

## **Workshop 14: Institutionalising Intersectionality: Comparative Analyses**

**Names of Workshop Directors:** Prof Hege Skjeie and Prof Judith Squires

### **Outline of Topic**

This workshop aims to evaluate the ways in which the legal and normative demands of multiple equality strands are being addressed institutionally. It deploys comparative analyses of current state-level reforms in the institutions designed to implement equality policies within both EU member states and ‘non-member’ states to evaluate the potential for ‘institutionalising intersectionality’.

The pursuit of equality has become a central policy priority for EU member states, with a commitment to promoting diversity and eliminating multiple discriminations requiring widespread reviews of equality institutions across Europe. One basis for this development is found from Article 13 EC that identifies six key strands as requiring measures to combat discrimination: sex, racial and ethnic origin, disability, age, religion and sexual orientation. Another basis is found in the international human rights regime’s prohibition of discrimination, as – for instance – in article 14 of the ECHR, and protocol 12 to the convention. Where states have previously operated with equality legislation that addresses particular forms of inequality only, they are now under pressure to address not only multiple forms of discrimination, but also to consider the interaction between these strands. For example, EU member states are increasingly attempting to engage, at both a conceptual and policy level, with the fact that gender discrimination and inequality are shaped in fundamental ways not only by gender but also by race, ethnicity, class, sexuality and disability. The concept of ‘intersectionality’, developed by legal theorists to analyse the intersections between multiple equality strands, stresses the importance of the intersecting hierarchies of various prohibited grounds of discrimination.

Institutionally, the growing concern with multiple equality strands has generated equality reviews in many European countries, with significant numbers of states recently changing their institutional arrangements for promoting equality. Several countries have created ‘single equalities bodies’ that bring law enforcement and implementation under one roof. Britain, for instance, has created an Equality and Human Rights Commission, which has responsibility for enforcing equality legislation on age, disability, gender, race, religion or belief, sexual orientation or transgender status, and encourages compliance with the Human Rights Act. Other countries have opted for separate equalities bodies. Austria, for instance, has created three separate Ombuds (for women and men, for ethnic belonging, religion/belief, age and sexual orientation, and for equal opportunities with regard to ethnic belonging), while Belgium has created a new body for dealing with sex discrimination (the Institute for Equality between women and men) in addition to its pre-existing Centre for Equal Opportunities and Opposition to Racism.

The EU commitment to addressing multiple inequalities does not only impact on member states: it also has a determining role in non-member and accession states. Norway has recently introduced significant changes to its anti-discrimination and equality machinery, creating a joint Ombud and Equality Tribunal institution responsible for combating discrimination and promoting equality on a range of

grounds. This institution is the first of its kind among the Nordic countries, all of which, with the possible exception of Iceland, find themselves initiating processes of reorganisation and/or legal reform (An extensive mapping of these reforms, commissioned by the Nordic council of Ministers, is currently underway). The equality agenda of Central and Eastern European countries is also being shaped by the accession process. In Lithuania, for instance, the Equal Opportunities Ombudsman, formerly responsible for gender equality only, now deals with all Article 13 grounds. Meanwhile, Slovakia has created a National Centre for Human Rights, which oversees a new anti-discrimination law that applies to all six equality strands.

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

The various modifications to equality institutions witnessed in recent years have frequently been accompanied by an expectation that these changes will facilitate engagement with issues of 'intersectionality'. This workshop considers whether this potential is likely to be realised, and whether it is most likely to do so via the retention of a separate strands approach to equality, with its notion of structural inequality and discrete, frequently competing, groups, or via the embrace of a diversity agenda in which we are all complex individuals. Given that legal and institutional change is still underway in many European states, the workshop will not aim to generate definitive detailed empirical accounts of the implementation of equality policies, or comprehensive evaluations of the success/failure of various institutional arrangements. Rather, it aims to document and compare the different European responses to the challenge of multiple inequalities, and creating the scope to evaluate the pros and the cons of reforming equality institutions across Europe. The workshop will be structured so as to: i) document the nature of the changes underway via detailed case studies; ii) map the type and range of equality mechanisms being introduced via comparative analysis; iii) develop initial typologies of equality institutions in relation to different political systems and citizenship models via theoretical modelling; iv) critically assess the potential for these various types of equality institutions to address inequalities in relation to each of the equality strands; and v) evaluate the potential for emerging equality institutions to both deal with tensions between equality strands and address issues of intersectionality.

Accordingly, the workshop directors will solicit papers that explore the institutional and legal responses to the growing normative concern with 'equality and diversity'. They aim to bring together legal scholars, political scientists and political theorists who are working through the analytical categories of gender, race/ethnicity, disability, religious belief, age and sexuality. The intention is to use these papers to explore the positive potential for the institutionalisation of mechanisms to address not only multiple equality considerations, but also their intersections. The mid-term ambition is to create a research network from the workshop participants that will be able to monitor and evaluate the implementation of equalities policies across Europe over the next five year period, with particular a focus on issues of institutionalising intersectionality.

## Relation to Existing Research

There are extensive literatures that critically evaluate issues pertaining to state-level policies designed to promote gender equality and race equality respectively. The state feminist literature evaluates the effectiveness of state institutions designed to promote greater gender equality has evaluated in the comprehensive literature of 'state feminism' (Mazur 2002, Stetson and Mazur 1995, True and Mintrom 2003, Rai 2003, Squires 2007), while the multiculturalism literature analyses states responses to the challenges of cultural diversity (Kymlicka 1995, Parekh 1999, Modood 2007). There are also growing literatures that engage with state responses to other equality strands, including disability (Albert 2004) religious belief (Bader 2003), sexuality (Richardson 2005) and age (Fredman and Spencer 2003).

The emergence of multiple equality agendas has led to a debate about the relative merit of various equality demands (Barry 2001, Phillips 1999) and the need to promote 'diversity', which moves away from analyses of structure inequalities to focus attention of human resource management (Cooper 2004, Wrench 2005). There has been significant attention paid to the tensions between the various equality strands, with particular theoretical focus on the relation between feminism and multiculturalism (Okin 2005, Phillips 2007, Shachar 1999, Skjeie 2007). The literature on intersectionality by legal scholars (as for instance Crenshaw 1991) tends to focus on providing a conceptual framework for analysing structures of inequality, rather than a policy framework for eradicating the inequalities that result. However, substantive effort in this direction is now being made through legal scholarship which analyses the development of multidimensional equality law for Europe (Schiek and Chege 2008, in print). There is also an extensive literature on equality policies in EU member states (Bell 2003) and a smaller body of literature on creation of single equality bodies (O'Conneide 2002). Of particular relevance is the emerging discussion of the differences between inequalities, which may necessitate specific institutional mechanisms for tackling specific discriminations (Verloo 2006). As yet, there has been no systematic and comparative analysis of the institutional consequences of the attempts by EU member states to outlaw discrimination in relation to multiple equality strands in relation to the concept of intersectionality.

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## Participants

Participants will include scholars currently working on equality law/public policy in a European context. We will be particularly concerned to attract scholars with specific expertise in each of the six equality strands: gender, race, disability, religious belief, age and sexual orientation. We will also be committed to including scholars with expertise in countries across Europe, making particular efforts to attract scholars from and of Central and Eastern European countries, where the equality agenda is being shaped through the EU accession process. We are also keen to invite members of EQUINET, the European Network of Equality Bodies (funded by the European Commission) which seeks to develop the cooperation between specialised equality bodies in Europe.

## Type of paper

The workshop will solicit three types of papers, which together will offer a rich analysis of the current negotiation of multiple equality strands: a) those which offer detailed empirical analysis of the ways in which individual EU member states are responding both

legally and institutionally to the demands of intersectionality; b) those which of comparative analyses of the formulation and institutionalisation of equality policies in relation to particular equality strands; and c) theoretical papers which offer analyses (legal, discursive or analytical) of the conceptual meaning of intersectionality.

### **Biographical Note**

Hege Skjeie (Professor of Political Science, University of Oslo). Current research interests focus on the relation between human rights regimes and national equality laws. Recent publications include: 'Religious Exemptions to Equality' in Birte Siim and Judith Squires (eds) *Contesting Citizenship: Comparative Analyses*, special issue of *CRISPP* 10:4, 2007; 'Gender Equality: On Travel Metaphors and Duties to Yield' in Sirkku Hellsten, Anne Maria Holli and Krassimira Daskalova (eds) *Women's Citizenship and Political Rights*. London: Palgrave 2005.

Judith Squires (Professor of Political Theory, University of Bristol). Current research interests focus on the pursuit of gender equality in the context of multiple equality strands. Recent publications include 'Intersecting Inequalities: Reflecting on the Subjects and Objects of Equality' *Political Quarterly*, forthcoming 2008; *The New Politics of Gender Equality*, Palgrave, 2007; 'Negotiating Equality and Diversity in Britain: Towards a Differentiated Citizenship?' in *Critical Review of International Social and Political Philosophy*, 10(4) 2007; 'The Challenge of Diversity: The Evolution of Women's Policy Agencies in Britain', *Politics and Gender*, 3(4), 2007; *Ethnicity, Nationalism and Minority Rights* (co-editor with Tariq Modood and Steven May), Cambridge University Press, 2004.