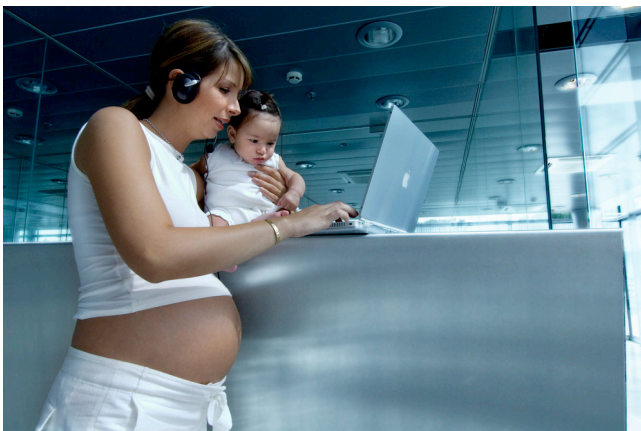


## Minding the gap

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**How is gender democracy being supported in Europe? A study of two gender-related directives illustrates the potential for enhancing gender democracy through attention to the principles of deliberative democracy.**



*The EU aims towards greater social cohesion and an inclusive labour market. This includes suppressing the barriers preventing women from participating and promoting more equal opportunities © EC/Reporters*

The European Union has clearly stated a commitment to equality between men and women in Articles 2, 3, 13 and 141 of the EC Treaty. These commitments have been given effect through directives, successive gender plans, European Court of Justice jurisprudence, and specific strategies such as gender mainstreaming and positive action. Thus, the equal opportunities agenda is a distinctive aspect of EU democratic decision-making.

Until now, though, relatively little attention has been paid to the democratic quality of decision-

making on equal opportunities. In recent times, too, the issue of a 'democratic deficit' at the heart of European decision-making highlighted the relative weakness of the European Parliament and its elected members in relation to the power of member state governments in the Council. Recent changes in the relationship between the Parliament and Commission, including the introduction of the co-decision procedure, have been introduced to enhance the democratic legitimacy of the EU. This places the spotlight on the European decision-making process.<sup>1</sup>

Feminist scholars have taken issue with the debates on the nature of EU decision-making, expressing their discontent with the gender implications of the analyses. In our study of gender democracy in the European Union, we wish to assess the democratic quality of EU institutions and decision-making from a gender point of view. In doing so, we turn to deliberative models of democracy for two reasons. First, deliberative democracy allows us to consider issues of inclusion, recognition, and group difference that are central to any gender democracy assessment. Second, deliberative democracy provides a framework for a rigorous study of democratic decision-making in a setting that is not based on the nation-state. In other words, we are interested in the deliberative process as it relates to gender

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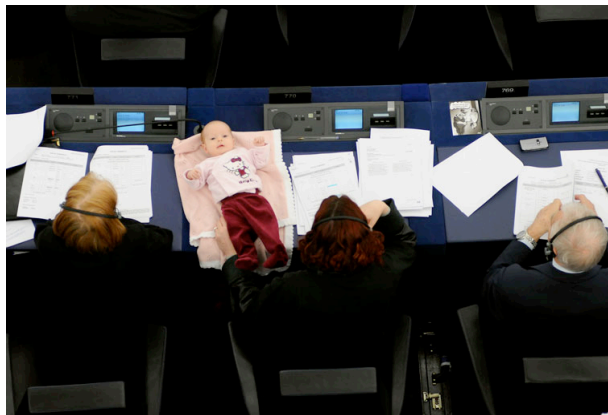
<sup>1</sup> Our research is undertaken as part of *WP 4 – Justice, Democracy and Gender* of the Reconstituting Democracy in Europe (RECON) project.

equality. We take account of the positions, arguments and influence of groups and institutions involved in the decision-making process on directives that seek to enhance equality between women and men.

Our focus, then, is on the discussions leading to the adoption of gender directives that take place in deliberative settings – the EP, the Commission, the Council, and related group or committee events. In assessing the extent to which these discussions are gender-sensitive, we employ indicators based on four principles of deliberative democracy – inclusion and political equality, publicity, and reasonableness.<sup>2</sup> These principles capture the core features of a 'deliberative' and reflective democratic process:

- The issue in question is critically examined by qualified and affected members of the community;
- This process takes place in public;
- It is inclusive of all relevant interests; and
- Decisions are accepted by all in a free and non-coercive debate.

So, what does the application of these principles of deliberative democracy tell us about the real world of EU policy-making on gender issues? An analysis of two directives – the Goods and Services Directive and the Recast Gender Equality Directive – tell us much about gender democracy in the EU.



*Hanne Dahl, Danish Member of the European Parliament with her child at a session in March 2009 © EP*

In general, we found that the quality of democracy revealed by the legislative process in each case varied across the EU institutions. It was influenced by the type of decision-making procedure followed and by the extent of involvement of women's interest representatives. The gender-sensitivity of the process was assisted by a strong coalition of women's advocates. In addition, the openness to gender perspectives was determined by the level of consensus on the issue among the key participants.

Exploring these points further, our analysis shows that the democratic quality of the deliberative processes taking place in the European Parliament is noticeably higher than that of the Council, with the Commission in between.

Second, the co-decision procedure enhanced overall inclusiveness. Thus, by giving decision-making powers to the European Parliament in the case of the Recast Directive on Gender Equality, it facilitated the involvement of a strong institutional advocate of women's interests, the EP Committee on Women's Rights and Gender Equality, from the beginning of the process. The consultation procedure followed in the case of the Goods and Services Directive was less open to institutional and civil society advocates for gender equality. In addition, the level and quality of justification in support of a position is lower than in the co-decision process. In this event, the Council can choose to ignore the Parliament's opinion.

<sup>2</sup> Young, Iris Marion (2000). 'Democracy and Inclusion', Oxford: Oxford University Press, pp. 21-26.

Third, an important contributor to making the policy process gender-sensitive was the involvement of women's interest representatives from the start. In particular, the early formation of a strong coalition between MEPs, women's organisations, femocrats and gender experts, acts to enhance the democratic quality of the process. This happened in the case of the Goods and Services Directive, where there was a considerable degree of inclusiveness of 'qualified and affected members of the community' in the process. In contrast, the Recast Directive was characterised by a very low involvement of women's interest advocates during the drafting of the commission proposal, resulting in a lesser inclusion of gender advocate voices.

Fourth, the level of disagreement among the participants, institutional and civil society, significantly affects the democratic quality of the process. The strong disagreement among actors involved in the Goods and Services Directive had an impact on the levels of inclusiveness, publicity and reasonableness. In this context, the European Parliament played an important role as a consensus-builder among different political groups and with the Council.

In summary then, what lessons can be learned from this brief review of two directives for deepening gender democracy in the EU? They can be summed up in five guidelines:

- Co-decision facilitates inclusion of gender perspectives;
- Involvement of civil society representatives of women's interests in the early stages onwards ensures both inclusion and assists political equality;
- Coalitions of women's interest advocates – MEPs, femocrats, EP committee on Women's Rights and Gender Equality, and gender experts – can play an important role in shaping the nature and quality of discussions;
- Political consensus-building on equality, among political groups and institutions can facilitate gender equality concerns;
- Transparency in documenting reasons for positions taken, with access for all involved in the process, assists in arriving at an outcome that all participants can accept.

The question of the EU's democratic legitimacy strikes at the heart of national and public acceptance of the European Union as a political arrangement. In pursuing and improving its deliberative decision-making processes, the EU can counter charges of elitism and absence of accountability. Our study of two gender related directives illustrates the potential for revealing the EU's democratic process, and for enhancing gender democracy through attention to the principles of deliberative democracy.