Which Matters More? Addressing Various Forms of Inequality in Hungary

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Introduction

Historically constructed categories like gender, race, class, and ethnicity have been shaping not only societal relations but also wider concepts such as justice, progress, development and related societal, cultural and political practices. The societal divisions of various human activities like labour, education, representation have had serious implications with regard to the status and power relations of different groups as well as questions of justice in social systems as a whole. During the later decades, social groups and social movements have challenged the false universalism of such categories and of concepts like citizenship and membership that has faded out particular experiences and identities including gender, ethnicity, race, sexual preference, disability, and religious beliefs.

Preparation for EU accession brought significant challenges for candidate countries. Among others, equal opportunity policies were demanded from countries seeking EU membership as part of the accession negotiations. Central Eastern European countries had to work out new equal opportunity policies and Hungary was no exception. All CEE countries had experienced statist-feminism for several decades, while equal opportunity was supposedly guaranteed by state-socialism, but a new equal opportunity discourse based on the EU directives (re)appeared in national political agendas in the late 1990s. In Hungary, this new direction in equal opportunity policy has been enabling both for women’s and ethnic groups by providing them with legitimacy and political resources to make visible sexist and racist discriminatory practices in Hungarian society. The legal harmonization necessary for EU membership has led to changes in important national laws and the emergence of administrative machinery to address discrimination on all grounds. Alongside these changes, there has been a
flowering of NGOs and networks supporting women’s as well as minority and anti-discrimination activism.

This paper explores how different actors of the national arena relate to the political and discursive opportunities and constraints that exist at various national and supranational/EU levels by looking at the example of Hungary. The Hungarian women’s and Roma anti-discrimination movements are two interesting cases to explore this process of how EU laws and policies are mediated by the national policymaking actors, policy contexts and social actors. By using two case studies, that of gender claims and ethnic-minority claims, the paper aims to identify what kinds of political opportunities or constraints EU policies and discourses give rise to, and how these affect each other, whether we can identify any cooperation among the different claim-makers, whether there is an attempt to provide a comprehensive solution to these claims or whether these claims are dealt in isolation from each others. Looking at the patterns of political opportunities and constraints, we will also be able to identify which opportunities and constraints of EU policies have an effect, and the way these affect the agendas, strategies and framing of claims in these social groups or movements.

Before moving forward we need to clarify what we mean by anti-discrimination movements related to gender and ethnic-minority claims. It is traditionally accepted wisdom that minorities (be that national, ethnic, but also based on gender, sexual orientation, age, or disability) often find themselves discriminated against by the majority. For the purposes of the present paper however we will limit our attention only to examining gender claims and Roma claims. We focus on the latter, since given Hungary’s demographic characteristics, the Roma constitute the largest minority group within the country. Focusing on Hungary is also warranted by the fact that it is traditionally considered a very generous country when it comes to minority protection (not last because of the intention to provide a good example for its neighbouring countries that are home to considerable Hungarian minorities), nevertheless the integration of Roma within Hungarian society remains a serious problem.

The paper will examine how state structures and policies are affected by political and discursive opportunities inherent in EU pressure as well as how this pressure affects developments in the non-state sector, name NGOs. We shall review what kind of institutional developments Hungary witnessed with regard to gender and Roma issues, and whether and how NGOs interact with these formal structures when it comes to gender and Roma matters. Because of space and time limits we will only concentrate on a few concrete examples of policy
shifts, namely we will trace how policies on domestic violence and Roma integration policies into education have been affected over the past two decades.

**Equal Opportunity: Gender equality and minority protection at EU venues**

Within Europe, the main transnational organisations promoting the protection of human rights are the Council of Europe and the European Union. One of the major objectives of the Council of Europe is the protection of human rights and the recognition and respect for equal dignity and integrity for all. Originally, the European Union framed equal opportunity policies only within the frame of employment and considered interventions in any social systems such as gender regimes, majority – minority relations – all outside the labour market context – to fall outside the bounds of European level public remediation. Later however, the recognition that social inequalities falling outside the context of employment have wider implications for the society as a whole has pushed the EU to expand its demands for policy-change into the area of social policy (Morgan 2008; Zippel 2008; Walby 2004).

Historically, European anti-discrimination law targeted only gender discrimination. The evolution of EU gender policy is often represented as having three phases: from equal opportunities to positive action and to gender mainstreaming, with all three phases being present in the current EU gender equality agenda (Rees 1998). Following the introduction and implementation of the Article 119 of the Treaty of Rome, only the 1970s witnessed a new period of intensification in equal opportunities. The three new directives on Equal Pay (1975), Equal Treatment (1976) and Social Security (1978) introduced by the Commission in the long run proved to be the cornerstones of gender equality policy. The EU has also supplemented its anti-discrimination legislation on gender with positive action initiatives. However, the non-binding formulation of soft-laws created uncertainties and confusion around these measures. As such, there was nothing to force member states to act on them (Beveridge, Nott et al. 2000). With time, the ambiguities and lack of clarity on issues of equal opportunities expressed the need to introduce new political strategies to overcome women’s structural discrimination (Lombardo 2003, 162).

Gender mainstreaming has been endorsed as the official policy approach to gender equality in the EU and its member states in the 1997 Amsterdam Treaty. New member states have also been obliged to adopt a gender mainstreaming approach as a condition of joining the EU (Rees 2005). This was done following the argument that gender mainstreaming facilitates the development of gender equality beyond anti-discrimination, equal opportunities and
positive action measures. Gender mainstreaming has the potential to change the masculine structures and policies by mainstreaming gender to all policy fields and legislation (Rees 1998; Woodward 2003). However, recently feminist scholars have become increasingly critical of the lack of implementation of the policy (Pollack and Hafner-Burton 2000; Schmidt 2005).

When it comes to the protection of minorities, the most important point of reference is the CSCE adoption of the Copenhagen Document (1990), which committed Europe to a declaration on human rights, democracy, the rule of law, and minority rights. The Copenhagen Document, as the first major international instrument on minority rights, contained provisions for both individual and collective rights, given that ‘persons belonging to national minorities can exercise and enjoy their rights individually as well as in community with other members of their group’ (Art. 32.6). The most important elements of law-making by European institutions with regards to the internationalization of minority rights are the European Charter for Regional or Minority Languages, adopted in 1990 by the European Committee and the Framework Convention for the Protection of National Minorities (FCPNM) that went into effect in 1998.

The Charter lists a wide range of instruments to promote the use of minority languages, but it leaves states with considerable leeway on how to implement them. The Charter protects only the languages themselves, not minority groups. Furthermore, the Charter does not apply to migrant or non-territorial languages and therefore discriminates in favour of historical minorities (Geldenhuys and Rossouw 2001). The FCPNM is similar in its conception of minority rights since it does not provide ‘clear claimable rights against the state’ on the part of minorities (Deets 2002, 36). The Convention does not define the subjects of the FCPNM and contains mostly programme-type provisions that allow states discretion in their implementation. The core issues of minority protection that are explicitly enumerated are: the right to non-discrimination and protection of identity (art. 4, 5 and 6), linguistic rights (art. 10 and 11), educational rights (art. 12 and 13), effective participation and representation (art. 15), and trans-border co-operation (art. 18). The FCPNM also differs from a formal convention in that although it is a binding document, it is not easily enforceable because it is not directly applicable to domestic law but requires interpretation. The problem with both documents is that they do not define their subjects, and contain mostly program-type provisions that leave states a measure of discretion in their implementation. While minority protection is proclaimed as an important EU principle, antidiscrimination directives are the most important legal tools provided at European-level to influence member states’ minority policies.
Consequently, there are significant differences in the political opportunities that EU law and discourse has provided minority and feminist movements within member states. The developments in gender equality policies in the EU have been triggered by the mobilization of societal actors, as well as by the favourable inclination of the EU to gender policy issues for the reasons of enhancing market competition and deepening the legitimacy of EU. Thus, gender equality directives were introduced during a period in which feminist initiatives were being adopted in many European countries. On the other hand, when it comes to minority protection, the EU has been severely criticised for lacking common EU law on minority-protection, the ambiguity of EU standards, and divergence of EU practice (Toggenburg 2003; Hughes and Sasse 2003). Given that a common and comprehensive EU regulation on minority protection would require first a clear definition of minorities and inevitably would imply interference with member states national legislations it is very much unlikely that this will ameliorate in the near future.

The late 1990s also marked a gradual shift from specific equality policies towards a general anti-discrimination regulation within the European framework. First introduced by the Maastricht Treaty (1992) and reaffirmed by the Amsterdam Treaty (1997) and the Treaty on the European Communities (1997), the EU recognizes six key characteristics as requiring measures to combat discrimination: sex, racial and ethnic origin, disability, age, religion and sexual orientation. With this the EU has moved from its earlier focus on gender equality towards addressing various forms of inequality. This evolution of the anti-discrimination principle enabled the European Union to gain authority in issue areas that were not covered by the original treaty, and embraced new frameworks for citizenship claims, including ethnicity, disability, sexual preference, and religious tolerance. The Article 13 also propagates combating discrimination horizontally – across inequalities (Bell 2002).

The shift in the orientation of European equality policies towards tackling multiple inequalities runs parallel with the emerging European literature on intersectionality. The concept of intersectionality, introduced into scholarly debate in the early 1990’s in the US (Crenshaw 1991), has gained particular significance in the European scholarly debate, too. Applying the concept of intersectionality means focusing attention to the simultaneous and interacting effects of different social categories such as race, gender, age, class, religion, sexual orientation, etc and how these result in marginalised groups experiencing not only multiple but also particular forms of inequality. While some scholars view the concept of intersectionality as able to reflect the complexity of identities and social identification, others are critical of the
concept, arguing that it fails to systematically capture the wider processes that create inequalities (Conaghan 2009, 29).

While orientation towards multiple inequalities and diversity might result in more effective anti-discrimination policy, many feminists are cautious regarding this approach and are somewhat sceptical about the shift from an exclusive focus on gender to a more wide-ranging concern with diversity and multiple inequalities (Squires 2005). Various concerns have been formulated about this development, some questioning the feasibility of the integrated approach to multiple inequalities, some stemming from institutional jealousy. There are fears that the creation of institutions and laws that address multiple inequalities via the establishment of equality commissions and policy agencies will erode many of the institutional gains made by feminists during the past decade. There are also fears that the recognition of multiple inequalities will cause a hierarchy of oppression generating competition between different equality groups over available resources and institutional access. Moreover, there is a profound concern amongst many feminists that other equality claims may run counter to those of women’s equality groups (for instance, fears that the recognition of ethnic minority and religious group rights may limit the scope and erode the achievements of gender equality policies) (Okin 2000). The extension of anti-discrimination agenda and using the policy tools, strategies in fields other than gender – i.e. mainstreaming not only gender but diversity into policies - has therefore been perceived by some feminists as a worrying development, signalling a marginalization of feminist concerns in the policy agenda.

It also must be noted that, during the enlargement process, the issue of anti-discrimination has been given high rhetorical prominence by the EU, despite the fact that equal opportunities legislation varied across nation states and even the old member states have been facing unsettled minority claims as well as gender claims. Nevertheless, the EU did require the applicant countries to live up to the ‘common’ EU standards as a condition of accession. The anti-discrimination provisions of the above documents legally embed the norm of “equal treatment between persons irrespective of racial or ethnic origin,” however systematic monitoring of domestic legislations and policies was needed for the enactment of these norms.

Let us now move forward with examining what type of political opportunities and constraints has EU pressure for equal opportunity policy created for the different interested parties. As we have noted, there are two ways we can examine how the EU has pushed for equal opportunity policies in the candidates countries: one is to concentrate on the formal level and examine how the anti-discrimination principle that appears in several European treaties that
member countries are signatories to appeared within the domestic institutional setting; the second is to look at the role of non-state actors in transposing international demands, norms and values, and examine whether and how NGOs interact with state structures in promoting policy change.

When it comes to explaining and assessing the impact of international regulation on national policy developments, various social constructivist theories highlight the role of non-state actors in the diffusion of international norms. Accordingly, the transposition of internationally accepted values and norms depends primarily on the existence and activity of transnational networks, which are capable to link together domestic NGOs, international operating NGOs, international institutions and national governments (Risse-Kappen 1997; Risse and Sikkink 1999; Risse, Cowles et al. 2001). Domestic structures have key roles in mobilizing for and bringing about policy change in the process of transposition of international norms. Nevertheless, these theories do not shed too much light on what the nature of domestic structures or international norms should look like to facilitate rapid adaptation of international standards; and fail to regard the state as a complex and diverse political and administrative apparatus, with different – and even contradictory – identities and interests. We argue that the variations between the local implementations of EU regulations on equal opportunity policy can be explained primarily by the differences between the domestic structures of the states and the nature of international pressure is only of secondary importance. Consequently, the existence of relatively strong and mobilised civil society actors like women’s organizations, anti-discrimination and minority groups in society is indispensable for structural changes regarding women’s and minority rights in any polity. Let us now examine the institutional, legal and policy changes that occurred in the area of anti-discrimination and minority protection in Hungary in the light of relevant EU regulations.

**Importing EU Norms and Values: Initiating Institutional and Social Changes**

In Hungary, similarly to other CEE countries undergoing legal harmonisation during the accession process, the implementation of EU norms and standards has happened through a top-down dynamic through a series of intergovernmental negotiations. Regarding equal opportunity legislation, the Hungarian parliamentary parties had generally refused the idea of equal opportunities policy on the basis that domestic legislation already contained provisions on anti-discrimination. However, most of the Hungarian anti-discrimination provisions were of a declarative nature, without an adequate system of sanctions attached, thus leaving their
effectiveness questionable. Regarding minority protection, the law on ‘The Rights of National and Ethnic Minorities’ was passed in 1993, prior to the Copenhagen criteria. It contained such inclusive measures like providing for autonomy arrangements and privileged quotas of representation in national parliaments, and granted collective rights and cultural autonomy to thirteen recognized minorities (among them the Roma) (Palermo and Woelk 2003).

Hungary also adopted a comprehensive legal document addressing anti-discrimination on all grounds in December 2003 (Act CXXV of 2003. on Equal Treatment and the Promotion of Equal Opportunities). With the adoption of this document, Hungary achieved de jure fulfilment of all formal legal requirements relevant to anti-discrimination policy imposed by the EU. Ethnicity and sex are included amongst the 19 factors listed under the Equal Treatment Act as a basis of discrimination. The 2003 Act stipulated two important things: first, the obligation to develop ‘equal opportunity plans’ for institutions of majority state ownership which have above fifty employees and, second, the establishment of an Equal Treatment Authority (ETA), an independent judicial body to oversee the implementation of the Act as of June 2006 and to ensure compliance with the new anti-discrimination law. By this act, Hungarian government also satisfied the by then common European view that one has to address discrimination based on different grounds – an understanding in line with the concept of multiple inequalities propagated by EU. The Hungarian government created a single institution to tackle the different locations of and forms of discrimination with the stated goal to draw up a more comprehensive and effective anti-discrimination policy to manage complex diversity.

The adoption of the 2003 Act can be viewed as an enabling domestic structure for any civil society actor. Though it is impossible to assess accurately the impact of these institutions yet, the increasing number individual and public complaints about unequal treatment demonstrate that both the 2003 Act and the ETA serve at least an awareness raising function at corporate level, and thus serve as formal tools to fight discrimination. The ETA has been receiving an increasing number of complaints, the majority of which are related to discrimination in the field of employment based the grounds of ethnic/national belonging (Ejalu 2007, 28) and disabilities, and less on grounds of gender-based discrimination.

Women’s NGOs criticised both the 2003 Act and the operation of the ETA claiming gender was being treated as one of the many factors of discrimination and the legislation was inadequate to handle specific aspects of gender equality (Juhász and Wirth 2003, 13-16). Major criticism was formulated against the organizational structure of the ETA (lacking staff members dealing with gender equality issues) and the classification of cases it used, which, according to
some women’s NGOs faded out the gendered nature of various acts of gender-based discrimination (HWL 2007). Similarly, Roma campaigners argued that establishing ETA would narrow down the urgent tasks of Roma-protection mainly to social policy issues, mainly employment policies, while their specific status (meaning poverty, unemployment, under-education, and multiple discrimination) would demand institutions designed solely for the integration of the Roma (Ringold, Ohrenstein et al. 2005).

**International Norms and Domestic Venues**

The second half of the 1990s marked the emergence of the national machinery for minority protection and gender affairs in Hungary. The institutionalization of gender equality was not without antecedents, though, since Women’s Councils were created within the Socialist Party during socialist rule. These were immediately dissolved with the fall of communism having been considered as the embodiments of socialist-state feminism. A national machinery dealing with women was re-established under the auspices of the gender equality agency as a requirement of the *1995 Beijing Declaration and Platform for Action*, which Hungary is a signatory of. Nevertheless, since its establishment, the agency was restructured, renamed several times and was integrated into various ministerial departments, gradually losing its resources, its role and scope of authority. The agency was devolved from government office level in 2003 to the level of one small department integrated within the Ministry of Youth, Family and Social Affairs and Equal Opportunities by April 2006. Besides its frequent institutional reorganisation, significant policy shift also took place at this time – gender equality policy was integrated within a more general equal opportunities policy. Thus, the performance of the gender equality agency was limited not only by limited financial and human resources but also by its integrated position within the equal opportunity machinery, questioning from the onset the Agency’s legitimacy and authority within the state administration as well as its status within society (SAO 2006).

The recent reorganisation of the gender equality agency as well as the reestablishment of the Gender Equality Council (the former inoperative Council for the Representation of Women was dissolved in 2005) during the early autumn of 2006 served as yet another window of opportunity offered to women’s groups to influence policy outcomes. While the initiative demonstrated the government’s receptiveness to comply and act according to international standards, as past developments have demonstrated, civil society support for gender issues was not strong enough to compel the subsequent governments to strengthen the agency’s position,
and to implement the formally institutionalised gender equality policies. It is too early to predict the effectiveness of this initiative but we believe it is the structure and the nature of the societal actors that determines the future of the new machinery.

The institutionalization of the ethnic-minority protection in the national bureaucracy is less controversial and more widely accepted by society at large. Since its establishment, the Office for National and Ethnic Minorities, including the Council of Roma Affairs, has been included at high government office level with inter-ministerial committees as well as some state secretaries and ministerial commissioners appointed. The Council of Roma Affairs was set up by government decision with 21 members in 2003 to assist the Prime Minister’s work as an advisory board. Its membership consists of Roma and other public figures, and representatives of Roma NGOs as well as academics dealing with Roma issues are present. The Council operates in close cooperation with the Ministries and the national authorities, the National Roma Self-Government and competent NGOs.

The 1993 Act on Rights of National and Ethnic Minorities sets out the right of minorities to establish local, regional and national self-governments. The Minorities Law was the first measure to recognise the Roma people as an ethnic minority. The minority self-government can make a proposal, initiate measures like objecting, amending or withdrawing any minority related decisions on any issue concerning the respective minority. In 2002, there were about 800 self-governments functioning in Hungary, thus giving to more than three thousand Roma the opportunity to participate in public life (Örkény 2002).

Despite the envisaged potential beneficial effects of this institution, which enables minorities to make proposals, initiate measures related to any minority related decisions, severe criticism has been raised about this system when it comes to the daily running of these institutions. Roma groups have called attention to the flaws of the minority-self government structures claiming that they perpetuate inequalities and contribute to the marginalisation of group members other than the official representatives. The relationship between local authorities and minority-self governments is conflictual on several fronts since the latter are not regarded as being of equal rank and there is no effective collaboration between the two. While these minority self-governments have authority to monitor the distribution of funds allocated to minority education, many of them are unaware or unable to exercise their rights (Örkény 2002; ERRC 2007).

Representatives of the Roma have been continuously involved in the work of the national government, however selective practice of the government, which considers only the
National Roma Self-Government (one out of the two major Roma organisations on the national level) as the main and ‘official’ representative of this minority group, has given rise to internal tensions between Roma organizations (Örkény 2002; Ejalu 2007). The National Roma Self-Government is regarded, on the one hand, as the main and sole partner for the governmental bodies, and on the other hand as a puppet of the government in power.

The problem is that this preferential treatment of the government not only interferes with the dynamics of competition among the Roma organizations, but ultimately affects the mobilization of the Roma. This also has implications for the manageability and accountability of Roma integration initiatives, for example, although the Office for Roma Affairs had a close to one billion Hungarian Forints budget and the Public Foundation for the Roma of Hungary more than one billion for 2003, the improvement of opportunities offered to the Roma remained immeasurable. (“Addendum to the Third Periodical Report. Hungary,” 2005, 6-7) The structuring and setup of these institution can be viewed as a governmental means to depoliticise and culturalise ethnic minorities’ activities, which affects mainly the Roma, who face strong rejection from the mainstream Hungarian society, are confronted with multi-layered structural discrimination, and are less aware of their constitutional rights, thus fail to formulate their collective interests.

Institutions dealing with general minority issues and more specifically Roma integration have been involved in different aspects of minority policy – including the Roma – related to the protection and promotion of minority identity (usually through a consultative status to government and ministries). Roma integration received much attention in the EU accession talks, and Hungary was a leader in the region undertaking institutional innovation and establishing new strategies and programs. However, the situation for the Roma minority has not improved in several areas and in others it has worsened (Ringold, Ohrenstein et al. 2005). Following this, a movement of restructuring the institutional framework dealing with minority issues was stated and on 31 January 2007, the 15-year-old Office for National and Ethnic Minorities was closed down. Meanwhile a special agency on the Roma was established within the now-called Ministry of Social Affairs and Labour, thus devolving and narrowing down the urgent tasks of Roma-protection mainly to social policy issues. Similarly to the case of gender equality policy, the 2003 restructuring that affected the Gender Equality Agency, has had major implications for policies on Roma as well. The integration of Roma issues within general equal opportunities policy framed in the field of social and employment policies undermines the legitimacy of a
separate and comprehensive protection package of the Roma that would overarch different sectoral politics.

**Civil Society Mobilisation**

Alongside the supranational governmental organizations and IGO’s, several non-governmental organization and networks have emerged within the European institutional setup that had been involved in the work of European institutions and also contributed to the establishment of non-official monitoring mechanisms. Both women’s and minority groups have by now widely established supra-national networks on EU level. The European Network Against Racism (ENAR), established in 1998, is a large and established network in the EU. The European Women’s Lobby is the largest, most established and institutionalised gender lobby at the EU level. According to Hobson, there are forums and informal ties between gender and minority/ethnic or anti-racist groups on EU level. However, cooperation between minority, anti-racist and gender equality groups is less smooth at the national level, and they exist more as parallel movements due to their sometimes conflicting agendas (Hobson, Carson et al. 2006).

Literature on civil society mobilisation argues that the post-war socialist state in Hungary, besides repressing any genuine societal mobilisation, took away all grounds of women’s mobilisation by providing open access to education, employment, political representation, as well as childcare facilities and legal abortion. Thus, in a sense Hungarian women had to start their mobilisation all over again with the regime change. This task was coupled together with the international institutionalisation of gender equality from the very beginning, as Hungarian women movements consciously sought influential transnational actors to legitimise their cause. The number of NGOs dealing with human and minority rights as well as the number of women’s NGOs increased radically after the regime change (Krizsán and Pap 2005). This opportunity structure was then successfully exploited by different movements and NGOs, including women’s movements, minority protection, and anti-discrimination NGOs to seek international support to further their interest visa vie their national governments (Pető and Manners 2006).

This was also the case with the establishment of the first Hungarian organisation dealing with violence against women. Established in 1994, the NaNE, i.e. Nők a Nőkért az Erőszak Ellen (Women for Women against Violence) established their office in Budapest with the aim of operating a phone line for women experiencing violence, pressing for the introduction of relevant legislation and providing support services for the victims of violence (Corrin 1999).
Other human rights organizations, such as the Women’s and Children’s Rights Center and the Habeanus Corpus Working Group (HCWG) joined NaNE in mounting awareness-raising campaigns about violation of human rights, racial and gender-based discrimination. By now, the above mentioned few NGOs established in the early 1990’s have grown into influential social actors at national level, with relatively high visibility in society. Besides them, there are a number of women’s organizations with different profiles complementing one another’s work, as well as grassroots organizations working at community level. The influence of the EU supranational women’s organization is clearly reflected in the establishment of the Hungarian Women’s Lobby (HWL) in 2003. In 2008, the HWL consisted of 48 women’s organizations including some grassroots and Roma women’s NGOs. However, the late establishment of the Hungarian branch organization means that much time was needed till Hungarian women’s organizations seized the policy opportunity the existence of such a transnational actor offered to legitimize their goals at national level. It is little surprise that they still face hard times when promoting their causes as the remaining part of the paper will show.

The mobilization of the Roma in Hungary largely translates into the agenda of anti-discrimination due to the wide-ranging discrimination they are facing in employment, education, housing, healthcare, etc policies of Hungary. Roma organizations largely were formed on the basis of ethnic or national identity as a part of the favourable societal changes and framing of minority protection legislation in the early 1990s. Like most NGOs in Europe, the main challenge encountered by the organizations dealing with Roma issues is securing the long-term funding of their activities. While the government supports Roma organizations and minority self-governing bodies in organizing cultural events, tradition-preserving programs, most of the NGOs dealing with minority issues cannot rely on the charity funding of the majority population but have to find alternative sources of funding. Given the greater availability of state and NGO funding for Roma issues has led to a rapid proliferation in Roma organizations and events. By the end of 1998, more than 1000 civic bodies concerned with such issues had officially registered (Ringold, Ohrenstein et al. 2005).

While NGO activity has been higher in Hungary than in many other countries of the region, specific measures for enhancing Roma participation in public life apart from those listed above are in short supply. The few civil society initiatives, such as Roma education programs, awareness raising campaigns, or the emergence of independent Roma media do disseminate information on, and promote the advancement of the situation of Roma, and while some local

1 See [http://www.noierdek.hu/home/tagok](http://www.noierdek.hu/home/tagok) on the members of HWL.
initiatives proved to be very successful, they cannot compensate for the lack of a comprehensive minority protection and integration strategy aimed at the Roma to be carried out by the government. As mentioned before, the collaboration civil society actors and representatives of minority groups is needed for the adoption and implementation of effective national policies. The main challenge social and institutional actors face today in Hungary is that they lack the proper tools of mobilization of the general public for combating racial/ethnic/gender discrimination.

**National Implementation of International Norm of Equality Policy**

Let us now examine two specific cases of how institutionalized international norms of equality policy have been implemented in Hungary, namely domestic violence regulations and Roma discrimination in education, both issues being crucial issues society as a whole.

Legal provisions in Hungary broadly protect human rights, yet no policy regulation on domestic violence occurred prior to the newly adopted *Amendment to Act XIX of 1998 on criminal proceedings*, which passed in 2006. The recent developments in Hungary regarding regulation of domestic violence, which is, can only be understood in the framework of the continuous and permanent struggle between past legacies and newly imposed international and EU demands as part of gender equality policy. As we already noted, it was the normative power of the UN, as well as the respective requirements of the EU candidacy, and then EU membership, that contributed to the start of new developments in the institutionalisation of regulations on gender equality, including violence against women, within Hungarian legislation. The case clearly displays the problems of equality policies both nation states within the EU and the EU itself are facing.

Though no significant policy regulation occurred in Hungary up until 2006, this period marked the emergence of scholarly research on the issue. The number of research programs and academic publications focusing on domestic violence visibly increased since the end of 2001, and this growing number of publications served the purpose of public-awareness raising. The state’s initial neglect of the issue was evident in the Fourth and Fifth Combined CEDAW Report submitted by Hungary in 2000, where domestic violence was treated with a high level of

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2 See for example Olga Tóth, (2003): A családon belüli, partner elleni erőszak (Violence within the Family, Violence against Partner), Budapest. Századvég; and Erzsébet Tamási, (2004): Bunös Áldozatok (Guilty Victims), Budapest: BM Duna Palota Kiadó. The National Criminology Institute has also carried out and published research, the broadest to date on this subject, analyzing criminal statistics on the period between 1997 and 2002.
generality (CEDAW 2000). Counter to the official CEDAW report, a shadow NGO Report (Shadow Report 2002) was submitted that provided a detailed analysis of the grave situation with regard to domestic violence in Hungary. As a result, the 2002 Recommendations of the CEDAW (CEDAW 2002, par. 321-322) expressed the Commission’s concern about the lack of proper legislation and facilities, urging Hungary to establish separate regulations on domestic violence, organize a zero tolerance campaign and raise public awareness.

As both domestic actors and the EU exerted pressure on the Hungarian government, the drafting of comprehensive legislation on domestic violence became inevitable. However, the government first resisted the adoption a separate law on domestic violence, and based its opposition on the argument that such a statute would constitute an instance of positive discrimination that the EU would not accept from Hungary (Shadow Report 2002, 39). The government held its position firmly and only made some concessions due to the high mobilisation of societal actors that culminated in mass protests, and was followed by a media outcry after the tragic events in September 2002, when two small children had fallen victim of domestic violence.

Women’s NGOs as well as experts of the field have been included in the preparation of the new law on domestic violence from the very beginning of the policy drafting process. This could have served as an opportunity for open policy-making on domestic violence, however, during the process, women’s organisations could not exert enough influence to prevent the shift from a gendered/feminist policy frame to a gender-neutral one, thus the debate shifted away from the frame of ‘violence against women’ towards a ‘de-gendered’ formulation of violence against the dependent. As Réka Sáfrány (2003) presents in her work, the ongoing parliamentary debates on domestic violence displayed an ideological cleavage along party-lines, and failed to integrate voices that challenged the status quo of existing gender hierarchies (Sáfrány 2003).

Leading women NGOs criticized vehemently the regulation for its gender-neutrality in language and interpretation (Krizsán and Pap 2005), for its ineffectiveness and possible detrimental effects, and blamed the policy-makers for using constitutional scruples (namely the inter-rights conflict between property rights and the fundamental freedom to free movement conflicting the basic human right to life and physical integrity) to frame an ineffective statute (NANE and HCWG 2004). Notwithstanding this criticism, Hungarian policy to combat domestic violence had undergone an important change since 2002, and this was due to international pressure and concerted women’s movement efforts. After its initial reluctance, the
Hungarian government was willing to make some concession and introduce legislative change due to intense public mobilisation and mounting international pressure.

Even though the Hungarian minority protection system is regarded as one of the most advanced in the Central-Eastern European region, the Roma, the largest minority group, still face discrimination in many spheres of everyday life. There have been several policy initiatives, medium- and long-term projects designed for the advancement of their conditions, the majority of which ended in ambiguous results. One of the reasons for this is the unreliability of data regarding the actual size of the Roma minority. While adequate data would be needed for effective policy measures, actual governments have been reluctant to collect ethnically disaggregated data since 1993, claiming this would violate constitutionally sanctioned privacy rights. Thus, lack of information renders policy and planning ineffective and monitoring changes is especially difficult (OSI 2007).

The Roma face discrimination in employment, housing, health care, but education is the area which, despite governmental policies, reinforces discrimination and perpetuates inequalities instead of providing an opportunity to integrate the Roma. Segregation is officially forbidden; however, a vast literature points out that the segregation of Roma children in schools is very real and can take various forms. Roma children are overrepresented in schools and classes for children with intellectual disabilities; they are frequently placed in segregated classes at otherwise mixed schools, where they are required to attend “catch-up” classes. Moreover, the Roma together with the socially disadvantaged children are the victims of the segregation process of residential areas like town districts, smaller regions, villages, from where non-Roma population flee, where there is no heterogeneous community with which to integrate.

For a long time, normative financing system has been considered as the solution for minority education. A ministerial decree, the Guidelines for Nursery School and School Education of National and Ethnic Minorities (Decree No. 32/1997 of the Ministry of Education) ensured for the period of 1998-2003 the distribution of normative support based on certain requirements relating to the ethnic content of programs. However, the decree contained an evident discriminatory element – i.e. it suggested the implementation of catch-up programs in the case of Roma students – an education provision not mentioned at all for other minorities. This legal opportunity has been used by schools and their maintainers to create separated "catch-up" classes for Romani students for a long time. This however also contributed to the
segregation and substandard education of Roma students in the public education system (Kurucz 2005).

As a reaction to the high level of segregation in schools, also confirmed by recent sociological research (see for example Havas, Kemény et al. 2002; OSI 2007) in 2003 the Ministry of Education established the National Educational Integration Centre and Network, and also initiated several legal changes, implemented additional educational programs and introduced new normative financial systems to eliminate the existing shortcomings that Roma and socially disadvantaged students face in schools. The Integration Centre and Network is responsible to spread the new normative financial system, to develop pedagogical background to integrated education and consider the pre-conditions to implement successfully the new system.

However, various barriers still exist that obstruct the realization of integration (Kurucz 2005; Ejalu 2007; OSI 2007). Lack of appropriate institutional background, lack of cooperation with pre-school as well as local government and minority self-government institutions, lack of independent monitoring body and timely monitoring all jeopardize the integration process. Besides, the new types – talent-care normative support and integration normative support - of normative financing system (introduced by 57/2002. (XI.18.) OM decree of the Ministry of Education) also have their shortcomings. The talent-care normative program is basically the renamed form of catch-up program as far as supporting the children in catching-up goes. The normative support brings a significant contribution for programs at schools with a mixed population, while schools with an overwhelmingly disadvantaged school population are deprived from the two normative types at the same time because of the eligibility criteria.

A highly mediatised notorious segregation case is that of the schools in Jászladány, a village in central Hungary, whose name by now became equal to discrimination against Roma. In 2001 the local government initiated the foundation of a private school to facilitate the education of the motivated and talented students, i.e. separate the education of the Roma and non-Roma pupils. Plans were drawn up to separate the existing school building into two: part to operate under the auspices of the private school, the other part remaining public. The local government approved the plans and the private school opened for a few days in the autumn of 2002 but had to suspend its operation when the Ministry of Education suspended the school’s licence due to protest from different Roma organisations.

Despite the concerns raised by the Ministry of Education, the Parliamentary Commissioner for National and Ethic Rights as well as the local minority self-government, the
school reopened in the fall of 2003. A court case on violation of constitutional rights has been opened by the county authorities against the school, but there is no resolution yet on the issue. Despite the protest of several Roma NGOs, and the apparent violation of the constitution, Roma and non-Roma students are attending separate schools in the same state-owned public school building since then. The majority students attend the newly established private school, which Roma students could not attend either because they were refused enrolment on various grounds, or their parents could not afford to pay the monthly tuition fee. To make things worse, since the private school was setup within the premises of the public school building, it took away teaching room space from public school groups, who had to move to another dilapidated building. More recently, public school’s students and teachers were denied access to the corridor leading to the school canteen right in front the private school’s classrooms. This resulted in another media outcry and legal proceedings were initiated to decide whether the local government committed direct or indirect discrimination through the foundation of the private school.

Nevertheless, none of the legal attempts to close the private school succeeded yet. Five years after the 2003 opening, the two segregated schools are still operating in the same building, providing a very vivid proof of segregation and discrimination against the Roma. Needless to say, public opinion on the issue is divided. Moreover, there are other localities that openly contemplate to model the Jászladány initiative, which would only result in even more discrimination against the Roma. Demonstrations and petitions carried out by civil society organization were unsuccessful in changing the local government’s standpoint on the issue. Constitutional provisions entrenched local government authority in education policy thus the national government faces some limitations in its efforts to enforce its national education integration policy on local authorities and central ministries and offices claim they cannot interfere. Legal proceeding also seem to be unable to put an end to this practice as the initial case against the school on violation of constitutional rights seems to be bogged down by the ambiguous legal norms that can be appealed by the conflicting parties.

Our brief case studies on domestic violence and educational segregation of the Roma prove that much has to be done in order that equal opportunity policies are taken seriously in Hungary. This is an urgent task not only because domestic violence regulations and Roma discrimination in education are both issues that are crucial for Hungarian society as a whole, but also because different sources of discrimination common in society often have reinforcing
effects. While Hungary has a disputable record dealing with violence against women, it fails entirely when it comes to violence against Roma women. We have shown that domestic violence, and especially violence against women affects the entire Hungarian population, but Roma women are especially in danger of becoming / being victims of violence. According to a recent study of the European Roma Rights Centre (ERRC), 42% of Roma women said they had suffered or suffer domestic violence.

Violence against Roma women is omnipresent and takes place within and outside the Roma community. Similarly while it is true for the entire Hungarian society that there is no adequate environment in which victims of violence against women feel able to come forward, when it comes to Roma women, the situation is worsened by the lack of trust between Roma women and the police, which results in many violent attacks being unreported. Furthermore, Roma women often claim that the police itself is often harasses them and does not take their complaints seriously. As a result, mechanisms to tackle discrimination (such as the Equal Treatment Authority) are rarely used by Roma women, although Roma women commonly face multiple or “intersectional” forms of discrimination due to their status as both Roma and women. The United Nations’ Independent Expert Report in 2006 also confirmed this finding by stating:

“When Roma women are victims of domestic violence, discrimination against them as Roma makes unviable the recourse that non-Roma women might have to law enforcement, judicial sanctions or shelters. Access to, and knowledge of services for women remains an important obstacle for Roma women, and blockages in regard to the implementation of national policy at the municipal level exacerbates this.”
(Gay McDougal quoted in ERRC)

Similarly, notwithstanding the importance of fighting against segregation along ethnic lines within educational institutions, another important problem yet to be resolved in Roma education in Hungary is the situation of Roma women. Roma women have a disproportionately low education attainment level compared to majority society, and Roma men. Unfortunately government policies and plans aimed at better integrating the Roma into the educational system do not take into account the effects of gender considerations. These initiatives can be summed up as granting additional support for different programs to increase the educational performance of Roma women and special scholarships for Roma women to study in higher education. While these efforts are commendable, they do not address multiple or intersectional discrimination and thus perpetuate the situation when Roma girls and women attend school
only for a few years and drop out of the educational system due to a combination of poverty, patriarchal attitudes, and early childbearing.

The introduction of compulsory attendance to primary school has increased the number of Roma women completing primary school. However, their number is still below the average for the rest of the population. As a recent survey showed as many as 35 to 40% of Roma women dropped out of primary school, compared to 30% of Roma men and to 90.5% of the majority society (Tóth 2005). The main reason for this difference is that Roma women have more children at a younger age than non-Roma women. Once Roma girls get married, family and even teachers expect them to drop out of school because the Hungarian school system has yet to develop policies and an institutional framework to support the continuing education of these young mothers.

Conclusion

In post-socialist Hungary, where civil society activism in general is relatively recent, global social policy and transnational alliances forged via international meetings have enabled both local activists and state authorities to draw on ideas and policy frameworks from outside the nation-state. As we have seen, the European Union with its supranational character, universal values and institutional system can function as an opportunity structure for women’s, minority, and anti-discrimination NGOs seeking international support to further their goals. By providing discursive frames and tools, the EU could be viewed as enabling for both ethnic-minority and women’s groups in promoting their agenda and increasing their power in brokering with national policymakers.

However, one cannot determine to what extent anti-discrimination institutional and policy changes within Hungary can be attributed to the EU equality agenda. As we have shown, in the early 1990s in Hungary institutional changes have occurred well before the start of the accession negotiations. Yet at the same time, to comply with the accession requirements, Hungary acted as a fully norm-taking state, introducing a series of international standards and measures. As the EU accession negotiations showed, the stronger the transnational pressure was, the more likely the Hungarian state complied with these. Unfortunately, in the case of gender equality policy and minority protection issues, which are of less importance at EU level, the adaptational pressure was also weaker and implementation of international norms was less efficient because of existing institutional incongruities. We have shown that true compliance with and internalisation of these regulations was not achieved and the implementation of the
international standards and norms is yet to be realized. Nevertheless, one can notice a gradual shift towards institutional integration and dilution of specific equality agendas into general equal-opportunity provisions. While we cannot tell for sure if this can be contributed to the shift within EU equality agenda to a more integrated approach to tackle multiple inequalities, it seems that the diffusion of EU norms on equal opportunity did affect how the Hungarian institutional setup was reorganized.

While EU norms on equal opportunity did affect Hungarian policy and institutional choices, at the present, the absence of positive legislation in Hungary that would place specific responsibility for implementation of law and policy on identified government bodies circumvents any attempt of judicial interventions with regard to discrimination based on gender or ethnicity (or any other category for that matter). The government should also review its policy of institutional reform and restructuring that results in the dilution of the power of anti-discrimination agencies that focus on gender equality or Roma integration issues. The Equal Treatment Authority should be empowered and the resources available to the Authority should be matched to the dimension of the problems of gender equality or Roma discrimination in Hungary.

We have noted that several major policy and institutional changes have been introduced in Hungary during a relatively short period of time, the value of which should not be undermined. However, the cases of Jászladány’s segregation of the Roma in education or the disputable record of the Hungarian domestic violence policy show that concerted action and comprehensive measures are still needed to halt discrimination against women, recognize gender equality, and initiate the integration of Roma into mainstream society. Though introduced legal provisions as well as institutional developments show that measures have been taken to advance policy and structural change, one can question how far these structural changes have reached and based on our non-exhaustive case studies argue convincingly that present Hungarian legislative changes do not achieve substantive change, and therefore pose obstacles to the institutionalisation of equal opportunity policies into actual state practice.

Moreover, as both cases show, unless strong societal mobilisation is readily available in support for the issues at hand, policy developments and the state machinery are likely to fail in transposing international norms on equal opportunity. To successfully tackle discrimination, be that based on gender, racial, or ethnic, not only legislative and policy changes are needed but also the political will to fight for a change in social norms and values. Such change is only possible through awareness raising programs, government or NGO campaigns, a restructuring
of the educational system, and positive discrimination programs that are aimed to affect the entire society. Unfortunately, both state authorities and NGOs failed to follow such a comprehensive strategy.

Yet, what we can observe in present Hungary is a recent radical shift towards extremism in political discourse manifested at various occasions. Just to note a few examples: high level public officials continue to make anti-Roma declarations, an extremist nationalist movement, the Hungarian Guard organized anti-Roma marches in settlements with Roma majority population, and atrocities against the Roma – including violent attacks on Roma homes and shooting cases – are becoming widespread. At the same time, one woman is killed every week by her partner and while one-fifth of the Hungarian female population experiences regular physical violence from her partner it is often women who are blamed for male violence (Spronz and Herman 2006, 1). The growing materialization of anti-Roma sentiments and racism within Hungarian mainstream society or the fact that gender stereotypes continue to be commonly accepted fundamentally question the efficiency of integrative initiatives, the successfulness of policy changes, and the validity of developments achieved so far. These unfortunate developments not only question the future of equal opportunity policies but pose a threat to Hungarian democracy itself.

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