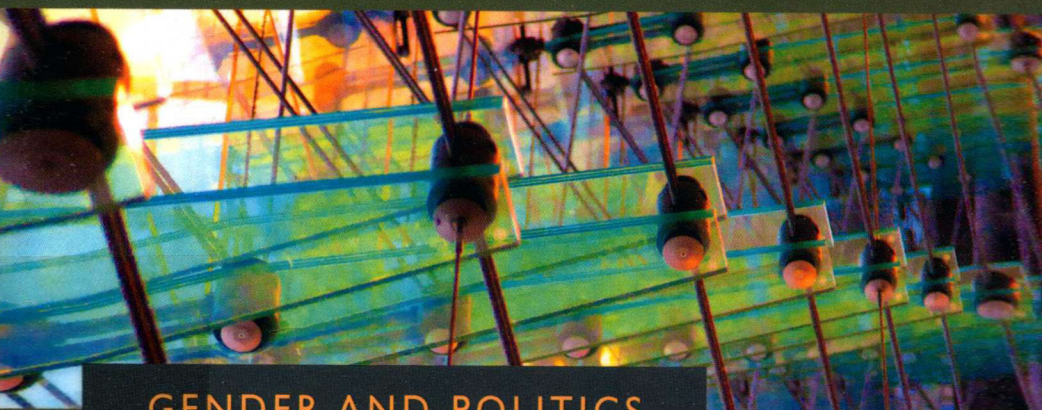


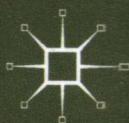
Institutionalizing Intersectionality

The Changing Nature of
European Equality Regimes



GENDER AND POLITICS

Edited by Andrea Krizsan,
Hege Skjeie, and Judith Squires



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The Changing Nature of European Equality Regimes

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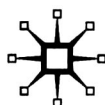
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1

Institutionalizing Intersectionality: A Theoretical Framework

Andrea Krizsan, Hege Skjeie, and Judith Squires

Introduction

This collection focuses on the politics of multiple inequalities in Europe. It does so from the perspective of prior gender equality policy. It aims to evaluate the ways in which multiple inequalities are being addressed institutionally in Europe, and to identify the changing patterns of institutionalization. Using country-based and region-specific case studies the collection offers a comparative analysis of the multidimensional equality regimes that are emerging in Europe, and analyses the potential that these have for 'institutionalizing intersectionality'.

The last decade has brought to equality policy in Europe a steady move away from policy approaches that address different inequalities, and particularly gender inequality separately, towards approaches that use an integrated approach to multiple inequalities. This has been particularly manifest in institutional terms, where equality bodies dealing with multiple inequalities came to replace or to complement previously existent inequality specific institutions. Changes catalyse important equality policy debates at both national and European level, among state and non-state actors as well as experts and researchers. The shift from separate to integrated equality approaches is accompanied on the one hand by hopes that an integrated approach could cover more inequalities than the separate approach, and would level the varying scope of protection given to the different recognized inequality grounds. On the other hand, scholars and policy makers alike expressed expectations that an integrated equality policy and institutional approach would be more favourable to deal with multiple, intersecting inequalities and thus would better capture the social complexity of inequalities and disadvantages (European Commission 2007, Fredman

2005). Meanwhile reservations have also been expressed about the shortcomings of the emerging focus on multiple inequalities, which many feminists argue could mean downsizing or levelling down for already established gender equality policies and institutions (Kantola and Nousiainen 2009, Lombardo and Verloo 2009, Squires 2008, Walby, Armstrong, and Strid 2011).

Debates about equality institutionalization involve policy makers as much as experts and NGOs making claims on the part of different inequality groups, and open up puzzling new questions for equality policy making. Which inequality categories matter for policy purposes? Do they matter in their isolation or should they be viewed in their intersections? What is the relative importance of different inequalities for policy making? Should they all be protected similarly, or are some different and deserve wider protection? Does the logic of sameness, difference, and transformation (Rees 1998) apply to all of them similarly, as it has been institutionalized for gender, or do other principles apply for inequalities newly brought under protection? Is anti-discrimination policy the only common denominator that their protection has? Should institutions established to work towards promotion of equality on all these different inequality grounds be similar or different? Separate or merged? Does the widening protection of multiple inequalities open up the potential for addressing their intersections as well, or is more specific attention needed if intersectionality is to be addressed by equality institutions? The current European arena provides a laboratory for comparative research (Verloo 2011) about these questions.

The book has three key aims. Firstly, we aim to describe the changes in equality regimes across our case studies since 2000, which marks the moment when the EU passed legally binding directives about discrimination on grounds of race and ethnicity, and on grounds of age, disability, sexual orientation, and religion, thus extending its previous gender-only equality policy regime to one that now covers six inequality categories. The turn of the century was marked by a challenge to the equality institutional structures previously in place across Europe. Before the 2000 momentum equality institutions predominantly focused on only one inequality, mostly gender (we call this a *single* approach), or addressed more than one inequality, but treated them separately, as specific (we call this a *multiple* approach). Following the adoption of the new directives a new institutional approach spread across the majority of European countries, one that addresses multiple inequalities in integrated ways (an *integrated* approach). The other novelty brought by 2000s policy changes was the emphasis on an individualized anti-discrimination

approach with a tendency to judicialize inequality as opposed to the previously predominant group difference based, often corporatist approach to vulnerable groups (mostly women) which had political and administrative rather than judicial implications for state intervention. In the book we look at the institutional changes that took place around 2000 and explore the politics surrounding them, interrogating the patterns of change across Europe, and the opportunities that these changes create for adopting intersectional practices. We start out by exploring institutional change: identifying the pre-2000 institutional legacy of European countries, and move on to the post-2000 changes and their implications for intersectional policy practice, by mapping the changing dynamics between single, multiple, and integrated institutional models, between political administrative, legal, and consultative approaches to addressing inequalities. We find that a variety of patterns of institutionalization emerge across countries of Europe, offering differing responses to the set of questions posed above.

The second main objective of the volume is therefore to analyse the reason for these changes, seeking to explain convergence and variation. We consider two factors likely to lead to convergence: one external the other internal. The first of these is Europeanization, whereby countries respond to external pressures from Europe; the second is upward harmonization, when states respond to pressure from civil society groups to level-up the equality provisions across groups. We consider the role of institutional legacies and political opportunity structures in relation to how different polities negotiate, adopt, and respond to these pressures towards convergence.

Our third, and final, aim is to look for the potential for intersectional practices, identifying patterns of interaction between the different inequality categories facilitated by the various newly emerging equality institutional structures. Throughout the collection we seek to identify examples of intersectional practice that may be emerging in the context of the dynamic equality policy arena of the past decade.

Throughout the collection we focus our attention on the institutional and discursive structures that shape the relative significance of, and dynamics between, inequalities. We have worked on the assumption that institutional and legislative changes – from single and unitary equality approaches to multiple, integrated approaches – create political, discursive, and policy arenas for interaction between inequalities, which may create the potential for intersectional practices, but will not inevitably lead to them: particular institutional and legislative frameworks neither ensure nor rule out intersectional practices.

Context

The pursuit of equality has become an important policy priority for EU member states, with a commitment to promoting diversity and eliminating multiple discriminations requiring widespread reviews of equality institutions across Europe. One basis for this development is found in the Amsterdam Treaty 1997, which along with strengthening the constitutional protection for gender equality (Art. 141), in its Article 13 identifies six key strands as requiring measures to combat discrimination: sex, racial and ethnic origin, disability, age, religion, and sexual orientation. This strengthened European protection met with the increasingly multidimensional and intersectional focus of the international human rights regime and its prohibition of discrimination. Where states have previously operated with equality legislation that addresses only particular forms of inequality they are now under pressure not only to address multiple forms of discrimination, but also to consider the interaction between these strands. European states are increasingly attempting to engage, at both a conceptual and policy level, with the fact that gender discrimination and inequality are shaped in fundamental ways by different inequality axes: by race, ethnicity, class, sexuality, disability, and others.

Institutionally, the growing concern with multiple inequality strands has generated equality policy reform processes in many European countries, with significant numbers of states recently changing their institutional arrangements for promoting equality. An increasing complexity of the equality institutional map can be noted in which both the number of protected inequality categories increases and the ways in which they are protected becomes more diversified. Previously prevalent political administrative protection of inequalities is increasingly complemented with legal protection as well as supplemented by institutions securing consultation for various inequality groups.

Several countries have created 'integrated equalities bodies' that bring law enforcement and implementation under one roof. Britain, for instance, has created an Equality and Human Rights Commission, which has responsibility for enforcing equality legislation on age, disability, gender, race, religion or belief, and sexual orientation or transgender status, and encourages compliance with the Human Rights Act. Other countries have opted for separate equalities bodies. Belgium, for instance, has created a new body for dealing with sex discrimination (the Institute for Equality between women and men) in addition to its pre-existing Centre for Equal Opportunities and Opposition to

Racism. The equality agenda of Central and Eastern European countries as shaped by the EU accession process also mirrors wider European processes. Reviewing their previously existent equality institutional structures Bulgaria, Romania and Hungary for example have created new anti-discrimination bodies, which oversee new anti-discrimination laws that apply to several inequalities including the six protected by EU legislation. The Europe-wide commitment to addressing multiple inequalities emerged beyond member states, as well. Norway has also introduced significant changes to its anti-discrimination and equality machinery, creating a joint Ombud and Equality Tribunal institution responsible for combating discrimination and promoting equality on a range of inequality grounds.

Some countries continue to maintain a single approach, frequently asserting the primacy of gender, while others maintain multiple approaches, focusing on a few politically-privileged inequalities. Yet others opt for integrated equality institutions, assuming the similarity of state responses across different inequalities. Some countries maintain separate political administrative structures for certain protected inequalities, while others have created equality bodies for legal protection at the expense of equality bodies previously in place.

The specific nature of the institutional changes in bodies for the promotion of equal treatment, witnessed across Europe since the adoption of the EC directives in 2000, are shaped by the diverse legal frameworks, political and discursive structures, and citizenship practices in place throughout Europe. They have also been complicated by issues of multi-level governance, with many equality institutions operating at a regional level (Bustelo and Ortals 2007). Notwithstanding this diversity and complexity there is evidence of a shared determination to address multiple inequalities, which is creating a pluralized equalities framework – political, legal, and institutional.

However, as yet there has been no systematic and comparative analysis of the institutional consequences of the newly emerging European equality agenda in relation to the concept of intersectionality. There are extensive literatures that critically evaluate issues pertaining to state-level policies designed to promote gender equality and race equality respectively. The state feminist literature evaluates the effectiveness of state institutions designed to promote greater gender equality (Mazur 2002, Outshoorn and Kantola 2007, Stetson and Mazur 1995, Squires 2007a, True 2003), while the multiculturalist literature analyses states' responses to the challenges of cultural diversity (Kymlicka 1995, Modood 2007, Parekh 2000). There are also growing literatures that