

APPLYING THE RECON MODELS TO A GENDER-SENSITIVE ASSESSMENT OF DEMOCRACY IN EUROPE

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1) Introduction

Most feminist research on democracy originates in a criticism of liberal democracy as conceptualised and practiced in modern nation-states. At a theoretical level, feminist critics have exposed the abstract individualism of liberal democracy which, being blind to gender differences, has led to women's exclusion from structures of political representation and participation and the perpetuation of gender injustice (Phillips 1993). According to this literature, women's political exclusion - often seen as constituting liberal democracies' gender democratic deficit (Marques-Pereira and Siim 2002: 173) - has come about in two ways. First, because formal democratic processes in liberal democracies take abstract individual interests and majority rule as the primary material for political decision-making, social groups who are either in numerical minority or who have been marginalised due to a history of structural disadvantage are rendered invisible. Second, because in liberal democratic practice political decisions are not in need of justification beyond the rationale of the voting procedure itself, the experiences and interests of dominant groups in society become universalised and established as a norm, resulting in a phenomenon which Iris Young termed 'cultural imperialism'. This results in a situation in which the dominant group(s) in society project their own experiences, interests and perspectives as representative of humanity, while those of marginalised groups are silenced or at best forced to be articulate in the languages and norm perspectives of the dominant groups (Young 2000: 141-142).

Women's exclusion from democratic structures of representation and participation has generated a vast amount of empirical research, though gender inequalities in parliamentary representation represent one of the most identifiable areas of scholarship in this field. This work looks at the factors that shape women's access to legislatures, such as electoral systems, party recruitment practices and political culture as well as institutional measures aimed at redressing women's political under-representation (Norris and Lovenduski 1993; Dahlerup 2005). A second strand of research on gender and political representation examines the relationship between women's representation in parliamentary assemblies (descriptive representation) and gender-sensitive and women-friendly policy outcomes (substantive representation). This strand of research explores the questions of when and how the representation of women's interests occurs, what interests are represented and who represents those interests (Swers 2002; Childs 2006). More recently, however, the scholarship on gender and politics has expanded its original focus on women in parliaments to examine the role of

state bureaucracies in redressing gender inequalities in society and advancing women movement's goals. Under the rubric of 'state feminism' this research looks at the conditions under which women's policy agencies within government structures facilitate effective linkages between women movements and state responses to women's movement goals (Stetson and Mazur 1995; Outshoorn and Kantola 2007). However, in contrast to research on women's legislative representation, the scholarship on state feminism has rarely been attuned to questions of gender, representation and democracy. Indeed, it is only recently that gender and politics scholars have begun to view the emergence of women's policy agencies as a development in women's political representation (Lovenduski 2005) or, more generally, as part of a wider process of democratisation of the liberal state (Rai 2002).

However, research on gender politics and democracy continues to be mainly focused on the nation-state as the principal unit of analysis. By contrast, the scholarship on gender politics in the European Union very rarely addresses issues of gender politics and policy in the European Union in relation to democracy. This research has been dominated by a focus on the implementation and impact of EU gender policy in member states, though in recent years increasing attention has been paid to the role of supranational actors and institutions in the development of such policy. However, this literature contains important gaps.

First, while studies examining the impact of EU membership on gender equality have uncovered factors that act to facilitate and constrain the implementation of policy at the national level, these studies tend to ignore the political processes accompanying the introduction of such policies at the supranational level. Thus, referring to an old Greek tragedy, one author commented that EU equality directives were viewed in this literature as a kind of *dea ex machina* that is, as if they came out 'falling out of the sky' rather than being the products of political action by women (Reinalda 1997: 197-8).

Second, the publication in 1996 of Hoskyns' *Integrating Gender* marked the start of a wealth of research investigating the main actors and institutions driving the evolution of EU gender policy. Using a variety of institutional and social movement approaches, these studies have explored how women's trans-national advocacy networks, EU institutions and ideology interact with one another in the development of gender equality policy in the supranational arena. (Mazey 1995, 1998; Rossilli 1997; Pollack and Hafner-Burton 2000, Cichowski 2002; Ellina 2002). However, this research has mainly focused on a selection of transnational actors and EU institutions (particularly the European Commission, the European Court of Justice and the European Women's Lobby) while the role of other EU institutions (e.g., European Parliament and Council of Ministers) and other transnational organisations ('minority' feminist groups, political parties and labour organisations) have received much less attention.

Third, while studies on gender in the EU have concentrated on both national and the supranational spheres of decision-making, these spheres have so far been unconnected in this research. As a result, we have little understanding of how regional, national and supranational institutions and organisations within the EU interact with one another in the processes leading to the introduction of a new policy on gender equality in the EU and its implementation in Member States. A further consequence of this strict separation of levels is that studies on

gender in the EU tend to take for granted that their unit of analysis is the European Union rather than taking it as something to be questioned and further explored. One important exception to this is the recent work by Anna van der Vleuten (2007).

Last, but not least, the literature on gender equality in the EU has been dominated by a technocratic understanding of policy-making. In other words, it could be said that these studies very rarely conceive the EU as a site of democratic politics but rather as a dedicated space for policy outputs. Indeed, the hidden model of the EU in this work is that of a top-down regulatory regime, rendering unproblematic the policies developed at EU level on gender equality. Within that framework, questions such as: ‘what interests are being represented in those processes?’; ‘who is included and excluded?’; ‘to what extent are those involved in the policy process accountable to European women citizens?’ need to be addressed.

The RECON project provides a very fruitful theoretical framework for investigating questions of democracy and gender in the European context which, to date have remained unexplored in the gender and politics literature. On the one hand, deliberative democracy helps us to move away from conceptions of gender democracy which are too focused on the representative dimension – that of women’s presence in parliaments. It opens a space where questions of accountability, inclusiveness and responsiveness can be explored. Deliberative democracy can also throw light on questions of gender and democracy in the context of the multi-level EU polity since – unlike majoritarian versions – it allows us to investigate multiple decisionmaking contexts. On the other hand, RECON’s three models for reconstituting democracy in Europe opens up an entire new line of research on gender and democracy in the EU, where the question of what kind of entity the EU is, is problematised rather than assumed. There is a strong tendency in the literature on gender and the European Union to focus too much on EU policy outcomes and too little on EU institutional design and the input side of democratic decision-making. This derives from an idea of the European Union that is informed by liberal intergovernmentalism theories. In according member states a prominent position in EU decision-making processes, this research (see e.g., Van der Vleuten 2005) is able to set aside questions concerning the democratic status of policy outcomes in relation to gender equality. Since the main actors in EU decision making are the national governments in the Council, and since these governments are democratically controlled by their own national parliaments, the question of ‘gender democracy’ in relation to the EU requires that scholars are primarily directed to look at the national, rather than the supranational, layer of this multi-tiered system.

2) Application of the RECON models to WP4

One of the core objectives of WP4 is to ascertain the empirical adequacy of the three models of democracy in Europe spelled out by Eriksen and Fossum (2009) in one particular area of

EU policy, namely, gender equality. In order to meet this objective, the study comprises five distinct phases:

The first phase conducted a review of the current state of research on gender justice and democracy in the European Union and also explored the potential of the emerging deliberative democracy literature to support a more substantive investigation into the quality of democracy in Europe from a gender perspective (Galligan and Clavero 2008a).

The second phase focused on the operationalisation of deliberative democratic tenets derived from feminist thought. In this section of the study, a methodological framework for assessing the democratic quality of gender politics and policy in the European Union was developed. It derived a series of observable indicators from three general ‘bundles’ of principles of deliberative democracy - inclusion and political equality, transparency and accountability, recognition and respect. These normative principles are then empirically developed in a discussion of data collection method and analysis (Galligan and Clavero 2008b). In a complement to this work, Holst (2008) has constructed a normative critique of methodological approaches to assessing gender justice in the EU.

Phase three applied the gender-sensitive indicators of democracy developed in the previous phase to an empirical context, with a view to assessing the democratic quality of decision-making processes on gender equality at the EU supranational level. The analytical assessment was conducted by means of a process-tracing exercise over two selected case-studies: the Goods and Services directive (2004) and the Recast equality directive (2006). The selection of these two case-studies was guided by the hypothesis that the democratic quality of these legislative processes will vary according to a variety of contextual factors, such as the kind of legislative procedure being followed, the institutions and actors engaged in this procedure and the degree of polarisation/consensus among these actors over the issues in hand.

Phase four moves from the supranational to the national layer of EU governance. Using the indicators developed in phase two, it assesses the democratic quality in the processes of transposition, implementation and enforcement of the Goods and Services directive in national settings, focusing on six EU member states (Austria, Greece, Hungary, Lithuania, Poland and Spain) and one candidate country (Croatia).

Phase five takes our study of gender and democracy a step further and examines the empirical adequacy of the three models of democracy in Europe on the basis of the results from the assessment of democratic quality previously conducted at both the supranational and national levels of EU governance. In other words: which model of democracy in the EU do the processes examined in this study more closely approximate to? In order to answer this question, we need to operationalise the models by way of specifying for each one a set of requirements that need to be in place for rendering EU processes on gender equality democratic. These requirements are derived from the indicators of deliberative democracy and organised according to the normative principles of inclusion & equality, publicity and reasonableness. Once these models of democracy are operationalised, the next task is to apply

the models to the overall results of the democratic assessment study previously undertaken at both the supranational and national levels of EU governance.

Thus, phase five further specifies the application of the principles and standards of deliberative democracy that were used to assess the democratic quality of political processes on gender equality in the EU, allowing us to refine the research findings. Given the complex and highly contested nature of the EU there is more than one way in which the principles of deliberative democracy spelled out by Iris Young may be fulfilled, since this will heavily depend on empirical assumptions about our unit of analysis. Thus, while liberal intergovernmentalism sees member states as the primary actors in decision-making processes at the EU level (having ultimate control over these decision-making processes), federalists see the EU more akin to a “state-like” entity, where supranational institutions such as the European Parliament and the European Commission – with legislative and executive functions similar to those of parliaments and governments of nation-states – are acquiring more and more control over decision-making. A third group of scholars, however, argue that the EU should not be conceived as anything resembling a modern nation state, but rather as a non-hierarchical system of multi-level governance where power is increasingly dispersed across different levels rather than being concentrated in the member states. According to this view, supranational, national and subnational actors and institutions play an important role in decision-making:

The point of departure for [the]... [MLG] approach is the existence of overlapping competencies among multiple levels of governments and the interaction of political actors across these levels. Member State executives, while powerful, are only one set among a variety of actors in the European polity. States are not the exclusive link between domestic politics and intergovernmental bargaining in the EU. Instead of the two level game assumptions adopted by state-centrists, MLG theorists posit a set of overarching, multi-level policy networks. The structure of political control is variable, not static, across policy areas (Marks et al 1996: 41).

However, these conceptions of the European Union do not tell us anything about how democracy and democratic practice would look like under each of them. The three models of democracy in Europe spelled out by Eriksen and Fossum (2009) aim to reconnect this (highly descriptive) theorising of the EU with the question of democracy.

The institutional requirements and practices which are necessary for rendering decision-making processes on gender equality democratic (according to our principles) will vary according to the model of the EU that is being presupposed. For example, if the EU is viewed as an emerging multinational federal polity, one indicator of inclusion would be that transnational women’s advocacy networks participate at all stages of the process. If, on the contrary, the EU is viewed as an intergovernmental organisation, a poor participation of transnational advocacy networks would not necessarily be an indicator of poor democratic practice on matters of gender equality since, under this model, the main locus of the democratic unit is the national, rather than the European, level. Similarly, expectations about the role of the European Parliament in decision-making vis-à-vis national parliaments and

national governments represented in the Council will vary according to the model of the EU that it is being assumed during the assessment. Thus, a merely consultative role for the European Parliament in gender equality processes would be an indicator of poor democratic practice under a conception of the EU as a multi-national federal state, but not if we are assuming that the EU behaves as an intergovernmental organisation.

In what follows, the different democratic requirements of gender equality decision-making under each model are spelled out (Table 1). Briefly put, model 1 (audit democracy) assumes democratic control of the EU through the democratic institutions of the member state. Model two (federal multi-national democracy) assumes a constitutional European state based on direct legitimation. Finally, model 3 (postnational democracy) assumes that democratic control of the EU is shared between supranational and national institutions and actors and, therefore, that the EU can be democratic without being a federal state and even if democratic control is not in the hand of its member states. The table illustrates the dimension of democratic decision-making highlighted by the gender democracy indicators for each model.

Table 1: Gender Democracy and RECON models

| | Audit democracy | Federal democracy | Postnational democracy |
|--|---|--|--|
| Inclusion and equality | <p>High participation of <u>national</u> representatives of women's interests during decision-making processes at supranational level (e.g., through lobbying own national governments; or through supervisory control of the COM during proposal drafting stage) and implementation in their respective member states.</p> <p>National women's organisations have access to national deliberations on a directive: 1) when state preferences vis-a-vis a COM proposal are being formed 2) when the national implementation of a directive is being debated</p> <p>The interests and perspectives of national women's advocacy networks are included in these national deliberative agendas</p> | <p>High participation of representatives of women's interests operating at the supranational level during decision-making process.</p> <p>Transnational women's organisations seeking to influence EU decision-making on gender equality have full access to deliberative arenas at EU level</p> <p>The interests and perspectives of women's advocacy networks operating at EU level are included in the deliberative agenda</p> | <p>Strong involvement of inclusive women's advocacy networks -in both decision-making and implementation stages- comprised of a variety of representatives of women's interests operating at different levels of EU governance</p> <p>A wide diversity of women's organisations have access to multiple deliberative sites during both decision-making and implementation stages</p> <p>Horizontal and vertical diversity of deliberative sites (during decision-making and implementation processes) include the interests and perspectives of women's advocacy networks in their agendas</p> |
| Transparency and accountability | <p>National women's organisations and the public have access to information relevant to decision-making and implementation processes</p> <p>The positions of key actors (national governments; women's policy agencies; political parties; women's organisations; trade unions) are sufficiently explained through a reason-giving practice</p> <p>There are sufficient mechanisms for rendering national governments accountable for upholding gender equality commitments at EU level</p> | <p>Transnational women's organisations and the European public have access to information relevant to decision-making processes</p> <p>The positions of key actors and institutions involved in decision-making processes at supranational level are sufficiently explained through a reason-giving practice</p> <p>The EP has an important role in exercising control over the decision-making process, from agenda setting to implementation</p> | <p>Relevant publics at different levels of governance have access to information on decision-making and implementation processes on gender equality</p> <p>The positions of actors and institutions participating in multiple deliberative sites are sufficiently explained through a reason-giving practice</p> <p>There are sufficient accountability mechanisms in place for women's civil society groups operating at different levels of EU governance. The EP as well as national assemblies exercise control over</p> |

| | | | |
|-------------------------|---|--|---|
| | (national parliamentary controls) | | decision-making and implementation processes |
| Recognition and respect | <p>Participants in deliberations in national arenas show respect for the groups affected by the decision</p> <p>Arguments provided by key actors at national level are acknowledged and considered in the course of deliberation</p> <p>Demands from national representatives of women's interests are justified in terms of the public (national) good</p> | <p>Participants in deliberation at supranational level show respect for the groups affected by the decision</p> <p>Arguments provided by key actors in decision-making are acknowledged and considered in the course of deliberation</p> <p>Demands from women advocacy coalitions are justified in terms of the public (European) good.</p> | <p>Range of participants in multiple deliberative arenas show respect for the groups affected by the decision</p> <p>Arguments provided by participating actors in different deliberative arenas at national and supranational levels are acknowledged and considered in the course of deliberation</p> <p>Demands from representatives of women's interests are justified in terms of the universal good, or in terms of universal norms</p> |

3) Project integration/Cross WP issues

The democratic assessment of EU gender equality decision-making and national implementation processes is being carried out in conjunction with partners at ELTE (Budapest) and at Jagiellonian University. Given that these partners are working on WP5 and WP8 (besides WP4) their contribution regarding civil society and identity issues will serve to facilitate the further integration between these three workpackages. Apart from this, the theoretical and methodological framework of WP4 has been very much informed by WP1 and WP3. Thus, from the beginning of the project, WP4 researchers have been following very closely the research conducted by researchers from these workpackages. At the same time, these researchers have been providing feedback and comments on WP4 deliverables. In addition, the work on democratic constitutionalism undertaken as part of WP2 is informing the model assessment activities of WP4.

3) Concluding comments

In general, we have found that the RECON models offer a comparative analytical framework in which to tease out the nature of gender justice and gender democracy in the EU. In addition, the models offer useful vehicle for bringing depth and nuance to a gender-focused interrogation of democratic decisionmaking processes.

At this point in time, the study is not complete, and so a full evaluation of the applicability of the models to the processes of gender justice and gender democracy must await the completion of the national studies. Nonetheless, at this preliminary stage, it is possible to suggest that at the EU level, our study appears to indicate that model 2 is more prominent than the others. It must be emphasised, however, that this tentative evaluation can only refer to the EU-level study we have undertaken, and is contingent on further findings. Indeed, even within gender policy at EU level, it is likely that different policy issues may exhibit more of the characteristics of one model than another. For instance, the co-decision procedure (Recast Directive) may offer more potential for cosmopolitan-like decisionmaking than the more tightly-controlled goods and Services Directive.

Our choice of hard policy issues, in the form of Directives, has been dictated by two considerations. One is a desire to produce a robust, defensible, qualitative comparative study using common indicators on issues that are treated at national and supra-national level. The other is the commonality of a parliamentary arena as a representative space in which deliberation on these issues must take place. However, we are aware that there is a trade-off between investigating hard policy in relatively formalised settings and soft policy, such as the formulation of National Employment Plans through the open method of co-ordination, where the structure is less rigid, and policy discussions may lean more towards a cosmopolitan decision-making form.

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