when policy goals are not being delivered by either approach. Moreover, ‘control rules are not as binding as they appear ... [and] voluntary practices are not as deliberate as they seem’ (Klarsfeld et al., 2012, p. 312). They argue that compliance with a *rule* relies on the individual or collective interpretation of that *rule* and the risk or associated sanction of non-compliance. In France, companies are required to provide returns on the numbers of minorities employed, however the penalties for non-compliance are weak (threats of litigation for example – for a full discussion see Klarsfeld, 2009) and do not provide a sufficient incentive to comply, given also that the rules can easily be circumvented (Klarsfeld et al., 2012). In the UK only large publicly-quoted companies are required to publish the numbers of women at senior level.

**Table 1.** National level policy response and industry level implementation.

	EU Directives	
	UK	France
National policy: • Hard laws • Soft laws	Labour laws Equality Act 2010	French constitution Labour laws Diversity label Diversity charter Global Reporting Initiative Social Responsibility Label Gender Equality Label
Industry level • Hard approaches • Soft approaches	Organisational equal opportunity and diversity policy; codes of good governance; 'Business friendly' approach; support/'affinity' groups for example: Women in architecture <a href="https://www.architecture.com/RIBA/Inclusion-andDiversity/EDI.aspx">https://www.architecture.com/RIBA/Inclusion-andDiversity/EDI.aspx</a> <a href="https://www.ice.org.uk/about-us/who-runs-ice/how-we-work/equality-and-diversity">https://www.ice.org.uk/about-us/who-runs-ice/how-we-work/equality-and-diversity</a> <a href="http://www.rics.org/uk/about-rics/responsible-business/inclusive-employer/">http://www.rics.org/uk/about-rics/responsible-business/inclusive-employer/</a>	Audits; quotas for women at senior level; requirement for gender representation, equal pay, training opportunities etc.; Associations (formed under Association Loi, 1901)

Thus we have the position at the national level, where EU policy efforts can be implemented in a purely legal sense, with little evidence of their effective implementation in terms of delivering the desired policy outcomes (Caven, Navarro Astor, & Diop, 2016).

We suggest that this is where the first fracture point occurs.

Fracture point 1 – EU policy actions (hard and soft law) result in national policy responses. This process should, but may not, include monitoring and penalties to ensure the delivery of policy goals.

Table 1 provides illustrative examples of the national policy responses to EU Directives.

Primarily, implementation is through hard law in the UK, and soft law in France. However, in the subsequent stages of policy implementation, there appears to be a crossover from 'hard' to 'soft' approaches in the UK and from 'soft' to 'hard' in France. In France, after accreditation and Charters are awarded, but in order to retain them organisations must complete audits which, as noted earlier, essentially represent hard-law enforcement. Conversely in the UK, aside from the PSED (EHRC, 2013; McCrudden, 2009; Wright, 2015), action becomes much more voluntary in nature at the industry level. While organisations must operate within the law there is little obligation, particularly in the private sector, to adopt effective practices regarding gender equality. Codes of good governance exist; the benefits of diversity as 'good business practice' are extolled; and, support groups - also known as 'affinity groups' - are encouraged. However, these can further marginalise minority groups as, in the case of gender equality, they are established by women for women. Without genuine engagement on the part of the dominant group, i.e. men, progress towards gender equality will be difficult. We return to this point below in our discussion of fracture point 3.

**Table 2.** UK/France comparison 2014.

	UK	France
Output €bn	157	164
No of enterprises (000s)	209	408
Jobs (000s)	2100	1747
Men (000s)	1964	1556
Women (000s)	272	190
Female %	11	12

Source: FIEC, 2015; Eurostat, 2015.

**Table 3.** % change over time in the construction industry.

	UK			France		
	Total work-force (000s)*	Total women (000s)*	% Female*	Total work-force (000s)	Total women (000s)	% Female
1983	–	–	–	1708	144	84
1993	–	–	–	1470	142	97
2003/2004	2386	315	132	1523	154	101
2013	2154	254	118	1703	185	108

Source: INSEE, 2015; LFS, 2015 (\*= comparable data for the UK not available prior to January 2004).

## Fracture point 2

Fracture point 2 – national policy responses to EU-level policy trigger responses from companies, but either those national policies do not embed processes of monitoring at the company level to ensure the delivery of policy goals, or they lack effective penalties for non-delivery

## Industry level – the implementation of gender diversity initiatives in construction

Empirical studies show that the problems faced by women in construction are starting to be understood (Caven, Navarro Astor & Diop, 2012), albeit mainly from the multiple and varied perspectives of women in the industry (c.f., Caven, 2004, 2006; Fowler & Wilson, 2004; Greed, 2006). Analyses focusing on institutions and discourse and their role in policy outcomes are notable by their absence. Previous work on women working in the construction industry (c.f. Caven et al., 2012; Chadoin, 2006; Clarke, Pedersen, Michielsens, & Susman, 2005; De Graft-Johnson, Manley, & Greed, 2003; Powell, Hassan, Dainty, & Carter, 2009; Powell and Sang, 2015; Wright, 2013) provides an appropriate starting point for a study of diversity initiatives in a cross-national context. Table 2 illustrates the significance of the respective construction industries in terms of the number of organisations and numbers of those employed. France has the 2<sup>nd</sup> largest construction industry in Europe in terms of output, and the UK the 3<sup>rd</sup> largest. However, the industry employs more workers in the UK than it does in France.

The construction sector is homogenous in its workforce. Eurostat data (for 2015) show that, in the French and UK construction sectors, men account for 89 and 88% of workers, respectively. This has remained the case despite multiple EU

policy interventions and national and industry-wide initiatives. While women have made some progress, employment data include all women working in the industry, thus incorporating those in support roles as well as pure construction roles. Table 3 illustrates the change over time.

Table 3 shows a bleak picture for both countries, in terms of the move towards gender equality. Small gains in the number of women employed in the French industry can be seen from 1983 to 2013, but in the UK the figures fall. This leads us to ask what is happening within the industry 'black box'. Why, despite firms' apparent adherence to policy objectives, is the position of women within the industry not improving? Could it be that many equal opportunities policies are merely 'empty shells' (Hoque & Noon, 2004)?

In terms of existing initiatives to attract women *into* construction-related careers, there are wide discrepancies between the two countries: in France, the interests of women are promoted by bodies such as the Union Internationale des Femmes Architectes (UIFA), founded in 1963, and Les Groupes Femmes de la Fédération Française du Bâtiment (The Women's Groups of the FFB) founded in 1979, which are legally mandated bodies (in France all associations, such as these, must comply with the Associations Law of 1901). The latter, rather than focusing on a single profession, includes all women employed within the construction industry and has about 3000 individual members (Source: FFB). That said, most are employed in management, HRM and client relation roles; with craftswomen representing only 1.3% of the construction industry workforce in France in 2013 (INSEE, 2015).

In contrast, UK efforts are fragmented and transient. While there are long-standing support groups such as Women and Manual Trades, Women in Property, and the National Association of Women in Construction, initiatives such as the Building Design 50:50 campaign, are created and disbanded (Matthewson, 2013) or have gimmicky titles, such as Chicks With Bricks (Caven et al., 2016). Neither feature suggests they represent a high-priority concern. Despite EU efforts to promote greater equality, national governments and industry bodies, as well as the more long-standing support groups, evidence shows it is not being achieved.

Interestingly, in neither country do professional bodies, craft organisations, training providers representing construction industry employees, nor any standard-setting body, have explicit gender diversity policies for their membership. In France this is 'excused' by the awarding of the diversity label, but in the UK gender diversity policies are not legally binding as long as the organisation is compliant with the law in terms of their own employees. We suggest, however, that failing to promote gender diversity is *de facto* non-compliance, regardless of countries or industries delivering on their legal obligations. In the language of policy 'means' and 'ends', if the policy means are in place (the various policies outlined above), but the policy ends are not delivered on (improvements in gender balance and equality), there is no practical difference between the (ineffective) policies being in place or not. In effect, the policy means is, in and of itself, the policy end.

Construction is perceived as being a hostile working environment for women, not only with the overwhelming masculinity of the workforce, but because of arduous working conditions and a long-hours culture. However, modern construction methods and technologies have reduced the need for physical strength which would previously have excluded many women. The lack of equal opportunity selection procedures means that recruitment for manual trades and site operatives, who are frequently employed on a contract or self-employed basis, is generally done on an *ad hoc* and informal basis via social networks, further excluding women (Clarke & Herrmann, 2007). Interestingly, Byrne, Clarke, and Van Der Meer (2005) point out that women in the UK construction industry tend to be better qualified and have higher levels of technical knowledge than their male counterparts, yet previous experience and practical 'know how' are more highly-valued by construction companies. Even on a project where a proactive approach to including women was adopted, women were still excluded (Clarke & Gribling, 2008). Reasons given included 'prejudice and a negative perception of women doing manual jobs' (Clarke & Gribling, 2008, p. 1058) with the 'diversity-related measures [losing] their impetus and [having] but minimal impact in breaking down the exclusivity of the building trades' (*ibid*).

Reporting on the construction of Heathrow Terminal 5, where specific actions were implemented to improve representation of diverse groups, Clarke and Gribling (2008, p. 1060) suggest 'that there is no shortage of target group representatives seeking to train and work in the industry'. Their absence is particularly puzzling given that, as Caven et al. (2012) report, many women find it a rewarding career. Powell and Sang (2013, p. 795) agree, arguing that is wrong to assume that men and women are homogenous groups: 'some women are likely to relish working in a male-dominated culture. ... It is equally likely that some men in the industry find the culture problematic' (see also Rumens, 2013). This further implies we must 'move analyses away from women as 'other' and men as an unexamined norm against which women are compared' (Powell & Sang, 2013, p. 797).

While Caven et al. (2012) reports on 'survivors' who have remained in the industry, De Graft-Johnson et al. (2003) and Adams and Tancred (2000) provide a more negative viewpoint, analysing why women leave. Sexism and long hours are the key reasons given, a point echoed by Galea, Powell, Loosemore, and Chappell (2015). Clarke et al.'s (2005) survey reported employers' organisations as stating lack of facilities for women and working hours that were incompatible with childcare as being major barriers to women's increased participation. However, as Galea et al. (2015) report, work-life balance and flexible working are coming onto the agenda, not as a strategy to address the lack of women in the industry, but to meet demands from men as domestic family roles evolve.

Galea et al. (2015) also report that while diversity is considered a core principle, it is not prioritised in the same way as safety, as it lacks the 'crisis' drivers of safety breaches, which can prove costly for organisations, financially, reputationally, or for moral and ethical reasons. The industry is naturally 'conservative'

and ‘pander(s) to a discourse of gender equality ... [while hiding behind] the theoretical equality of women and men in the labour market ... [thus] showing more commitment in principle than in practice’ (Clarke et al., 2005, p. 173). We contend that the industry is guilty of a marginalising discourse on gender equality, presenting it as solely being a women’s issue. Without engagement on the part of the dominant group, men, progress will be limited.

Given the foregoing, we question whether it is that ‘(w)omen cannot be seen to do the same job as men without threatening ideologies of masculinity associated with construction work’ (Wright, 2013, 833). Sang, Dainty, and Ison (2014) suggest homosocial behaviour explains the exclusion of women, yet there is a tension, as Wright (2013) argues, women site workers relate more closely to their male counterparts than to female office staff. Thus, women can be accepted in the operational construction environment at the individual level, but exclusion continues to occur within organisations, or the dominant male groups. This leads to fracture point 3:

Fracture point 3 – ideas and discourse present an ongoing barrier to change in employment practices, independent of policies and institutions.

Ideas and discourse matter fundamentally if significant change is to be delivered in a context shaped not only by tradition, but also by stereotyping. Not all women are put off by long hours, or a male-dominated environment – just as not all men are attracted to such an environment. Those men who undertake family roles traditionally assigned to women can accept that such roles are indeed assigned, rather than being the outcome of some process of natural selection. Thus the way in which different discourses, and ideational contestation, frame gender can be not only a barrier to change, but a gateway.

The challenge, ultimately, lies in the need to ensure alignment between policies and policy discourse at the EU level, with policy responses, policy transposition and policy discourse at the national level, and with ideational change in implementation at the level of individual companies, if significant changes in gender-based employment are to be delivered in the EU construction industry. Both soft-law and hard-law processes can and have delivered policies promoting diversity and equality. What remains unclear is the extent to which putting policies in place which, ostensibly, respond to concerns over a lack of equality, is enough to deliver even a modest improvement in the gender-balance of employment in the construction sector. We have argued that our analysis of potential fracture points in EU policy processes can help identify critical junctures in the policy process that require particular attention from policy-makers, to ensure policy goals are ultimately reflected in their delivery in practice. The challenge is to identify ways in which these policy processes can be complemented with an appropriate discourse that can deliver ideational change regarding women in construction.

## Conclusions

The position of women and gender equality in the construction industries of the UK and France has not improved over time, despite numerous EU-led initiatives which have sought to shape national policy developments. By bringing together two distinct yet complementary bodies of literature, from HRM and policy science, we have traced the enactment of gender diversity initiatives from EU initiative level down to site level within the construction industries in the UK and France. In neither case, however, do we see gains in gender equality. We have identified three potential points of fracture in the transposition of policy in to practice: firstly, in the enactment of EU-led initiatives at the national level; secondly, from national government level into industry; and, thirdly within the industry.

There is certainly a conflict between the European ideal of gender equality, the many and varied initiatives designed to increase women's participation in construction, and the lack of growth in numbers employed in construction. We suggest that there is a lack of collective will on the part of the industry to address change, in order to increase the numbers of women employed. Indeed, companies are looking to migrant labour to address shortages of skilled labour, rather than looking to include women. The question then becomes how EU gender diversity initiatives can become more effective in terms of on-the-ground outcomes.

We argue that research needs to investigate what occurs in the policy 'black box'. This is especially so in a MLG setting, where policy initiatives start at the EU level, are interpreted and transposed by national governments, sometimes adapted further by local organisations, before being implemented within individual firms. Such an MLG setting, an analytical framework that can accommodate differing political organisational structures in different countries when utilised in a comparative context, adds further complexity to what is already a complex policy process. As a result, fracture points may arise which result in the split between 'policy as designed' and 'policy as implemented'. Furthermore, firms' individual actions may diverge even from policy as implemented.

Thus the main conclusions from this paper are to ask further questions and highlight areas which require investigation as follows. Firstly, there is a need to examine how EU gender equality Directives are translated at the national level and why they are translated so differently. Moreover, even though two entirely different sets of (formal and informal) institutions exist in France and the UK, neither country's approach has delivered greater diversity in employment in construction.

Secondly, in order to promote gender equality, specific analysis is needed of diversity policies are translated into practice in a male-dominated industry. This is especially problematic if the translation *process* continues to be dominated by men.

Thirdly, the dissemination of diversity initiatives needs to be tracked through the entire chain of command on construction projects, with a clear distinction made between 'on the ground' implementation of policy, and the actual outcomes of policy in individual firms; and, fourthly, to understand the key methodological

questions this gives rise to. In particular, this directs us to the need to undertake detailed, small-N, qualitative studies which allow for the necessary fine-grained analysis of the dynamics of policy process, and the path taken by policy within what has all too often been seen as a ‘Black Box’.

## Notes

1. Running in parallel is EU support for ‘social dialogue’ (<http://ec.europa.eu/social/main.jsp?catId=329&langId=en>) which works to engage all social partners in social policy-related matters. A detailed analysis of this is beyond the scope of the present paper.
2. This article draws on a case study involving the UK. The UKs EU referendum result in no way affects our analysis, as the empirical case study and its implications for theory are taken as representative of wider policy processes. Specifically, country-specific cases inform generic questions about Europeanisation, albeit through the empirical lens of a case study including the UK construction industry and related employment policies.
3. See Liebert, 2016, for a full list of the relevant Directives.
4. European Institute for Gender Equality website: <http://eige.europa.eu/gender-mainstreaming/what-is-gender-mainstreaming>
5. European Commission Directorate General for Justice website: [http://ec.europa.eu/justice/fundamental-rights/charter/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/charter/index_en.htm)
6. See Smith and Villa (2010) for a comprehensive discussion on both the relaunch of the strategy and quantitative targets.
7. <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023487662>

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