Recent developments in the EU have reignited theoretical debates about the present and future role of the Union in the context of identity and citizenship politics. Starting with the proclamation of the Charter of Fundamental Rights at Nice in 2000 and culminating with the on-going debate about constitutionalism in Europe, scholars and political leaders alike have raised some important questions about the role of the EU in defining relations between individual citizens, citizens and member states’ governments, and citizens and the EU. More significantly, there has been a shift in rhetoric towards the softer side of politics that highlights the need for a social agenda to underpin the economic and political dimensions of European integration. Much has been said recently about the value and dangers of ratifying a European Constitution. Most the contributions to this debate have focused on the impact of such a document on national political structures and state sovereignty. Discussions on how these processes would impact upon social structures in Europe have been much more limited. Although feminist critiques of the European Constitution have been limited in number and scope (see for instance Bell, 2005; Hoskyns, 2003; Hoskyns, 2004; Shaw, 2000b), the analysis of associated debates has drawn attention to the shortcomings of discourses on citizenship and constitutionalism that are gender blind and fail to consider
adequately the impact of political processes on gender power hierarchies. The argument presented in this article draws upon these contributions and will show how the concepts at the very core of the debates about constitutionalism in Europe – namely citizenship and democracy - are neither gender neutral nor socio-political absolutes. Rather, it will highlight how the political structures that underpin the process of constitution and polity building are instrumental in defining power structures and social hierarchies. As such, the analysis presented here builds upon the body of feminist theorising on governance and democracy by looking at Europe/the EU as a forum for gender politics in the 21st century.

This article will assess the potential contributions of a European Constitution to the advancement of gender equality in Europe. More specifically, it will evaluate the values that underpin current discourses about the future of the Union, and in so doing, it will assess the claim that equality is now at the heart of the process of European integration. Using feminist theorising on democracy, citizenship and constitutionalism this article draws attention to the continued tension between formal and substantive equality, thus highlighting the limitations of mainstream discourses about democracy and citizenship. Section two will use this theoretical framework to evaluate the values entrenched in the Constitutional Treaty. More specifically, it will assess the assumptions about equality and gender that transpire from the Treaty provisions. The concluding section of the article will take stock of current trends in EU politics and will map
identities

out the possibilities for future developments in gender politics from an institutional perspective. This is an important exercise at it challenges accepted wisdom that by constitutionalising the status quo, the Constitution implicitly advances the cause of gender equality in Europe (Bell, 2005).

The analysis and critique of citizenship and constitutionalism is not a new area of research for feminist scholars. Rather, there is a large body of literature that challenges the value of constitutional processes that ignore – and thus implicitly reinforce - the power of social and political hierarchies. Particularly of interest to feminist scholarship are the issues of citizenship and participation. These accounts have drawn attention to the impact of the public-private dichotomy on gender hierarchies, how this division has served to exclude women from the full benefits of citizenship, and how this process has limited the overall reach of Western liberal democracy. This section will therefore provide an overview of current feminist theorising in the area of governance. By focusing on the issues of citizenship and democracy I will explore the normative foundations that support the process of constitution building, and in so doing will develop a wide reaching critique of the document agreed by EU member states governments in 2004.
**Citizenship**

The starting assumption of most feminist theorising in the area of citizenship is as follows: citizens’ rights are embedded within specific social, political and economic frameworks and, as such, they help to define gender structures and hierarchies. More importantly, as Prokhovnik (1998: 85) explains, “citizenship in our political tradition can, and has meant many different things, not all of them compatible. It has involved an identification with the state, a sense of belonging to a whole, a definition of membership as equals of entitlement to make a claim against the state.” Citizenship is thus supposed to convey a sense of equality to those individuals upon whom it has been bestowed. As such, citizenship defines the parameters for social and political relations between individuals and, an individual and a state or system of governance as in the case of the EU. This means that, in theory, it should be a vehicle for the promoting of women’s rights. However, as it mirrors social relations, citizenship is also invested with the kind of power hierarchies that define gender structures (Prokhovnik 1998: 85; Yuval-Davies 1997: 4). Yuval-Davies (1997) takes this analysis further, arguing that:

On its own, the notion of citizenship cannot encapsulate adequately all the dimensions of control and negotiations which take place in different areas of social life, nor can it adequately address the ways the state itself forms its political projects. Studying citizenship, however, can throw light on some of the major issues which are involved in the complex relationship between individuals, collectivities and the state, and the ways gender relations (as well as other social

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**Државјанство**

Почетната претпоставка на поголемиот дел од феминистичкото теоретизирање во подрачјето на државјанството е ваква: правата на граѓаните се вградени во посебни специјални, политички и економски рамки и, како такви, тие помагаат во дефинирањето на родовите структури и хиерархии. Уште поважно, како што објаснува Проховник (Prokhovnik, 1998: 85), „државјанството во нашата политичка традиција може да значи и значело многу различни нешта, и тие не биле компатибилни. Тое подразбирало идеификација со државата, чувство на припаѓање кон една целина, дефинирање на припадноста како еднакви по овалствување да бараат нешто од државата.“ Така, се претпоставува дека државјанството во една смисла носи еднаквост за оние индивидуи на кои им е подарено. Како такво, државјанството ги дефинира параметрите за социјални и политички односи помеѓу индивидуите и помеѓу индивидуата и државата или системот на владеење, како што е случај со ЕУ. Тое значи дека во теоријата тоа треба да биде средство за промовирање на правата на жените. Меѓутоа, со оглед на тоа што ги пресликува социјалните односи, државјанството е исто така инвестирano со одреден вид хиерархии на моќ кои ги дефинираат родовите структури (Prokhovnik 1998: 85; Yuval-Davies 1997: 4). Yuval-Davies (1997) ја продлабочува оваа анализа тврдеjки дека:

Сам по себе, поимот на државјанство не може адекватно да ги опфати сите димензии на контрола и преговори што се случуваат во различни подрачја на социјалниот живот, ниту може адекватно да ги изрази начините на кои самата држава ги формира своите политички проекти. Сепак, проучувањето на државјанството може да фрли светлина врз некои од главните прашања кои се инволвириани во комплексниот однос помеѓу
From this perspective, the values that sustain the principle and practice of citizenship mirror the complexities of social and political relations at large. For this reason, any discussion of citizenship rights at the national or international/European level that does not have a gender dimension is not only limited in scope, but ignores some of the most wide reaching power hierarchies driving social and political relations in contemporary society. The analysis of the practice of citizenship exemplifies how such dynamics work. Vogel-Polsky (2000: 61-2) draws attention in particular to the importance of political participation in fulfilling the potential of the citizenship rights. In this context, women’s under-representation in political and policy-making circles is not a statistical glitch but is symbolic of the power dynamics discussed earlier in this chapter (Lister, 1997; Vogel-Polsky, 2000: 61-2; Webner & Yuval-Davies, 1999: 2, 5-7; Hoskyns, 2003).

Vogel-Polsky’s insights take us back to the age old question about the division between the public and the private spheres of life. This is a topic that has been discussed widely in feminist writings over the last three decades (see for instance Landes, 1998), and despite substantial improvements in the position of women in the political sphere, it remains a fundamental concept in contemporary feminist writings. As it has been widely documented, the public-private dichotomy is an inherent feature of political relations and, as citizenship emerges from this framework, it inevitably embodies this division. If equal-
The inequality between the sexes is based upon recognition of men and women’s roles in both spheres, then the persistent downgrading of private roles and responsibilities has a direct impact on the scope of citizenship and the reach of democratic governance. (Lister, 1997: 66-72; Mazey, 2001: 7; Vogel-Polsky, 2000: 62, 75). Many writers concerned with the impact of citizenship on social exclusion have argued that this principle creates a division between the Us and the Other. Such distinction is implicit within this principle, as the barers of rights (the citizens) are given a privileged position within society and the political sphere. The non-citizens are thus unequal and often socially excluded. Once again, however, the focus of these works is on the impact of ethno-national identities on citizenship and the forces of exclusion (Delanty, 1995; Green, 2000; Guerrina, 2002). Feminist work in this field (Lister, 1997; Prokhovnik, 1998, 86; Yuval-Davis, 1997) has succeeded in drawing attention to the existence of an Us-Other dichotomy also with reference to gender relations. As Prokhovnik (1998: 87) explains, “the implicit hierarchy of value between the options, and the continuing inflexibilities encountered in attempts to negotiate commitments in both the public and private realms, cast doubt upon the quality of the choice being offered.” Only through such re-evaluation, difference feminists claim, women’s position in society can also be attributed the importance it deserves (Prokhovnik, 1998: 92-3, 96; Dietz, 1998).
This analysis is echoed in Irigaray’s (2000) discussion of democracy whereby recognition of men and women’s equality in difference is essential to construct a fairer and more democratic society. The discussion outlined above draws attention to the link between citizenship and the development of a human rights framework. As Vogel-Polsky (2000: 70) further points out:

the full accomplishment of human rights for all demands that equality of the sexes, both in theory and in practice be regarded as a fundamental basic right... Access for women to decision-making results from the fundamental principle of equality of the sexes, which although recognized nationally and internationally, and undisputed in theory, is still awaiting practical implementation.

This analysis brings her to endorse parity democracy as a way towards some kind of egalitarian citizenship. Participation in the decision-making process thus becomes instrumental for the achievement of substantive equality and to challenge the male bias of the public sphere. Moreover, the exclusion of women from the circles of power is recognised a flaw of Western democracies (Vogel-Polsky, 2000; Voet, 1998; Siim, 2000).

Webner and Yuval-Davis’ (1999: 1) analysis draws attention to the conflicting forces at work in the process of polity-building:

as a political imaginary and as a set of commonsense assumptions and practices, modern citizenship is inserted into a social field, an arena of competing, heterogeneous and partially overlapping discourses. Within this field, freedom, autonomy and the right to be different —central credos of

Оваа анализа доведува до тоа да се прифати паритетната демократија како пат кон извесен вид на егалитарно државјанство. Учестото во процесот на донесување одлуки така станува корисен за постигнување на супстанцијална еднаквост и за доведување под прашана на мажките привилегии во јавната сфера. Уште повеќе, исклучувањето на жените од круговите на моќ е познат пропуст на западните демократии (Vogel-Polsky, 2000; Voet, 1998; Siim, 2000).

Аналитата на Вебнер (Webner) и Јунал-Дејвис (1999: 1) го свртува вниманието кон конфликтните сили коишто дејствуваат во процесот на градење политичка заедница:

како политички имагинарно и како множество на здраворазумски претпоставки и практики, модерното државјанство е вметнато во едно социјално поле, една арена од сопчики, хетерогени и делумно преклопувачки дискурси. Внатре ова поле, свободата, како политички имагинарно и како множество на здраворазумски претпоставки и практики, модерното државјанство е вметнато во едно социјално поле, една арена од сопчики, хетерогени и делумно преклопувачки дискурси. Внатре ова поле, свободата,
democratic citizenship – are pitched against the regulating forces of modernity and the state and subverted by discourses of “culture and tradition” – of nationalism, religiosity and the family.

This discussion highlights the multi-layered nature of citizenship and the impact this has on the application of citizenship rights. Thus, the polity should not be understood as a monolithic entity in which all interests are represented equally, but as they by-product of a number of power hierarchies and network. In the context of the analysis presented here, it is important to note that the values that underpin citizenship rights (equality, rights, responsibilities and community) are set against the social and cultural norms that define gender power hierarchies. The implications being that a distinction must be made between citizenship as status and citizenship as practice. If we widen the scope of this analysis, it becomes evident that traditional theories have failed to account for the impact of social, political and cultural forces on the practice of citizenship. If we are to construct a gender sensitive analysis of citizenship rights then, it is imperative that policy-makers acknowledge that the way in which citizenship as status is constructed has a direct impact on the practice of citizenship. The establishment of citizenship as public rights based on male norms thus precludes the establishment of a discourse for greater inclusiveness. As Webner and Yuval-Davis (1999: 5) further outline, “a holistic definition of citizenship goes beyond formal rights.” It must include recognition of equality, difference and be sensitive to the impact of gender power hierarchies on the practice of citizenship. Part of this transition is to recognise the economic and political values of women’s care work in the private sphere. This should not imply an uncritical endorsement of difference, but a recognition that those values that ascribe motherhood and caring to the private are also the ones
Idsentities

upon which gender power hierarchies are based. Finally, it is such divisions that also determine and/or limit the scope of democracy and democratic governance (Beasley and Bacchi, 2000). The issue of democracy is what the next section of this article will focus on.

Feminist Critiques of Liberal Democracy

In order to understand the nature of political processes in contemporary Europe, it is essential to look at the norms and values that underpin current discourses about legitimate governance. Generally speaking, democracy is the most important and most widely discussed principle in contemporary theorising about governance in Europe. Democracy is often defined as a mode of governance based on a social contract between the citizens and the state. As part of this contract citizens transfer power to representatives through the election process. Competition for power amongst rivaling parties, freedom of press and speech, the ability to limit and remove power from the legislature and executive are thus seen as essential features of democracy. Citizenship rights and practice are central to the execution of democratic governance (Zweifel, 2002).
In the last two decades the issue of democracy has also become a point of contention for scholars of European integration. Increased policy making power transferred to the European level makes it increasingly more important to ensure that European institutions pass the “democratic” test. The focus of these discussions has been on the balance of power between the institutions of the EU and current working practices that make the decision making process opaque and far removed from the citizens. Most accounts have thus focused on the so-called democratic deficit. What is important to note with reference to the discussion presented in this article is that mainstream accounts of the democratic deficit are based upon a set of implicit assumption about the meaning, scope and role of democracy in contemporary Western societies. As such, they assume that this model adequately represents the multitude of interests present within the “European polity” (Banchoff and Smith, 1999; Pollack, 2000; Everson, 2000; Mény, 2002; Shaw, 2000).

From a feminist perspective, it is important to note that the concept of democracy, as in the case of citizenship, is often portrayed as gender neutral. Moreover, it is often assumed that Western societies have achieved advance democratic status with the extension of universal suffrage to women in the first half of the 20th century. However, a closer look at the values, principles and assumptions that underpin the concept and practice of democracy bring to lights its inherently gendered nature (Reynolds, 2002).
Two principles are essential for the establishment of
democratic governance: representation and participation.
Although the norms that sustain these principles
are largely uncontroversial, their application requires
greater scrutiny. It is also worth noting that, mainstream
political theorists have framed them within a rather nar-
row set of rules: participation in the political process.
In this context, the ability of a system of governance to
redress the imbalances in the division between public
and private becomes a key issue in the analysis of gender
democracy in Europe. Feminist scholars have long argued
that recognition of women’s rights as citizens should
only forestalls a greater commitment to the abolition
of gender power hierarchies. Through this process the
concept of democracy becomes extended to encompass
wide reaching social, political and economic forces shap-
ing day to day interactions between men and women and
that ultimately limit the practice of democracy.

Over the last ten years feminist scholars have been
busy looking at women’s participation in formal poli-
tics. A number of studies have been published looking
the impact of women’s presence in the political sphere
on gender dynamics and power hierarchies. Different
forms and models of parity democracy, quotas, interest
representation and women’s potential contribution to
formal politics have been at the key issues under discus-

(Loewndes, 2004; Childs, 2004; Lovenduski & Norris, 1996; Freedman, 2004; Krook, 2003). Luce Irigaray
on the other hand developed an interesting account of
egalitarian democracy that seeks to challenge the divi-
sion between public and private and goes to the heart
of feminist critiques of governance. In this respect, this

Два принципа се суштествени за воспоставување
на демократското владеење: претставувањето и
учествувањето. Иако нормите што ги одржуваат овие
прincipи се главно неспорни, нивната примена
налага поголема внимателност. Исто така, вреди да
се напомене дека главните политички теоретичари
ги врамија внатре едно приличнограничено мно-
жество правила: учествувањето во политикиот
процес. Во овој контекст, способноста на еден
систем на владеење да ги исправи нерамнотежите во
поделбата помеѓу јавното и приватното станува откружно
прашане во анализата на родовата демократија во
Европа. Феминистичките научници долго време об-
разлагаше дека признавањето на правата на жените
како граѓански права треба само да предвести
поголема ангажираност во укинувањето на родовите
хиерархии на моќ. Преку овој процес концептот
на демократијата е проширен за да ги опфати
dалекусежните социјални, политички и економски
сили, кои ги обликуваат секојдневните интеракции
помеѓу мажите и жените и кои, во крајна линија, ја
ограничуваат практиката на демократијата.

Vo tek na poslednive deset godini, feministicchite
nauchnici bea zaftateni so ucestvoto na zhinite vo
formalnata politika. Bea objavene mnogo studii
koi go razgleduvaat vlijanieto na prisustvoto na
zhinite vo politikata sfera vrv rodovata dinami-
ka i xierarkhite na moq. Kлучни prashaња за koи
se rasprowadhe bea razlichnite oblici i modeli na
paritetna demokratija, kvoti, pretstavuvane na in-
teresi i potenцијалниот придонес na zhinite kon
formalnata politika (Loewndes, 2004; Childs, 2004;
Lovenduski & Norris, 1996; Freedman, 2004; Krook
2003). Od druga strana, Lis Irigaray (Luce Irigaray)
razvi jedno interesno objasnuvanje na egalitarнata
demokratija koe naстоjiva da ja preispita podelbata

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sion between public and private and goes to the heart
of feminist critiques of governance. In this respect, this
Irigaray’s approach to democracy is based upon the analysis of daily interactions between men and women. More specifically, she starts with a discussion of the impact of social structures of oppression within the family on liberal democratic governance. She argues that citizenship and democracy must emerge from co-existence between men and women, which in turn is based on recognition and acceptance of sexual difference. Democracy for Irigaray (2000: 7-8), thus emerges from “renouncing the desire to possess the other.” This presupposition, she goes on to argue, challenges the very foundations of liberal democracy as currently understood. Removing ownership as qualifying criteria for citizenship becomes the starting point for a redefinition of democracy.

What is interesting about this proposal is that this process does not begin in the public sphere, but it is rooted on a re-elaboration of core divisions within the family. As Irigaray (2000: 4-5) explains: “if man’s dealings with woman are to be equal, he will have to face a culture of sexual desire and of coexistence in difference of which he, as yet known nothing. ... It is also a question of re-thinking love and or refounding the family.” This challenge to traditional conceptualisation of power within the family goes to the heart of democratic governance, as it provides the backdrop against which children are educated, and women are allowed to carve out a space for themselves in the public sphere. Co-existence, for
Identities

Irigaray, is based on acceptance, recognition and understanding of sexual difference, a process that would ultimately lead to a more equitable redistribution of power (Irigaray, 2000: 67-8, 24).

By bringing the concept of difference to the heart of politics, Irigaray redefines the boundaries of structure and agency. As she explains,

democracy assumes the sovereignty of every citizen. [...] The right that has to be established or re-established as first condition of a democratic regime, is the right to exist or to be oneself with sovereignty. Such a right is, as yet, non-existent for women who, at best, are permitted to present themselves as neutral or assimilable to men, as reproductive nature or as productive manpower, in a community where, as women, they go unrecognised (Irigaray, 2000: 38).

Democracy is thus entwined with identity, citizenship, participation and the male-female relationship. As she further outlines, “democracy begins through a civil relationship, protected by rights, between a man and a woman, a male citizen and a female citizen, each and every citizen” (Irigaray, 2000: 39, 118). This analysis is very powerful because it challenges the legitimacy of current power structures at the heart of the public-private dichotomy and, in so doing, it also undermines the power of political structures. Irigaray’s discussion draws attention to the link between family relations, the state and identity, and the impact of this relationship on the development of citizenship rights. More specifically, it

 владеење, со тоа што обезбедува платформа на која децата се образуваат, каде што на жените им е овозможено да издевствуваат простор за себеси во јавната сфера. За Иригаре, коегзистенцијата е заснована на прифаќање, признавање и разбирање на половината разлика, процес кој на крајот би довел до поправична прераспределба на моќта (Irigaray, 2000: 67-8, 24).

Доведувајќи го концептот на разлика до срцевината на политиката, Иригара ги редефинира границите на структурата и дејствувањето. Како што таа објаснува,

dемократијата претполага суверенитет на секој граѓанин. [...] Правото што треба да биде воспоставено или превосставено како прв услов за демократски режим, е правото да се постои или да се поседува со суверенитет. Таквото право сè уште е непостоечко за жените на кои, во најдобар случај, им е дозволено да се претстават себеси како неутрални или подложни на асимилација од мажите, како репродуктивна природа или како продуктивна работна сила, во една заедница каде што тие, како жени, се непризнаени (Irigaray, 2000: 38).

Така, демократијата е испреплетена со идентитет, државјанство, учествувањето и машко-женските односи. Како што таа истакнува понатаму, „демократијата започнува со граѓански однос, заштитен со права, помеѓу некој маж и некоја жена, меѓу машки граѓанин и женски граѓанин, секој и сите граѓани“ (Irigaray 2000: 39, 118). Оваа анализа е многу моќна бидејќи се спротиставува на легитимноста на постојните структури на моќ кои се во срцевината на дихотомијата јавно-приватно и, со тоа, таа ја подрива и моќта на политичките структури. Расправата на Иригара свртува внимание на поврзаноста помеѓу семејните односи, државата
outlines the impact of gender power hierarchies in the private on women’s ability to take full advantage of their rights as citizens. From this perspective, women’s liberation and a truly egalitarian society can only occur with an overhaul of family dynamics and a revaluation of the privileged position of the traditional family in contemporary society (Irigaray, 2000: 97, 99).

According to Irigaray, this type of civil coexistence is particularly important at a time when the EU is seeking to establish common foundations for citizenship and social integration in the context of diverse social, cultural, and political circumstances. As she explains,

a passage of this sort from the state of nature to civil life seems to me the only way towards defining citizenship for Europe. [...] Europe would then offer an opportunity not only for economic development, but for the growth of each and everyone of us, within the family itself, within the city and in every relationship between us (Irigaray, 2000: 59).

This is a transition that is all the more important at a time when the EU has just completed the widest reaching round of enlargement in its history. The need for a new constitutional contract that recognises and promotes the kind of democratic culture that emerges from egalitarian relationships between the sexes in the family thus becomes an imperative for the achievement of gender democracy in Europe (Irigaray, 2000: 50, 53, 67-8).
Irigary’s position is a radical departure from the common ground in political theorising. Her understanding of democracy is one that bridges the gap between public and private, it acknowledges gender divisions of labour, and seeks to re-elaborate social norms in a way that women’s “difference” is not only acknowledged and celebrated, it also becomes part of the political process. There are a number of criticisms that can be raised against Irigaray’s position, staring from her uncritical acceptance of difference to the unfeasibility of the application of her model to contemporary political structures. However, her analysis also allows feminists to challenge the common ground in current debates about democracy in Europe. More importantly, it allows us to bring the large body of feminist work in the area of EU women’s employment rights within the scope of current debates about the future of the Union (Guerrina, 2005; Hoskyns, 1996).

The question that now needs to be addressed is to what extent these critique of the political process have been internalised by European institutions and whether these issues have been taken into account during the debates about the future of the Union.
doing, highlights the shortcomings of a document that is the result of political compromise rather than a clear and wide reaching agenda for constitutional reform in Europe.

The debate about the role of the EU in promoting women’s rights can be dated back to the 1970s with the ratification of the first equality directives. Since then there has been a growing interest in the role of European institutions in pushing for a radical equality agenda. However, given the nature of the EU, this research has largely concentrated on the employment sphere. The debate that ensued thus focused on the ability of the EU to promote substantive equality given the economic bias of this project and its gender policies. (Guerrina, 2005; Hantrais, 2000; Hoskyns, 1996; Cousins, 1999). Vogel-Polsky (2000: 81) puts forward a positive interpretation of Europe’s influence on member states’ gender politics. More specifically, she argues that “the recognition of an autonomous right to equality of women and men in the Treaty on the European Union would make it possible to overcome the hitherto insurmountable contradiction between formal and substantive equality” (Vogel-Polsky, 2000: 81). Unfortunately, this account overlooks the economic bias of the process of European integration. As it has been argued by a number of scholars, the principle of European citizenship is inextricably linked with the economic aims of the Union, which in turn have clear repercussions for the commodification of women’s rights and equality. In this context, far from challenging the division between formal and substantive equality, it actually serves to reinforce it (Guerrina, 2005; Guerrina, 2003; Hantrais, 2000).
The completion of the work by the Future of the Union Convention and the signing of the Constitutional Treaty were supposed to produce some kind of constitutional settlement for the Union. The Charter of Fundamental Rights was supposed to be central to this settlement. The political impact of such a document was supposed to go beyond the economic dimension and help to create a European polity. For Bell (2005) “the drafting of the EU Constitution provided an opportunity to consider afresh the place for gender equality.” In this context, it is therefore important to assess how gender sensitive is this document and to what extent it succeeded in implementing the EU’s treaty commitments to mainstreaming.

Understandably the main preoccupation of European political leaders at the time of the negotiation was the forthcoming round of enlargement. That said, the introduction of a wider debate about European constitutionalism could have been a great opportunity to address the shortcomings of national and European governance, particularly in the area of gender equality. Notable is therefore the under-representation of women in the actual Convention on the Future of the Union (Hoskyns, 2003: 2; EWL, 2002). For Catherine Hoskyns (2003) the absence of women from the proceedings had a significant impact on the agenda of the Convention, so much so that it helped to marginalise the issue of social policy and resulted in “the general downgrading of the social in the initial conception of the Treaty” (Hoskyns, 2003: 2). The absence of social politics from the negotiations for the Constitutional Treaty highlights the persistence of a hierarchy in contemporary politics, whereby social policy and related issues continue to be categorised as low politics and thus outside the remit of constitutional debates. The exclusion of the social sphere from current...
discussions, however, also limited the scope of the debates, in as far as it fails to address more difficult questions about gender democracy in the private sphere.

A closer examination of the Constitutional Treaty reveals that gender power hierarchies remain at the core of European political structures. Arguably, the introduction of the principle of equality in Part I of the Constitutional Treaty should move some way towards establishing a framework for the implementation of the principle of substantive equality, as this is the part of the treaties that deals with the normative foundations of the Union. Unfortunately, the way in which the principles of equality and justice were included within the Treaty is more reminiscent of tokenism than a concrete commitment to gender democracy.

Given the potential impact of this document on the future of gender politics in Europe, it is worth looking in some detail at each article/part of the Treaty dealing with the issue of equality. The preamble sets the normative foundations for the project of European integration as follows: “drawing inspiration from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law.” Equality and democracy are thus recognised to be central to this process. A claim that is reinforced in Part I of the Treaty. To be more precise, Article I-2 (Union’s Values) includes the principles of non-discrimination and justice as core
values of the Union; and, Article I-3 (Union’s Objectives) makes a commitment to combating social exclusion and discrimination, and the promotion of equality between men and women. At a first glance these two articles fulfil the Union’s commitment to mainstreaming and place equality at the heart of the project of European integration.

The European Women’s Lobby considers this development to be a significant improvement on the Amsterdam provisions, as it provides a stronger legal base for the advancement of formal equality. For instance, the inclusion of the principle of equality in statement on the values at the heart of the Union makes a clear commitment to this principle. Bell (2005) also attaches symbolic value to this development. A more careful analysis, however, highlights the shortcomings of this approach. In the first instance, it is worth noting that earlier drafts of the Treaty did not include the principle of equality as one of the core values of the Union (Hoskyns, 2003: 2-3). Moreover, the belated inclusion of gender into the Part I of the Treaty highlights the overarching lack of political commitment towards the implementation of this principle. As Bell’s (2005) conclusions point out, “this is not a radical departure from the current situation; on the contrary, it tends to confirm the point at which the Union has already arrived.”

Подетално упатување кон принципот на еднаквост е направено во дел II од Спогодбата, во Повелбата на фундаменталните права. Насловот III од Повел-

More detailed reference to the principle of equality is made in Part II of the Treaty, which is the Charter of Fundamental Rights. Title III of the Charter of Funda-

во дел I од Спогодбата. Попрецизно кажано, член I-2 (вредности на Унијата) ги вклучува принципите на недискриминација и праведност како клучни вредности на Унијата; а член I-3 (цели на Унијата) се обврзува на спречување на социјалното исключаување и дискриминацијата и промоција на еднаквост помеѓу мажите и жените. На прв поглед, овие два члена ја исполнуваат заложбата на Унијата за родово сензибилизирање и ја ставаат еднаквоста во срцевината на проектот на европско интегрирање.
mental Rights is entirely devoted to the issue of equality. In terms of equality between men and women the most important provisions included within this document are: Article II-81 (non-discrimination) and Article II-83 (equality between men and women). Although, the inclusion of the Charter within the Constitutional Treaty is an important development, in as far as it provides the people of Europe with a “bill of rights,” the provisions enclosed within it do not represent a significant departure from the principles established by European law over the last 50 years. (Bell, 2005; Guerrina, 2003).

Despite these criticisms, it is worth reiterating that the Union’s commitment to equality of opportunities is clearly present throughout the document. Article III-116 makes explicit reference to this commitment. As a matter of fact, Part III of the Treaty (Policies and Functioning of the Union) also includes a number of articles dealing with the issue of equality (Article III-210 (1)(i); Article III-214; Article III-292). Unfortunately, none of these actually expand the scope of this principle to include substantive equality. In this respect, it is possible to predict that this document will simply reinforce the institutional bias in favour of formal equality already present at the national and European level (Bell, 2005).

This discussion ultimately draws attention to the limitations of current debates about constitutionalism in Europe. The focus on “high politics” has occurred at the expense of those policy areas traditionally considered associated with the social sphere. Given the link between social policy and women’s issues, it is safe to say that gender has been at best a tangential issue in debates about the future of the Union. Certainly, the failure of the Convention to include equality as a key value and objective
Identities

of the Union in earlier drafts of the Treaty highlights the continuity of gender power hierarchies at the national and European level. It also draws attention to the gap between political rhetoric and political action in the field of equality between men and women. Finally, this analysis points to the failure of gender mainstreaming to engender a political context that actually seeks to challenge structural inequalities and pursue gender democracy.

Two preliminary conclusions emerge from this discussion of current debates about the nature and future prospect for the process of constitution building in Europe. Firstly, European political leaders have not taken on board feminist criticisms of democracy, governance and participation advanced in the last thirty years. This trend is evident in the under-representation of women in the structure of the Convention and the general thrust of the debates taking place at the European level. Secondly, despite the rhetoric about the value and importance of mainstreaming, gender power hierarchies still pervade the political arena. So much so, that gender has become tantamount with social policy, an area of policy action traditionally associated with women and feminine.

Conclusions

The analysis of the gender dimension of European constitutional politics has to be contextualised within the wider framework of growing anti-EU sentiment. As a
matter of fact, the negative outcome of the French and Dutch referendums on the European Constitution in the summer of 2005 can only have a negative impact on the development of a wider reaching framework of the implementation of equality in Europe. The result of these referendums and the member states’ continued preoccupation with the pursuit of the economic objectives can only mean that the achievement of a political Union and the advancement of citizenship rights is now off the agenda. This will, in turn, also have negative consequences for the feminist lobby seeking to advance substantive equality at the European level. The implications of the analysis presented in this article, however, are much wider. Not only is gender still not perceived as an issue of high political importance, it is also one of the most significant silences in current debates about democracy and governance in Europe. Taking feminist perspectives as a starting point, it is possible to shift the focus of the democratic deficit debate toward the principle of egalitarian democracy. This position adds a third dimension to current discourses about the need for the EU to attend to calls for greater legitimacy and accountability. Moreover, it recognises that political blindness to the shortcomings of liberal democracy at the national level has been transposed to the European level. The assumption that EU member states have achieved equal representation and exhausted their potential for democratic governance continues to hide the failures of liberal democracy, and has ultimately served to reinforce gender power hierarchies currently at work within the national sphere.

Finally, membership, participation and representation must be seen as essentially contested concepts. As Shaw (2000: 89) explains,
“social rights and the development of social rights in conjunction with the identification of groups who are at present often marginalised within the EU polity are vital components of the redefined relational concept of membership as the ongoing process of constructing an open, democratic, just and equal society. In that sense, it is less about the rights than about the group and individuals who rely upon rights and their position in relation to Union citizenship. It demonstrates that the boundaries of membership in the sense defined in this paper are constantly contested, remain unfixed and are not a priori established. Rights struggles are dynamic and constitutive of both individual and group identity.”

The scope of EU governance and citizenship rights, thus come to the forefront of any struggle for the achievement of gender democracy. Gender discourses, much like women’s rights, have been sidelined in both academic accounts and policy-making debates. What mainstream accounts fail to acknowledge is that such weakness is not only a shortcoming of the debate, but it serves to maintain gender power hierarchies and undermine gender democracy in Europe.

In this context, it is thus possible to conclude that current debates on democratic deficit and the debate on the Future of the Union have missed an opportunity to promote more egalitarian political structures. A proposal for gender democracy that is truly egalitarian would move beyond parity democracy by endorsing substantive equality, it would challenge traditional gender divisions of labour, and ultimately would create a more participatory society. In many ways it would support Irigaray’s (2000: 38-9) claim that for democracy to be truly so, it has to be based on a civil relationship between the sexes. In order to be truly comprehensive, the debate on demo-
demokratijata навистина таква, треба да биде заснована на граѓански однос помеѓу половините. За да биде навистина опфатна, дебатата за демократскиот дефицит треба да ги признае дефицитите на либералната демократија наака како што во моментов е разбрана од научниците и креаторите на политиките.

Превод од англиски јазик: Жарко Трајаноски

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Невидливото, замолченото, исключеното: Погрешно претставување на жените во Европскиот устав

Вовед

Кон недостатоците на Европскиот устав може да се пристапи од неколку перспективи; во следниов текст ќе говорам за родовите прашања. Избрав да се осврнам на институцијата брак, на нееднаквите односи на моќ во традиционалното семејство и на нивното влијание врз правата на жените, како човекови права. За таа цел го анализирах дел од Европскиот устав - Повелба за основните права на Унијата¹, со кој се гарантираат човековите права на сите граѓани, но единствено во јавната сфера. Со оглед на тоа што приватноста останува невидлива за јавноста, повеќето жени не се во состојба да ги уживаят „основните права“ на начин на кој можат тоа да го прават мажите. Од моја гледна точка, Европскиот устав не ги претставува жените соодветно и ги игнорира нивните конкретни проблеми и потреби. Имајќи го предвид фактот што целот овој дискурс е машки ориентиран, жените во овој контекст се замолчени и невидливи. Оваа моја теза ќе ја поддржам со аргументите и примерите што следат.

Dianna Damean

The Invisible, the Silenced, the Excluded: Women’s Misrepresentation in the European Constitution

Introduction

The lacks of the European Constitution can be approached from many perspectives; in the following text I will discuss the gender related issues. I chose to focus on the institution of marriage, on the unequal power relations within the traditional family and on how they alter women’s rights as human rights. In order to do so, I analysed Part II of the European Constitution, The Charter of Fundamental Rights of the Union¹ which provides all citizens with human rights only in the public space. Since what occurs in private remains invisible to the public eye, most women can not enjoy their ‘fundamental rights’ as their fellow men do. From my point of view, the European Constitution does not represent women appropriately and ignores their particular problems and needs. They are silenced and invisible as the dominating discourse is a masculine one. I will support my view with arguments and examples as it follows.
After decades of militating for equal rights in all fields of activity, women are still far from reaching their ideal. We have to admit, though, that remarkable progress has been made in this regard as women’s condition in the public sphere has improved, at least theoretically. Despite all this, women’s condition in the private sphere hasn’t changed much. Feminist movements focused mainly on acquiring rights in the public space. Although feminists redefined family as an equal partnership between women and men, there are no laws stating the rights the members of a family should have, for the mere reason that family deals with private and the law can not interfere with privacy.

Constitution itself does not define family in any way, but assumes it to be an institution everyone represents in the same way. According to Merriam Webster Dictionary,² the family is “the collective body of persons who live in one house, and under one head or manager,”³ “the group comprising a husband and wife and their dependant children, constituting a fundamental unit in the organization of society.”⁴ Moreover, a husband is defined as “the male head of the household,”⁵ whereas a wife is defined as “a woman; an adult female; the lawful consort of a man; a woman who is united to a man in wedlock; a woman who has a husband; a married woman”⁶ and not as “the female head of the household.” The “husband” is defined as an autonomous subject, whereas the “wife” is defined as an object in relation to the subject. She has no autonomy of her own; she exists solely in relation to her husband. Although the term “husband” is also related, as one can not be a husband in the absence of a wife, the unequal position of a woman inside family appears through language, as a “husband” has more value than a “wife.” The language expresses reality and therefore,
if the wife occupies an inferior position inside family, language shall portray her as such. If the Constitution intends to guarantee equality for women in all social structures, it must seriously take into consideration the institution of family.

The European Constitution is no exception as in its second part, The Charter of Fundamental Rights of the Union, it defines dignity, freedom, equality and solidarity using a concept of family that allows an unequal treatment of women.

The articles in the European Constitution use vague terms and do not clearly specify how its laws shall be implemented. The European Constitution uses the pattern of the traditional, patriarchal family, does not discuss power relations within it, leaving room for the abuse and exploitation of women inside family. The articles are easily interpretable and they address a masculine segment. Women come into discussion as exceptions, due to reproduction related matters or as the underrepresented sex.

Therefore, I considered that a feminist critique of the European Constitution is welcome.

Outside of Society – Family as Private Space

Although family is a part of society it is, at the same time, outside it. The separation public-private allows the existence of separate norms in the family, different from

нолгијата што се употребува и укажува на тоа дека „мажот“ има поголема вредност од „жената“. Јазикот ја отсликува реалноста, па доколку жената зазема инфериорна позиција во семејството, јазикот ќе ја одрази како таква. Доколку Уставот настојува да ја гарантира еднаквоста на жените во сите општествени структури, тогаш мора сериозно да го земе предвид семејството како институција.

Европскиот устав не е исключение во овој контекст, бидејќи во вториот дел, во Повелба за основните права на Унијата, ги дефинира достоинството, еднаквоста и солидарноста користејќи го семејството како концепт кој што овозможува нееднаков третман на жената.

Одредбите од Европскиот устав користат непредизначни термини и не уточнуваат како ќе бидат имплементирани законите. Европскиот устав ќе користи шемата на традиционално, патријархално семејство, не говори за односите на мок во семејството и остава огромен простор за злоупотреба и експлоатација на жената во семејството. Одредбите можат лесно да се интерпретираат и тие адресираат мушки сегмент. За жените станува збор по искучок, само кога се зборува за работи во врска со репродукција или за помалку претставениот пол.

Токму затоа, сметав дека е добредојдена феминистичка критика на Европскиот устав.

Надвор од општеството – семејството како приватна сфера

Иако семејството претставува дел од општеството, тоа е истовремено и надвор од него. Поделбата на јавно - приватно, дозволува постоене на посебни норми...
во семејството, различни од оние коишто владеат во јавниот простор.

Семејството е патријархална форма на заедница, каде мажот е глава на семејството, а жената (и децата) потчинета/и. „Главата“ ги донесува правилата, ги донесува одлуките и има моќ во однос на неговите потчинети. Тој нема да се воздржи од употреба на својата моќ во случаи кога неговите потчинети нема да му се покорат. Тој може да ја користи својата моќ во приватната сфера, бидејќи законот не навлегува во неа; од оваа гледна точка, односите во семејството може да наликуваат на односите помеѓу господарот и неговите робови. Џе започнам со неколку рефлексии за институцијата брак и неговата компатibilност со насилиството. Бракот е форма на организирање на општествените односи помеѓу половите. Со самиот почеток на бракот, животите на мажот и на жената драстично се менуваат, со оглед на тоа дека се стекнале со друг општествен статус. Бракот е хиерархија составена од еден доминантен маж и една потчинета жена.15 Насилиството на мажот врз жената е „нормална консеквенца“ на оваа хиерархија. Кога го дефинирате насилиството над жените, терминот „ злоупотреба“ не е ниту научен ниту клинички, туку концепт од политичка природа. Злоупотребата е девијанто поведение, дефинирано од страна на група којашто е досолно голема или политички досолно моќна да го дефинира.16

Според статистиките на Маргарета Хајден (Margareta Hyden) изнесен во нејзината студија за феноменот домашно насилиство,17 домашното насилиство најчесто се случува во семејства засновани на идејата за романтична љубов. Оваа идеја е јадрото на гледиштето на двојката за тоа што претставува семејството. Идејата за романтична љубов имплицира

those governing the public space.

Family is a patriarchal form of organization, having the man as its head and the woman (and children) as subordinate(s). The ‘head’ establishes the rules, takes the decisions, and has power over his subordinate(s). He will not refrain from using his power whenever his subordinates do not obey him. He can exercise his power in private as no law can interfere; from this point of view, family relations may as well resemble the relations between a master and his slaves. I shall start with a few reflections on the institution of marriage and its compatibility with violence. Marriage is a form of organizing social relations between sexes. Once they start a marriage, men’s and women’s lives are radically changed as they are provided with a new social status. Marriage is a hierarchy consisting of one dominating man and one subordinate woman.15 Men’s violence against women is a ‘natural consequence’ of this hierarchy. When we define violence against women, the term “abuse” is neither a scientific nor a clinical concept, but a political one. The abuse is defined as a deviant act by a group that is large enough or has enough political power to define it.16

According to statistics provided by Margareta Hyden in her study of the domestic violence phenomenon,17 domestic violence occurs mainly inside families founded on the idea of romantic love. This idea is the centre of the couple’s view on what family is all about. The idea of romantic love implies intense desires of personal fulfilment and reconciliation. The marital life-style that promises
постоене интензивни желби за лично исполнивање и помиравање. Брачниот животен стил што ветува сексуална сатисфакција, репродукција и заедництво, ја поддрдува токму оваа идеја. Медиумите играат мошна значајна улога во промовирањето на моделот за среќно семејство како норма, а како искуствукуваат на ретки случаи на насилство во семејството. Дури и кога бројот на разведени бракови континуирани се зголемува и „личното“ станува „политично“, институцијата брак останува недопрена. „Проблемот“ се гледа во индивидуите, а не во семејството како форма на патријархална организација.

Патријархатот зависи од учувството на жените заради удобностите што ги нуди. Мажот ѝ обезбедува на жената заштита, финансиска сигурност и општествен статус во замена за пристап до нејзиното тело, нејзината грижа за него и за неговите деца. Во многу случаи, мажот користи физичка сила за да го добие она што може да се земе со сила, како на пример пристапот до нејзиното тело. Токму овде најдуваме на парадокс: идејата за романтична љубов, иако некомпатибилна со каков било вид насилство, е конструирана на начин што го овозможува насилството на мажот над жената. „Романтичниот“ идеал на мажественоста претставува маж кој е силен, храбар, рационален и способен да го издружува семејството, додека жената се јавува како комплементарен лик, кој ужива во способноста на мажот да ја издружува. Како комплементарен лик, таа може да биде идеализирана и почитувана, или да биде третирана како никој и ништо и (ис)користена.  

Мажите како група се одликуваат со моќ и нивната доминација над жените е историски и социјално обликувана конструкција. Насилството на мажите sexual gratification, reproduction and unity maintains this idea. Media plays an important role in promoting the pattern of the united happy family as a norm and scarce cases of abuse inside family as exceptions. Even when the divorce rate is continuously growing and the “personal” has become “political”, the institution of marriage remains intact. The “problem” is seen as belonging to individuals and not to family as a form of patriarchal organisation.

Patriarchy depends on women’s participation due to the benefits it offers. The man provides the woman with protection, financial support and social status in exchange of access to her body, of her care for him and of her having his children. In many cases men use physical power to obtain what can be taken by force, like the access to her body. At this point we encounter a paradox: the idea of romantic love, although incompatible with violence of any kind, has been constructed in a culture that allows violent actions of men against women. The “romantic” ideal of masculinity portrays the man as strong, bold, rational and able to support his family, whereas the woman appears as a complementary character, enjoying man’s ability to support her. As a complementary character she can be either idealized and treated with respect or treated as a nobody and (ab)used. 

Men as a group are invested with power and their domination upon women is a historical and social construction. Men’s violence towards women is part of a patriar-
над жените е дел од патријархалниот систем на моќ и експлоатација. Со оглед на тоа што нашето општество е патријархално и мажите се поврзуваат со вредности, интелект, норми, злоупотребата што ја прават над жените и другите маргинализирани категории е вообичаен општенomen кој што не е очигледен доколку не му се даде соодветно значење.\\n
Патријархалното општество не може да ја заштити жртвата на насилиство и не може да обезбеди соодветни услуги што ќе овозможат помош на жртвите и ќе го овозможат повторното виктимизирање. Наместо тоа, насилиството е направено невидливо и тешко може да се санкционира.

Настојувам да укажам на важноста што ќе има „приватниот“ во однос на „јавниот“ живот. Кога жените се онеовозможени да ја уживат демократијата и да ги уживаваат човековите права во приватниот живот, онеовозможно е и уживавањето на нивните човекови права во јавната сфера, бидејќи она што се случува во приватноста ја обликува способноста за целосно учество во јавната арена. Токму затоа, приватната сфера мора да претставува приоритет за политичарите во имплементирањето на политиките на еднаквост. Постои потреба од закони што ќе се однесуваат на приватната сфера, бидејќи тоа е место каде насилиството тешко се гледа или воопшто не е видливо. Без видлива жртва не постои кривично дело, а без кривично дело нема сторител. Од оваа перспектива, преиспитувањето на прашањето за односите на моќ во семејството и овозможувањето адекватна заштита се императив.

Media both reflects and shapes individuals’ attitudes and lives. They develop behaviours according to the models media provides. In what concerns family, the model pro-
The purpose of this paper is not to analyse all forms of abuse inside family or how these occur; plenty of authors studied exhaustively these phenomena.\textsuperscript{24} I will only draw a few conclusions: the concept of “family” itself defines man as the “head” of the other members;\textsuperscript{25} due to this hierarchical organization of the family the abuse (necessarily) occurs;\textsuperscript{26} whatever happens in private is invisible to the authorities and to the public. In conclusion, we are all aware that women are oppressed in private, yet the laws regarding everyone’s right to “respect for private life” does not allow us to interfere.

\textsuperscript{23}mot ed by the media\textsuperscript{23} is that of the traditional family, having the man as the “head”, traditional bread-winner, producer of material goods, and the woman in an inferior position as the traditional house-keeper, care provider, reproducer. Her unpaid work depriv es her from her financial independence and, in case she works on the labour market as well, it restricts her chances to develop a career as the care she offers her family along with the unpaid work at home takes most of her time. In these conditions, her chances to grow professionally are few; therefore the public sphere does not offer her much satisfaction. She will then search for her personal fulfilment in private, namely in her family, as wife and mother. In order to do so, she will align herself to the “ideal wife” model presented in the media. While assuming the role of the devoted, submitted and supportive wife, the woman enters another realm of interpersonal power relations that finds her in a vulnerable position.

\textsuperscript{24}I will only draw a few conclusions: the concept of “family” itself defines man as the “head” of the other members;\textsuperscript{25} due to this hierarchical organization of the family the abuse (necessarily) occurs;\textsuperscript{26} whatever happens in private is invisible to the authorities and to the public. In conclusion, we are all aware that women are oppressed in private, yet the laws regarding everyone’s right to “respect for private life” does not allow us to interfere.
Paraphrasing Charlotte Burch, if men deny women’s rights as human rights in private, they will deny their rights in the public sphere as well, as they develop a discriminative attitude towards women at all levels. There is a strong connection between private and public. A man who usually aggresses women in private will definitely aggress (verbally, emotionally, physically, sexually) women in public. His act is the same in both cases, yet the law sanctions only the aggression committed in public. To ignore the same act just because it occurs in family makes no sense, especially since family is commonly associated with safety, affection, unity. In here we may say that we deal with double-standard justice rather than with the right to respect for private life. Women who have been aggressed in family suffer even more since they are compelled to live with their perpetrator. They have to live with continuous feelings of fear, anxiety, depression, humiliation, which are against human dignity. In such cases, art. II-61, “Human dignity” and II-63, “Right to the integrity of the person” of the European Constitution do not apply as a consequence of art. II-67, “Respect for private and family life” of the same Constitution. This contradiction affects women disproportionately. However, if we were to consider only the masculine segment of the population, we would not face a paradox. I do not imply that men are never victims of abuse or that the above mentioned contradiction never affects them. I refer mainly to the dominant group of white, heterosexual men. The European Constitution is their product and it takes into discussion only their personal issues.
A common conception and interpretation of human rights assumes that states are not responsible for violations in what has been referred to as the private sphere (such as the household). According to this interpretation states can only be held responsible for violations taking place in the public sphere, that is a sphere largely defined by and composed of men. Such an approach makes power relations in the family invisible and keeps the major areas where women are oppressed away from the public scrutiny. The European Constitution aligns itself to this conservative view despite its equalitarian and democratic appearance. It is not gender-sensitive and it is, in many regards, incomplete.

Contradictions of The European Constitution: Private Versus Public

1. Equality

In the second part of the European Constitution, Title III, “Equality”, art. II-83, “Equality between women and men,” states that “equality between women and men must be insured in all areas,” without clearly mentioning “both public and private.” As law deals only with the public space we can not imply that women and men are equal inside family as well. The article refers only to equality in the public space: “equality between women and men must be insured in all areas, including employment, work and pay.”

I admit I was very confused while reading art. II-83 “the principle of equality shall not prevent the maintenance
of measures providing for specific advantages in favour of the underrepresented sex\(^{35}\) as I could not figure what sort of ‘under representation’ does it refer to. It was not clear whether the term ‘underrepresented sex’ was used to describe the representation as a number or as political power. As a percentage of the population, women outnumber men in many countries. Despite this, their representation inside political structures remains low. The article lacks clarity and leaves room to interpretation.

2. Solidarity

Referring to the status of the family, art. II-93.1\(^{36}\) states that “the family shall enjoy legal, economic and social protection.” The state supports family as it promotes patriarchy and male domination. The section entitled “Family and professional life” defines neither family nor professional life. Moreover, art. II-93.2\(^{37}\) considers that the only tension that may occur when having both a family and a professional life is the dismissal on grounds of maternity: “to reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child.” The interaction between family and career is superficially treated and reduced to matters regarding reproduction. Even so, this is only one possible scenario, as the Constitution does not state that an unemployed woman shall be protected in case she remains unemployed due to her pregnancy or due to her parental responsibilities. We can also conclude that women are the only ones affected by the birth of a child, as men who are about to become fathers do not have to “reconcile” their family life with their professional one. The article uses the term “maternity” and not “parenthood”, which could suggest that both sexes’ professional life may be
татковци не мора да го „помират“ нивниот семеен и професионален живот. Членот го користи терминот „мајчинство“, а не „родителство“, што би сугерирало дека рабањето на дете или родителскиот статус ќе влијае на професионалниот живот и на двата пола. Наместо тоа, терминот „мајчинство“ јасно укажува дека жените се единствените што може да бидат жртви на дискриминација по основ на родителски статус. Нашето општество смета дека децата се во целост одговорност на мајките, а професионалниот живот на мајките воопшто не е засегнат од неговиот родителски статус, бидејќи традиционално тој не е негувател, туку хранител. Ова е одраз на реалната состојба, имено на нееднаквата поделба на одветните во семејството и влијанието што го има на општественото живот на поединците. Европскиот устав не се ослободи од патријархалниот поглед врз улогите на родовите во семејството. Во вакви услови не можеме да говориме за партнерство во бракот, туку поскоро за хиерархиски модел во кој сите општествени привилегии им припаѓаат на мајките. За жените се расправа кога станува збор за репродукција и мајчинство. Проблемите со кои се соочуваат во другите области од животот, како гореспоменатите, не се замени предвид во посебен оддел. „Невидливост“ на особените женски проблеми (нееднаквото третман заснован врз предрасуди, дискриминација врз основа на род, насилство врз жените, и др.) не укажува дека двата рода се сметаат за еднакви и соодветно третрани, туку поскоро дека Европскиот устав адресира главно машки сегмент (пожело бел и хетеросексуален). Родовата еднаквост не значи дека сите жени и мажи ги имаат истите потреби, потребите на мажите – со единствениот исклучок што претставниците од женскиот род рабааат. Од оваа перспектива, Европскиот устав не е родово неутрален, туку родово слеп. Можеме да претпоставиме дека Европскиот устав е напишан од и за мажи.

affected by the birth of a child or by the parental status. Instead, the term “maternity” clearly suggest that women are the only ones who may be victims of discriminatory behaviour on grounds of parental status. Our society considers that children are entirely their mother’s responsibility and that a man’s professional life is not at all affected by his parental status since he is not the traditional care-provider, but the traditional bread-winner. This is a reflection of a real fact, namely the unequal division of responsibilities inside family and their impact on individuals’ social lives. The European Constitution did not free itself from the patriarchal view on gender roles inside family. In these conditions we can not talk about a partnership inside marriage, but rather about a hierarchical model where all social privileges belong to men. Women come into discussion due to reproduction and motherhood. The particular problems they face in other areas of life are not treated in a special section as in the above mentioned example. The “invisibility” of women’s particular problems (unequal treatment based on prejudices, discrimination based on gender, violence against women, etc.) does not suggest that both genders are considered equal and treated accordingly, but rather that the European Constitution addresses mainly a masculine segment (preferably white and heterosexual). Gender equality does not mean that all women and men have the same needs, namely men’s, with the only exception that the female representatives of the species give birth. From this perspective the European Constitution is not gender-neutral, but rather gender-blind. We may assume that the European Constitution has been written by and for men.
To a closer look we can see that amendments for citizens of other races or sexual orientation, for instance, are also missing. The particular problems related to their particular condition are not taken into consideration. We might think that everyone is treated as equal and the same laws apply to all, but such an attitude is incompatible with diversity, pluralism, multiculturalism. Although it claims to encourage diversity, the European Constitution resumes all this support in a few sentences, in Part III, “The Policies and the Functioning of the Union”, Title II, “Non-Discrimination and Citizenship,” art. III-124.1: “Without prejudice to the other provisions of the Constitution and within the limits of the powers assigned by it to the Union, a European law or framework law of the Council may establish the measures needed to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Council shall act unanimously after obtaining the consent of the European Parliament” and in Part II, “The Charter of Fundamental Rights of the Union”, Title III, “Equality”, article II-81 ‘Non-discrimination”: “1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited; 2. Within the scope of application of the Constitution and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be prohibited” and in article II-82, “Cultural, religious and linguistic diversity”: “The Union shall respect cultural, religious and linguistic diversity.”
Once again, the European Constitution neglects to give us details on how the anti-discriminative programmes shall be implemented at all levels of society. In extension I may add that none of the above mentioned minorities shall be discriminated as long as they align themselves to the standards of the dominant group and they all pretend to be white heterosexual men.

3. Freedom

As a consequence of the unequal power relations inside family, women are or may be victims of violence and abuse. Maintaining or allowing the existence of the traditional/patriarchal family and at the same time promoting democratic laws leads to a major contradiction regarding both freedom and human dignity. Title II “Freedoms,” article II-66, “Right to liberty and security,” states that “everyone has the right to liberty and security of person.”41 Article II-67, “Respect for private and family life,” states that “everyone has the right to respect for his or her private and family life, home and communications”42 and comes into contradiction with the previous. Since in private abuse of all kinds is tolerated, and, at the same time, made invisible, this law does neither apply to nor address women. If the law can not interfere within one’s family and can not sanction the abuse that occurs, it reduces to silence a large segment of the feminine population, thus depriving them of their “constitutional” rights.

3. Слобода

Како последица на нееднаквите односии на моќ во семејството, жените се или може да бидат жртви на насилиство и злоупотреба. Одружувањето или овозможувањето на постојането на традиционално-to/pатријархално семејство, и истовременото промовирање на демократски закони, води кон голема контрадиција во однос на слободата и човекото достоинство. Насловот II „Слободи“, во чл. II-66, „Право на слобода и сигурност“, одредува дека „секој има право на слобода и сигурност на личноста.“ Членот II-67, „Почитување на приватност и семејност живот“, утврдува дека „секој има право на почитување на неговиот или нејзиниот приватен и семеен живот, дом и комуникации“ што е контрадикторно на претходно казаното. Со оглед на тоа што во приватноста злоупотребата од каков било вид се толерира и истовремено е направена невидлива, овој закон не важи за жените, ниту ги споменува. Ако законот не може да се меша во нечиј семеен живот и не може да ја санкционира злоупотребата што се случува, тој замолчува голем дел од женската популација, лишувајќи ја така од нејзините „уставни“ права.
Regarding the “heterosexual discourse” we may say that article II-69, invests only heterosexual citizens with the “Right to marry and right to found a family”: “The right to marry and to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights.” Yet, in few countries the “national laws” allow homosexual marriages, therefore this right does not apply to the entire segment of the homosexual population.

Title II of the European Constitution, provides the masculine heterosexual citizens with “freedoms,” excluding “marginal” categories as women and homosexuals.

4. Freedom of Expression – Women’s Representation in the Media

In what concerns article II-71, “Freedom of expression and information,” which states that “2. The freedom and pluralism of the media shall be respected,” there are plenty of things to be said. The freedom of expression and information is, nevertheless, a basic human right. However, this coin has two faces, as media’s role is not only to inform, but also to form. When the materials media provide distort reality and violate the human rights of a certain social category we face a dilemma: on what basis may the Constitution restrict media’s freedom of expression without being accused of censorship or surveillance; and to what extent should the Constitution protect the human rights of the categories misrepresented in the media? Media representation of reality in general and of women in particular is one delicate issue. I will focus on the interaction between the representations of women in the media and women’s human rights.

4. Слобода на изразување – средства представува за жените

За членот II-71, „Слобода на изразување и информација“ кој гласи „2. Џе се почитуваат слободата и pluralизмот на медиумите“, може многу да се зборува. Несомнено е дека слободата на изразување и информирање се основни човекови права. Меѓутоа, станува збор за две страни на иста работа, бидејќи улогата на медиумите не е само да информираат, туку и да обликуваат. Кога материјалот што се презентира преку медиумот ја искривува реалноста и ги прекршува човековите права на одредена општестествена групa, се соочуваме со дилемата: на која основа Уставот ќе може да ја ограничи медиумската слобода на изразување, без притоа да биде обвинет дека цензурира или контролира; и до која мерка Уставот би требало да ги штити човековите права на группите што се помалку застапени во медиумите? Медиумското претставување на реалноста воопшто, а на жените особено, е мощне деликатно прашање.
Јас ќе се фокусирам на интеракцијата помеѓу претставеноста на жените во медиумите и човековите права на жените.

Овде не се задржуваат на улогата на медиумите да информираат, да презентираат реални факти, туку на нивната улога да ги интерпретираат тие факти, да ги обработат (искривените) сликите од реалноста што се асимилирани од јавноста како да се реалност сами по себе. Во ерата на масовна култура, медиумите ги елиминираат вистинските и истовремено создаваат погрешни потреби, но и погрешни слики. Сликите преовладуваат, бидејќи јавноста не е повеќе во можност да размислува користејќи апстрактни концепти. Јавноста може да си го претстави она што може да се види и допре. Бидејќи медиумите ја научија јавноста дека она што не може да биде претставено со сlika, не може да постои. Во креирањето на реалноста, медиумите оперираат со стереотипи. Јавноста може да си го претстави она што може да се види и допре. Бидејќи медиумите ја научија јавноста дека она што не може да биде претставено со слика, не може да постои. Во креирањето на реалноста, медиумите оперираат со стереотипи. Мојата критика не е насочена кон слободата на медиумското информирање, туку кон слободата на интерпретирање и реконструирање на општествените концепти за замајување на јавноста. Медиумските конструкција на родовите улози го рефлектираат, одржуваат и промовираат патриjarхално организираното општество, притоа користејќи стереотипи. Во медиумите жените се претставени главно како слика, со единствена цел да возбудуваат или декорираат. Вообичаено, тие се асоциираат со семејната сфера и на нејзен комплементарни концепти.

Претставата на жените во медиумите се дели на две основни групи: медиумска претставеност на жените за жени и медиумска претставеност на жените за мажи. Додека некој можеби би бил наведен да помисли дека ова се два тотално различни дискурси, би бил изненаден да открие една огромна сличност:

In here I do not refer to media’s role to inform, to present real facts; but to it’s role to interpret facts, to manufacture (distorted) images of reality that are assimilated by the public as if they were reality itself. In the era of mass culture media eliminates real needs and at the same time creates false needs, as well as false images. The image prevails, as the public can no longer think using abstract concepts. The public can only represent what they can see and touch. For the media nurtured public what can not be pictured under the form of an image can not exist. In building reality media operates with stereotypes. My critique does not target media’s freedom to inform, but its freedom to interpret and to reconstruct social concepts and to delude the public. The media construction of gender roles reflects, maintains and promotes the patriarchal organisation of society by using stereotypes. Women are represented in the media mainly as images, with the only purpose to arouse or to decorate. They appear commonly associated with the domestic sphere and in complementary hypostases.

Media representations of women are divided into two main groups: media representations of women for women and media representations of women for men. While one would be inclined to believe that their discourse radically differs, they would be surprised to discover one huge similarity: both media materials for men and for
women portray the woman as an object, as an image. There is a difference though: for men women appear as sex-objects, while for the other women, they appear as aesthetic objects.45

Media products such as films, TV series, magazines, TV shows, web pages, etc., aim at defining women according to the patriarchal organization of society. Media plays an active role in forming individuals’ identities and shaping their attitudes. The growing importance of the image undermines women’s social position. It annihilates their subjectivity and it affects their personality. Women have to obey men’s desires and beauty standards, being valued mainly as beautiful (sex)objects.

This ideal of femininity strengthens male domination, since women must look good with the only purpose of attracting and keeping a man. The media pictures women as sex-objects, usually young, thin, beautiful, passive, submissive, dependent, often incompetent and stupid. Women’s image as submitted (sex) objects also results in a discriminatory attitude of men towards women, as they expect them to be passive, obedient, dependent, good-looking, etc., in other words, like media portrays them. Men will also be inclined to value women less as, according to their media image, women are inferior to men in many regards and can not manage without them.

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According to the media, women are seen first of all as images; their main concern is to become a beautiful image and to preserve their beauty, thinness and youth. For this purpose they are willing to focus most of their energy and to spend most of their money. Nevertheless, the ideal of beauty promoted in the media is an important source of income for various industries (everything related to show-biz in general, advertising industry, cosmetic industry, fashion industry, medical and pharmaceutical industry – from plastic surgeries to psychiatry treatments, just to mention a few). That is no surprise since media is an important instrument reflecting both state’s policy and economic interests.

The ideal of beauty is a double trap: first of all no woman can look like an adolescent at all stages of her life. Her failure to reach this ideal, despite all efforts results in low self esteem and lack of self confidence. Secondly, she neglects her professional development. She invests time, energy and money in order to look beautiful and not to build a career. Since in most cases she fails to reach the beauty standards, the lack of self confidence and self esteem will draw her back professionally as she won’t feel able to compete with men on the labour market. Media and society taught her to seduce men, not to challenge them. As a consequence, “the ideal of beauty and femininity” has much deeper implications, such as the elimination of a large number of women from the labour market, namely from the high paid positions on the labour market. Instead women will remain on subordinate, low paid positions that allow their exploitation on labour market as well.
Apart from the psychological and economical implications that are not the object of this study, I try to point out the violations of women’s human rights that occur due to their representations as objects. Women are reduced to their bodies, to their sexuality; they are objectified and therefore, seen as inferior to men. The unlimited freedom of expression and information allows media to portray women according to economical, political or financial interests that violate women’s rights to dignity, respect and equality with men. The European Constitution no longer protects their rights once it guarantees unrestricted freedom to the media. Article II-71.2\textsuperscript{46} is vague and does not take into consideration any exceptions.

The media discourse resembles the political discourse in so far as it promotes a dominant pattern (for instance, a certain image for women) and it excludes or presents as negative everything that does not subscribe to or contradicts the dominant model.

Media can also be used as a political instrument to delude the public. The freedom of the media should not be regarded merely as the freedom to spread whatever information; media should also be freed from the external influence of those who support it materially. Media representations of reality can be manipulated according to the political or financial interests of the dominating group. Their view will become the dominant one and shall be internalized and adopted by the public. The European Constitution does not protect the integrity of the media or that of the politically or financially underrepresented groups.
5. Dignity

Article II-61 “Human dignity” states that “Human dignity is inviolable. It must be respected and protected.”

Due to legally permitted inequities in the family, article II-63, “Right to the integrity of the person,” which states that “everyone has the right to respect for his or her physical and mental integrity,” although claiming to address “everyone,” can not apply to abused wives. Living with an abusive partner, both women’s physical and mental integrity is affected.

Violence against women is predictable within a culture that promotes hatred towards women. This culture teaches men to become violent and one of the instruments it uses is pornography. Pornography can be seen as a “manual” for objectifying women by reducing them to their sex and legitimates violence against women by sexualizing it. Pornography is the result of a very well-thought marketing strategy, a global industry founded on capitalism, racism and patriarchy. This kind of violence remains unsanctioned as, according to its defendants, if pornography were censored freedom of expression would be restricted. But what happens when a group’s human dignity is affected by another group’s exercising their freedom of expression? The European Constitution does not take that into consideration and does not provide an answer as it addresses only the dominating group.
Заклучоци

Наставував да ставам акцент на јасната контрадикторност помеѓу тезите од Европскиот устав и вистинските права на жените, рефлектирани од нивното животно искусство. Исто така, наставував да укажам дека жените не се соодветно препредставени во Уставот и дека се сведени на не повеќе од одгледувања на деца и замолчени индивидуи. За таа цел, постојано користев серија ключни концепти како „јавен простор“ наспроти „приватен простор“, „семејство“; „основните права загарадирани со Европскиот устав“, „сLOBОДА на изразување“, „сLOBОДА на медиумите“, „медицинската претстава на жените“ наспроти „женски права“. Сите овие концепти се меѓусебно поврзани и целот мој esej e заснован на нив. Ги користев за акцентирање на спротивставеноста помеѓу мажката претстава на реалноста и човековите права соодветни за мажите, од една, и реалноста во која живеат жените и недостаток од соодветни права, законо и изјави, од друга страна. Дотолку повеќе што, како што беше и покажано, некои од мажките права и слободи ги прекршуваат уставните права загарадирани за жените.

Од мојата гледна точка, како што се покажува и од мојата кратка студија, потребно е Европскиот устав да биде ревидиран, за да ги вклучи специфичните проблеми и потреби на жените, да обезбеди заштита и права во приватната сфера како и санкционирање на дискриминаторските и опредметуваачките претстави за жените во медиумите.

Сё додека Европскиот устав не ги обезбеди жените со закони што ќе ги штитат од домашно насилиство, брачно сила ување, недостаток од слобода итн., во семејството, но и во јавната сфера, сё додека Европ-

Conclusions

I intended to highlight the sharp contradiction between the statements of the European Constitution and women’s real rights as far as their life experience is concerned. I also intended to point out that women are not represented appropriately in the Constitution, but they are reduced to mere child-bearers and silenced as individuals. In order to do so I repetitively used a series of key-concepts such as “public space” versus “private sphere,” “family;” “fundamental rights guaranteed by the European Constitution,” “freedom of expression,” “freedom of the media,” “media representations of women” versus “women’s rights.” These concepts are interconnected and my entire essay was built on them. I used them in order to mark oppositions for, on the one hand we deal with a masculine representation of reality and human rights suited for men and, on the other hand, with the reality women live and with the absence of suited rights, laws and statements. Moreover, some of men’s rights and freedoms violate the constitutional rights granted to women, as shown.

From my point of view and as it results from my short study, the European Constitution needs to be reviewed so as to include the specific problems and needs of women, to provide protection and rights in the private sphere and to sanction discriminatory and objectifying representations of women in the media.

As long as the European Constitution does not provide women with laws defending them against domestic violence, marital rape, lack of freedom, etc., inside family as well as in the public sphere, as long as the European
конституција не ги адресира специфичните проблеми со кои се соочуваат жените во јавната сфера, не можеме да кажеме дека неговите закони се родово неутрални, туку родово слепи. Жените се замолчени и како субјекти и како објекти, направени се невидливи, иако истовремено постојат во општеството сè додека станува збор за репродукционата на човечките сущности во смисла на нивната функција да им помогаат на мажите да ги изведуваат нивните конвенционални јавни улоги.51

Превод од англиски јазик: Марина Ковачиќ

Notes:


29. види http://europa.eu.int/constitution/en/ptoc15_en.htm#a79

30. види http://europa.eu.int/constitution/en/ptoc16_en.htm#a85

com/, http://www.elle.com/, http://www.vogue.co.uk as women representations for women.


49. see Andrea Dworkin, Razboiul Impotriva Tacerii (оригиналн титул Letters from a War Zone) (Iasi: Polirom, 2001); Margareta Hyden, Woman Battering as a Marital Act. The Construction of a Violent Marriage (Scandinavian University Press, 1994).


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