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Introduction

The changes generated in Europe by the growing concern with multiple inequality strands almost did not hit Spain, so far. For a great performer in the promotion of gender equality, this might be considered a paradox. Whereas comprehensive Gender equality machineries and policy instruments have been developed both at the national and regional levels since late 1980s, those proved limited concern for multiple discriminations, as respective strands of inequality were being tackled by specific institutions and policy mechanisms. Neither the strong institutionalization of Gender Equality policies nor the “legislative turn” which saw Spain increasingly legislating on Gender equality from early 2000s have been sufficient to engage the fact that gender discrimination is also shaped by other inequalities. Assuming Hancock’s distinction of different approaches to the study of inequalities (Hancock, 2007; Kantola and Nousiainen 2009), Spain still can be characterized as pursuing ‘Unitary Approaches’, in which inequalities are tackled by separate institutions and gender has primacy. By contrast, there has been no trace of a truly intersectional approach, through which intersections between multiple equality strands are analysed, and only little proof of the ‘Multiple Approach’ of ‘double or multiple discriminations’ in policy discourses (Platero, 2008). Instead, Spain is taking its very first steps in institutionalizing a policy aiming at the elimination of multiple discriminations, as those listed in Article 13 of the Amsterdam Treaty. In the matter transposition, even the transposing of European directives has still to be fully completed, in the form of a more comprehensive equality act, to be adopted in late 2009.

However, the fact that Spain belongs to the laggards among EU member States when it comes to the institutionalization of intersectionality, shall not be interpreted as a lack of public interest for the challenge of diversity. For instance, under the two last socialist terms (2004-), the country has joined the European vanguard in the promotion of sexual freedoms and the recognition of the diversity of private relationships on the first place. Meanwhile, the Spanish population has experienced tremendous demographical transformations that pointed out its growing diversity in terms of ethnicity, religious beliefs or citizenship status, thus inspiring new areas of public intervention. But the failure to properly address multiple discriminations and the way they consolidate each other, sheds light on some structural, context-specific features of the Spanish polity.

This contribution intends to locate the domestic patterns that contributed to shape the making of domestic anti-discrimination policies and to frame the impact of the “external variable” (be it in the form of EU obligations or good practices). Basically, we will address the reasons that made the country a relatively poor performer in tackling more than one (or two) discrimination through a same set of policy instruments. Those are mainly to be found in some path-dependent features of the politics of anti-discrimination, that have historically put gender first, as the result of the long-term relationship between female politicians, femocrats and women’s organizations. A relatively stable definition of gender identities, despite a recent concern for a more transformative framing, is also at stake. Nonetheless, beyond a normative assessment of performance in institutionalizing intersectionality, this paper will attempt to draw on more structural features of the Spanish polity, to address the most recent steps taken towards a multiple discrimination approach, to be noticed both at the regional and the national level, in policy plans and legislative documents.
On the one hand, the pro-active positioning of Rodriguez-Zapatero’s governments in eliminating gender discrimination has resulted in a more inclusive understanding of gender inequality, pointing out the role of other strands of inequality along gender (as age and ethnicity). This conceptual shift is to be mentioned in the Effective Equality between Women and Men Act (2007) and the subsequent Action plan (2008). Moreover, admonishments from the European Union as regarding the transposition of anti-discrimination directives entailed the reshaping of Equality policies, of which the newly established Ministry of Equality (2008) is the best example. In the matter, the willingness to comply with EU standards seems to be the main impetus for institutionalizing a multiple approach. Consecutively, changes are likely to be limited by a (juridical) logic of compliance, as pointed out by the sociological composition of the experts groups established for preparing the new Equality Act. On the other hand, the sub-national level and more specifically some regions are taking their first steps to engage multiple discriminations (Bustelo, 2009; Forest, Lopez, 2008). As a multi-level polity, Spain not only witnessed the development of regional legislation and machineries, but also the emergence of differentiated opportunity structures for a variety of actors on the regional level (Bustelo and Ortbals, 2007; Bustelo, 2008). The stability of Gender equality machineries and/or the level of political decision to which they are attached, as well as the impetus provided by some regional political and social actors, made some regions more sensitive to the need for tackling multiple discriminations. In the past decade, those have assumed the leadership as regarding the making of anti-discrimination policies. This is not only to be illustrated by the fact that regional instruments often anticipated on the developments at the State level, but also by their complexity and inclusiveness.

This paper will firstly provide a brief reminder of the making of Spanish equality policies, pointing out their dual development, at the regional and the State- levels, and their unitary dimension (I). Then, it will question the nature of the ultimate changes introduced at the State-level, which promotes a multiple discrimination approach (II). The structure of the newly established Ministry of Equality, and its eagerness to tackle other than sex-based inequalities, will be discussed, as well as the juridical framing of the forthcoming Equality Act. Based upon exploratory interviews, Law monitoring and text analysis carried out in the QUING project, this second section will also point out the impact of Europeanization on Spanish anti-discrimination policies, a feature that clearly distinguish the latter of the situation in the field of Gender equality. In a third section, this contribution will provide an assessment of the role of the regional level in developing anti-discrimination policies, through the example of the three historic communities that have assumed leading positions in the matter: Basque Country, Catalonia and Andalusia (III). Text analysis, along with a brief overview of the social and political actors mobilized in these polities will enable to draw general hypothesis as regarding the typology of equality instruments in relation to different levels of policy making and their potential for addressing various types of inequalities.

In conclusion, this paper will rise some points of contention as regarding the future of multiple approaches at the State-level, pointing the risk of a backlash in Gender equality policies, to the prospect of less structural approaches of inequalities currently developed at the EU-level. We will also discuss the possibly diverging patterns offered by a multi-level polity as regarding the promotion of diversity, to be challenged by the overall reflection on the politics of intersectionality in Europe.
1. Unitary approaches to discrimination(s), but dual development: the basic features of Equality policies in Spain

1.1 To the origins of the politics of anti discrimination in Spain

Spanish Feminism and the challenge of representing diversity

Gender studies and feminist thought have long engaged with mutual relationships between different inequalities axes. The debate on the derivative (through a hierarchy of inequalities dominated by those related to class stratification), additive or, as an intersectional approach might point out, mutually constitutive dimension of a range of inequalities could be identified at different levels. Analytically, the question was of whether addressing gender as a social construction generating its own effects in terms of social/race relations, or to be derived from the general structure of class relations and/or political order. Simultaneously, this debate affected the positioning of emerging women’s movements towards other social and political claims, challenging their willingness to address a broader range of inequalities and their ability to represent social/ethnic diversity among women. In terms of collective action, this can be linked to the dilemma of feminist militancy between acting independently of other social claims, and subordinating its own goals to those of a larger social mobilization.

In the case of the second wave of democratization in Southern Europe and Latin America, such an alternative questioned women’s contribution to the transition to democracy (Waylen, 2007). In Spain, an opposition aroused between unique militancy (‘militancia única’) and double militancy (‘doble militancia’). While feminists from the second group assumed taking part to a bigger fight in favour of democracy, launching the institutionalization of gender, the advocates of unique militancy claimed for an independent feminism and rejected any alliance with political parties or state’s machinery (Threlfall, 1985). During the transition and the first years of Spanish democracy, future “femocrats” were primarily concerned with building institutions for enforcing gender equality, as permitted by the new Spanish Constitution, with limited interest for other inequality axes. On the other hand, women involved in the building of an independent women’s movement, were initially more eager to advocate common interests than emphasizing social, age or ethnic differences among women, even if regional and linguistic cleavages shaped Spanish feminist movement.

However, from late 1970s, most social movements emerged, along with new civil rights, while most policies for specific groups were being launched (youth, women, children, etc.). Some attention to ‘double discrimination’ is thus rooted in the very beginning of these organizations and social movements, such as the feminist one which addressed issues like prostitution or lesbianism. Intersecting inequalities have therefore long remained in the focus of ‘double (additive) discrimination’ (Platero, 2008). This situation, which can be described as path-dependent towards the conditions of the democratic transition, was not only reflected in the agenda of women’s organizations, but also in the scope of newly established equality machineries.

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1 It is frequent that politicians and policy makers face the task of intending to bring diversity into their actions by trying to represent each strand of inequality, producing a phenomenon of having ‘one of each’, as if the discrimination was taking place isolated.
Institutionalizing Gender Equality

The 1978 Constitution inaugurated the recognition of equality between women and men, considering it as one of the most important values of the Legal System (Art. 1.1), laying the foundations to implement affirmative actions (9.2) and stating equality before the law and the prohibition of any kind of discrimination in terms of birth, race, sex, religion, opinion or any other personal or social circumstance (14). Next milestone in tackling discrimination and promoting equality was the approval of the Worker’s Statute (Estatuto de los Trabajadores) in 1980\(^2\), stating that employees cannot be discriminated on the grounds of “sex, marital status, age (...) social status, religious beliefs or political opinions, trade union membership, as well as language, psychological, physical or sensorial disability as far as they do not hinder worker’s ability” for the job (article 4c). However, gender equality has received the greatest deal of political attention. The creation of the Instituto de la Mujer (Woman’s Institute) under the first socialist government, at the end of 1983, is considered to be the starting point for state feminism and gender equality public policies in Spain (Valiente, 1995). Since then, gender equality policy and machineries have developed quickly, as all Spanish Regional Governments (Comunidades Autónomas), as “legislative regions” (Carter and Pasquier, 2006), have established their own domestic instruments and legislations from late 1980s (Bustelo, 2008). Before introducing policy developments in the regions, especially as regarding multiple discriminations, at least 3 basic features deserve to be mentioned, that better account for this process of institutionalization at the Spanish level:

- Its early stages have shaped a unitary approach, focusing on a sole strand of inequality, gender, with fewer references to other grounds of discrimination.

- This approach is also to be noticed in the scope of Equality Plans, which have been the main policy instrument of Spanish gender equality policies for the first 25 years of their history (Bustelo; Ortbals 2007).

- Femocrats have played a key role for the institutionalization of anti-discrimination policies in Spain.

Despite those converging elements that shaped the very content of these policies for over two decades, Spain nonetheless presents a relatively fragmented landscape as regarding collective and public action around gender inequalities.

A fragmented landscape

Spain’s multi-governmental institutional organisation allowed the creation of a complex, continuously evolving institutional framework of women’s machinery and equality bodies. Its complexity has been already analysed (Bustelo and Ortbals, 2007) while taking into account the type of agency and the governmental area under which authority these agencies are located (‘presidency’, ‘social affairs’, ‘employment’ or others). This factor, which varies across regions, is of special relevance when analysing the institutionalization of gender equality policies in Spain, and the instruments for a possible institutionalization of intersectionality (see: below). Party politics is also a key factor in explaining the evolution of women’s machinery and equality bodies. At the State-level, the Instituto de la Mujer was created when the Socialist Party ruled for the first time (1982-1986), so that up to the mid-1990s national gender policies have been

identified with the Socialist Party. Even if women’s agencies and gender policies were maintained when conservative Party took office in 1996, Rodríguez Zapatero’s victory, in 2004, had a positive impact, with a parity government, the creation of the ‘Equality Policies General Secretariat’, and the approval of important acts. Meanwhile, in the regions, equality policies have developed simultaneously under socialist (Andalusia) as well as centre-right and nationalist governments (Catalonia, the Basque country), thus pointing out the relative autonomy of regional polities (Scott, 2007).

Additionally, the country is counting with a highly differentiated women’s movement. Regional and ideological cleavages are at stake, as well as the respective positioning of civil society organizations on controversial issues. The continuing fragmentation of Spanish feminism, following the federalization process and the growing importance of regional polities has probably hindered the emergence of an umbrella organization and has been favourable to the advocacy of more narrowly defined interests, according to regional or social experiences. Therefore, intersectionality has never been natural to feminist collective action in Spain. Although the rich variety of women’s organizations has not hindered effective cooperation on a number of issues, it has not provided adequate grounds for an intersectional approach.

1.2 Building equality through unitary approaches

Early institutionalization, gender-centred approach and a fragmented landscape in public and collective action due to the multi-level dimension of Spanish polity are not the only specificities of the politics of anti-discrimination in Spain. These features do not fully account for the context in which the interest for multiple discriminations may develop, as the initial supremacy of soft law instruments over hard law is also at stake.

Putting the car before the horses? Soft instruments before hard law

While in other European countries, setting a legislative framework has often been considered essential to the implementation of subsequent policy instruments, Spain has long privileged the latter over law making in the field of gender equality. The Woman’s Institute launched its first equal opportunities plan in 1988 and five different plans have been implemented since at the national level. Though at a slightly different pace, regional executives have developed equality plans of their own. Although being approved at the national or regional executive level, they can be considered as ‘soft’ legislation, strongly depending on femocrats’ power of persuasion (Valiente, 1995; Bustelo, 2004). Yet, developing comprehensive policy instruments, in cooperation with

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3 Although this maintenance might be characterized as ‘low profile’, it was important for the continuity of gender policies, especially the ones related to gender violence and employment promotion.  
4 Established in 1993, the Spanish coordination of the European Women’s Lobby gathers about 30 women’s NGOs, but does not cover the full range of those advocating broadly defined women’s interests. Moreover, it mainly carries out coordination tasks towards EU institutions and EWL secretary.  
5 Four explanatory variables can be addressed: the history of the issues put on the political agenda by feminist organizations; the early institutionalization of gender equality policies, which forged a specific polity/policy arena around these issues; the diverging “ways of doing things” or method of collective action among these organizations, and the regionalized nature of Spanish State that led social actors to firstly address the regional polity.  
6 The gender equality plans consist of a set of aims, objectives and actions to be taken in a concrete period of time by different governmental departments. These plans are coordinated by the equality or women’s agency and usually also involve other governmental levels and non-governmental organisations.
a variety of actors and at different policy or administrative levels, revealed to be of added value. Indeed, the generalization of issue-specific policy plans in the field of gender policies and the rich experience drawn from their implementation, have shaped the content of subsequent legislations. As a result, those proved to be increasingly inclusive and transformative, drawing on a complex assessment of gender inequalities.

Since 2002, six regional equality acts have been approved, most of it before the national one was passed in 2007. Although such acts are quite differentiated regarding their diagnosis of gender inequality, their scope and implementation instruments, a clear trend can nonetheless be detected, and more regional acts are expected to be approved in the very near future. The Basque (2005) and the Andalusian (2007) equality acts and the Equality Act at the national level (2007), in particular, have proved to be the most inclusive and thoroughly designed, including, among other provisions, the compulsory establishment of units in charge of promoting a gender perspective within different governmental areas. The national Act for effective equality thus paved the way for policy actions in several realms of social and political life. This cumulative but heterogeneous effort undertaken by legislative bodies and equality machineries both at the national and the regional levels, did not challenge a unitary approach to gender inequality. Nevertheless, the remaking of equality policies inaugurated in the form of more comprehensive legislations and mainstreaming instruments is likely to produce an increased sensitivity for multiple discriminations, as those legislations often articulate a complex diagnosis and policy instruments associate a growing number of actors.

The generalisation of Equality plans: an impetus for intersectionality?

Such an assessment can also be defended when considering the generalization of equality plans modelled on gender ones, in other areas of public action. The approval of sectional actions plans integrating a cross-cutting perspective on several strands of discriminations is one of the most promising trends in terms of intersectionality. Just as the latter were inspired from the European Action Programs about Equal Opportunities for Women, sectional equality plans adopted from mid-1990s onwards, especially in the fields of migration and disability, have illustrated the broadening scope of European anti-discrimination policies.

Among the most recently approved, the Action Plan for Women with disability (2007) thus aims at combating double discrimination affecting disabled women. In agreement with the ‘European Manifesto of Disabled Women’ (1997) and 2000/78 European Directive, the Plan pretends to complement two previous texts: the Act on Equal Opportunities and non-discrimination of disabled people (known as LIONDAU, 2003), which mentions disabled women’s additional discrimination and the Act on fiscal, administrative and social measures (2003) that transposes above-mentioned directive. The Plan also complements the First Comprehensive Action Plan for Disabled Women (2005-8) approved by the Spanish Committee of Representatives of Disabled People. Also approved in 2007, the Strategic Plan for Citizenship and

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8 Specifically the fourth National Equality Plan which follow respectively the guidelines of the second, the third, the fourth, and the Fifth European Action Programs.
9 CERMI is one the most important organizations for disabled people, it groups 2900 organizations and represents the nine percent of Spanish disabled people. This Committee created the ‘Commission of
Integration illustrates the reshaping of Spanish immigration policies, in a direction that integrates the complexity of a phenomenon that has been gaining relevance in the past few years. As a consequence, the Plan pays some attention to the gendered dimension of immigration in Spain, especially in the area of domestic work, and to the situations of increased vulnerability, as for migrant women suffering trafficking.

It is also relevant to stress differences between the IVth Plan on Equal Opportunities between Women and Men (2003-2006), adopted under a conservative legislature, and the current Strategic Plan on Equal Opportunities (2008-2011), that came into force at the beginning of Rodriguez Zapatero’s second term. While the former paid limited attention to the interactions between gender and poverty, the latter is drawing a more complex diagnosis of situations in which “Women are more likely than men to get trapped in situations of social exclusion (poverty, disability, family breakdown, migration or ethnic prejudices, among others), affecting their citizenship rights”. These discrepancies may also be explained by the fact that the IVth plan was implemented as no Equality act did exist, while the Strategic plan has been conceived as an instrument for implementing the 2007 Act on effective equality. The generalization of equality plans is not only occurring with respect to different strands of inequality (citizenship status, disability, gender or age), but also at different levels of policy making, as pointed out in section 1.3. However, once put into the broader perspective of anti-discrimination policies in Spain, the two above-mentioned phenomena (the shift towards hard law and the diffusion of equality plans) depict an unachieved process of institutionalization.

The unachieved institutionalization of anti-discrimination policies

If compared to the developments in the field of gender equality, only a limited number of institutions, with restricted budgets and competences, have been created to fight against other inequalities. Hence, although the transposition of anti-discrimination EU directives makes compulsory the creation of an Equality body for preventing discrimination on the grounds of racial and ethnic origin, the announcement of the creation of such a council was not fulfilled until late 2007. In response to European Commission’s admonishment, a Council for the Advancement of Equality of Treatment and no Discrimination of People on the grounds of Racial or Ethnic Origin was created in September, 2007, of which members were still to be designated by March, 2009. Meanwhile, other (advisory) bodies have been created on the ground of EU anti-discrimination directives, such as the National Disability Council (2004), the Spanish Observatory on Racism and Xenophobia (2005), and the Council of Roma People (2006). While the latter does not fulfil EC’s expectations, until the creation of the Ministry of Equality, none of these institutions had moved beyond the unitary approach modelled on the case of gender discrimination.

Given that the institutionalization of anti-discrimination policies still features as a work in progress in Spain, it is worth to mention that some equality machineries developed at the regional level have shown the most consistent signs towards a multiple

Women’s in 2000, the one that impelled the approval of the mentioned Plan. The strength of organizations for disabled people in Spain also explains that gender + disability is one of the most investigated intersection in Spanish academic literature. See: Platero (2002, 2004), Arnau Ripollés (2003, 2008).

10 In the Act 62/2003 on Fiscal, Administrative and Social Order Measures,
11 Also in 2006, a Report is submitted by Spain to the Council of Europe that focuses on young Roma women due to the cross-sectional discrimination that they suffer.
12 As regarding its independence, competencies and composition.
(rather than intersectional) approach to discriminations in the last few years.

1.3 Anti-discrimination under the regional scope

Regional machineries & policy plans: a step towards a multiple approach?

In addition to the nation-wide Women’s Institute, regional Women’s Agencies were created in Andalusia, Valencia and the Basque Country in 1988, inaugurating the regionalisation of equality machineries. Comparable, although not similar, institutions were created in the 14 other Comunidades autónomas (CC.AA.) between 1989 and 1995. Those have been committed to the design of regional action plans in the field of gender equality, and associated to the making of (gender) equality acts adopted in 8 CC.AA since 2002 (Bustelo, 2008). As for State-wide policies, policy plans have been the main instruments of regional equality policies. The Basque equality plan adopted in 1999 was thus among the first ones to explicitly pay attention to situations of “multiple discriminations” (Platero, 2007: 36).

As regarding equality machineries, the type of structure (autonomous agencies, general directorates or ministries) and institutional location (as a branch of the regional presidency or under the responsibility of a ministry) have been of specific relevance to assess their action capacity and ability to jointly consider other disadvantaged groups. For instance, in Catalonia, a new governmental area of ‘Social Action and Citizenship’ has been designed in 2006 to tackle issues of equality, and in 2006, a directorate for equal opportunity in a broad sense has been established within the regional Department (regional Ministry) of Labour. In the Basque Country, which has boasted the best established equality body (Emakunde) within the area of presidency since its creation in 1988, equality plans and equality law were grounded in a same, consistent, framing of gender equality. Moreover, Andalusia has had a stand-alone ministry (Consejería) of Equality and well-being since 2004, which enabled to consider intersections of gender with inequalities affecting the different groups it deal with (disabled people, Roma, migrants, drug dependents, etc.). These new concerns are also reflected into the social goals of the Women’s Institute, now subordinated to the Ministry, with a greater emphasis on migrant, Roma and disabled women (Bustelo, 2009).

Incipient steps towards a more inclusive understanding of gender discriminations are also to be mentioned in the equality bodies designed to tackle different strands of discrimination. As early as 2003, 3 years before the national Council being established, the Basque government created the Council for the integral promotion and social participation of the Roma People in the Basque country, of which the founding decree recommends to “systematically take into account in its plans and working groups, the different social conditions, circumstances and needs of the gypsy population, and to ensure women’s empowerment”. The first comprehensive plan adopted in 2004 (Plan Vasco para la promoción integral y la participación social del pueblo gitano). Although “diversity” and gender equality are tackled by two specific sub-directions, the two dimensions are mainstreamed in the action of each of them. Personal interview with Natalia Paleo, Dept. del Treball de la Generalitat de Catalunya, March 2009.

15 Builtein Oficial del País Vasco, December, 5th, 2003: 23665
consecutively lists gender equality among its objectives. A similar experience has been carried out by the Catalonian government (see: section 3).

**Regional actors: better advocates for a structural approach to inequalities?**

These developments, more thoroughly addressed in the third section of this paper, are opening some questions, as regarding the *dual track* (national + regional) of equality policies in Spain, which shed light on the specificities of regional polities in terms of paths of institutionalization, party structure or collective action around equality issues. In fact, do such regional patterns make some regions more prone to engage a broader scope of inequalities through a same set of policy instruments? Which strands of inequalities are the most likely to be addressed, given that not every of them are similarly relevant in each region (as immigration, for instance). Additionally, to what extent policy developments to be observed in Spanish regions can be related to the *politics of identity* into which some have been involved over the three past decades (Basque country, Catalonia, Galicia)? In other words, how regions committed towards self-government and nationhood building do manage the challenge of social diversity in terms of policy instruments? And what is the place of gender relatively to other strands of diversity/inequality? Although they fall beyond the scope of this contribution, we shall place these opened questions under consideration when considering the paths of institutionalization of an intersectional approach in Spain.

However, since developments at the regional level are taking place within an institutional and legislative framework which is strongly constrained by those affecting the central State, and also by European regulations and policy paradigms, we shall first briefly analyse these main features of the re-making of Equality policies in Spain.

2. The re-making of Equality policies at the State-level: a momentum for intersectionality?

2.1 From Equality to Anti-(multiple) discriminations policies? The re-making of policy instruments on the State level

This shift in terms of policy paradigms is to be observed in two directions: first, laws tackling gender discrimination tend to be more comprehensive in their diagnosis, and inclusive as regarding the scope of inequalities considered. Secondly, the establishment of a Ministry of Equality, at the beginning of Rodríguez Zapatero’s second term, represents an unprecedented step towards a multiple approach to discriminations. However, in both cases, newly adopted instruments are still to be characterised as path-dependent towards the unitary approach initially adopted in Spain.

*Paying lip service to other strands of inequality?*

Coinciding with the ‘European Year of Equal Opportunity’, the national *Act for effective equality* was approved in 2007 and its first aim was to make the principle of equality real and to prevent gender discrimination. Besides, in 2006 the so-
Dependency Act\textsuperscript{17} had been approved, that pretends to lay the foundations of the System of Autonomy and Attention to Dependent People defined as the fourth pillar of Spanish welfare state. For different reasons, both texts constitute a new milestone in the making of gender equality policies in Spain. The Act for effective equality and the “Ley de dependencia” share a common assessment of the structural dimension of gender inequality\textsuperscript{18}. The law making process also revealed a greater attention for multiple grounds of discrimination, raised by voices from the civil society, as well as regionalist and/or leftist parties. This more comprehensive understanding of (in)equality issues might provide an adequate legislative framework for tackling more than one discrimination and for exploring interaction between different grounds of inequality.

It is also true, however, that both texts paid only lip service to other strands of inequality, maintaining a focus on double discriminations rather than multiple ones. The case of the Dependency Act and of its controversial implementation also illustrate that this transformation is not a one-way process, and might generate new disputes\textsuperscript{19}. Yet it can be argued that those criticisms are themselves contributing to a better attention for the diversity of targeted groups – such as the persons in situation of dependency, as they are pointing out multiple grounds of discriminations, to be revealed by the implementation of the Act (Arnau and Gil, 2007).

Even more recently, the fierce reactions around the planned renewed Ley de aborto (New Act on abortion, to be adopted in 2009) have illustrated the long way to go before achieving an intersectional assessment of inequalities. Whereas the high impact of voluntary interruptions among migrant and underage women is making even more salient the need for intersectional analysis, the controversial debate over abortion that is taking place nowadays is rather focusing on juridical and medical aspects, to the expense of targeted measures for those women in disenfranchisement situations. In the matter, the sociological composition of expert committees in charge of preparing the draft is of special relevance, as the under-representation of social scientists and representatives of civil society organizations has hindered the adoption of a more structural and intersectional approach to the issue.

The path dependent structure of the Ministry for Equality

In April 2008, as part of the Rodriguez Zapatero’s renewed government after the March 9\textsuperscript{th} 2008 elections, a new Ministry of Equality was created. This is a key issue and an important standpoint in the institutionalization of an anti-discrimination approach which takes into account other inequalities than gender, and an important step for the institutionalising of intersectionality at the central level (Bustelo, 2009). The new Ministry of Equality, to which the General Secretariat and the Women’s Institute were assigned has been clearly identified with gender policies and ‘women’s machinery’. However there were some signs from the beginning of the inclusion of other inequalities: the Youth Institute was also moved into the Ministry, and the Minister appointed, Bibiana Aido the youngest woman ever (31) to serve in Spanish government, was not especially known as a former gender equality policymaker or

\textsuperscript{17} Act to promote personal autonomy and to assist dependent people [Ley 39/2006, de 14 de diciembre, de promoción de la Autonomía Personal y Atención a las personas en situación de dependencia].

\textsuperscript{18} However, in the Dependency Act, references to the gendered dimension of care work have been mainly restricted to the preamble, and were introduced on the insistence of feminist actors.

\textsuperscript{19} The implementation of the so-called Ley de dependencia mainly falls into the prerogatives of regional governments. As those are also being asked to contribute financially to its implementation, the act is generating endless disputes and sheds light on regional differential resources.
member of the feminist movement. These facts were the very first signs that ‘equality policies’ might refer not only to gender equality, but to other inequalities as well.

This Ministry of Equality has been divided into two sections: the Equality Policies General Secretariat, which is subdivided in the Delegación del Gobierno para la Violencia de Género (Government Delegation for Gender Violence), the Directorate General for Employment Equality, the Directorate General against Discrimination, the Women’s Institute, and the Women’s Participation Council (still to be created); and the Equality Subsecretariat, home to the Youth Institute and the Youth Council (chart below). As it can be seen, apart from the Directorate General against Discrimination and the Youth Institute and Council, the Ministry structure is exclusively devoted to gender (in)equality. The Government Delegation for Gender Violence and the Directorate General for Employment Equality\textsuperscript{20} are both designed and devoted to an idea of gender equality or equality between women and men. In fact, the way to resolve this tendency is the specific function that is given to the Ministry of Equality in the July Decree:

‘The Ministry of Equality is the department of the General National Administration to which it corresponds the proposal and execution of governmental policies in regards of equality, elimination of all kind of discrimination against people regarding \textit{sex, racial or ethnic origin, religion or ideology, sexual orientation, age or any other condition} or personal or social circumstance, eradication of gender violence, as well as youth. In particular, it is entitled to the elaboration and development of norms, activities and measures aimed to assure treatment and opportunities equality, \textit{especially between women and men, and the promotion of social and political participation of women}.’ (emphasis added)\textsuperscript{21}

This identification of the Ministry of Equality with \textit{gender} equality was clear in the first general decree for the general structure of the Ministries\textsuperscript{22}, where there was a curious mistake: it was expressly written that the Directorate General against Discrimination was aimed at the development of policies that ‘fight gender discrimination’). However, almost three months later, in the decree in which the structure of the Ministry of Equality was expounded in detail (July 2008), the Directorate General against Discrimination is aimed at the:

(…)development of the transversal application of equal treatment and opportunities principle and to the elimination of all kind of discrimination against people regarding \textit{sex, racial or ethnic origin, religion or ideology, sexual orientation, age or any other condition} or personal or social circumstance\textsuperscript{23}

\textsuperscript{20} This Directorate General is aimed at ‘the promotion, impulse and participation in the design of public policies entitled to improve \textit{women} employability and permanence in employment, fostering their training level and their adaptability to labour market requirements’ (Royal Decree 1135/2008).
\textsuperscript{21} Royal Decree 438/2008, April 14th, for the approval of the basic organic structure for the ministries’ departments. BOE n.92, April 16\textsuperscript{th} 2008 (p. 20010-20017).
\textsuperscript{22} Royal Decree 1135/2008, July 4th, for the development of the basic organic structure for the Ministry of Equality. BOE n.165, July 9th 2008 (p. 30002-30007).
2.2 Towards a logic of compliance: the EU-modelling of new Spanish anti-discrimination policies

When Europe (finally) hits home

Spain has complied well with European legislation in the case of gender equality Directives, as the as the Women’s Institute was already created in 1983 and was even reinforced with the recent additional creation of both the General Secretariat of Equality Policies (2004) and the Ministry of Equality (2008). The 2007 Equality Act also reinforces gender legislation and goes beyond on what the EU requires regarding gender discrimination. However, the situation is different regarding the other inequality grounds, that is Directive 2000/43/EC, which tackles the principle of equal treatment between persons irrespective of racial and ethnic origin, and Directive 2000/78/EC, which establishes a general framework for equal treatment in employment and occupation, and implements the principle of equal treatment irrespective of religion or belief, sexual orientation and age in employment and training and requires employers to consider the needs of disabled employees. Spain claimed to have transposed both Directive 2000/43/EC and Directive 2000/78/CE mainly through Act 62/2003 on Fiscal, Administrative and Social Order Measures.

However, this transposition was done very quickly, in the last moment of the required compliance period, and ‘through the back door’, that is without taking into account what the experts claimed. Act 62/2003 was passed at the end of December, at the end of the last moment of the conservative period (the Conservative Party –Partido Popular- was in power during eight years until March 2004). Curiously enough, the

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24 Lorenzo Cachón, Professor of the UCM and specialist in migration issues, at that time acting as an expert for the Ministry of Employment and Social Affairs, claimed having regretted his insistence on compliance. The transposition was done in December 2003 and he thinks that if it had been done after March 2008 (when the Socialists took office), it would have been a better chance of a more complete and adequate transposition (Seminar on the future Equality Treatment Act, organized by the Ministry of Equality, Madrid, 19-20 November 2008).
Socialist Party completely ignored and did nothing regarding this incomplete transposition during the first Rodriguez Zapatero period (2004-2008). It is only at the beginning of his second electoral period (2008-), precisely through the creation of the Ministry of Equality and the proposal of a future Equal Treatment Act, when this issue enters the national agenda.

One of the reasons for this lack of attention to other inequalities might be the clear priority that gender issues had in the political agenda of the first Rodriguez Zapatero’s. The will have to wait to the EC admonishments to start considering a more general anti-discrimination approach to multiple inequalities. In fact, on June 27th 2007 the European Commission sent Spain, among 13 other Member States, a formal notice (‘reasoned opinion’) for not implementing Directive 2000/43/EC correctly; this is the second step in infringement procedures. The main problem areas include: 1) The national legislation is limited in scope to the workplace (there are no measures to make the principle of equal treatment ‘real and effective’ outside from the labour realm); 2) The definitions of discrimination diverge from the Directive (Act 62/2003 does not specify how indirect discrimination is to be justified); 3) There are inconsistencies in the provisions designed to help victims of discrimination (such as the protection against victimisation, the shift of the burden of proof and the rights of associations to assist individuals with their cases).

The Directorate General against Discrimination, within the Ministry of Equality at the central level is the unit in charge of dealing with multiple inequalities. Its design and functions are related mainly to the need to comply with EU legislation and with a European anti-discrimination approach. This administrative Unit is aimed at research, coordinating with other governmental levels (both regional and local), designing coordinating and evaluating measures for promoting equal treatment and fighting discrimination, training personnel, awareness raising, and at promoting the creation of services for victims of discrimination. Among the ten functions assigned to this Directorate, there is one concretely aimed at the ‘preparation and proposal of normative measures and transposition and appliance of directives and other European and international legal instruments’. The specific mention of European legislation compliance and directive transposition is, then, a clear sign of the EU influence in these anti-discrimination policies.

The future Equality Treatment Act

Taking into account the claims from the European Commission, it is easy to conclude that the political will to pass the future ‘Equality Treatment Act’ had a lot to do with the need to comply with European legislation. In any case, the new Ministry of Equality has since adapted to the new political directions, now taking into account other grounds of discrimination beyond gender. In fact, the Secretary General of Equality Policies points out the active participation of Spain in regards to the recent proposal of a new and more ample Council Directive on implementing the principle of Equal Treatment between persons irrespective of religion or belief, disability, age and sexual orientation {SEC 82008) 2180} and {SEC 82008) 2181}25

A new expert working group was created in 2008 under the new Ministry of Equality to elaborate the proposal of this new ‘Equality Treatment Act’. Although first intentions were to follow a tight schedule for this act proposal—the initial aim was to

25 Interview with Isabel Martinez (31/07/2008).
present a report to the Council of Ministries at the end of 2008)- the process has suffered a delay mainly related to the general political agenda (for example, the reform of the Abortion legislation and the strong reaction on part of the Catholic Church and the Conservatives has captured all the Ministry of Equality attention). After the report to the Council of Ministries, the proposal is supposed to undergo a consultation procedure. Then, the proposal will be debated in Parliament and eventually approved probably during 2010. This working group, nominated in May-June 2008, consists of (mainly legal) experts on Spanish Constitutional legislation, and the different grounds of discrimination contemplated (gender, age, belief or religion, disability, racial or ethnic origin, and sexual orientation) who in few cases are also representatives of affected groups. According to the Director General against Discrimination, the governmental unit within the Ministry of Equality leading this working group different group representatives will be heard when the parliamentary process starts. In this initial phase, the working group remains aware and cautious about the competition that might occur among the different groups representing the different inequality grounds.

The proposal of this working group is to tackle the six inequalities contemplated in the European directives and leave room open to other possible ones (for example, there is a strong will from the working group to include health status, in order to protect against discrimination based on VIH/AIDS). Also the proposal includes the creation a common body to deal with the protection and services to all inequalities contemplated included. At the beginning of the first sessions of the working group, sex-gender was not thought to be included, as ‘this inequality already has its much more advanced own legislation and bodies’26. Apart from giving gender a ‘higher’ status, there is clearly a threat of ‘losing’ a very well established institution, as the Women’s Institute. However, due to the fact that sex needs to be included as an important cause of discrimination along with the others, the Expert working group has in its last meeting come with the idea of taking sex as a necessary cause and also have gender mainstreamed in all the other causes. For the Secretary General, gender inequality and the inclusion of the gender perspective must be present and cross all the other inequality grounds. How this idea is going to be concretely applied in the act proposal is not developed yet. The idea of creating a new body and maintaining also the Women’s Institute seems to be the Ministry of Equality option. This ‘contradiction’ might be solved with the different character of the bodies: the common body will be mainly a body of protection and tutelage; the Women’s Institute will keep on being a body for the promotion of gender equality policies.

Making intersectionality from a legal anti-discrimination approach?

As suggested above, Spain is slowly moving from a ‘Unitary Approach’, in which gender inequality has supremacy, to a ‘Multiple Approach’. At the central level, the change has mainly been a result of the European discourse and EU legislation. Previously, other inequalities, such as disability, racial or ethnic origin and sexual orientation were tackled at a different pace and with a different scope, and separated into ‘monofocused’ or single-ground policies. However, an ‘Intersectional Approach’ is still quite far away from the Spanish public policy reality. The European ‘Multiple’ approach, on the one hand, might eventually promote an intersectional debate, but at the same time, it creates resistances which generate a defensive and somehow blind attitude towards real intersectionality; that is, analysing and integrating the interactions between

26 Interview with Isabel Martínez (31/07/2008).
different inequality grounds, instead of simply ‘adding’ double and triple discriminations. In this sense, the main approach seems to be a plain ‘anti-discrimination’ one, which tends to ‘forget’ both the developments gained through gender policies that analysed ‘structural inequality’ in need of being comprehensively tackled, as well as the developments of the mainstreaming strategy.

From our point of view, anti-discrimination policies as they are being conceived tend to frame public action in an individualistic (protecting individual cases because they to a discriminated group) and reactive (they ‘wait’ until discrimination occurs and do not focus on prevention of that discrimination –except for the exemplary effect–) manner rather than in a structural and pro-active one. This approach is closely related to a legal perspective which tends to put legal action mainly around the protection of individual rights. In this way, the analysis of the structural causes and roots that produces and maintains inequalities remains out of focus; however, a true intersectional approach requires the empirical analysis of the interactions that might occur among structural inequalities. Moreover, from this legal point of view, it seems difficult even to tackle more than one discrimination cause at the same time.

In this case, most of the experts in the Ministry of Equality working group, which has been already mentioned, are lawyers and legal experts. In their analysis and definitions of discrimination, as well on the solutions given to fight against it, their rationale consist mainly on the idea of protecting the individual who is part of a group which is socially vulnerable. There is no insistence or focus on which are the causes, or either on questioning the norms which are defining who is vulnerable and who is not.

3. Pioneering practices at the regional level: is intersectionality soluble into subsidiarity?

As emphasized above, Spanish regions have developed comprehensive equality machineries and legislations, although with important variations across CC.AA. To a certain extent, some regions have recently assumed the leadership in the making of anti-discrimination policies, with the adoption of thoroughly designed policy instruments, addressing a number of inequality axes. In the following section, we provide three illustrations of such a leadership, before addressing the role of Spanish regions in the light of the politics of identity that shape most of the public policy area in the Basque country and Catalonia. Then, we will attempt a provisional answer to the question “who is learning what from whom” as regarding intersectionality, confronting regional, national and European patterns of policy making in Spain.

3.1. “Good practices” in tackling multiple discriminations at the regional level

Given the implementation-oriented dimension of Spanish equality policies, it is not surprising that most of good practices in terms of “intersectionality” (in a broad sense) are to be found in Policy plans. In the matter, however, what makes a policy practice “good” deserve some explanation. To some extent, it is possible to determine whether such a practice is good or not, taking into account four basic criteria: the explicitness

27 Those criteria are the outcome of discussions on equality policy evaluation and good practices within the QUING project (Quality in Gender+ Equality in Europe, 6th framework).
of references made to intersecting inequalities; their inclusiveness (i.e., the number of inequality axes to which it is referred); the fact that such references do not stigmatize one specific group, and the balance between individual and group-targeted measures (so that policy action does not aim at isolating new categories). With respect to these criteria, three policy documents adopted at the regional level deserve some attention. Nonetheless, while pointing out the leadership of some specific regions in tackling multiple-discriminations, selected documents also illustrate the limits to the institutionalization of intersectionality in Spain.

The IVth Basque Positive action plan for Equality between men and women (2006-)

The Basque “Act for the Equality of Women and Men” approved in 2005 makes explicit references to multiple discriminations: “Basque public authorities guarantee a full and effective exercise of fundamental rights for those women or groups of women suffering multiple discrimination as they embody other factors able to provide the grounds for other situations of discrimination, such as race, colour, ethnic origin, spoken language, religion, political opinions, belonging to a minority, birth, disability, age, sexual orientation or whatever personal condition or social situation”28. The IVth Positive action plan for Equality between men and women consecutively approved in 2006 pays a great deal of attention to the diversity of women. Meanwhile, it illustrates a new policy trend in Spain that consists in legislating first, before generating ad hoc implementation instruments.

The plan, a 300 pages documents distributed into 7 sections, thus “aims at developing what is already stated in the (Basque) Act for equality, when it stresses the need to act for correcting the increased risk of poverty through the design of specific programs targeting women suffering multiple discrimination” (2006: 145). While this concern being specifically addressed under the social inclusion chapter, the Plan nonetheless emphasises that “it should by no mean understood that migrant, disabled, elder, women should be addressed in the sole area of social inclusion” (2006: 146). All along the text, a broad set of possible inequality axes is suggested, such as rural/urban cleavage, age-, citizenship status, (non)employment. Within each group exposed to double discrimination, attention is paid to other possible factors (for instance, disabled women being addressed as members of other exposed groups).

Multiple axes of discrimination are not only mentioned, as the plan recommends measures such as data collection, cross-cutting reflection and targeted implementation measures, through an increase of available resources. Additionally, there is a special attention for not producing stabilised categories through the addition of inequality axes, but mainstreaming the attention for the interaction between different inequalities all along the priorities, objectives and proposed measures of the document : “it should by no mean understood that migrant, disabled, elder women (...) are necessarily in a greater risk of exclusion” (2006: 146). As regarding the balance between individual and group-targeted measures, the document states that “Improving the position of these women (suffering multiple-discrimination) makes necessary to impulse an empowerment process, including their most direct and urgent needs(...)”, as well as

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access to (...) awareness-building resources about discriminations against women in general, and about their own specific situation in particular”29.

Further evidences of the leading role of Spanish regions are to be found in the Vth Action Plan and policy development for women in Catalonia (2005) and the Catalonian Interdepartmental Plan for non discrimination of homosexual and transgender people (2006), featuring as pioneering at the national but also at international level.

Addressing multiple-discrimination in Catalonia

The first document, designed to bring gender mainstreaming, increase the participation of women taking into account their diversity, offering comprehensive assistance to women and with a wider understanding of violence against women is pioneer not only by explicitly mentioning sexual minorities, disability, migrant women, prostitution and women in social exclusion, but also by conceiving specific actions along with the intersections of these factors with violence, sexuality, etc. Drawing on a politics of identity that define the identity of groups of women according to their respective social experience of discrimination, exclusion or violence, the plan emphasises the need “to make visible the diversity of women’s identities, along with the variables that create them, from the fact of being women to the origin, ethnicity, age, sexual orientation, types of cohabitation, times and activities in which their lives are articulated, their priority support networks, belonging, etc. Along with having into account the multiple combinations of these diverse identifications, their relational and dynamic relationships.

A second example relevant for the incipient institutionalization of intersectionality in Spain is the Catalonian Interdepartmental Plan for non discrimination of homosexual and transgender people. Designed with the participation of civil society, it has a clear inclusive perspective because it intends to carry out actions concerning not only non normative sexuality (Platero, 2007), but also gender, age, social exclusion, disability, victims of the dictatorship, HIV/AIDS, etc. Although it is mainly adressing “double discrimination”, especially when it comes to gender and sexuality, it addresses the need for public policies to act upon the diversity of sexual minorities: « The (Catalonian) Government has approved a normative text which is pioneer in the EU. Not only because of the location of the policy, but also because of our will of compensating the historical exclusion of gays, lesbians and transgender people. All Catalonian citizens will enjoy a much cohesioned and respectful society in regard to affective, romantic, sexual and gender diversities, reflecting the positive capacity of Catalonia accepting the plurality of their citizens » (2006: 6).

Andalusia: from double to multiple discriminations

Drawing attention on the spill-over effects which are quite familiar in multi-level governance systems, the 1st Action plan for disabled women in Andalusia, approved in November 2008, expounds a critical assessment of regional, national and international

29 if the Basque plan has inherited the coherence of equality policies developed by the regional women agency, Emakunde, one’s could argue that having being adopted after Txaro Artexta abandoned the head of the agency, it represents a step backward as regarding a complex assessment of intersectional inequalities, to be noticed through the absence of references to LGBT people (Platero, 2007).
provisions in the matter. Instead of perpetuating an additive approach to sex- and disability-based discriminations, it clearly aims at developing a multiple approach and pays explicit attention to the interactions between different strands of inequalities.

“To the discriminations resulting from the double status of woman and disabled, shall be added the ones derivating from ethnicity or social class, etc., taking into account the transversality of gender in this chain of discriminations. This situation of ‘multiple discrimination’ conditions the autonomy (of disabled women) and make the practical needs and the strategic interests of each of them specific” (BOJA, 2008: 131).

This diagnosis is grounded into the critical assessment of existing provisions. Thus, the document recognizes that the Spanish Act on Equal opportunity, non-discrimination and universal accessibility for disabled persons (2003) as well as some action plans adopted at the EU- and the international levels paved the way for a greater attention towards situations of multiple discriminations. Yet, it stresses the fact that “in general, references to disabled women are made alluding to very specific areas of intervention, although the recognition of diversity constitutes the (theoretical) starting point when it comes to the promotion of gender equality” (BOJA, 2008: 118).

Drawing on a complex diagnosis of the situation of the targeted group in Andalusia, including references to age, rural/urban cleavage, educational background, employment and financial resources (section II.: 120-129), the plan does not make any reference to ethnicity, migrant status, nor sexual diversity. More specific attention is dedicated to the intersection between gender, disability and employment and gender-based violence.

Selected “good practices” enlighten the crucial role played by regional polities in the making of anti-discrimination policies, pointing out the existence of “spill over” effects: a core of Spanish regions are thus drawing on previous experiences at the regional, the State and the supranational levels, to develop ever more complex policy instruments. Those clearly draw upon policy paradigms diffused throughout Europe as regarding the respect of women’s diversity and the need for measures targeting social groups suffering multiple discrimination. Meanwhile, these developments generate at least two sets of questions:

The first one engage the differentiated nature of Spanish regionalization: to what extent policy instruments developed at the regional level are shaped by the political structure and the social reality of respective Comunidades Autónomas? And do the politics of regional identity and nationhood affect the way regional actors address the challenge of diversity?

The second derivates from the recurrence in afore-mentioned policy plans, of an approach modelled on the restrictive notion of intersectionality developed at the EU level, that is, a multiple-discrimination approach: to what extent regional anti-discrimination policies are Europeanized? And, since Europeanization is not merely a top-down process but results from the interactions between European models or incentives and domestic actors and structures (Radaelli, 2004), who is learning what from whom (Marsh and Dolowitz, 1996)?

3.2. Regional polities: a more appropriate context to engage intersectionality?

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30 However, an implicit reference to sexual orientation is made within the axis of intervention “Health and reproductive and sexual rights”.
The differentiated nature of Spanish regionalization

If we argue that the form of the State in general, and regionalization in particular should be included to the research agenda on the institutionalization of (a kind of) intersectionality, it is necessary to underline the differentiated nature of self-government in Spain. Indeed, the 17 legislative regions strongly differ from one another, as the Basque country, Galicia and Catalonia are designated as “historic communities” and claim for the acknowledgment of their specificities, of stronger self-governing capacities and, more or less explicitly, of their nationhood. Despite the Spanish constitution opted for granting the same competences to regional governments, these different patterns are to be noticed in the structure of political competition, with the presence of strong nationalist parties in the three afore-mentioned regions, but also in administrative structures and policy styles. As an example, the diputaciones forales of the “historic territories” composing the Basque country and Navarre, inherited specific administrative capacities since the XIXth century and strongly differ from the diputaciones (prefectures) in other regions. Therefore, as analysed by Novo, Martínez and Elizondo (2006), it exists some features of co-governing as regarding gender equality policies: “Traditionally, the diputaciones forales have not been very active in the implementation of equality policies adopted by the Basque government (…). But despite having approved equality plans only recently, foral authorities are now developing ambitious and comprehensive measures tackling inequalities”. Put in other words, in Spain, multi-level self-government does not end with the regional level but includes, in a few territories, local government. It is also noteworthy that in Andalusia, social, rather than administrative organisation is at stake. Although not counting with similar inheritance nor nationalist forces, Andalusia has been involved in politics of autonomy from late 1970s onwards. The institutionalization of women’s and feminist organizations, as a part of regional polity, has shaped the actors and the content of anti-discrimination policies. As a result, those have traditionally been oriented towards specific groups, rather than a collective.

Along with intra-regional administrative and social structures, political cleavages are also at stake. For instance, the role played by nationalist parties differs from an historic community to another. Hence, the centre-right Basque nationalist Party (PNV) ruled over 30 years (1978-2009), mainly with the support of the nationalist left. Such domination resulted in the overlapping of party, governing, administrative and social structures, and a relatively high level of political consensus around policy making, to be illustrated by the stability of gender equality policies over time. Meanwhile, although presenting some common features, Catalonia has long been characterized by a higher level of political contention, as nationalist left occasionally joined the opposition against centre-right regionalist party, and since Catalan socialist have long played a more important role than their Basque counterparts. Because both regions have proved to be especially favourable to the making of pro-active equality policies, this pattern have to be considered on the light of these political realities.

Do the nationalist politics of identity make more prone to address social diversity?

Policy making, as well as social and political mobilization in Catalonia and the Basque country can hardly be isolated from the politics of identity into which both regions have been involved in the past decades. In fact, the quest for self-governing competences, tax transfers and, above all, linguistic primacy and/or nationhood, have
shaped the content of any policy area. If policy making in democracy is also about producing social cohesion and loyalties, then this has been of special relevance for regional polities in quest of greater autonomy. In Catalonia, just like in the Basque country, policy making is deeply influenced by the goal to develop the political primacy of the regional level over the central one, and at the same time, to produce stronger ties between citizens (or “residents”) and their regional government. The strong, albeit differentiated, development of equality policies in those specific regions can also be read as a part of this consistent effort.

Besides, if it is true that ‘regional’ nationalism can be inclusive and prone to protect diversity as a mirror of its peripheral and minoritized situation towards the central State and the dominating linguistic group, social diversity in general might be considered especially challenging within the frame of nation-building and in a context of competition for political competence. Whether in the case of the Catalonian linguistic-based nationalism or rather ethnic-based Basque nationalism, linguistic and ethnic diversities are of special relevance, since they challenge the primacy of the social group upon which is built nationhood. For a long period, this contentious dimension has been understood through the issue of ‘internal immigration’, that is the presence of large non-autochthonous minorities coming from other parts of Spain. Yet, especially in Catalonia, immigration from abroad recently made this challenge even more salient. As suggested by Zapata-Barrero (2006), “transformations generated by immigration also affect minoritized nations” in that sense that “the claims of immigrants are in contradiction with those of minoritized nations”31, thus making necessary to “develop migration policies as a political construction of national identity”. Because “the relation between migration policies and the (self)understanding of political community is vital as regarding minoritized nations”, the claims for a transfer of these policies from the central State to the regional self-governments are of crucial importance.

The challenge of ethnic and linguistic diversity that represents immigration in Catalonia, puts in perspective the long commitment of regional authorities, political and social actors towards gender equality and the respect of sexual (or functional) diversity. As it has been recently emphasized by the Vice-president of the Catalonian executive, “the claims of women have been a powerful motor for building justice, reinforcing the welfare State, drawing suggestive horizons of freedom, which have played a key role in the making of our nation (...). The government is conscious that each barrier to equal treatment and opportunities is an obstacle to the development of the nation”32. This clear association between gender rights and nation-building shall not be analysed as an attempt to capitalize the achievements of Catalonian institutions in the area of gender equality in prospect of one specific nationalist party33. On the contrary, it can be argued that regional equality machineries, established under a coalition of regionalist and nationalist parties have been shaped as an integrated part to the regional politics of identity. In that sense, the growing interest of the regional women agency for migrant women would deserve to be analyzed in the light of three phenomena: the diffusion of norms and good practices from the supra-national to the national and the regional levels; the spill-over effects to be noticed among Spanish regions in favour of a multiple-

31 Since migrants tend to “integrate into the culture of the majority, which convert them in a factor of pressure within the process of nation-building”. It is interesting to note that Zapata-Barrero adopts a prescriptive and normative point of view, considering that “it is about converting this initial pressure into an advantage that contributes to the development of the nation” (2006:181).
32 Discourse of Josep-Lluís Carod-Rovira on the occasion of the 8th March celebration in Barcelona, 2009.
33 Josep-Lluís Carod-Rovira is leader of the Catalanian Republican Left (ERC).
discrimination approach, and the challenge of diversity within the frame of a politics of identity.

As regarding the latter, the focus of the Intitut Català de les Dones on migrant women and their organizations, is consistent with its action towards women and sexual minorities that traditionally emphasized groups identity, which makes it distinguishable among equality policies in Spain. Simultaneously, it echoes the whish expounded by Zapata-Barrero that facing the challenge of immigration and the rivalry with State policies developed in Spanish language, “the non-profit sector should articulate its claims and actions in Catalan”, since it is “a matter of fact that the criteria of Spanish language adopted by the Spanish government in the management of immigration is not valid in Catalonia” (2006: 209, 211).

Our hypothesis as concerning Catalonia would deserve to be tested on a larger scale, exploring how nationalist discourses, different levels of immigration, political contention around self-governing capacities and the claims from specific groups interact to shape the public response to the challenge of social diversity. By no mean, it should be inferred that regional politics of identity equal a closer attention to women’s diversity, since many other variables intervene in the making of regional equality policies, such as the political orientation of ruling majorities or the diffusion of policy practice from the State- and the EU-levels.

3.3. Regional vs. External variable: who is learning what from whom?

Addressing the incipient institutionalization of intersectionality in Spain makes necessary to take into account the multi-level dimension of the Spanish polity, which shapes different institutional, political and discursive contexts for tackling intersecting inequalities. At the same time, policy developments to be noticed both at the regional and the national levels, are putting in evidence the increasing impact of Europeanization. Here we make ours a sociological-institutionalist perspective (Radaelli, 2004) on Europeanization processes that not only covers the realm of legislative arrangements and institutional machineries, but also a more cognitive (learning) dimension about policy paradigms and “way of doing things”. These two dimensions: multi-level governance and the domestic impact of Europe, rise the following question: “who is learning what from whom?”

The contentious Europeanization of anti-discrimination policy in Spain

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34 A number of publications in various languages, as well as audiovisual support, subventions and conferences are dedicated by the institution to the group of migrant women, which accounts for about 50% of immigration in Catalonia. http://www20.gencat.cat/portal/site/icdones
35 In terms of gender equality policies, Andalusia and Galicia provide a further illustration of the differentiated nature of Spanish regionalization. While the former has joined the vanguard (see: section 3:1) mainly due to the continuous leadership of the Socialist Party, the latter has experienced a strong institutionalization of equality policies and machineries during the past 15 years, mainly as Conservative party ruled (Alonso, 2007).
36 Europeanization not only refers to the transposing of the EU legal order into domestic legislations. It also includes, with similar relevance, processes “in which knowledge about policies, administrative arrangements, and institutions in one time and/or place is used in the development of policies, administrative arrangements, and institutions in another time and/or place” (Marsh, Dolowitz, 1996: 344)
As it has been already pointed out, although “enforcement and implementation have never been particularly strong or explicitly prescribed in the case of gender equality Directives” (Lombardo & Verloo, 2009), Spain complies well with EU legislation in the area of gender-based discriminations. Yet, situation is different regarding other inequality grounds. According to the reasoning opinion issued by the European Commission in 2007, the transposition of directives 2000/43/EC and 2000/78/CE has still to be fully implemented in Spain. Indeed, the Council of the Advancement of Equality of Treatment and Non-Discrimination of People on the Grounds of Racial and Ethnic Origin, announced in 2003 and 2007, has still to be formally established. Among policy instruments which are also been claimed to transpose EU directives, such as the Forum for the Social Integration of Immigrants, the Spanish Observatory on Racism and Xenophobia, the National Disability Council or the Council of Roma People, some have generated serious concerns as regarding their independence, their composition or their capacity to produce expertise.

Europeanization processes are thus providing new impetus and political instruments for different type of domestic actors, to challenge legislation and equality machineries that have been created so far in order to comply with EU anti-discrimination directives. Civil society voices and official criticisms from the EU level might coincide to denounce the lack of independence, funding or human/expert resources of the afore-mentioned policy instruments. This is already the case concerning the Council of Roma people or the Council for the Advancement of Equality of Treatment and Non-Discrimination of People on the Grounds of Racial and Ethnic Origin. Such “domestic uses of Europe” are not restricted to those legislations enacted in order to comply with EU legal & policy frameworks. As an example, the Dependency Act has been sharply criticised as discriminatory for neglecting diversity among dependent people and “those who cares”, referring to the EU antidiscrimination legislation (Arnau & Gill, 2007)\textsuperscript{38}. In that sense, transposing EU directives and more generally, provides an opportunity for litigation and contention (Guiraudon, 2007: 298).

Additionally, in the Spanish multi-level governance system, using the reference to the EU legal framework for challenging existing legislation might be adopted by a number of actors in the respective regional polities, as a mean to influence further policy developments. Since regional institutions are developing their own policy instruments for tackling discriminations, making direct and explicit references to the EU legal order\textsuperscript{39}, Spain perfectly fits with the “emerging picture of a polity with multiple, interlocked arenas for political contest” (Hooghe and Marks, 1996), illustrating that Europeanization not only affects national governments, but also sub-national entities.

The Europeanization of regional equality policies

In the literature on European integration, regions have long been treated “as a separate ‘dimension’ of the multi-level game, rather than as individual political actors fundamentally positioned within a multi-acted ‘institutional’ web of decision-making”. But “thinking in terms of the ‘EU-centre’ versus the ‘region’ omits scope for discussion of domestic centre-periphery relations” (Carter, Pasquier, 2006: 9-10). For


\textsuperscript{38} Soledad Arnau and Eva Gil mainly address the situation of disabled women in a truly intersectional analysis, taking into account gender, age, disabilities and class.

\textsuperscript{39} As it is in the case of the Basque equality Act.
this reason, capturing the interaction of Europeanization processes and regional governance “in ways which are integral to domestic centre-periphery relations” is essential to the understanding of the domestic impact of Europe, especially in multi-level systems of governance (2006:10). Additionally, it is noteworthy that EU gender equality policies have a strong multi-level dimension which facilitates its influence on sub-national entities (Gallego et al., 2003, in Alonso, 2007), especially when, as it is the case in multi-governed Spain, the latter gather broad competences in the matter.

Nonetheless, whilst the Europeanization of regional equality policies in general has received a limited amount of scholarly attention that mainly focused on the diffusion of gender mainstreaming (see: Villagómez, 2005, Perrier, 2006, Alonso, 2007), the issue of institutionalizing intersectionality draws new perspectives as regarding the impact of EU-modelled practices in Spanish regions. In fact, aforementioned “good practices” in tackling multiple-discriminations (see: section 1.3) shed light on the numerous references to the EU framework made in regional policy documents. So far, most of these references dealt with the adoption of gender mainstreaming. Yet, in the most recently adopted documents especially in the field of anti-discrimination, those aim at legitimizing “from above” a better accounting of women’s diversity. Although being present in most of sectional actions plans recently adopted by Spanish regions, references to the EU are of specific relevance in the case of self-governments interested in relativizing the mediating role of State policies in prospect of more direct influences from abroad. This political “usage” of Europe (Jacquot, Woll, 2003) is not only illustrated by the references to the “EU model” present in the preamble of the Basque equality Act (2005), but also by those made by nationalist MPs during parliamentary debates on the (national) Effective equality Act (2007).

Even more strikingly, beyond the fact that recent steps taken toward a multiple approach at the State-level are strongly influenced by EU policy paradigm (see: section 2), there are also evidences of such an impact in policy instruments being developed at the regional level. Indeed, the latter are also shaped by the multiple approach which is preferred to the intersectional one at the EU-level (Kantola, Nousianen, 2009). But in the case of a multi-level polity, it is especially difficult to disentangle the influence of the ‘external’ (international) variable from other sources of policy transfer and social learning, such as the central government and the 16 other self-governed regions. Moreover, another hypothesis should not be ruled out, in the fact that be it at the regional, the State- or the supranational level, “multiple discrimination may be attractive to policy makers because of its simplicity” (Kantola, Nousianen, 2009: 14).

Concluding remarks

This article represents an attempt to not only assess the ultimate steps taken in Spain towards a multiple discrimination approach, both at the national and regional level, but also to locate the main structural variables that make Spain a poor –or at least late- performer in institutionalizing intersectionality. Thus, to a certain extent, it depicts the ‘anatomy of an absence’, as those variables are mainly to be found in the path-dependent dimension of Spanish Equality policies, and the multi-level governance system that contributed to shape the form, content and main instruments of those Equality policies.

For understanding better those potential explaining variables, this article also introduces and explores two more factors: first, the relation between the multi-level
reality (both at the national and at the regional levels, with different patterns) and a contentious Europeanization (Who is learning what and from whom?). Second, it takes into account into the analysis a possible inclusion of an ‘intersectional approach’ (as different to diversity management) as part of a politics of identity in some regions.

In any case, this contribution only aims at generating some hypothesis on the crucial role of institutional and political contexts in the institutionalization of intersectionality, exploring the ambiguities of a notion that covers both and analytic reflection in the academia, and a possible –but maybe not so plausible?- paradigm of policy making.

In regards to the future of intersectionality, it needs to be said that although Spain has been recently a good performer in gender policies, the absence of an intersectional discourse and a lack of elaboration and references –except for some ‘good practices’ in some regions-, even in the Spanish academia and not only in the policy making processes, are not good initial indicators promising an innovative approach in approaching intersectionality. Thus, there is a strong need to foster a debate at all levels, not only at the policymaking level and among other inequality grounds actors, but also especially in the Spanish feminist movement and academia. So that, extending the discussion among the academia, mobilizing social actors around multiple discriminations, and assessing the conceptualization and framing of the proposal of a new Equal Treatment Act seem to be important factors to foster and analyze in the near future.

As it has been pointed out, anti-discrimination policies tend to think more on judicial terms, that is, on bodies which central aims are the protection and tutelage of discriminated individual and groups, and not so much on the promotion of equality, or the incorporation of an equality perspective in regular public policies (mainstreaming), which have been the general frame for Spanish gender equality policies so far. For us, although the anti-discrimination framework has and had an important role in pointing out the need to consider other (multiple) inequality axes, a different and more ample framework which tackles the structural nature of inequalities and considers pro-active promotion and mainstreaming is needed for a true intersectional approach.

References


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