

Violence against women policies in the EU: Contested framing, law and causation

Sylvia Walby
UNESCO Chair in Gender Research
Sociology Department
Lancaster University
S.Walby@lancaster.ac.uk



Introduction

- Violence against women or Gender-based Violence?
 - Causes
 - Policies
 - Frameworks for action
 - Contested legal competences
 - Strength of interventions
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What is Violence Against Women?

- How gendered?
 - Violence against women (and girls)
 - Gender-based violence
 - Gender-based violence against women
 - Domestic violence
 - Are there silences at intersections with other inequalities?
 - What is violence?
 - Physical contact to hurt and harm
 - Broader, to include threats and psychological harms
 - Course of conduct?
 - Changing definitions in academy, in politics and in policy
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Causation of VAW

- Civil society, culture, discourse
 - Masculine dominance normalised in some settings
 - Stigmatisation of victims; pornographication of culture
 - Economic
 - Situational and structural vulnerability of women/victims
 - Lack of financial autonomy
 - Polity
 - Insufficient 'protection' through regulation or criminalisation of perpetrators
 - Insufficient provision of services to victims/survivors
 - Other violence
 - Violence breeds violence e.g. war, post conflict zones
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Range of policies

- Refuges/shelters; crisis phone lines
 - Advocacy, outreach
 - Support to individual women to access services
 - Criminal justice system
 - Police, attrition during prosecution, new laws
 - Civil legal system
 - New forms of civil injunctions; increased powers
 - Welfare (income and services)
 - Housing
 - Health services
 - Gender equality as a policy for prevention
 - Interventions in (post)-conflict zones e.g. UN SC 1325
 - National/international strategies and plans
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Frameworks in policy/politics: to reduce/eliminate VAW

- Gender inequality
 - Cause and consequence of gender-based VAW
 - Crime
 - VAW a set of crimes that justify public policy intervention in the name of justice
 - Health and well-being
 - VAW damages health, a public as well as private good
 - 'Welfare'
 - Human rights
 - VAW a violation of women's human rights
 - Economic
 - VAW a drain on economic resources
 - economic development reduces VAW
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Location of policy frameworks in politics

- Gender equality
 - Non-governmental organisations (NGOs);
 - A few European governments e.g. Sweden, Spain
 - Strong in EU, BUT not currently extended to VAW
 - Crime
 - most Global North governments
 - EU Member States;
 - EU level: 'serious' and cross-border: extended under Lisbon or not?
 - Health and well-being
 - Health in Global South governments; plus EU Daphne
 - Welfare in 'welfare states' of Global North
 - Human rights
 - UN; Council of Europe; some NGOs
 - EU: European Convention on Human Rights; Charter for Women's Rights
 - Economic cost
 - Anywhere subject to neoliberal influence e.g. UK
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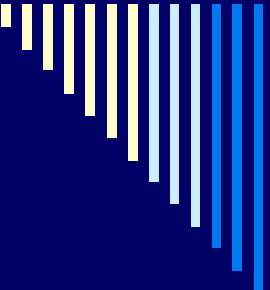
EU legal competence

- Equality
 - In employment and sale and distribution of goods and services e.g. Gender and sexual harassment
 - VAW in EU 'Strategy for equality between women and men'
 - Crime
 - If 'serious' e.g. European Arrest Warrant for serious crime e.g. rape (e.g. Assange) (also used for minor crimes by some MS)
 - If crosses borders e.g. Trafficking (e.g. EU Commissioner for Anti-Trafficking appointed 2010)
 - Public health
 - Basis of EU funded Daphne programmes (not welfare)
 - Human Rights
 - Incorporation of European Convention on Human Rights into EU law
 - Basis of EU Fundamental Rights Agency EU-wide VAW survey
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Reflections on EU legal competence

- Is there a legal basis for additional EU interventions into VAW in Treaty of Lisbon?
 - Does the Treaty of Lisbon prevent further extension of EU-level powers
 - Yes, by deploying ‘subsidiarity’ more strongly
 - No, if justifications can be made
 - Justifications through gender equality?
 - Article 1a value of ‘equality between women and men’
 - Article 2 ‘promote equality between women and men’
 - But, in practice, legal and policy basis fragmented across equality, serious crime, public health, human rights
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Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on violence against women, violence against children and sexual orientation violence

- Caveat: Standardisation not the same as EU competence
 - Charter for Fundamental Rights limited effect because Article 51 says no new powers to EU
 - Treaty of the European Union (Lisbon)
 - Article 83: can VAW be encompassed by crimes covered? Procedure at Art 83.1 allows, but depends on Council and on unanimity. Restrictions to cross-border appear.
 - Article 82: rights of crime victims. ‘Procedural limitations seriously restrict standardisation at EU level’
 - Protection orders: ‘no legal basis in EU law’ for content of a protection order to be specified
 - Support for victims: no legal basis for harmonisation
 - Capacity building: no legal basis in EU law
 - But recommends fundamental rights law as place for concept of ‘discriminatory violence’
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European Parliament (EP) vs. EU?

- Diverse EU institutions, diverse and competing priorities
 - EP pushes for expanded EU powers and action on VAW
 - FEMM/Women's Rights Committee of EP, additionally with Left Party in Chair
 - EP Resolution, via FEMM Committee, calling for a Directive on VAW, 2011. Cites:
 - UN: human rights, UN VAW, UN Beijing, CEDAW
 - EU: Charter of Fundamental Rights; EPSCO Council; EP Resolutions; Commission's Strategy for Equality between men and women; FEMM Committee report; EU Stockholm programme on 'freedom, security and justice'
 - Explanatory Statement also cites: Lisbon's introduction of common provisions in criminal law
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Institutional 'strength' of diverse frameworks and legal competences

- Gender equality
 - Principle of gender equality powerfully institutionalised in EU,
 - But limited to employment, goods/ services, though also mainstreaming
 - Crime
 - Huge resources in crime policy area in Member States
 - But can narrow the range of policy actions
 - Health
 - Huge resources in health policy area in Member States
 - Focus intrinsically narrowly on mitigation not causation
 - Currently the legal basis of the EU Daphne programme
 - Human rights
 - Current weak institutionalisation: FRA survey; some legal test cases
 - Economic cost
 - Translates VAW into well-funded adjacent policy frame of 'cost'
 - Potentially limiting range of action
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Reflections on Quing methodology

- Frames/frameworks for policy
 - What are frames/frameworks
 - Methodological focus
 - Analyse 'texts' or 'policies as practiced'
 - Basis of influence over practice
 - Discursive
 - Legal and other policy institutions
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Conclusions

- ❑ Competing accounts of causation of VAW matter for policies to 'reduce and eliminate' VAW
 - ❑ Multiple potential policy frameworks in EU and Member States: competing or complementary?
 - ❑ Contested legal competence in developing policy on VAW at EU-level
 - ❑ Varied historical development (path dependency) of varied institutional strength
 - ❑ In some Member States, including UK, crime and welfare are the best resourced policy approaches, but varied
 - ❑ In EU, equality is the strongest legal basis for VAW policy
 - ❑ Emerging, not yet settled, field of policy
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