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The Record of Gender Policies in Greece 1980-2010: legal form and economic substance

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Antigone Lyberaki[#]

ABSTRACT

Reforms promoting gender equality in Greece are held by many to be one of the few real success stories of the post-1974 period. Indeed, there has been considerable activity in changes in employment, family, social insurance and other legislation all centered around the constitutional provision on equal treatment which came into force in 1983. This activism, however, was mainly about statutory changes and lacked a feminist analysis of women's real position in the Greek economy and society. The main argument of the paper is that gender equality-promoting policies, laws and measures - 'Legalistic Formalism'- failed because they ignored the dual nature of the labour market and the economics of the family. By focusing on legal form and ignoring reality it allowed the reform momentum to be hijacked.

Keywords: Gender policies; Greece; Labour market reforms; Legalistic formalism.

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1. Introduction: Assessing 'Legalistic Formalism'

Policies for gender balance were copious in Greece after 1974. Some, at least, are widely acknowledged as "success stories" (family law, maternity protection in work, abortion, but also promotion of equality in education). In a -supposedly- highly resistant country to 'reforms', progress in gender equality is often deemed to be a shining exception[1]. When looking at outcomes, however, the picture appears more ambivalent: employment participation rates are low by European standards and improve slower than in other Mediterranean countries. Unemployment rates are much higher than men's. Incomes from employment are lower, due to occupational segregation but also to the "glass ceiling" restricting promotions. The representation of women in the political system is still lagging and tokenism rife.

The contrast between the complacent and self-congratulatory assessment and the equivocal reality is the starting point of this paper. Greece can be seen as typical of the countries on the "European rim", especially Southern European, where "Europeanization" was a key process in the mechanism of social change (Sotiropoulos 2009; Featherstone 2005). In such cases, the forces usually associated with globalisation are aided by a largely imported discourse on modernisation and institutional change. Formalism in the sense of an emphasis

[1] See Featherstone (2005); Monastiriotis and Antoniades (2009); Sotiropoulos (2009); Hatzis and Nalpantidou (2009).

on outward signs and legal detail, has been early on seen by Mouzelis 1978 as a symptom of conflict between imported and indigenous ideas and institutions. Gender equality in a society characterised by conservative values, is a case in point. Thirty years after Mouzelis' observation, gender rhetoric is firmly entrenched as part of political correctness at the same time as all gender balance indicators lag clearly behind.

The structure of the paper follows the logic of the argument. The second section employs a broad brush, to reinterpret the success or failure of policy interventions on gender. It offers an alternative –and far more critical – account of developments placing emphasis on deficits relative to what could, or should, have been achieved. The new narrative rejects the legalistic approach that deems a problem 'solved' once a law has been passed; instead, it examines outcomes in the light of the feminist analysis on the economics of the family and the labour market (Bettio & Villa, 1996; Estevez-Abe, Iversen & Soskice, 2001).

To explain a shortfall in performance, a simpleminded reading may be that legislation has not proceeded far enough. An overview of the Greek case in the third section shows that, on the contrary, legislation has, at least in quantity, not been lacking; that a number of institutions focusing on gender equality have operated for over two decades; and that the rhetoric of gender equality is well entrenched in the political discourse of most actors in Greece. Thus, what may be called *'A simple quantity theory of law'*, i.e. that there was a failure in

legislative effort, is not sufficient to describe reality. Instead the paper explores the operation of what it terms ‘Greek legalistic formalism’; this in the gender context, would amount to a pursuit through legal means of an undifferentiated objective named ‘gender equality’. This sets the scene for the main question to be explained: *why did the gender gaps persist* despite *institutional and legal activism?*

This paper attempts to explain the paradox of thwarted good intentions by offering interpretations grounded in the features of Greece as a Mediterranean society with a large, family-run small business sector and an overblown, yet ineffective, public sector. It examines the validity of three hypotheses: (1) that reforms were only applied to the public sector, (2) that gender equality was resisted in the private sector due to costs and the prevailing values, and last, (3) that women, in order to benefit from ‘special provisions’, were encouraged to adopt, in practice, the view that their economic role was subordinate to their primary (family-based) responsibilities. The explanations derived on the basis of these three hypotheses, do not ascribe the persistence of gender imbalances to incidental chance factors, nor do they portray them as evidence of a pervasive male conspiracy. Yet, they explain the paradox as an example of possibly good intentions clashing head-on with an insufficient analysis of the situation. The uneven implementation of gender legislation incorporated equality of gender treatment in the public sector as an element of the pre-existing insider/outsider divide, and thus was instrumental as a factor impeding

meaningful change - if the criterion used is the overall outcome for the majority of women.

The core argument is that gender equality-promoting policies, laws and measures - 'Legalistic Formalism'- failed because they ignored the dual nature of the labour market and the economics of the family. In the absence of a robust gendered economic analysis, the legalistic culture has complicated the picture further. By focusing on legal form and ignoring reality it allowed gender legislation to be appropriated as a weapon to maintain the position of the relatively protected and privileged groups to the detriment of the most vulnerable in the insider/outsider divide. In this manner, the reform momentum was effectively hijacked. Thus, legalistic formalism was content to create an imagined sphere where gender equality could be proclaimed and defended, and where good intentions could be prominently displayed.

2. The Greek record to date: Success or failure?

What is the current state of gender equality in Greece? How does it compare with what it used to be? Equally, how does it compare with what happened in countries of similar starting points –what it *could have been*? The answer to these two questions will determine the nature of the issue to be discussed. Can the experience of Greece over the last two decades and a half be judged a success or be lamented as an example of failure?

The analysis takes a long and necessarily impressionistic view, in order to identify key changes. It focuses initially on change on education, employment and wages.

Compared to the situation pertaining a generation ago, there can be no denying that there has been important change. This change is especially evident in two key fields[2]:

- In **education** the percentage of women 25-64 having completed secondary education amongst the population almost doubled in the 15 years since 1992. The figures for tertiary education are even more impressive – women actually overtake men after 2001. Education is important both in itself and due to its second-order effects on career choice, attitudes etc.
- In **employment**, female employment is the fastest growing part of total employment[3], from 34% in 1985 (Figure 1a) to 39% in 2006 (Figure 1b). However, most of the increase was absorbed by the Government sector (public=central government + local authorities, including also public enterprises).
- In **wages**, the trends suggest that there has been some improvement in the raw gender pay gap (pay gap in unadjusted form: Commission of the European Communities, 2008) over the years, though the econometric evidence on discrimination remains robust and more or less unchanged

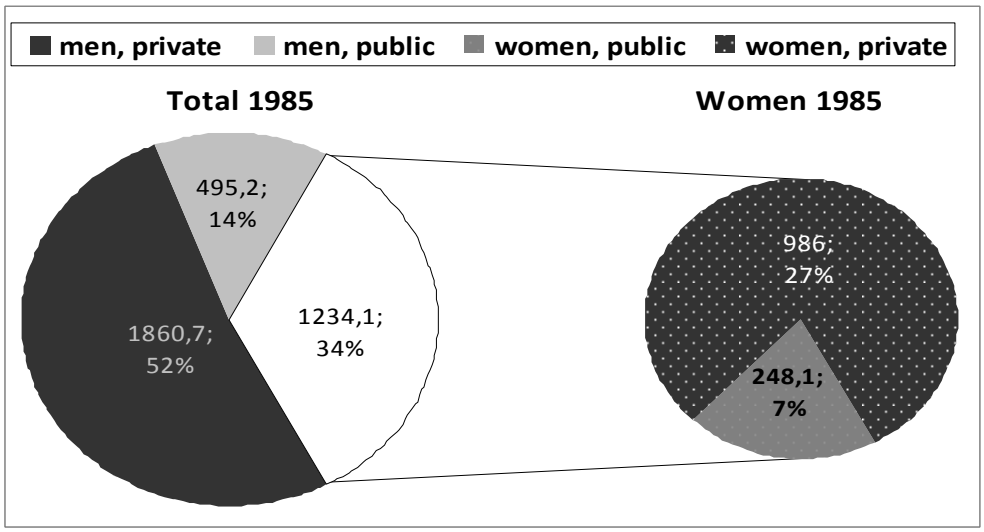
[2] Lyberaki (2009) covers the same empirical ground more thoroughly.
[3] Between 1992 and 2000 a million immigrant workers (who were predominantly male) were added to the labour force. Thus the increase in the share of women among the indigenous employed population is understated by the data.

(Kanellopoulos et al, 2003, Cholezas & Tsakloglou, 2006, Papapetrou, 2004).

- In **politics**, the percentage of women in the Greek Parliament is somewhere between 10% and 15%, low by European standards and clearly lower than the percentage of women managers (25%).

These developments complement a generalised picture of greater involvement by women in economic, social and political life (National Centre for Social Research, 2007).

Figure 1a Composition of wage employment by gender and sector, Greece 1985.

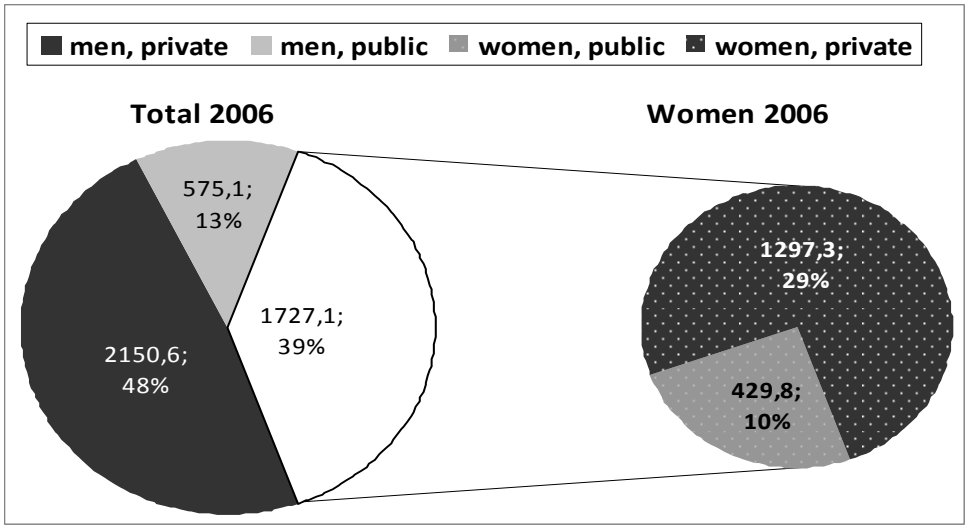


Source: ILO, Labor Statistics

Can we interpret the Greek experience of the last generation as a success story? After all, the changes just surveyed are unprecedented in historical terms. On this basis, policy makers feel justified in being self-congratulatory, interpreting

the picture as a trailblazing remoulding of society (PASOK –the Greek Socialist Party- 2000)[4].

Figure 1b Composition of wage employment by gender and sector, Greece 2006



Source: ILO, Labor Statistics.

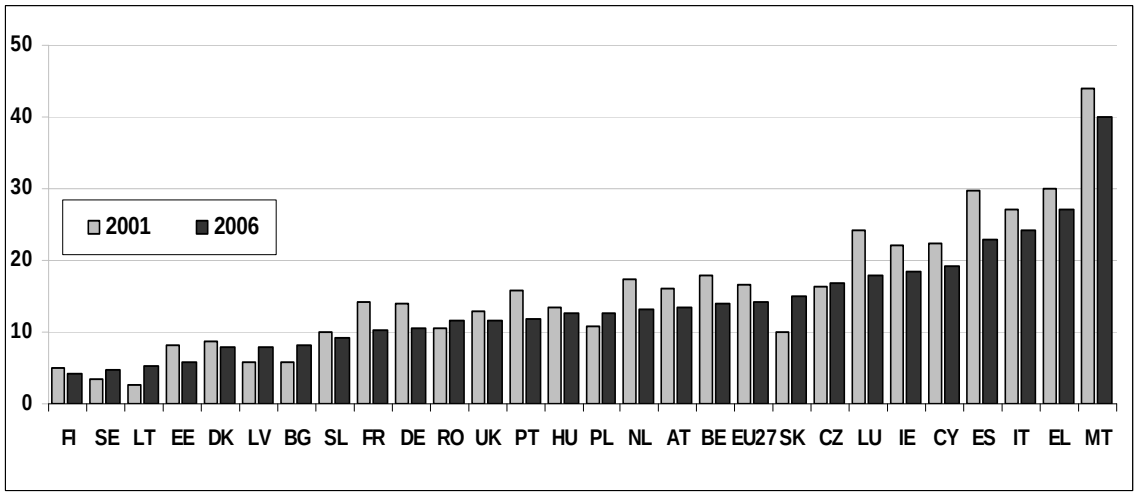
However, sobriety soon returns when one abandons comparing Greece with its earlier self and examines its experience against the backdrop of its peers over the same period. If we interpret what was happening to other (South) European countries as the norm and we use *that* as the yardstick to judge Greek progress, the impression is considerably altered:

- Figure 2 uses Labour Force Survey data to plot the gender gap in employment across the EU in 2001 and 2006, a period when the promotion of gender balance was a common and explicit target for all EU states. Southern Europe stands out as having by far the largest difference in employment rates between men and women. Greece is not only last in the European South; it is further distinguished in showing a *small* improvement

[4] PASOK's (2000, 63) manifesto for the 2000 election states "In Greece, since 1983, is enforced one of the most modern and progressive legislations in the terrain of equality between men and women, both in the family and the work-place".

over time. As a result in 2006 it is ranked at the bottom of the EU-15, and worse than Italy or Spain.

Figure 2 Absolute gender gap in employment rates (women and men aged 15-64) in EU Member States - 2001 and 2006



Note: Difference between men's and women's employment rates. *Source:* Eurostat, Labour Force Survey (LFS) and European Commission 2008 (COM 2008).

European Union data -along with Eurostat *Statistics in Focus* (2008, 6) also document two further Greek shortfalls in the labour area:

- In unemployment, where the gender gap in Greece was among the widest in 2000 (following Spain) and remains so in 2007.
- The same holds for the proportion of women as managers. This is especially damning, given that the large population of very small family-run firms in Greece should give a large positive handicap. Nevertheless, Greece secures its usual place at the bottom of the EU ranking with little difficulty.

Before hastening to condemn the Greek record, the point should be answered that we ought not to worry about *current* manifestations of gender imbalances,

given that fundamental transformations are occurring below the surface and will become apparent in years to come. Thus, gender imbalances in today's Greece are, in this view, merely transitional phenomena, bound to be overcome as younger and more educated cohorts of women mature and replace earlier – and more "traditional"- generations: What we have is a success story, which simply has not unravelled fully yet[5].

This optimistic view needs qualification: the differences in employment rates between North and South Europe are mostly due to lower participation rates at the two opposite ends of the career structure. In the South as compared to the North, women enter the labour market *later* and exit *earlier*. This behaviour is explainable as a feature of Mediterranean family strategy, which characterises *both* older and younger cohorts: young females are kept from high unemployment by prolonging education. Women leave work after 50 to care for other family members (husbands, parents, grandchildren.)[6]. This behaviour is the rational response to particular incentives embedded in the social protection system, as well as other rigidities of the labour market (Lyberaki 2008b), which *largely remain*. Once the younger cohorts reach the age at which these incentives operate, they are likely to behave in a similar way to their predecessors. Thus, in this view, we may expect disadvantage to shrink, but by no means to disappear.

[5] For an empirical analysis of cohort effects in female labour participation, see Nicolitsas (2006). Lyberaki (2010a) examines the overall argument more fully.
[6] See below, as also argued by Bettio and Villa (1998). Gender employment gaps are especially wide for individuals aged 55-64 and the improvement in Greece over time is non-existent.

To pass judgement on policy initiatives on gender equality, one must have a view of what would have happened in their absence – a 'No policy scenario': what we are observing may simply be due to secular changes that are due to *other* factors. This touches on larger (and as yet not settled) issues such as whether the transformation due to globalisation over the last 30 years strengthens the position of women or not. (e.g. Kabeer et al. 2008; Van Staveren et al. 2007).

Nevertheless, over and above the general trends, one must take into account a specifically Greek social transformation process: At the outset of the period, Greece was characterised by small family enterprises, both farms and small businesses. In this environment the patriarchal prerogative extended to family and economic activity. In the 1960s the most common form of female employment was as unpaid helpers in a family business (Freris 1986). The secular trends towards reducing employment in these sectors would have pushed developments in the direction of reducing patriarchal authority –even in the absence of policy. The rise in service employment and tourism would have similar effects. In this interpretation, structural change could account for the direction of movement towards greater equality, weakening the case for the efficacy of policy intervention further.

To sum up, the 'naked-eye' evidence on gender equality in Greece certainly suggests significant transformations **compared to earlier times**. If we stand these successes against what happened in countries of similar starting points, or

even what would have happened anyway, the room for celebration is reduced: under these interpretations, matters *could have been much better*.

Were gender interventions between 1980 and 2009 overall a success, or a failure? Is the dominant image that of reforms giving fruit or of the resistance to change? The verdict depends on our choice of benchmark. The choice is not value neutral and would follow from our view of the status of gender balance as a policy objective. In ascending order of ambition, this section has reviewed four separate benchmarks:

1. Success relative to the past, possibly stored up in the form of a cohort effect to appear gradually. *What happened in fact*.
2. Success relative to a "no-policy" scenario, in the context of globalisation or the Greek enterprise structure. *What would have happened, anyway*.[7]
3. Success relative to what happened to other peer countries; hence the benchmark includes some policy effort. *What happened in other similar countries.*
4. And last and most ambitious is the benchmark of what *should* happen, based on a feminist analysis of woman's place in society. *What should have happened*.[8]

[7] This is obviously a tricky issue. Although a number of forces in the terrain of demand would push in the direction of higher female participation rates, "higher demand nowhere automatically provokes increased supply… (The decision of women to work is not exclusively) framed within a perspective of self-interest. Such a decision is governed by a complex series of factors that extend beyond individual choice to embrace key sets of societal relationships" as Daly (2000, 467) succinctly put it. Women's work is embedded in the balance of responsibilities between the State, market and family in terms of the distribution of resources and in relation to the provision of care.

The impressionistic survey of evidence concludes Greece has been a success *only* if one uses the first and least ambitious criterion of success. A feminist, unabashedly using normative criteria, would almost certainly go for a version of the last benchmark, and would conclude the opposite. A pragmatic stance for a small open economy in the periphery of the advanced world, may utilise the record of peers as a "proxy- benchmark" to allow the argument to move forward.

So, Greece is not the trailblazing reformer that some politicians claim. It could be that policies have simply been ineffective, or that the problem was far too challenging, or even that reformers were 'turning a blind eye' (to borrow the term from Basu et al, 2007) to employers resisting compliance. In any case, the question to be settled is '*why so little?*', rather than '*why so much?*'

3. A failure of effort? *'A Simple Quantity Theory of Law'*

Was this lack of success (or perhaps relative failure) because Greece invested insufficient effort to gender balance? One simple-minded measure of effort may be taken to mean attention devoted to gender balance issues by Governments and political actors, in the form of legal changes and institutional structures. Lack of success would thus be explained simply as quantitative

[8] To return to the earlier point, the critical issue is what kind of intervention is capable of changing the balance of State-market-family responsibilities and the arrangements around care, so as to encourage greater gender equality.

insufficiency of activity and the conclusion would be to propose more activity – what may be termed a Simple Quantity Theory of gender equality Law.

Table 1 attempts to codify the institutional initiatives that were targeted primarily or exclusively towards gender equality. The size (especially taking account of the incompleteness) of the table, in a sense, is sufficient to answer the question. Taking a closer look, the 1975 Constitution contained an explicit gender equality clause (article 4, paragraph 2), which was to have been fully implemented after a grace period of 8 years[9]. As a result, in the early 1980s there was a flurry of legislative activity in the fields of family law, employment, and social protection. In recent years the influence of European Legislation in the form of EU directives is playing an increasing and increasingly visible role (Stratigaki, 2007; Petroglou, 2005; Moussourou and Stratigaki, 2004; Karamessini, 2006; Davaki, 2006).

A number of institutions with a primary focus on gender equality were added to the legal armoury: the Gender Equality General Secretariat, the Research institute for Gender Equality Issues, equality sections in Trade Unions and Employers' associations, women's sections in parties. Gender equality was also a favourite EU-funding receptacle, starting from the EC Social Fund initiatives in the 1980s. The generous funds available were an important incentive

[9] According to art 166, par1. Then 2001 amendment added par 2, which explicitly allowed positive discrimination and stated that the 'contravention of inequities that exist in practice, especially against women, are the responsibility of the State' (Caltsoya-Tournaviti 2002).

attracting attention to gender issues and were targeted by many projects[10]. Those projects, at the time of their approval, were characterized as 'pilot projects', experimental or containing innovative ideas; the expectation was that they should play an activating role and act as accelerators of social change, by generating emulation. EU-funded projects also supplied an incentive for individuals and collectivities to convert wholeheartedly to the cause of gender balance.[11]

[10] The European Funds and the activities around them were also important conduits through which European and international discourse on gender equality percolated to the normally closed Greek intellectual climate (Karamessini 2006).

[11] For instance, the Public Power Corporation has been financing gender equality seminars in the form of a pleasant week-end break for hardened male Trade Unionists and was subsidised by EU funds.

Table 1 Formal initiatives with gender equality dimension.

	Date	Description	Effect
LEGISLATION			
Constitution	1975 –ful implementation by 1983	Article 116, par 1	All legal differentiation by gender unconstitutional
Family Law	1983	Law 1329	Abolition of patriarchal family laws (e.g. dowry, surnames, parental responsibility replaces paternal)
	1982	Law 1250	Civil Law marriage
	1986	Law 1609	Legalisation of abortion (Cost covered by social security 1987)
Employment	1986	Law 1649	Parental leave, child benefits, allowances
	1984	Law 1483 1414 PD183/88	Equality in industrial relations (paid and unpaid maternity leave), Collective agreements are legally binding
	1997	Law 2525	Extended hours for some kindergartens and primary schools
	2006	Law 3488	Overall framework for equal treatment in education, employment and conditions of work
Social security	1990 1992 2002	1902 2084 3029	Social security laws altering pensions and preconditions of retirement
INSTITUTIONS			
General Secretariat of Equality	1982	Foundation in Ministry of Interior	'Design, implementation and monitoring of equality related policies in every sphere'
KETHI	Law 1989; started 1994	Research Institute	'To Coordinate research on gender for the promotion of gender equality in employment, entrepreneurship, education, decision making, social policy, media
'Equality sections'	Mid-1980s	in TUS & Employers'	Monitoring and promoting equality; consulation; transmission of good practices
'Womens' sections'	Late 1970s	All political parties	Promote gender equality in party programmes, secure interests of women
EU Funds for gender equality promotion			
European Social Funds	1982-1985 1986-1990	Projects	Projects for equal opportunities
'NOW"	1990	Holistic intervention	Active policies for equality (women's careers, child care, pre school infra)
2nd CSF	1994-1999	Funding	subsidised hiring of women + affirmative action
3rd CSF	2000-2006	mainstreamed Funding	+ Funds earmarked for women
NAPs	2001-	Coordination +funding	Implementation and monitoring of action plans Gender equality among top 4 priorities
EQUAL	2000-2006	Funding	Pilot projects in labour market
Judicial decisions			
Local Courts	1983- with increasing frequency	Decisions on specific cases	Throw out as discriminatory gender-specific regulations in employment + social protection Interpret the constitutional provision
European courts	1990-2009	Equal Pay for Equal Work	Occupation-specific social protection gender differences interpreted as part of pay. European directives for equal pay applied (most recently for civil servants, earlier for PPC)

The end result of all this formal activity was to 'mainstream' gender equality in political rhetoric and political discourse across the political spectrum (with the possible exception of the Church of Greece and the Monasteries of Mt Athos[12]). Gender equality is acknowledged by all to be a key target, affirmative action and female quotas are widely practiced by parties and political correctness entails invoking the contribution of women. Yet, women still remain a small minority among elite groups, while the ubiquitous "Equality sections" of parties have amounted to female ghettoes (Wahl et al. 2005; European Commission 2008).

At this stage of the argument, we may attempt a definition of what Greek legalistic formalism may mean in the context of gender balance. Public actors and legislators conceived of 'Gender Equality' as a monolithic undifferentiated *'thing'*, which could (with suitable partitioning) be addressed as an objective by a barrage of laws and formal initiatives. As gender equality was primarily seen as a legal issue, an approach based on laws and regulations was deemed to be appropriate; little or no attention was given neither to an analysis of the social and economic background nor to matters of implementation.

What may be termed 'Legalistic Formalism' (as many frustrated social scientists can testify) characterises an entire approach to governance. It extends the ideas of *legal* formalism (i.e. the theory that Law is a set of rules and principles independent of other political and social institutions) from the

[12] Even then, the Monastic Community has recently allowed the presence of cats of the female persuasion in Mt. Athos, which, taking the long view, must be considered a very radical move towards gender balance.

judicial system, in order to generalise them to governance in general. Thus policy makers (many of whom lawyers by profession) tend to see everything as a legal issue and consider a social question solved once legislation is passed[13]. Expressed in a variety of ways (non-implementation, ineffectiveness, inertia or un-rule of law) there have been many cases where the laws were allowed to lapse (Kaltsonis 1998; Pirounakis 1997). Whether this was the result of the State being "a colossus with feet of clay" (Sotiropoulos 1993; Mouzelis 1978; Tsoukalas 1993), or the result of interests mediation patterns characterised by rent-seeking behaviour of sections enjoying privileges (Lyberaki and Tsakalotos 2002; Pagoulatos 2003) is a matter of interpretation.

The delusion that a matter is sufficiently dealt with because legislation has been put in place has implications about the ways in which legislation attempts to influence reality; discretion is limited to legal categories. This in the field of gender balance further implies that (a) privileges are granted by fiat and (b) cash benefits are favoured over provision of social services. The efficiency of policy-makers is evaluated by the number of laws they managed to pass. Since 1974 more than 4000 laws were enacted; to this total must be added presidential decrees, ministerial decision and circulars. A predictable side effect is over-determination (in the mathematical sense) where conflicting rules apply –a frequent cause of administrative paralysis. The administrative ethos prevailing is that, if something is not explicitly allowed, it is deemed not to be

[13] Often tautologously, as the problem is defined as the absence of laws.

permitted. This frequently provides a useful pretext for the non-implementation of laws.

The Greek legal situation is characterised by a conflict: on the one hand there exists a plethora of very detailed, particularistic and frequent overlapping laws. On the other, there are stirring declarations of abstract principles and general rules – most of which blatantly contravened in particular cases. The system embodies severe particularistic fragmentation, yet is, supposedly, governed by universal principles. In situations of such conflict, the courts, both domestic and European are called to deal with cases of legal discrimination in employment and social protection. Faced with this contradiction, any court cannot but strike down the discriminatory legislation. These court decisions are frequently ignored by the government, and citizens are enjoined to seek redress in the courts on an individual basis[14].

The non- implementation of legislation is by no means a new phenomenon in Greece. The 19th century writer Roidis wrote: '*After the deluge of legislation, allow me to propose the following single new law: "On the implementation of legislation* already *in force*" (Roidis 1952, p143[15]). Is the case of gender equality, then, *at all special*?

[14] Given the precedent courts are bound to rule in their favour (after the necessary legal delays, legal fees etc). It is not surprising that the majority of citizens choose not to exercise such 'rights'. Marinos et al. (2007) discuss the implications for constitutional reforms of the plethora of legal cases citing that particular legislative areas violate the constitution.

[15] On the role of the courts in employment and social protection, see Kostavara (2006); Petroglou, Petroglou and Maniati (1997); Petroglou (2005); Giannakourou and Soumeli (2003); Dermanakakis et al. (2002).

In responding to that question, ubiquitous and repetitive legislation on gender equality was applied and re-applied for a quarter century, with an uneven and limited effect. So, legislation has done little to change people's lives. If the ultimate aim of legislation is meaningful change to people's lives[16], then the pursuit of gender balance as a social intervention must, even by Greek standards of non-implementation, be exceptional for missing the mark. This cannot be an accident; we need a systemic explanation to account for it.

4. Explanation: Why were good intentions thwarted?

Legalistic minded policy-makers, however well meaning, operated with little appreciation of the bounds of their ability to influence matters in society. What was the implication of this stance? The analysis that follows indicates that the shortcomings of this approach explain why the cause of gender equality suffered[17].

The superimposition of legalistic formalism to an environment of small family run firms meant that: (a) gender equality was imposed only where simple legislative fiat was enough (in the state sector) and gender balance *could not* be pursued in the larger part of the economy; (b) employers in small firms were never persuaded that gender equality meant more than extra costs, gender equality *would* not be pursued by them in the wider context; finally (c) female

[16] If we define the aim to eradicate all discriminatory mention of gender in legal instruments, then our interpretation would be much more sanguine (if somewhat tautologous).
[17] This section draws heavily from Lyberaki (2009), where the three hypotheses are presented in detail.

beneficiaries of protection realised early on that in order to exercise the privileges of the protected sector, they had to accept in practice that their economic role was subsidiary.

First hypothesis: **Reforms were only applied to the public sector**. The insiders-outsiders division was reinforced, while the many women outsiders were made worse by comparison (Boeri, 2009; Cha & Thebaud, 2009; Estevez-Abe, 2005; Lyberaki, 2005).

In the Mediterranean countries the *economics of the family* create a specific policy environment (Bettio and Villa, 1998). In Greece, as elsewhere in the Mediterranean, a family-centred welfare system (Matsaganis, 2009) a family-biased production system (Lyberaki, 2008a) and a family-oriented values system (see evidence below) have undermined the liberating potential of gender legislation. Large parts of the economy are impenetrable to legislation (small family firms, loosely regulated services in private sector, informal economy). Only the public sector acted as a "haven for women's work", while the rest of the economy remained more or less hostile to women's employment. Policy-makers failed to take into account the duality of the productive structure and the clear divisions in the labour market between insiders and outsiders. Equality policies would have been successful, if women's employment was tantamount to public sector employment. But it was not. Hence, gender equality promoting legislation by strengthening the (already more protected)

position of women in the public sector had the effect of adding another dimension (the dimension of gender) to the insider/outsider divide.

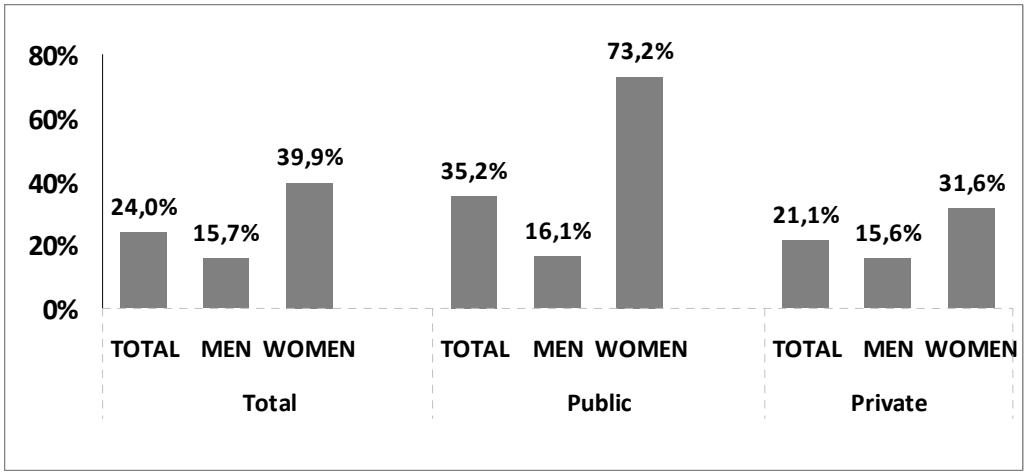
As a result, the attraction of the public sector to those women who can join its ranks is overwhelming, especially for women with secondary education. Compared to the small-size private sector, the public sector pays 50% higher wages to female employees (Lyberaki 2009). The gender earnings gap has been the object of a number of studies since the 1980s, which conclude it has not shrunk for 20 years[18]. Predictably, Figure 3 shows that female employment in the public sector increased by 73% for that period.

An important point to note is that the rise in female employment in the public sector did not coincide with a change in the functions served by the public sector. This sharply differentiates Greece from the Nordic countries, where the increase in female employment coincided with a greater emphasis on social services, which was the causal explanation for the increase in public sector female employment. Thus, the observation that policies compensate for gender inequality in the private sector by creating jobs for women in the public sector

[18] The earliest estimate for the mid-1960s which placed them at around 37% -with discrimination accounting for 60% (Kanellopoulos 1982), while for the mid-1970s Psacharopoulos (1983) estimated them at 35% (with discrimination accounting for 89% of the gap). A number of studies show that gender wage gaps narrowed between 1975 and 1988 (by about 15 percentage points) but remained fairly stable ever since (Kanellopoulos, Mavromaras and Mitrakos 2003), if not deteriorating slightly (Cholezas and Tsakloglou 2006; Kanellopoulos and Mavromaras 2002). More recent estimates (based on data of the late 1990s) vary: Cholezas and Tsakloglou (2006) suggest that the gender earnings gap stands at around 25.5% -with discrimination accounting for 70% to 80%, Papapetrou (2004) estimates it as 28.8% -with discrimination between 61% and 66%, Karamessini and Ioakimoglou (2003) concur with the earnings gap (28.5% in industry and 25% in services) but estimate discrimination as lower.

(a point made by Estevez-Abe in 2009) applies with even more force in Greece than the Nordic countries[19].

Figure 3 Cumulative percentage change by sector and gender 1985-2006.



Source: ILO, Labor Statistics.

Second hypothesis: **Legislation on gender balance was resisted in the private sector, while the government's commitment to enforcing it was clearly lacking**. Gender balance was not embraced by employers because it was superimposed on prevailing conditions by simply expressing the wish that employers would shoulder the cost for maternity protection and equality in general. To implement the legislation (or at least not to ignore it), private employers needed to *believe* that the implementation of the legislation was ultimately to their benefit, as they would not be reimbursed by the State for employment protection. An example is equal pay: the issue of equal pay for work of equal value never figured properly on the policy implementation agenda. The Labour Inspectorates whose job would have been to supervise that

[19] Her point is that "the Nordic countries appear to compensate for gender inequality in the private sector by creating jobs for women in the public sector" (Estevez-Abe 2009, 185). A criticism of her position is that the increase in female employment was the effect and not the cause of the wider range of social services provided by the public sector in the Nordic countries. In Greece no such structural shift was evident in the period since 1980.

legislation were understaffed and lacked training. On the other hand, the unions were interested in cash benefits and pay increases that would go to the entire workforce rather than services in kind or time, that would be targeted to working women (Dermanakis et al. 2002). In other words, the governments turned a blind eye, while their commitment to equality was far from credible (Basu et al, 2007).

The State was faced with the choice of promoting female employment *either* through compensating unwilling employers for the cost imposed *or* by directly providing extended protection to its own employees. In this dilemma it chose the latter course, further reinforcing the insider/outsider divide; it placed its hopes for the private sector on voluntary compliance on the part of employers. For equality to have a chance, however, employers needed to be convinced of the benefits of gender balance. This palpably did *not* happen: gender equality (despite lip-service) was seen as an imported (Western) idea, clashing with indigenous institutions – a point that is apparent in survey evidence examined later in this section. The task of persuading the grass roots SMEs to implement the law, was ignored and not pursued by the State; formalism implied that persuasion was *not* seen as part of the reform agenda. Lukewarm commitment and 'turning a blind eye' set the scene for imperfect enforcement. The latter's natural and foreseeable consequence was the delay of the kind of gender developments which were proceeding in countries such as Italy and Spain.

Thus, employers (with the tacit agreement or even encouragement of the State) ***would*** **not implement and could simply sidestep the law.**

Small employers were not alone in being resistant to social transformation of economic roles. The prevailing values in society at large were and remain conservative. "Special treatment of women" *(sic*) was fine, as long as the State paid for it, and as long as certain core female 'duties' remained unchallenged. According to this interpretation, the family adapted its strategy for daughters/wives, by encompassing their employment in the *public* sector, as long as women working there could satisfy three conditions:

1. They could continue to perform most of their caring functions.
2. They would be able to take care of their aging spouse in the future via early retirement.
3. They would not compete with male-insiders for a career[20].

What was a legitimate expectation for a daughter entering the public sector was not extended as treatment for female employees of small firms. In their case, the needs of the small employer in matters such as maternity leave, reconciliation of family life etc came before those of the *paterfamilias.* Women working in the private sector were relegated to the status of outsiders, and non-implementation in the small-size private sector was not even seen as a problem to be addressed.

[20] Indeed, some of the features of the civil servants' pension regulations for women can be interpreted as safeguarding those three conditions: e.g. the 15 year-rule for married women, low pension ages ensuring that women do not stay long enough to compete for senior jobs. See Lyberaki 2010b.

Cynics might contend that legal formalism evoked the real plight of outsider women to cement the privileges of insider women. This kind of hypocrisy could be ridiculed by claiming that gender equality rhetoric was a device used by insider families to promote the interests of their female members at the expense of their private sector female cousins.

In the preceding argument, societal values which resist change play an important part. So, we turn to some indirect evidence from empirical studies of values. Europeans, with the exception of Scandinavians are fairly conservative when it comes to prioritizing family over employment for women (Table 2). The South of Europe (Greece, Spain and Portugal) seems to agree that '*Men should have more right to a job than women when jobs are scarce*'. Greece stands out by a long way as the most conservative, by believing that women should only play the part of the supplementary earner; they should treat their work as a luxury and should allow priority to the 'serious workers' – the men. The fact that men are clearly more conservative than women (the reverse of what holds in Spain) could be seen as indirect support of the points made earlier about the attitudes of small employers.

Table 2 Attitudes towards aspects of gender equality in Europe, 2004

	A woman should be prepared to cut down on paid work for the sake of her family		Men should have more right to a job than women when jobs are scarce	
	Mothers	**Fathers**	**Mothers**	**Fathers**
Greece	44.0	48.3	40.5	53.9
Spain	58.2	51.5	30.3	25.9
Portugal	74.5	66.9	35.3	35.5
France	49.2	47.1	22.7	24.6
Germany	57.9	56.1	19.1	18.8
Austria	48.3	51.4	18.0	28.2
Belgium	42.3	31.6	24.6	23.3
Denmark	18.1	13.0	4.8	2.4
Netherlands	32.1	30.6	14.2	12.5
Sweden	14.1	13.5	4.3	2.9
Finland	23.7	22.0	6.7	7.1
GB	52.1	44.0	16.9	13.7
Ireland	50.7	36.4	22.2	16.2
All	**50.5**	**46.1**	**21.3**	**20.4**

Source: European Social Survey, 2004

On closer inspection[21] it becomes evident that legislative, demographic and economic trends have done little to question the primacy of the family as the basic institution of socio-economic life. The percentage of Greeks that state they believe that *family is the most important thing in life* is very high (even compared with the Mediterranean), and so is the percentage of people thinking that *adequate income and good housing constitute very important prerequisites for a successful marriage*[22]. In view of the above, the prolonged stay of adult children in their parents' home echoes Bettio and Villa (1998, 130) that emancipation in the Mediterranean occurs *within* rather than *outside* of the family. Emancipation within the family prolongs material comfort for adult

[21] Demographic developments reinforce the conclusion of the continued salience of the family (Bettio and Villa 1998; Lyberaki 2009).

[22] Evidence in this section is drawn from the European Values Survey, carried out in 2000 (published 2001), which includes Greece in the sample (unlike the earlier waves).

offspring, but it hardly encourages the radical transformation of values, attitudes and identities. Over 79% of Greeks think that a woman has to have children in order to be fulfilled (against 26.4% for men). The response to the statement "A pre-school child is likely to suffer if his or her mother works" is affirmative for 28.1% in Greece (while only 19.6% in Italy, 7.6% in Spain, and 14.7% in Portugal (European Values Study 2001, 134). Fewer approve and twice as many do *not* approve "of a woman who wants to have a child as a single parent without a stable relationship".

Third hypothesis: **Women were encouraged to think of themselves as having a subordinate economic role**. Women – especially, but not exclusively – in the public sector 'benefit' from a range of special regulations. To exercise these 'privileges' women need to sign off from aspiring to a full career, most often through early retirement or by forgoing positions of responsibility. By internalising thus the subsidiary role for women, they are galvanized into a major force *preventing* change, in the interests of defending their 'privileges'.

The difficulties arising out of the asymmetric coverage of equality promoting legislation could have been compensated *via* the provisions of the social security system. The latter can, in theory at least, fill the gaps of legislation enforcement. However, the Social protection system, far from compensating

for dualism, reinforces it and serves as a mechanism for the promotion of particularistic interests[23].

These divisions are clearly reflected in the diversity of women's position: a dual picture of women's life chances. Women in the protected sphere (civil servants and public utilities employees, professionals- lawyers, doctors and engineers) appear to be improving their lot. The majority of working women (those employed in smaller firms, those moving in and out of employment, new entrants into the labour market, informal sector activities and the *non-professional* self-employed) are faced with uncertainties, risks and vulnerability.

The social insurance system reflects the social conditions of its inception -the 1930s. Numerous attempts to reform it were stalled or at best produced only piecemeal 'parametric' changes, keeping the broad structure of the system stable (Tinios 2009). The system from the point of view of gender equality remains: *discriminatory*, *divisive* (in the sense of prioritising the interests of some women) and *patriarchal* (in the sense of resting on assumptions concerning the dependent nature of women's roles and their prime responsibility as home-makers). Timid "reform by instalments" (Tinios 2005) generates fierce resistance from the insiders without empowering sufficiently

[23] The fragmentation of the system implies that social solidarity is contained within occupational groups (Börsch-Supan and Tinios 2001; Tinios 2003). Thus the social protection system far from alleviating inequalities may have exactly the opposite effect. For its treatment of women see Matsaganis and Petroglou (2001).

the outsiders, while leaving the implicit assumptions of social protection unchallenged.

Attempts to reform the labour market have had a similar patchy history. Some realized that over-regulation arrested mobility and productivity to the detriment of jobs creation at large (Burtless 2001). Faced with a situation whereby insiders are well protected, while outsiders are left to fend for themselves, the reaction was to infuse *some flexibility at the margins* of the labour market, without jeopardizing the interests of the insiders. This reaction is not only met in Greece: Sala, Silva and Toledo (2009) examine this strategy in the OECD context, while Boeri (2009) looks at Spain. The labour market remains a two-tier structure, where outsiders bear the full brunt of adjustment with little social assistance. Outsiders are persuaded to support and defend the system which excludes them, in the hope that, one day, their own boat will come in, and they will be able to join in the benefits or that the benefits will be 'equalised upwards'[24] (Tinios 2005; Lyberaki 2008b).

Recapitulating, *'equality protection'* (sic) policies were enforced for the insiders. Measures in the wider economy were (in theory) to be financed

[24] The recent tragic event concerning the violent homicidal attack against Konstantina Kouneva, (an immigrant activist organising contract cleaning workers), brought attention to working conditions for contract cleaners. The reaction of most commentators was to conclude that all cleaning should be done by permanent civil servants, hence, abolishing the option of contract cleaning and possibly relegating all women working currently in the cleaning business to unemployment (INE/GSEE -Labour Institute of the General Confederation of Greek Workers 2009).

unilaterally by employers. They in turn passed the costs on to women who found it increasingly difficult to get hired and pursue meaningful careers[25].

The implicit assumption at the back of the reformers' mind was that a "normal job" has to be identical to a public sector job, the labour market is taken to be similar to State employment, and the economy is understood in terms of a government bureaucracy. This image is entirely consistent with a world-view inspired by legalistic formalism. Myopia of this kind has been driven by the characteristics of the protagonists of the public dialogue: public sector trade unions, large public utilities unions, banks' unions (formerly public), politicians with an eye to be re-elected and large private sector business representatives who tend to be insulated from competition… These players showed little interest in what happens to the outsiders[26]. Some women benefited from this deal, but the majority of women did not[27].

The essence of the explanation lies in the joint effect of *three* Greek features: A production structure composed of, on the one hand, an overgrown public sector together with satellite large private firms, and an archipelago of small family business on the other; an administration of very limited capabilities; a political class committed to the rhetoric of gender equality, yet at the same time wary of

[25] The point that the incidence of a tax is distributed according to elasticities – or relative bargaining power- and that women would largely bear the cost of their own 'equality protection' can be met in any economics textbook (e.g. Borjas 2002). It is conspicuously missing in Greek discussions on social protection…

[26] A similar point although in a totally different context is raised by Mandel and Shalev (2009, 177) when they conclude that "different configurations of economic models and welfare regimes are more noteworthy for their *effects on women-within-classes, than on women as a whole*" (emphasis added).

[27] Although making up 40% of wage employees, over the last twenty years there are only three women in the TUC Steering Committee comprising 45 members (6.7% in spite of the pro-equality rhetoric) (Matsaganis 2009).

disturbing established interests.[28] The contradictions were solved by the simple expedient of pursuing appearance at the expense of substance –a natural reaction in a political system reared in legalism and formality[29]. Gender equality was loudly proclaimed, generously subsidized and effectively undermined.

5. Conclusions: The perils of legalistic formalism

The moral of the story told in this paper is that seeing gender equality through legalistic eyes distorts. Equality is conceived through a patriarchal viewpoint, as an incremental process. It was seen as "a thing" that can be patched on by an act of legislative will. It was further implicitly believed that "women could be let in" without substantially changing anything, or allowing for new roles. As a result, old structures are not changed and women are seen as mere guests: pampered yet denied stakes.

To pursue labour balance meaningfully in Greece would have meant dealing seriously with a number of unresolved issues and dilemmas: rigid labour

[28] In evaluating gender concepts in EU policies, Stratigaki (2004, 34) argues that the original feminist policy goals became obscured in order to accommodate other policy priorities. She claims that this is a process of cooptation, whereby the content of key feminist concepts became gradually transformed due to their subordination to different policy priorities; by doing so, they lost their potential for changing gender relations. Ironically, a similar process characterised the diffusion of gender policy rhetoric in the Greek context. Nevertheless, here the goal (ulterior motive) was not the introduction of flexibility or the expansion of female employment, but rather the opposite: to block any meaningful reforms in the labour market (that would create jobs and offer choice to women), and to secure privileges for the insiders.

[29] A similar point has been recently raised by Weiner (2009, 320) when she argues that while policies and institutions may become global "this does not mean that they will become local", as insufficient heed to domestic conditions "can result in a breach between policy adoption and implementation/enforcement".

markets and the insider/outsider dichotomy; the problem of non-implementation of legislation; the attempt to exhibit progressive social policy without shouldering the public finance cost of so doing; embracing 'modernity' for its own sake and not simply as the appendage of "EU Community Support". Nevertheless, gender balance is more than a simple victim of the generalised Greek public policy malaise.

Policy-makers in the field of gender equality in Greece believed that to safeguard gender equality and to vouchsafe their progressive credentials, it was sufficient to pass the appropriate legislation. They would simply follow the blue-print of what was seen to be the "canon" in Europe, without bothersome details of local implementation. However, their good intentions did not suffice to guarantee good results.

The gender equality agenda was seen by the 1980s proponents to take place largely in the field of symbolism. Symbols historically are very important for the feminist movement: the early suffragettes treated the vote as a symbol; second wave feminists realised abortion laws had wider significance as restoring woman's control of her body[30]. Hence to denigrate legalistic formalism for not encompassing economic theory may be thought to be beside the point. However, this line of criticism is not very apposite in the Greek case. The ideological battle has been '*formally*' won, at least if one looks at the legal armoury and the party *manifesta*. If anything there seems to be an inflation and

[30] On the use of symbols see Della Porta and Diani (2006, section 4.4.2), and also Williams (2004).

depreciation of symbols. What needs to happen is to take the victory to the grass roots- i.e. to show the relevance of the legislation to everyday lives.

In Greece formalism has acted as an "effective mechanism for maintaining the status quo because particularistic interests are hidden behind the formalistic debates much more than in the West… Formalism is a manifestation of a serious disarticulation between imported and indigenous politico-ideological institutions" (Mouzelis 1978). Indeed, it is natural for legal formalism, when faced with a mismatch between intentions and results, to attempt correction through enacting *new* laws – i.e. *more* legal formalism. This self-fulfilling prophecy has been paralleled to a bureaucratic spiral. When faced with any *individual* problem, it is always possible to ascribe it to an explanation that itself requires more regulation. All these matters provide *sufficient* explanations for any isolated failure –the kind of explanation that is favoured by most political commentators. However, repeated failures of the same kind in the same issue over protracted periods of time require analyses that venture beyond the surface to seek more systematic explanations –to search for *necessary* explanations in order to avoid the *particularities* of sufficient ones.

The case of gender equality is a case of repeated failure despite being mainstreamed as part of political correctness. To add to the general case, gender roles involve the core of personal experience and identities and are therefore protected by scores of unseen defence mechanisms. It is these mechanisms that must ultimately explain the persistent failures –despite the

good intentions and the flowery rhetoric. Indeed, it was the rhetoric that led the chase of more and more formalistic initiatives, at the expense of the drudgery of actually coming to grips with a complex and resilient reality based on deep-seated social norms. Legalistic formalism was content to bypass the real issues and to create an imagined sphere where gender equality could be proclaimed; that bastion could then be exploited as yet another dimension of the insider/outsider divide.

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