

QUING WHY paper

The political treatment of inequalities in Europe: a comparative analysis of Italy, Portugal and Spain¹

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Abstract

In this paper we analyse the political treatment of inequality in a selection of South European countries. We firstly aim at studying comparatively the varying ways in which multiple inequalities have been institutionally treated in Italy, Portugal and Spain as a response to the European Union equality policies. Secondly, we wish to typify the political approaches to inequality we have found by translating our empirical data on the institutionalisation of inequality into categories that might summarise the variety of ways in which inequalities are politically treated in the selected contexts. Thirdly, we wish to discuss some of the factors that can help us understand the particular institutionalisation of inequalities that we find in our sample. We believe that the comparison of the institutionalisation of multiple inequalities in Southern Europe will not only inform us on processes of Europeanisation of South European member states with regard to equality, but also help theory progress in the understanding of the political treatment of inequality.

Introduction

Intersectionality perspectives have flourished in recent theoretical and empirical social studies, while the implementation of intersectional approaches in existing policy practice seems rather embryonic. Yet, paradoxically, policy reality on multiple inequalities might be overtaking theoretical concepts devised to grasp it, particularly when we as researchers attribute a higher normative value to the institutionalisation of intersectionality, neglecting the variety of political treatments of multiple inequalities. If political intersectionality is an ‘open empirical question’ (Hancock 2007) that is articulated in different ways depending on the specific context considered, then each context will provide a specific configuration not only of intersectional, but also of additive and multiplicative policy practices (Weldon 2008). It seems thus important to

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give attention to all treatments of inequality, rather than only to the intersectional ones, by exploring the different types of multiple approaches that empirical reality offers, and by being more reflexive about our normative bias in favour of or against one particular approach.

This paper has three aims. We firstly wish to analyse comparatively the varying ways in which multiple inequalities have been institutionally treated in a selection of South European countries as a response to the European Union equality policies. Secondly, we aim at translating inputs from our empirical analysis into concepts that might grasp the variety of ways in which inequalities are politically treated, and in this way make intersectionality theory closer to existing political realities. This will require a categorisation of the types of political approach to inequality that we have found in our sample. Thirdly, we wish to discuss some of the factors that can help us understand the particular institutionalisation of inequalities in the selected contexts.

Our analysis of the political treatment of inequalities includes Italy, Portugal and Spain. These cases, which are all part of a research carried out in the QUING European project on which this paper is based², have been selected for comparative analysis due to a similar system design. That is, Southern European countries share a number of similarities which are due to socio-cultural factors such as a common catholic culture, a tendency to familism (central role of the family as provider of social protection, see Saraceno 1994; Tobío 2005), a strong patriarchal culture (González, Jurado and Naldini, 2000). As EU member states, the three countries are all subject to the homogenising influence of the European Union norm-setter. Nonetheless, the institutionalisation of inequalities in the three cases has been different (though similar in some aspects too). A variety of institutional, political, and socio-cultural factors, which a comparative analysis helps to highlight thanks to the possibility of contrasting the findings, have contributed to produce the particular configuration of political approaches to the treatment of inequalities that we find in the selected South European countries.

In the paper we wish to address a number of questions such as the following: How have inequalities been institutionalised through legislation and bodies in the selected South European countries? What has been the influence of the European Union in this institutionalisation process? What evidence there is of legislated and implemented intersectionality? To what extent is intersectionality an accidental or embedded approach? What evidence there is of multiple overlapping inequalities (through alliances and coalitions) or competition among inequalities in our South European countries? We believe that the comparison of the institutionalisation of multiple inequalities in Southern Europe will not only inform us on processes of Europeanisation of South European member states with regard to equality, but also help theory progress in the understanding of the political treatment of inequality. The paper is structured into 3 sections: the following section will set the theoretical basis of our argument, section 2 will provide evidence of the institutionalisation of inequalities in the Italy, Portugal and Spain through the analysis of equality legislation (2.1) and bodies (2.2) introduced to transpose the EU equality directives. These data will be combined in section 3 to give a picture of the type of political treatment of inequalities adopted in our sample, and in the conclusions we will discuss some of the explanatory factors of these different approaches.

² Quality in Gender Equality Policies, Sixth Framework Programme of the European Commission, www.quing.eu We wish to thank all the team members of the QUING research project, and in particular researchers of the UCM team who have worked with us on reports and papers for the cases of Italy, Spain and Portugal which have been considered in this paper: Alba Alonso, Elena Del Giorgio, Maxime Forest, Valentina Longo, Silvia López, Inês Nunes, Amaia Pérez, Elin Peterson, Raquel Platero. Special thanks to Alba Alonso for her feedback on the Portuguese case.

1. The political treatment of inequalities: adapting theory to empirical reality?

Before we enter in the discussion of the theoretical framework we adopt in this paper, we need to premise a conceptual clarification. In former works on the issue, we have conventionally used the term ‘intersectionality’ to refer to the political treatment of inequalities in general (see Lombardo and Verloo forthcoming; Del Giorgio and Lombardo 2009; Bustelo forthcoming; Bustelo and Forest 2009). In this paper, however, we prefer to use the term intersectionality *strictu sensu*, only for those political experiences that are really intersecting different inequalities. Instead we employ the expression ‘political treatment of inequalities’ in a broader sense, which is to describe existing empirical practices that combine multiple inequalities in different ways and for which concepts need to be devised (see Walby 2007).

Theory on the political treatment of inequalities, especially in the last decade, has intensified the analysis of how different systems of inequality mutually construct each others (Hill Collins 1998; Walby 2007; 2009). It has pointed out the importance of considering the intersectional character of inequalities in order to avoid neglecting the experiences of people at different points of intersection between inequalities (Crenshaw 1989). It has started to categorise the different political approaches to the treatment of inequalities (Weldon 2008; Hancock 2007). It has reflected on how the hegemonic role of one particular inequality in a given context (race in the US and class in Germany) affects the way in which the political treatment of inequality is historically constructed (Ferree 2009). Empirical studies on the institutionalisation of intersectionality in Europe have developed recently to catch up with all the normative changes at the level of the European Union to promote the anti-discrimination approach (Article 13 of the Treaty of Amsterdam, Article 21 of the Charter of Fundamental Rights, Directives 2000/78/EC and 2000/43/EC and soft law documents). Works have explored the institutionalisation of ‘intersectionality’ in the member states particularly through an analysis of the transposition of the most recent Race and Equality directives (Bell 2008) and of the changes brought about in the equality bodies of the member states in the forerunner UK (Squires forthcoming), in Nordic countries such as Norway (Skjeie and Langvasbråten forthcoming), Finland (Kantola and Nouisainen 2009), or Sweden (Borschorst and Teigen 2009; Freidenvall 2009), Central European countries such as The Netherlands (Outshoorn 2009) and Belgium (Celis et al 2009), Central Eastern European countries (Krizsan et al 2009) and Southern countries such as Spain (Bustelo forthcoming; Bustelo and Forest 2009), Portugal (Alonso 2009), and Italy (Del Giorgio and Lombardo 2009). The EU anti-discrimination approach has also been object of study to analyse the legal developments of the anti-discrimination approach (Bell 2002), the potential and pitfalls of the Commission 2004 Green Paper integrated approach (Verloo 2006; Rolandsen Agustín 2008), and the institutionalisation of political intersectionality in the Europe (Kantola and Nouisainen forthcoming; Lombardo and Verloo 2009; Lombardo and Verloo forthcoming).

Language does not always grasp reality, especially when the latter continuously changes – as it is the case with the political treatment of inequalities. The literature on institutionalising intersectionality has employed different terms to classify existing policy practices to deal with inequalities, such as Hancock’s (2007) ‘unitary’, ‘multiple’, and ‘intersectional’ approach or Weldon’s (2008) additive, multiplicative,

and intersectional³ approach. Yet, there seems to be a normative undertone in some of the works (including our own), which privileges the intersectional over other multiple inequality approaches. The current scholarly interest for the concept of ‘intersectionality’ – as Weldon (2008: 203) argues- could run the risk of developing ‘intersectionality-only approaches’ to the study of inequalities, where all inequalities seem to always be intersecting and never have autonomous effects. As Verloo (2006), Walby (2007) and Walby, Armstrong and Strid (2009) warn us, a research focus on ‘intersectionality-only’ might obscure the analysis of the distinctive ontology of each inequality, that is crucial to develop good quality equality policies (and quality research). For this reason, it appears relevant to us not only to search for intersectional practices, but also to pay attention to the different modalities in which multiple inequalities relate in given contexts, since between the multiple and the intersectional approach there is a great variety of empirical practices that reflect the way in which inequalities relate within a specific empirical contexts (see Walby, Armstrong and Strid 2009: 20).

In order to grasp empirical realities that are comprised within the multiple and the intersectional approach we have organised our comparative data in different categories that inform us on the type of political treatment of inequality that is in place in the analysed empirical contexts. The institutionalisation of equality in the three Southern member states has been greatly influenced by the European Union legislation on gender, race or ethnicity, ability, age, sexual orientation, religion or belief, and in some cases has been directly determined by the EU directives (particularly concerning the inequalities included in the 2000/43/EC and 2000/78/EC directives). Europeanisation theory has thus been considered in our analysis of the political treatment of inequalities in Spain, Portugal and Italy, due to the key role of the EU as norm-setter which has influenced law-making, discourses, and institution-building in the field of equality and non-discrimination (Liebert 2003; Radaelli 2004). Since the EU pressure is the same in the three member states, it is interesting to see how domestic pressures, and the use that institutional and civil society actors make of the EU, interact to produce different configurations of political treatments of inequality in our sample. In our brief review of the legislation adopted at the domestic levels to transpose the EU equality directives (see section 2.1) we consider for analysis the six equality axes that are included in Article 13 (sex, race or ethnicity, sexual orientation, age, disability, religion or belief), although we are aware that they are by no means exhaustive, as for instance they exclude class (Kantola and Nouisainen forthcoming), and that the list of inequalities included in the Charter of Fundamental Rights is broader than Article 13 (but has not been translated into directives yet).

As the literature on state feminism has shown, the analysis of equality bodies and their functioning is an important starting point to understand how inequalities are politically treated (Outshoorn and Kantola 2007). To take into account the gap between a formal and a *de facto* political treatment of inequalities, the analysis of the equality machinery carried out in section 2.2 includes reference to the type of body established for each inequality (considering in this paper gender, race and sexual orientation), the extent to which the agency correctly transposes EU norms, the operationalisation of the body, its coordination with other equality bodies, and the involvement of civil society in the process. To identify the characteristics of the type of political approach to the

³ As Weldon (2008: 205) explains, each structure of inequality can produce effects which are separable from each other and combining in ‘additive’ ways (gender + race); sometimes effects of inequality structures have a ‘multiplicative’ result so they mutually reinforce each other; other times, when the result is ‘intersectional’ the effects produced by the combination of gender-race-class are something ‘distinctively different’ (p 205) from the effects of race or gender or class considered separately.

treatment of inequalities existing in Italy, Spain and Portugal (see section 3), we have classified the comparative findings according to the following aspects: the type of approach to inequality regarding the targeted axes (unitary, multiple, intersectional); the type of approach to inequality regarding the way of understanding and tackling inequalities (anti-discrimination/equality promotion; sanctioning/ non sanctioning); the privileged equality/ies; the type of EU influence on the institutionalisation of inequalities; the extent to which there is institutional coordination among the equality bodies (this will inform us on the effective implementation of a multiple or intersectional approach); the existence of a participatory approach, where equality institutions consult civil society concerned with equality, and the extent to which this consultation is routinised or occasional; whether there is evidence of legislated intersectionality (which means official policy documents that explicitly refer to intersections between inequalities) and which inequalities are included; whether there is evidence of implemented intersectionality⁴ (that is whether we can detect evidence of: alliances between different civil society groups concerned with different equality causes; coordination among equality bodies in order to design and implement intersectional equality policies, and which inequalities are covered in the civil society alliances or coordination; participatory approach in which institutions consult civil society groups that are concerned with a particular inequality); how systematic are intersectionality practices (are they accidental or embedded); what evidence there is of multiple overlapping inequalities (that is kept as separate and specific but joined in strategic moments) through alliances, coalitions, and cooperation in general; and to what extent are there competing inequalities. Finally, for studying political approaches to the treatment of inequalities, we will also consider the presence of ‘institutional discrimination’, that is discrimination exercised by institutional actors. This is useful – as Walby, Armstrong and Strid (2009: 12) state- for ‘making power visible’, since, by making the more privileged groups visible we can better understand the reasons behind the structures of oppression at work in different contexts.

By developing a classification of different modalities of institutionalisation of multiple inequalities in the three Southern countries, the analysis conducted in this paper wishes to contribute to making theory progress in the understanding of the political treatment of inequality in a broader sense. This will help our attempts –in Walby, Armstrong, and Strid’s (2009: 21) words- ‘to build on the strengths of the intersectionality debates and to go beyond its weaknesses’.

2. Comparing equality legislation and machinery in Italy, Portugal and Spain⁵

2.1 Comparing equality legislation: the interaction of EU and domestic levels

An overview of the Italian, Spanish and Portuguese transposition of the European Union equality directives concerning gender, race or ethnicity, sexual orientation, age, disability, religion or belief shows how influential has the EU been in setting the agenda

⁴ Judicial activity that shows intersectional approaches needs to be checked to assess implementation. This is still work in progress on which we cannot relate in this paper, except for some reference.

⁵ This section draws on the following QUING reports and papers: Inês Nunes Fernandes with supervision of María Bustelo. 2008. D41 WHY Country context study Portugal. Vienna: QUING; Valentina Longo and Francesca Vianello with supervision of Emanuela Lombardo. 2008. D41 WHY Country context study Italy. Vienna: QUING; Amaia Pérez Orozco with input of Marta García, Silvia López, Elin Peterson and Raquel Platero, with supervision of María Bustelo. 2008. D41 WHY Country context study Spain. Vienna: QUING. Alonso (2009); Del Giorgio and Lombardo (2009); Bustelo (2009); Bustelo and Forest (2009).

in the field of equality in these member states. Yet, it also shows that domestic contexts have their specific political, social, and cultural configuration that influences the way in which EU norms are transposed, and creates a hierarchy of the inequalities covered privileging some axes over others. Domestic political actors also act as gatekeepers in the process of incorporation of EU equality norms, in some cases by incorrectly transposing them in ways that create further inequalities (Del Giorgio and Lombardo 2009).

In the fields of *sexual orientation* and *age* there was little legislation in the countries prior to the domestic transposition of the 2000/78/EC Directive⁶. In Spain, it seems that the Constitution was used to cover sexual orientation and age, despite the absence of explicit reference in the text. The domestic political response to the EU prohibition of discrimination on ground of sexuality in the area of employment, though, was very different in the three cases. Portugal, after the approval of the 2000/78/EC Directive, reformed its Constitution in 2004 to include sexual orientation among the grounds of prohibited discrimination and adopted a law on same-sex and different-sex partnership in 2001. Spain introduced new legislation that covered not only employment –as the Directive prescribed- but also intimate relations, by changing the Civil Code allowing same sex marriage through Law 13/2005. In Italy, by contrast, the first time that the issue of sexual orientation was made visible on the political agenda, the right-wing Berlusconi government incorrectly transposed the directive by *discriminating* homosexual workers where previously the lack of legislation on the issue was de facto enabling access for homosexuals⁷. The Italian Decree 216/2003 transposing the 2000/78/EC directive not only placed the attribution of the burden of the proof upon the discriminated person, and not, as stated in the Directive, upon the employer. It also extended to sexual orientation the qualification criteria to consider in order to select personnel for the army, police, fire brigades, prison officers, and emergency services, which enables to discriminate homosexuals for this type of works (the directive only refers to age and disability as qualification criteria to consider that could allow reasonable discrimination in the selection of personnel for the mentioned positions), while previous Italian legislation did not preclude access for homosexuals (DL 216/2003, art.3, 2-3). Moreover the Italian Decree restricted the possibility of acting with regard to discriminations only to trade unions, whereas the Directive included also the possibility for civil society associations to intervene⁸ (Del Giorgio and Lombardo 2009).

Gender and race inequalities had prior coverage to the EU norms in the Italian (1947), Portuguese (1976), and Spanish (1978) Constitutions. However, the EU has been a crucial drive in the implementation of the constitutional principle protecting gender and race. In the field of *gender*, that has been more comprehensively covered by EU law, the EU directives have pushed the countries' adoption of legislation in the areas of equal pay and equal treatment, parental leave, sexual harassment, although some provisions, such as those on maternity rights, had been included in the countries' Labour codes prior to the 92/85/EEC Directive on pregnant workers. In some cases, the gender directives were initially transposed either in an incorrect or an incomplete manner. For instance, the first Spanish transposition of the 96/34/EC parental leave

⁶ Council Directive 2000/78/EC implements the principle of equal treatment in employment and training irrespective of religion or belief, sexual orientation and age and requires employers to consider the needs of disable employees.

⁷ Interview with Sergio Lo Giudice, Arcigay Honorary President, President of the Commission for the Rights and Equal Opportunities of Lesbians, Gay, Bisexuals and Transgender, Bologna, 27/02/2009 (Del Giorgio and Lombardo 2009).

⁸ Interview with Sergio Lo Giudice.

directive through Law 1999/99 did not grant fathers an individual right to paternity leave (Lombardo 2004), as prescribed by the directive, though the Spanish Equality Law 3/2007 completed the transposition. The Italian government had to revise its legislation that banned pregnant women's night work in Law 903/1977 and Law Decree 645/1996, since a European Court of Justice (ECJ) sentence stated that banning women night work was incompatible with the formal principle of equal treatment for men and women and Italy was then violating Article 5 of Directive 76/207/EEC (Lombardo and Sangiuliano forthcoming)⁹. The result was a compromise between Italy and the EU: in response to the ECJ sentence, the Italian government adopted Law 532/1999¹⁰ that tried to reconcile the more liberal EC principle of equal treatment with the Italian protectionist culture towards pregnant women and mothers¹¹ (Calloni 2002). Portugal started to adopt gender equality legislation from the beginning of democracy, before the entry in the European Community, which means that transposition had been almost completed when the country became an EU member.

Race inequalities were generally covered before Directive 2000/43/EC¹² was approved mainly due to the fact that the three Southern member states, which had been in the past emigrant countries, increasingly became immigration countries, Italy and Spain especially in the 90s and Portugal already in the 60s, and started to introduce legislation on issues of migration, race or ethnicity and religion. Italy prohibited discrimination on the grounds of race and religion in 1998, with law 40/1998 and then transposed the Race Directive with Decree 215/2003. Portugal banned discrimination based on race, colour, nationality or ethnic origin with Law 134/1999 and then completed the transposition of the Race Directive with Law 18/2004. Some reference to race was included in the 1980 Spanish 1980 Workers' Statute, and then Spain claimed to have transposed 2000/43/EC Directive through Act 62/2003 on Fiscal, Administrative and Social Order Measures.

In some cases, though, the prior existing legislation did not avoid a difficult transposition path. In the Italian case, for instance, the Race Equality directive was incorrectly transposed. The Italian Legislator did not introduce the reversal of burden of the proof in cases of discrimination (placing it upon the employer as the directive prescribed), thus making it more difficult for victims of race discrimination to claim their rights. Also for this reason, there have been very few sentences in cases of race discrimination in Italy. After an infringement procedure by the European Commission and the European Court of Justice against Italy in 2005¹³, the Italian government recently revised Article 8 of Law Decree 59/2008, which now includes reversal of the burden of the proof in cases of race discrimination. Also Spain received a 'reasoned opinion' by the European Commission in 2007, officially informing the government of the incorrect transposition of the Race equality directive (the reasons included the limitation of the scope to employment rather than also goods and services; an incorrect

⁹ ECJ C-207/96, 4th December 1997, *Commissione delle Comunità europee c. Repubblica Italiana*.

¹⁰ See <http://www.camera.it/parlam/leggi/deleghe/testi/99532dl.htm>.

¹¹ Law 532/1999 on pregnant workers and night work emends the total prohibition to women mothers established through Law n° 903/1977 and generally allows night work. However, it maintains the absolute ban on night work for all pregnant workers and women with a child up to one year old; it includes the possibility not to accept night work for workers with children under three years old; and forbids pregnant women to work from the two months before until the third month after giving birth.

¹² Directive 2000/43/EC implements the principle of equal treatment between persons irrespective of racial or ethnic origin.

¹³ European Commission, 2005, Infringement Procedure n.2358. See Bencini and Cerretelli, 2008.

definition of discrimination; an incorrect interpretation of the reversal of the burden of proof, protection against victims, and rights of associations to assist victims).

Disability and religion need further research, that could not be conducted for this paper. Yet, at a first sight, it seems that the rights of disable people have been covered by legislation prior to the European 2000/78/EC Directive in the cases of Spain and Portugal. In Spain disability was already protected by the Spanish Constitution (1978), the Workers' Statute (1980), and the Law on Social Integration of Handicapped (1982), before Spain transposed the EU directive. Transposition was then completed with a Law on Equal Opportunities, Non Discrimination and Universal Access of People with Disabilities (51/2003), which, as the name of the law clarifies, is the first law that comprehensively tackles direct and indirect discrimination against disabled in Spain¹⁴. In Italy, discrimination on the grounds of disability was made illegal for the area of work through laws that transposed the EU 2000/78/EC Directive. In Portugal disability was protected from the 1970s with legislation and bodies that promoted equal opportunities and social value of disable people, and EU legislation on disability has been transposed in recent years too. Equality in matters of *religion* was recognised as a Constitutional principle in the three countries, and they all had some legislation preceding the one transposing EU 2000/78/EC Directive. Being the three Southern countries among the member states where the catholic church is stronger, Italy in particular (which hosts the Vatican state at its political heart in Rome), it would be interesting to explore how the principle of equality of religion has been received (this will be matter for future research).

This brief and by no means exhaustive overview of Italian, Spanish and Portuguese domestic legislation transposing EU equality directives has shown that the EU has had a great impact on the adoption of equality legislation in the analysed member states in the areas of gender, race, sexual orientation, disability, age and religion. Transposition is always the result of an EU-MS interaction and is obviously influenced by the domestic political priorities and socio-cultural contexts. While EU priorities and hegemonies in the protection of inequalities seem to be reflected at the domestic levels, with a greater emphasis on gender legislation, and partially also on race, countries have constructed their internal hegemonies. Spain has developed a strong protection for gender and has given more coverage to disability and sexual orientation than the other two countries. Italy has shown resistance in providing effective protection against race and especially sexual orientation discrimination, when not actively twisting the EU directive to paradoxically discriminate homosexuals. In Portugal the privileged inequalities are gender, race, and disability.

2.2 Comparing equality machinery: type of bodies, coordination and participation of civil society

The EU also had an impact on the establishment of equality machinery in the three Southern countries, though the specific socio-political context of each reality was determinant in the development and consolidation of an institutional framework on equality. We are interested not only in the formal creation of bodies and their accordance with EU norms, but also in their actual functioning and their working practices of coordination with other equality institutions and of involvement of civil society actors. We will compare here equality machinery established for gender, race,

¹⁴ The greater attention for disability inequality in Spain is also shown in the less stigmatising term that is increasingly used in this context to refer to disability, that is 'functional diversity'.

and sexual orientation, while we still need to collect further information on bodies dealing with age, disability and religion inequalities.

Gender is the inequality that has the longer institutional history in the analysed countries. The first gender equality bodies were created in 1983 in Spain (Women's Institute), 1984 in Italy (National Commission for Equal Treatment within the Ministry of Labour to deal with employment), and as early as 1977 in Portugal (Commission of the Feminine Condition). The subsequent creation of further gender bodies and their evolution is interesting to understand the development of the institutional framework in each country and the strength of the latter. Spain¹⁵ shows a progressive and steady construction of the gender machinery (Bustelo and Orbals 2007). The work of the first Spanish gender body, the Woman's Institute, was progressively strengthened with the creation of an Equality Policies General Secretariat in 2004, that already was of a higher rank than the Institute, and of a Ministry of Equality in 2008. In Italy the path of development of the gender machinery appears more discontinuous than the Spanish one and particularly influenced by the colour of the party in government, with greater progress coming from left-wing than right-wing governments (Guadagnini and Donà 2007). For instance, the National Commission for Equality and Equal Opportunities created in 1984 to advise the Prime Minister was suppressed in 2004 by the right-wing government. The main Italian body that currently deals with gender is the Ministry for Rights and Equal Opportunities (EO), that was created in 1996 under a centre-left government¹⁶. Portugal has shown a very early beginning of state feminism (its first gender agency is from 1977) and a progressive strengthening of gender bodies (Alonso 2009). As in Italy, Portugal has a specific gender body dealing with employment matters, the Commission for Equality on Work and Employment (CITE), which was created in 1979. Portuguese recent developments reflect internal shifts as well as the influence of the EU integrated approach to inequalities: the former Commission for Equality and Rights of Women (CIDM created in 1991) was replaced in 2007 by the Commission for Citizenship and Gender Equality (CIG). The latter – Alonso (2009) argues- has shifted its name from 'Women' to 'Gender' to reflect a greater interest in the involvement of men in the gender project.

The type of bodies that are currently functioning in the area of gender is important to understand the strength of the machinery in terms of its operational capacities. In the three cases, laws to create gender institutions much preceded the EU 2002/73/EC directives that prescribed the creation of a gender body. Yet, some cases do not show the level of independence that the directives require from such bodies¹⁷. The Italian Ministry for Rights and Equal Opportunities is highly located as it depends directly on the Presidency. However, the not autonomous status of the body does not favour authority to influence government policy. The lack of financial autonomy and the little financial and human resources are severe limitations to the possibility of implementing the broad mandate of the agency (drawing gender policies, implementing

¹⁵ The national policy level is not the only one at stake when addressing multiple inequalities in Spain, and by early 2008, equality machineries developed at the regional level had shown the most consistent signs towards a multiple discrimination – if not intersectional - approach. However, and for comparative purposes, in this paper only the national level is analysed.

¹⁶ For the discussion of other Italian gender structures such as the Equality Councillors that work against gender discrimination at work see Guadagnini and Donà (2007). In the paper we will refer mainly to the Ministry for Rights and Equal Opportunities, due to its role in the promotion of other equalities too.

¹⁷ 'Article 8a DIRECTIVE 2002/73/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

gender mainstreaming, transposing EU legislation and representing Italy at EU meetings), as the Ministry of EO must rely on the availability of other Ministries, which varies with the government situation. Functional responsibility is not clearly defined as the EO Ministry's activities highly depend on the type of governmental responsibilities which are assigned to the Minister by the different Cabinet Presidents. In short, the Italian Ministry of EO is relatively weak and not so independent, but rather particularly vulnerable to government changes. The Spanish Women's Institute (WI) is an autonomous body' created by law and with financial autonomy located, following governmental changes, in the Ministry of Culture (1983), Social Affairs (1988), and Employment and Social Affairs (1996). It was incorporated in 2004 within the Equality Policies General Secretariat (2004), a structure with a higher rank –a sort of vice-ministry- than the Women's Institute, and then both the Secretariat and the WI (as part of the Secretariat) were included in 2008 within the Ministry of Equality. The main Portuguese gender agency, CIG, is a governmental body located in the Presidency of Council of Ministers, as all Portuguese equality bodies (with the exception of disability). This has favoured the promotion of an equality mainstreaming approach. The other gender agency that deals with employment matters, CITE, is located within Ministry of Labour and Social Security. It is composed of representatives of the Government, the Unions and Employers', but depends on the Government for funding and organisational matters (Alonso 2009). The location of CIG within Presidency has enabled the consolidation of CIG as a stable body somewhat independent from governmental changes, and the awareness among women of the importance of such location was clear from the contestation that occurred when a change of location was proposed (Alonso 2009).

Since gender was the first inequality to be institutionalised in the countries considered, it kept a central role in some way. Other equality bodies were either created within the former gender body that kept its name but changed its meaning as in Italy, or were often coordinated by the gender body as in Portugal, which also changed its name to reflect the broadening of its agenda to other inequalities. In Spain the situation is different, as no other equality bodies were created within the WI: the different unities/departments (education, employment, violence, etc.) are devoted exclusively to gender. The coordination with other equality bodies, though, which would seem relevant for elaborating policies with an intersectional or multiple inequalities approach, is still at an embryonic stage, with more evidence found in Portugal than in the other two cases. Portugal did not create other equality bodies within its gender agency, but rather created other equality bodies separately. The recent reference to citizenship in the reformed CIG shows an intention to cover sexual orientation but no specific body was created (Alonso 2009). The gender body, though, seems to have a leading coordinator's role, not only to coordinate all ministries on gender (through the Interministerial section of CIG's Advisory Council), but also as part of the many ad hoc structures that involve different equality bodies which were recently created to implement policy plans (e.g. Working Group for the Plan for Social Inclusion includes gender bodies CITE and CIG, disability body INR, and anti-racist body ACIDI) (Alonso 2009). Within the Italian Ministry for Rights and Equal Opportunities, that originally dealt only with gender equality policies, the anti-racist body UNAR (2003) and a Commission for Rights and EO of LGBT (2007) were created. However, no evidence of either a formal or a substantial coordination between the gender and the other two equality bodies to elaborate joint policies was found (Del Giorgio and Lombardo 2009). Also in Spain we found very little evidence of coordination, with the exception of some formal but marginal collaboration through EQUAL programs with the Directorate General of

Immigrates and some NGOs, including the Gypsy Secretariat. Moreover it is telling that in the Expert Group (2008-2009) appointed by the Ministry of Equality for promoting a future Equality Treatment Act there was no representative from the Women's Institute.

Portugal is the case that shows a greater involvement of civil society in the policy process. The gender body CIG has an Advisory Council to consult women's NGOs that was created in 1977 and is still in place after the 2007 institutional reform. The NGOs represented in the council deal with inequalities of gender, citizenship, sexual orientation, disability, age, religion, and intersectional identities. Within the Ministry of Work and Social Solidarity there is also a Non governmental Forum for Social Inclusion which is not gender specific but is aimed at involving civil society in the elaboration of plans for social inclusion. The inequalities tackled are gender, citizenship, disability, ethnicity, and age (Alonso 2009). By contrast, the current Italy gender machinery at the national level does not show evidence of institutionalised channels for consultation, which are dependent on government's political will, with greater opening to civil society coming from left-wing governments. Some parts of the Italian feminist movement cooperated with left-wing governments (Calloni 2002: Guadagnini and Donà 2007) and other parts, in particular the stronger 'differentialist' current, have shown resistance to the institutionalization of gender and have preferred not to cooperate with institutions (Calabrò and Grasso 2004). The Italian agency that involved representatives of political parties, employers and trade unions, and civil society associations, the National Commission for Equality and Equal Opportunities, was abolished in 2004, depriving women's movement of an arena to articulate their concerns. Consultation practices from then onwards were left to the good will of the Minister for Rights and EO (Guadagnini and Donà 2007). At the local and regional level the situation is different with the creation of equal opportunities commissions working as advisory boards and involving women's organisations. In Spain, although the WI was created in 1983, the Council for the Participation of Women was created only through the Equality Act in 2007, and has still (July 2009) not been implemented. In a more informal and sometimes clientelistic way, different NGOs of women related to other inequalities (immigrates, deaf, gypsies, and more occasionally lesbians and Muslims) have cooperated with the WI through programs and subsidies (Bustelo and Ortals 2007).

Race, together with disability, is the other inequality that has received greater institutional attention after gender in the three Southern countries. Portugal and Spain created several bodies to deal with race inequalities, not only aimed at assisting victims of discrimination to present complaints –as the EU Race Directive requires¹⁸– but also for promoting intercultural dialogue and social inclusion of migrant people. The latter aim is performed in Portugal by ACIDI (High Commissariat on Immigration and Intercultural Dialogue, created in 2007 to replace a former 1996 body) (Alonso 2009). To accompany victims of race discrimination in the presentation of complaints and monitor policies, Portugal also established in 1999 a Commission for Equality and Against Racial Discrimination (CICDR), which is more in line with the type of body prescribed by the 2000/43/EC Directive. Spain created, to comply with the EC directive, the Council for the Advancement of Equality of Treatment and no Discrimination of People on the grounds of Racial or Ethnic Origin (2003 and 2007, but not yet established, July 2009). Other related bodies are the Forum for the Social Integration of Immigrants, created by Law 4/2000, the Spanish Observatory on Racism and

¹⁸ Protection against discrimination based on racial or ethnic origin would itself be strengthened by the existence of a body or bodies in each Member State, with competence to analyse the problems involved, to study possible solutions and to provide concrete assistance for the victims (p 2 Directive 2000/43/EC).

Xenophobia (2005), and the Council of Roma People (2006). Italy created the National Office against Racial Discrimination UNAR in 2003, in response to the EU Race Directive that obliged member states to designate a body for promoting equal treatment irrespective of race and ethnicity. The main tasks of UNAR are to assist people who feel discriminated, to promote the adoption of positive actions by public and private actors, and to conduct research oriented at making policy recommendations (Del Giorgio and Lombardo 2009).

The level of independence of the anti-racist body required by the EU Race Directive¹⁹ has been criticised in the three cases. The Portuguese Commission for Equality and Against Racial Discrimination is located in the Ministry of Presidency, and, while it is supposedly independent, the fact that it is composed of institutional representatives too makes its independence rather questionable (Malheiros 2007 quoted in Alonso 2009). The Italian UNAR anti-racist body is placed under the Department of Rights and Equal Opportunities within the homonymous Ministry which depends on the Presidency of the Council of Ministers. The Director is appointed by the Prime Minister. This institutional configuration makes UNAR greatly dependent on the government's political preferences and its work affected by changes in government. Thus, UNAR has no institutional autonomy and operational independence as Directive 43/2000/EC prescribes (ENAR Shadow report 2007)²⁰. The Spanish Advisory Council is composed of 15 representative from public administrations (national, regional and local), and other 15 representatives from enterprises' organizations, unions and civil society organizations which represents race or ethnic interests. It was located first under the Ministry of Work and Social Affairs (2007) and later under the Ministry of Equality through the Directorate General against Discrimination (2009). Amnesty International (2008) has criticised its level of independence.

As the anti-racist bodies established to transpose the EU Race Directive are relatively recent, it is still early to assess their implementation. Yet, in the Italian case, we could already detect the operational inactivity of the anti-racist body under the 2008-Berlusconi government. UNAR was without a Director during nine months, the new Director was finally appointed by the Prime Minister in May 2009 (formally but not operationally) and five out of six legal experts were dismissed. In this situation, as an expert told us- 'UNAR has no possibility of action...' ²¹ and even judicial proceedings could not be activated since there was nobody in charge for signing official documents and coordinating institutional actions.²² The lack of independence and operational inactivity of the Italian anti-racist agency is considered critical in a moment in which 'institutional racism' is present in the everyday right-wing government's policies – as migration expert Naletto argues ²³ (Del Giorgio and Lombardo 2009). In Spain the anti-racist Council was created in 2003, 6 months after the deadline set by the EU directive (Law 62/2003), formally established in 2007 (RD 1262/2007), but not yet fully implemented. Recently steps have been moved towards the selection process of the NGOs to be represented in the Council (Orden IGD/18/2009) and for incorporating the

¹⁹ Article 13 COUNCIL DIRECTIVE 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

²⁰ Enar Italia (European Network Against Racism) leaflet: <http://digilander.libero.it/enarit/>

²¹ Interview with Senator Silvia Della Monica (PD), Rome, 25/02/2009 (Del Giorgio and Lombardo 2009).

²² Interview with Pino Gulia ACLI Expert and UNAR Senior Expert, Telephone Interview, 20/06/2009; also Interview with Marianna Borroni ACLI Expert and UNAR Junior Expert, Rome, 26/02/2009 (Del Giorgio and Lombardo 2009).

²³ Interview with Grazia Naletto, Immigration expert, Associazione Lunaria, Rome, 23/02/2009 (Del Giorgio and Lombardo 2009).

Council within the Ministry of Equality (RD 1044/2009).

As regards coordination of the race body with other equality bodies, the picture is similar to that described for gender. In Italy, we found no evidence of the existence of procedures of inter-institutional coordination within the Department of Rights and EO between UNAR and other bodies concerning multiple inequalities. In Spain it is too early to know about coordination, but in the most recent Decree (2009) there is a reference of the necessary coordination with the Spanish Observatory on Racism and Xenophobia. And in Portugal, coordinating structures among different equality bodies have been recently set up to implement policy plans.

The engagement of civil society in the anti-racist body's activities has different modalities in our cases. Portugal equality bodies have a tradition of involving civil society from their creation (Alonso 2009; Valiente 1998). One of the two Portuguese race bodies, the ACIDI, has established from 1998 an Advisory Council for Immigration Affairs in which civil society associations working on citizenship, ethnicity, race, and class issues participate in the policy process and representatives of these associations are chosen by the immigrant communities (Alonso 2009). The Italian UNAR involves civil society organisations in two main ways. The first consists in managing a contact centre for dealing with race discrimination complaints in collaboration with ACLI (Italian Associations of Christian Workers) operators and experts, who open the proceedings for specific cases and formulate a 'protection proposal' which is then handled by UNAR. The second is that of creating the UNAR National Register of NGOs where included NGOs dealing with race, ethnicity and citizenship issues have a right to initiate a legal action (though the costs and competence needed for a legal action de facto hinder their help to victims).²⁴ (Del Giorgio and Lombardo 2009). In Spain, it is too early to say, but we know that civil society was not consulted for the creation of the Council for Equal Treatment and Non-Discrimination of people on the grounds of their racial or ethnic origin, but half of the representatives of the Council will be from civil society, and the other half from public administrations.

In the absence of an EU obligation to establish a body to deal with sexual orientation inequalities as it was for race and gender, the institutionalisation of sexual orientation had to rely mainly on domestic pressures. In Italy, the creation of a body to deal with sexual orientation exemplifies typical national political dynamics. The centre-left governments, pushed by homosexual movements, created an opening in 2007 for the setting up of a consultative Commission for Rights and Equal Opportunities of LGBT, which was located within the Ministry for Rights and EO. However, the centre-right government in place since 2008 has never made the body operational, the Commission was assigned no budget and has never met (Del Giorgio and Lombardo 2009). In principle, the Commission was designed as a participatory body in which four representatives of transgender associations would participate as experts at every meeting of the agency and a 'Conference of Italian LGTB associations' presided by the Minister of EO which would gather twice a year to enable the dialogue between institutions and civil society (art. 8 of 3rd May 2007 Decree). Portugal has no specific body to deal with sexuality yet. As mentioned, the reformed gender body CIG, in its reference to citizenship suggests the intention to cover sexual orientation and in its Advisory Council for the consultation of NGOs includes also sexual orientation. Coordination among bodies, as in the other equalities discussed, occurs through ad hoc structures that coordinate the actions of all bodies in specific policy plans (Alonso 2009). Neither Spain has a specific body to deal with sexual orientation inequality. The future Equal Treatment law will probably include a single body which will include sexual orientation

²⁴ Ministerial Decree 16 December 2005. Currently the Register includes 320 NGOs.

inequalities. The Spanish LGTB movement has been very active and visible in the struggle to pursue the same sex marriage law (2005), campaign in which LGBT groups made alliances with feminist and human rights organizations.

The EU is an important input and legitimation for the establishment of an equality machinery in the selected Southern countries, as it shows the fact that precisely for sexual orientation, where the EU does not prescribe the creation of an agency, there is no operational body in neither of the cases. It also influences the type of body that is created, pushing for independent agencies that help individuals to present complaints (individual anti-discrimination and sanctioning mode), but not so much for equality promotion bodies that adopt a broader approach to inequalities (adopting positive actions and mainstreaming strategies). Yet, also for inequalities where the EU has imposed the creation of an agency, such as gender and race (where bodies were often created prior to the EU directives), the specific institutional and political framework and historically privileged inequalities of each domestic context have favoured the adoption of particular types of equality machinery.

3. Political approaches to the treatment of inequalities in Italy, Spain and Portugal²⁵

Data on equality legislation and machinery discussed in the previous sections provide us with some elements to understand the type of political approach to inequalities that is currently in place in Italy, Portugal and Spain. In this section we will combine these data together with information on existing practices of intersectionality that we could detect by observing dynamics of alliances, coalitions, cooperation, and competition that arise among civil society groups in the three cases²⁶. This will give us an idea of the extent to which an intersectional approach is implemented. To understand and typify the type of political approach to inequalities in each case, we have taken into account a number of aspects which are listed in section 1.

The *type of institutional approach to inequality regarding the targeted axes* can be described, for the three cases, as a unitary approach in process of shifting to a multiple one. Yet, the ways in which this change is being institutionally conducted are different. In Italy, gender, race and sexual orientation (not operational) bodies have been included within the Ministry of Rights and EO, whose main orientation (before the 2003 anti-racist body) had been towards gender. The notion of ‘equal opportunities’ of the Italian Ministry, then, shifted meaning from gender to a broadened concept of equal opportunities that included (at least formally) also race and sexual orientation (and the other inequalities of directive 2000/78/EC). In Spain the trend is that of keeping bodies separate, with the exception of the Youth institute which has been included within the 2008 Ministry of Equality (an agency that is currently mainly gender oriented but which will include other inequalities in the future). The Portuguese style seems to be that of maintaining separate bodies dealing with inequalities and creating coordinating structures that link the different bodies in their policy activities.

Somewhat different across the countries is also the range of *institutionally privileged inequalities*, of which we consider only gender, race and sexual orientation. In Italy, gender is the stronger among the other institutionalised inequalities (considering legislative and institutional attention), but in a general situation of

²⁵ This section mainly draws on Alonso (2009); Del Giorgio and Lombardo (2009); Bustelo (2009); Bustelo and Forest (2009); Verloo and the QUING team (2009).

²⁶ This information is still work in progress.

institutional weakness of the EO machinery. Therefore, it does not look like gender is exercising a dominant influence on other inequalities. Race is increasingly getting institutional attention from the creation of UNAR, though hindered by the mentioned problems of weakness of the Italian Ministry of Rights and EO where the anti-racist body is located, and the obstacles to the operationalisation of the body due to incorrect transposition and political will of the right-wing government. Sexual orientation is the weakest inequality in Italy due to political and cultural obstacles to the operationalisation of the formally created Commission on LGBT rights (Del Giorgio and Lombardo 2009). In Portugal, gender and race seem to be the two stronger inequalities, with a greater emphasis on gender as the leading coordinating role of the gender body shows. Nevertheless, Portuguese race equality bodies were created in the 90s, before the EU directive, and have a longer institutional history than, for instance, the Italian agency. Sexual orientation, however, despite the good intentions of the CIG agency to include it in the agenda, seems still rather weak. In Spain, gender is definitely the strongest inequality, race is acquiring growing strength though it is currently not so strong, and sexual orientation is increasingly strong in terms of legislation and civil society mobilisation, but not in terms of bodies' institutionalisation²⁷.

The type of approach to inequality regarding the way of *understanding and tackling inequalities (anti-discrimination/equality promotion; sanctioning/ non sanctioning)* tends to show, in the three cases, an emphasis on equality promotion (targeting collective subjects) linked with non sanctioning power concerning gender, and anti-discrimination (addressing individual subjects) linked with both sanctioning and non sanctioning power in the case of race. However, in the area of gender equality at work, both in Italy and Spain, the approach is also one of equality promotion linked with sanctioning measures. In Italy, there may be sanctions to the public sector if positive actions for women at work are not applied (Law 125/1992 positive actions and Decree 196/2000; see Gottardi 2002)²⁸. There is a specific body, the National Councillors for Equality (Ministry for Labour 1984 Law n. 726/1984) whose members act as watchdogs of equal treatment between women and men at work at regional and provincial levels. They can report offences to the judicial authorities and take cases of direct and indirect discrimination to court²⁹. In the case of race, the approach is one of anti-discrimination and not directly sanctioning. UNAR, cannot sue as a juridical subject, it can 'accompany the victims in the trial path' by offering support, advice and official documentation to the judge (UNAR Report 2007: 16). In Spain the future Equal Treatment Act has a strong tendency towards the individual treatment in sanctioning mode: that is, the body the expert group is planning is a single body of tutelage and protection that would include all six inequalities of Article 13 (also sex). This body seems not to threaten the WI which would maintain its role of gender equality promotion body for implementing the gender equality legislation. In Portugal the approach seems to be one of equality promotion, through the use of targeted actions to some intersectional groups, and little sanctioning power (more research is needed to check judicial activity).

The type of *EU influence on the institutionalisation of inequalities* also varies. In Italy the EU had a strong impact to promote an equality agenda (mainly through an

²⁷ Disability is a strongly protected inequality in both Spain and Portugal too (information on Italy is work in progress).

²⁸ According to Decree (n. 196/2000) public administrations that do not promote projects on positive actions will be sanctioned. Nevertheless, according to Gottardi (2002), the sanctionatory model is not very effective (Gottardi D., 2002, "Azioni positive e loro prospettive in Italia" [Positive actions and their perspectives in Italy], available online: http://www.infn.it/cpo/pubbl/CPO2002/azioni_Gottardi.pdf).

²⁹ Nevertheless, in practice they mainly use an informal procedure aimed at mediating between employee and employer.

equal opportunities strategy), creating opportunities for progressing on equality that left-wing governments have been more prompt to exploit, and pushing unwilling right-wing governments to advance such an agenda. In Spain the EU influence has been strong but in a different way than the Italian and with mixed consequences. The new EU approach to inequalities, based on a more narrow anti-discrimination understanding of inequalities, has had effects of retrenchment on the strong Spanish gender framework based on a broader notion of equality of outcome (through the gender mainstreaming strategy). However, the EU acted as agenda-setter for introducing multiple inequalities in the Spanish gender-dominated political arena. In Portugal, the EU had a medium influence, domestic political actors have been ready to take advantage of EU opportunities, maintaining certain characteristics of the Portuguese 'political style' (see the following paragraph).

Two key elements that can inform us on the effective implementation of a multiple or intersectional approach are the institutional *coordination among the equality bodies* and the existence of a *participatory approach*, where equality institutions consult civil society concerned with equality, either on a regular or on an occasional basis. Here is where we notice the greater comparative difference among the countries. In Italy, despite the fact that the gender, race and sexual orientation (non operational) bodies are located within the same Ministry for Rights and EO, we found no evidence of either a formal or a substantial coordination between the bodies. Consultation practices at the national level are currently occasional and left to the Minister for Rights and EO's good will as concerns gender organisations (at the regional and local level such practices are more common), they are formally existing and routinised for LGBT groups but were never operationalised, and, in the case of race, NGOs are either involved in the work of UNAR (ACLI catholic workers' associations) or, if part of the National register of NGOs, they can initiate a legal action on behalf of a victim. In both cases it is more a case of work cooperation between the institutional and the civil society actors rather than a consultation to incorporate civil society's voices in the policymaking process.

In Spain signs of coordination and participatory approach are very recent and it is yet to be seen whether the two practices will be consolidated in the future. The consultation process is supposed to be part of the future parliamentary process. Within the Expert group appointed by the Ministry of Equality for promoting a future Equality Treatment Act (2008-2009) there were, for example, a feminist NGO linked to the Socialist Party, people from the Spanish Observatory of Racism and Xenophobia, from the Gypsy secretariat, from the Spanish Committee of Representatives of People with Disability, and from the National Organisation of Blind People in Spain (ONCE). Religion was present through the 'Directorate General for Religious Affairs' within the Ministry of Justice, Sexual Orientation through a special Attorney for prosecuting 'hate crimes/offences'. Age was not explicitly 'represented'. Members of the Expert Group were called as experts, not as representatives of the civil society. Moreover there was a majority of academics, especially lawyers.

Portugal stands out comparatively as the 'champion' of a coordinated and participatory approach. While creating different separate equality bodies, Portugal has kept an eye on the importance of a joint coordination among the different equality agencies by recently creating coordinating structures to conduct the implementation of policy plans. The older and more consolidated bodies, such as the gender and race ones, have a leading role in this coordination, but also other bodies dealing with disability, age and class are involved in the coordinating structures. Portugal has also a tradition of involving civil society which has led to the setting up of participatory structures to engage civil society (advisory councils) from the moment equality bodies were created.

Consultation practices are today routinised through Advisory Councils for each inequality where civil society groups can voice their concerns. In this respect, Portuguese policy practices seem to offer some potential for the development both of a more intersectional and multiple inequalities approach.

Searching for evidence of *legislated intersectionality* in recent official policy documents that explicitly refer to intersections between inequalities (see Verloo and the QUING team 2009), we found few references in all cases, but these can provide some clues on the type and systematicity of the intersectional approach found and on the inequalities included. The Italian 2003 decrees transposing EU Race and Equal Treatment directives are the first cases of legislated intersectionality in the Italian context. Decree 215/2003 refers to the intersection of race and ethnicity with gender, culture and religion when it states that UNAR aims at achieving equal treatment among persons irrespective of race and ethnic origin taking into account “the differential impact that similar forms of discrimination can have on *women and men* and the existence of forms of *racism with a cultural and religious character*”. Decree 216/2003 mentions the differential impact that discrimination on grounds of sexual orientation, religion or belief, disability, and age can have on women and men. In Portugal several recent equality policy plans deal with multiple discriminations and include different inequalities (see Alonso 2009). The III National Plan for Equality: Citizenship and Gender 2007 – 2010, for instance, claims that ‘women have to face multiple discrimination based on their race, territory of origin, religion, disability, age or sexual orientation’. In Spain, evidence of legislated intersectionality can be found at the regional level in the Basque and Catalanian’s recent equality plans (Bustelo and Forest 2009). For instance, the IV Basque Action Plan for Equality 2006 refers to several intersections among which rural/urban, and citizenship status and shows awareness of the importance of not stigmatising people at the point of intersection of different inequalities. And the Catalanian Interdepartmental Plan for non discrimination of homosexual and transgender people 2006 intersects sexuality, gender, age, class, disability.

To find evidence of *implemented intersectionality*, we draw on the analysis of practices of policy coordination among equality bodies to design and implement intersectional equality policies, institutional consultations of civil society groups, alliances and coalitions³⁰ between civil society organisations concerned with different equality causes, and competition between different equality causes (further research for the analysis of judicial activity is needed). Comparing the three Southern member states, it seems that Portugal is the case that offers greater potential for the implementation of an intersectional approach, in particular a ‘deliberative’ one (Alonso 2009). As we mentioned, Portugal is placing greater emphasis on the coordination of equality bodies and on the routinised consultation of civil society. Moreover, in the last decade different civil society movements have built cross-cutting coalitions to defend equality causes, as in the 2007 campaign on the abortion referendum, that showed the alliance of the women’s movement, trade unions, LGBT and migrant people. Alonso (2009: 17) argues that these alliances are ‘rainbow coalitions’ in which groups’ specificities are made visible but the strategy is one of cooperation ‘beyond occasional moments’. In these coalitions, inequalities can be intersecting or overlapping in a project of ‘mutual support’. However, conflicts have also emerged in Portuguese institutional processes of consultation of civil society. The 2007 move of CIG’s Advisory Council towards the promotion of a multiple inequalities approach, which led

³⁰ In a coalition members are part of an organisation specialised in one inequality or intersection and then come together for a common contextual project (Walby, Armstrong and Strid 2009).

to the inclusion of civil society organisations representing LGBT, race and disability issues, and to the exclusion of some of the oldest feminist organisations was greatly criticised by feminists.

The Italian case provides little evidence of an intersectional potential at the institutional level, that is shown in the lack of bodies' coordination, the occasional consultation of civil society, depending on the colour of the government, and a small judicial activity leading to sentences in the four years of UNAR. However there are emerging strategic alliances among civil society groups, such as the 2006 alliance in defence of sexuality rights between the lesbian and the women's movement to campaign against restrictive legislation on assisted reproduction (Law 40/2004) introduced by the centre-right government, and the 2009 Gay Pride, where the homosexual movement made alliances with the anti-racist movement under the slogan of 'anti-racist pride' (Del Giorgio and Lombardo 2009). These ad hoc strategic alliances, which are oriented at the defence of basic rights violated by the centre-right Berlusconi government, show sometimes the overlapping of two inequalities (race and sexuality in the anti-racist pride) and other times their intersecting (gender and sexuality in the case of the lesbian and women's movements). Competition between inequalities was not detected, possibly due to the need to join forces in the defence of rights attacked by the centre-right government. The Spanish case also shows little evidence of implemented intersectionality at the national level. There is practically no coordination among equality bodies. Judicial activity exists but only for each separate inequality. There are not so many civil society alliances, only for concrete programs or campaigns. In these cases, intersecting inequalities were sexual orientation and gender, disability and gender, and increasingly gender and migration. There is some evidence of overlapping inequalities in the strategic and contextual alliance of the LGTB movement with feminists and Human Rights Activists for the same sex marriage campaign. In a context that has been dominated by the institutionalisation of gender inequality so far, like the Spanish one, there have been resistances on the part of feminist groups to include other inequalities, which are seen as competing with the most important gender inequality (Bustelo forthcoming).

By crossing data on the legislated-implemented intersectionality with coordination and participatory approach, we can get an idea of the *systematicity of an intersectional approach* in our three cases. In the Italian case, a political treatment sensitive to intersectionality seems an accidental phenomenon, as testified by the reference to intersections in the transposing decrees on race and other inequalities, and occasional strategic alliances between social movements. In the Portuguese case intersectionality is still emerging but body coordination, a participatory approach, and civil society coalitions are signs that it has potential for becoming more embedded. In Spain, an intersectional approach is rather accidental (and mainly found at the regional level). Both equality legislation and the future institutionalisation of equality are very influenced by the non-discrimination and multiple but separate EU approach (Lombardo and Verloo forthcoming).

Finally, only in the case of Italy we could detect the presence of *institutional discrimination*. This was manifest in the centre-right Italian government's discrimination of homosexual workers in the decree that had supposedly to transpose the anti-discrimination directive 2000/78/EC. Paradoxically, the first time that homosexuality becomes visible in the legislation, a more restrictive situation for homosexual workers is put forward. Civil society groups have also pointed at a phenomenon of 'institutional racism'³¹ of the current Berlusconi government, which has

³¹ Interview with Grazia Naletto.

adopted controversial policies in terms of discrimination, such as norms on security and on health policy that discriminate migrant people (a provision that obliges doctors to denounce the police undocumented migrants who recur to the National Health Service the definition of the status of ‘immigrant illegal alien’ as a crime, and other norms included in the so-called ‘security package’, Decree n. 11 of 23 February 2009). These cases of institutional discriminatory behaviour make visible the presence of privileged groups of whites and heterosexuals in political power that make policies against immigrants and homosexuals, thus showing some of the dynamics that contribute to the perpetuation of inequalities in the Italian context.

Conclusions

The comparative analysis of the institutionalisation of equality in Italy, Portugal and Spain conducted in this paper has helped us to better understand the type of political approach to the treatment of (gender, race and sexual orientation) inequalities that characterises the three cases. In these conclusions we will discuss some of the institutional, political, cultural and social factors that may help to explain the political approach developed in each case and the differences and similarities found.

The *Italian political approach to inequality* is a unitary shifting to multiple inequalities one, where inequalities are treated as separate and there is no integrated and coordinated policy approach to organize institutional action on multiple inequalities, despite the fact that equality bodies on gender, race, and, only formally, sexual orientation are placed under the same Ministry for Rights and EO. Gender is the stronger among the other institutionalised inequalities but in the context of a rather weak equality machinery whose implementation capacities are rather limited and which is particularly vulnerable to government changes, a factor that has greatly affected continuity and consistency of equality policy, considered the highly unstable Italian political system. The low state of democracy under the Berlusconi governments can also help to understand the comparatively higher problematic state of the political treatment of inequality in Italy. This limited democracy is testified, among other things, by the monopoly of ideological, economic and political powers into the hands of the cabinet president, the de facto increase in executive powers through the routinised use of legislation by decrees which progressively disempowers the Parliament, a personalistic political style that appears in the approval of laws *ad personam*, and the limitation of free speech and concentration of media ownership (90% of broadcasting media privately owned by the prime minister) that has moved Italy in 2009 into the ‘Partly Free category’ of Freedom House rankings³².

Among the political factors that explain the Italian development of equality policy, the EU has a special place due to its strong agenda-setting influence. It was due to the EU that in Italy, for instance, we could find two cases of legislated intersectionality, in the decrees transposing the 2000 EU anti-discrimination directives. The EU was also influential in the establishment of the Ministry for Rights and Equal Opportunities in 1996 and was again behind the creation in 2003 of the anti-racist UNAR body. The EU’s impact on Italian implementation was not as strong as in transposition. Binding EU directives have been effective in obliging unwilling Italian institutional actors to transpose antidiscrimination legislation (through infringement

³² Italy is 73rd in the Freedom of the Press 2009 ranking. See Freedom House, Press release 1 May 2009, <http://www.freedomhouse.org/template.cfm?page=70&release=811>

procedures). But the absence of EU monitoring of implementation of directives, in the context of a weak machinery and a right-wing government not sensitive to equality issues, enables UNAR to be formally existent but operationally not so active. Indeed, the lack of institutional coordination on equality, the occasional consultations of civil society (depending on the colour of the party in government), the small judicial activity (at least on race), and the occasional alliances among civil society found do not provide evidence that an intersectional approach is implemented in the Italian political context. Interaction with feminist, anti-racist and LGBT civil society in Italy has been greatly dependant on government change. Since there are no institutionalised channels for consultation, the relationship varies according to the political will of the Minister of EO and of the government, with greater cooperation in times of centre-left governments (though some sectors of the feminist movement also opposed this institutional cooperation), and distance arising in reaction to centre-right discriminatory policies. Moreover, practices of 'institutional discrimination' on grounds of race and sexual orientation, emerged in the policymaking of the centre-right Berlusconi governments, reveal that there has been resistance from groups in power to an effective promotion of race and sexuality equality.

In the more consolidated area of gender in Italy, there has been a greater emphasis on equality promotion (targeting collective subjects) linked with both sanctioning (employment area) and non sanctioning power, which shows that, at least formally, the approach to the treatment of gender inequalities is broader than a mere anti-discrimination one, as it includes positive actions, and it is partially also more centred on enforcement as it also includes sanctions to public administrations if they do not implement positive actions. In the case of race equality, which begun to be dealt with at the end of the 90s in response to immigration flows, the approach is more narrow, as it is mainly one of anti-discrimination (addressing individual subjects), and non sanctioning power. Sexual orientation, compared with gender and race, has been the least politically developed equality area. Centre-right governments have either ignored it or hindered it; but even when centre-left governments have attempted its institutionalisation, cultural and political factors have prevented it. Obstacles to legislating on sexual orientation may come from a culture of familism, often used to reach political consensus in an ideologically divided context (historically strong catholic and socialist culture), and an environment where the interference of catholic ecclesiastic hierarchy in politics is rather strong. Moreover, even when the Prodi centre-left government (2006-2008) attempted to legislate on de facto partnerships (so called 'Dico'), the difficulty for the centre-left majority to reach consensus within wide party coalitions that included both left and right-wing positions, has blocked the adoption of progressive proposals especially on homosexual and partnership rights, which challenge the traditional family (Del Giorgio and Lombardo 2009).

The *Portuguese political approach to the treatment of inequalities* is also a unitary shifting to multiple inequalities one, but with different features from the Italian case. Though there are separate bodies for each inequality, Portugal is developing a coordinated approach through the establishment of different coordinating structures to implement policy plans. This might favour the development of both multiple and intersectional ways of dealing with inequalities. Institutionally, Portugal seems to have a tendency to continuity and adaptation rather than rupture. Despite the great number of governments from the beginning of democracy, an aspect of similarity with Italy, Portuguese political polarization is lower and (equality) institutions more stable than the Italian. Equality policies during their more than thirty years of life had little institutional changes, with agencies always located in presidency (with small exceptions). This can

explain the fact that rather than creating a new body for addressing sexual orientation, in 2007 they included it within the CIG. It also tells something about the possibility of consolidating equality policies in Portugal, given the institutional stability of equality agencies.

In relation to the hegemony of inequalities, it seems that, while gender has a stronger position, race is also well institutionalised in Portugal, more than in Italy and Spain³³. This might be due to the fact that immigration is not a new issue in Portugal. A first wave of migration occurred in the 60s after the late decolonisation process, and a second one happened in the 90s. Thus, race equality agencies with aims of intercultural dialogue and presentation of complains were created prior to the EC directive and migrants are organised and have developed alliances with other social movements (Alonso 2009). Portugal also seems to have a broad approach centred on equality promotion, as the presence of targeted actions to intersecting groups would indicate, combined with little sanctioning power (this, however, needs to be further investigated). The EU has had a medium influence on the Portuguese way of dealing with inequalities. Most gender equality legislation had already been passed before the EU directives, and the same can be said for race for which a law had been passed in 1999. The influence of EU policies is more noticeable in the increasing presence of policy plans, such as those on social inclusion or equal opportunities, and funds devoted to specific actions to promote equality at work and to support women's organisations.

A characteristic of the Portuguese way of dealing with inequalities that is different from the other two Southern cases is its participatory approach, based on the institutional creation of consultative bodies for each equality agency in order to engage civil society through routinised consultations. This has been explained as a corporatist heritage from the *Estado Novo*, in which the regime was interested in organising workers into official groups for control purposes (Nicholls 2007 quoted in Alonso 2009). This, united to a generally top-down approach to public policies (usually adopted by decree), suggests that the institutional aim of participation could be that of consulting and profiting from NGOs' skills and not necessarily that of incorporating civil society's perspectives in the policy process (Alonso 2009). That is, the role assigned to civil society could be a more passive than active one. While some might consider the approach to be more neocorporatist than genuinely participatory, the fact that institutionalised channels of consultation exist could create openings for the development of a deliberative political approach to multiple inequalities. So far, legislated intersectionality shows more elements of multiple than intersectional approach. Yet, the aforementioned Portuguese features, united to the civil society's practice of making coalitions of groups dealing with different equality causes but getting together for mutual long-term support, open possibilities for implementing both a multiple and intersectional approach.

The *Spanish political approach* is also a unitary shifting to multiple inequalities one. The main feature of the Spanish context compared with the other two is that gender has had a clear hegemonic position in the Spanish institutional framework so far. This could explain existing resistances to a treatment of multiple inequalities and a certain slow development of other inequalities (except, perhaps, for disability). Race is not so developed, but is recently acquiring more institutional relevance. This is mostly due to the phenomenon of immigration that has increased from the 90s as in Italy, though the political response given to race inequalities seems slower than reality would require. Sexual orientation has received some legislative attention but no bodies were created. Yet Spain, unlike the other two Southern countries, has given greater legislative

³³ Disability is also strong in Portugal and Spain, but we are not considering it in this paper.

protection to sexual minorities, exemplified by the law on same-sex marriage. This difference could be related to the fact that the socialist Zapatero government in Spain opened a political window of opportunity for LGBT movement to put the issue on the agenda, but also to the fact that familism and the political role of the catholic church are present but not so strong as in Italy, and they are particularly associated with the right and conservatives. Moreover, there is a certain Spanish pride of being a ‘modern’ country which has achieved a fast transition from an autarchic and backward country to a democratic and advanced one that cares for social and civil rights.

In Spain there are separate equality agencies for each inequality (with the exception of age, the Youth institute is within the Ministry of Equality, where gender bodies are also located). However, steps towards a single body (Ministry of Equality) dealing with all Article 13 inequalities are being taken and the type of approach discussed by the Expert Group that is preparing a new Equal Treatment Act would be one of individual treatment of discrimination with sanctioning powers. In the area of gender, the emphasis is on equality promotion (targeting collective subjects) linked with non sanctioning powers with some sanctioning powers in the labour market. The strength of the gender axis is noticeable in the fact that the Women’s Institute created in the 80s will be maintained as an established ‘promotional structural’ with non sanctioning powers, together with the future individual-sanctioning body that will cover all 6 inequalities, including sex. The institutional change that led to the establishment of a Secretariat General in 2004 and a Ministry for Equality in 2008 reinforced the gender framework but also allowed thinking in broader terms and include other inequalities. Yet, all the structure is very linked to *gender* equality policies (Bustelo forthcoming).

The EU had a strong influence on the Spanish political treatment of inequalities. It was the moving force behind the recent changes towards a multiple discrimination approach. It influenced the consolidation of gender equality policies in the area of employment and has contributed to maintain gender equality policies and institutions in Spain even in times of conservative governments (Bustelo 2008; Lombardo 2004). As regards legislated intersectionality, there are some experiences at the regional level in Catalonia and the Basque Country. This could be part of regional politics and identity –‘we do better –and overall different - policies than the national level’ (see Bustelo and Forest 2009). However, intersectionality and multiple inequalities are still far from the policy implementation, as signs of body coordination, participatory approach, and alliances are embryonic and very recent. The little evidence of a participatory approach could be linked to the fact that Spain has always been characterized by a rather weak civil society, relations state-civil society have mainly been characterized by clientelism linked to state subsidies, and social policies tend to be rather governmental. However, there is also evidence that a more participatory approach and alliances are possible in the Spanish context. Feminist mobilisation was very effective in pushing for a law against gender violence (Bustelo and Orbals 2007). Occasional alliances were also created among different civil society actors, and ‘velvet triangles’ between academic feminists, movement feminists and state feminists work rather well in the Spanish case, with mutual recognition among the different actors. It is yet to be seen how will alliances and participation develop in a multiple inequalities’ context, in which gender is seen by part of the women’s movement as having to ‘compete’ with other inequalities. The multiple and intersectional approach is indeed looked suspiciously by a great part of the women’s movement, that feels threatened by the possibility of losing their privileged position and having to compete with other groups for resources and power.

The variety of institutional, political, and socio-cultural factors that characterise each context have generated different types of interaction between the EU and the domestic levels. The EU has a key role in creating discourse and setting norms on equality, and the impact of its political approach to inequality on the Southern member states has shown both potential and pitfalls. Yet, notwithstanding the South-European context similarities and the EU homogenising role, each case develops a particular type of political approach to the treatment of inequalities that reflects a constantly changing and path-dependent spectrum of empirical possibilities between multiple and intersectional practices.

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