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THE TECHNOCRACIZATION OF ORGANIZED INTERESTS IN THE EU

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L'idea alla base di questo approccio è che sia non solo desiderabile ma istituzionalmente possibile muovere verso forme di politica «civile», informate a quel «pluralismo ragionevole» che Rawls ha indicato come tratto caratterizzante del liberalismo politico. Identificare i contorni di questa nuova «politica civile» è particolarmente urgente e importante per il sistema politico italiano, che appare ancora scarsamente preparato ad affrontare le sfide emergenti in molti settori di policy, dalla riforma del welfare al governo dell'immigrazione, dai criteri di selezione nella scuola e nella pubblica amministrazione alla definizione di regole per le questioni eticamente sensibili.

TABLE OF CONTENTS

KEYWORDS

expertise, technocracy, European Union, consultancy, legitimacy

ABSTRACT

THE TECHNOCRACIZATION OF ORGANIZED INTERESTS IN THE EU

The paper broadly explores the role of interest groups and research organizations in European policy-making. In particular, the author examines the landscape of interest representation during the earliest stage of policy formulation between the European Commission and relevant policy stakeholders. In order to make well-informed policy proposals, the Commission consults with numerous organizations. However, many valuable consultations are increasingly limited to a few groups where only those with technical knowledge and expertise are invited to participate. The author argues that such exclusive arenas of decision-making give rise to specific organizational forms, in particular NGO-consultancies, which are more technocratic and professionalized than traditional advocacy groups. She conceptualizes technocracization, therefore, as a set of simultaneous and mutually-reinforcing institutional changes both in the structure of European interest intermediation and in the organizational convergence of interest groups towards expert-driven research. This technocracization of organized interests is not uncommon in contemporary democracies, yet on the European level, where advocacy groups are weak and the transparency of interest representation is low, such trends intensify the European Union's democratic deficit. She looks at these organizational changes by tracing the evolution of interest participation in the Commission for the making of European anti-discrimination policies from 1992-2008. She observes that rights-based groups have slowly transformed their objectives, research capacities, and even identities to resemble NGO-consultants.

The Technocracization
of Organized Interests in the EU

Introduction

Interest participation at the transnational, European level has been commonly described as pluralist, ad-hoc, and weak in comparison to local or national level interest politics (see Meyer and Imig 1993; Marks and McAdam 1996; Mazey and Richardson 2001). In the European Union, groups that represent distinct "European" interests usually take a back seat to well-established national and corporate organizations that have a crystallized agenda and greater financial resources to lobby European institutions. This is primarily because Euro-groups are typically funded by the European Commission in order to build and sustain a robust civil society for wider European issues in Brussels. Several scholars have therefore turned to exploring how interest groups interact with policy-makers in the context of a more formalized, rules-oriented policy process. Such technocratic venues of participation often constrain the opportunities and choices available to organized interests, which often lead to a growth in professional representation grounded in expertise. As a result, scholarship on the regulatory and technocratic features of the EU interest representation and policy-making, such as on the regulatory state, committee governance, and the politics of expertise, have virtually replaced the literature on interest mobilization and social protest (see Majone 1997; Joerges and Vos 1999; Radaelli 1999).

This trend of technocracization, I submit, has been mostly explained in terms of ongoing structural and institutional changes within EU institutions, rather than the organizational developments in larger policy circles and civil society. However, any comprehensive conceptualization of technocracization must incorporate the simultaneous professionalization and scientization of the policy process and organized interests. In other words, technocracization is a mutually-reinforcing transformation of structural and agential components of policy-making that reflect the growing appeal of technical forms of expert knowledge and competencies. It is a more specific form of professionalization that sees the role of technical expertise as the dominant manner in which to channel ideas and knowledge. In the last fifteen years, we have seen significant shifts towards a more technocratic and expert-based form of interest representation at the European level.

In this paper, I will first examine the structural characteristics of technocratic governance and the norms of legitimacy that accompany it. Second, I will look closely

at internal organizational characteristics and organizational change as groups articulate their demands to the Commission during early policy formulation. I argue that technocracization compels organizations to acquire expert competencies to effectively access the policy process and become the ideational entrepreneurs of their policy domain. Using the drafting of EU anti-discrimination policies in two separate policy periods between 1992-2008 as a case study with which to frame my analysis, I trace how technocracization has shifted prominent venues of consultation in the EU towards expert groups and the organizational identities of interests towards a converging model of NGO-consultancies.[1]

TECHNOCRATIC GOVERNANCE

The growth of technocratic governance in the EU has been marked by an increased de-politicization of decision-making, heightened rules-making (or re-regulation) in the EU executive, and the delegation of decision-making to non-majoritarian institutions. Moreover, the European Commission relies on external expertise in order to craft policies that effectively address the concerns and preferences of numerous groups and member countries. External consultations, however, are frequently conducted in non-transparent venues and limited to a narrow group of stakeholders and researchers. Despite efforts to expand interest participation to diverse interest groups, expert consultations of this nature dominate the policy process. Many agree that the technocracization of interest intermediation and the lack of wide interest representation contribute to the growing democratic deficit in the EU (see Christiansen 1997; Beetham and Lord 1998). Indeed, Andersen and Burns (1996) find that there are three distinct mechanisms of participation in the EU: interest group representation, national representation, and expert representation (i.e. representation that emphasizes rationality and effectiveness).

The role of expertise in policy-making falls across several strands of important scholarship, including the science in policy and knowledge transfer literatures. Jasanoff (1996) argues that science has become the "5th branch of government" in the United States. However, Jenkins-Smith (1990) asserts that expert analysis and less overt politics often creates a technocratic policy environment that is inimical to the democratic process. Since expertise is endowed with functional effectiveness and output legitimacy based on substantive skills and competencies, expert authority presents a perceived threat to democratic-input forms of legitimacy based on procedural norms (see Kohler-Koch and Rittberger 2006; Scharpf 2009; Schmidt 2010). In short, a rise in output legitimacy would diminish the need for participatory forms of governance. In the context of the EU, Radaelli (1999) examines how expertise is typically counterbalanced with the logic of politicization. Nevertheless, Radaelli warns that we should not overly stress the tensions

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[1] NGO = non-governmental organization.

between technocractic and democratic forms of governance. Instead, one cannot exist without the other, and the only solution he offers is it to make expertise more transparent and accountable to the public. Majone (1997) calls this the "giving reasons" requirement—to improve the legitimacy of non-majoritarian institutions, regulators must give reasons for their decisions.

Problems of accountability and transparency in the EU are compounded by the complex system of policy-making and comitology that truly reflects technocracy at work. In an edited volume, Joerges and Vos (1999) show that the evolution of comitology resembles an analytical framework for European integration. Furthermore, many Commission officials believe that the Commission should be a technocratic body to define what is best for the public interest, undeterred by outside interests and constituencies. According to one representative from DG Transport and Energy, "It's not the Commission's job to relate to people."[i] The Commission commonly uses expert knowledge in order to legitimize its authority in policy-making. Accordingly, it tends to present policy proposals in a rather technocratic, non-ideological way.

STRUCTURAL TECHNOCRACIZATION: CREATING EXPERT VENUES

The ways in which ideas and information are diffused and received in the policy process depend very much on the structure of interest intermediation used during policy formulation. The European Commission is a focal point of my study as it represents the main venue of expert knowledge transfer and policy formulation. The Commission employs a range of consultative venues to gather information, data, and policy solutions from interest groups and technical experts. Officials participate in conferences and workshops, hold meetings with researchers, and sit on advisory boards for research programs. Depending on the policy proposal, the Commission also consults with relevant independent regulatory agencies. To the public, independent agencies serve as important sources of legitimacy that contribute to effective governance. My paper will primarily focus on the earliest stage of policy formulation, or agenda-setting, in order to isolate and examine the most important venues of consultation.

Consultation ranges from open forums, such as online surveys and large conference proceedings, to closed venues such as expert groups and structured dialogue between a designated social partner and the Commission. Open consultations usually resemble large board meetings, which may only permit each representative five minutes to present their platform. While the Commission tries to promote a more diverse civil society, many interest groups feel that they are routinely shut out of the most important venues of policy-making, the expert groups.[ii] Consultations in special advisory committees, called expert groups, have become one of the most crucial forums for exchanging ideas and creating policy proposals. Commis-

sion Directorate-Generals often establish expert groups, comprised of a small number of national representatives, interest groups, and expert researchers, to discuss the direction and particularities of EU policies in their domain over time (Larsson 2003). They are typically highly technical and participants are informally selected by the Commission.

In 2000-2008, the number of expert groups in the EU increased by 40%, and currently there is one expert group for every eight officials working in the European Commission, with total numbers exceeding 50,000 groups (Gornitzka and Sverdrup 2007; Alter-EU 2008). Most recently, technical expert organizations, which primarily employ researchers, statisticians, and lawyers, have gained entry into expert advisory committees. They have done so by offering policy-makers insights into the systematic techniques and methodologies used to collect information and data about specific policy scenarios and proposals. These particular experts possess critical competencies regarding the decision-aiding tools (cost-benefit analysis, contingency valuation, etc.) that are employed to find various policy solutions. In addition to the instrumental value of expert groups, technical experts also endow the committee with an "enlightenment value," that is the ability to provide a broader perspective on policy issues without ties to vested interests (Barkenbus 1998). Thus, technocratic actors are gaining influence in the shadow of formal structures, such as expert groups and independent agencies, which are highly insulated from public scrutiny.

AGENTIAL TECHNOCRACIZATION: CREATING EXPERT CONSULTANCIES

The increased use of scientific and research-based organizations by the Commission to consult those with knowledge and expertise within certain policy domains, such as risk regulation in social policy and climate change in environmental policy, have led many to question the reach and legitimacy of the European "regulatory state" (Majone 1997). Technical expert organizations not only possess the capacity to analyze information, but they have begun to identify policy problems, differentiate policy solutions, and define the parameters of many policy debates. In short, technical experts have become powerful ideational entrepreneurs.

Scholars have offered a variety of concepts to define this collectivity of experts that can shape policy agendas. At the international stage, experts that are bound by a common policy goal and share similar preferences and methodological views have been popularly conceptualized as an epistemic community (Haas 1992), an advocacy coalition network (Sabatier 1988; Sabatier and Jenkins-Smith 1999), or collective entrepreneurs (Zito 2001). Haas defines an epistemic community as "a network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge" (Haas 1992: 3). His concept clearly has analytical traction in understanding the role of expertise in

politics, that it introduces the weight of expert knowledge and ideas in policy domains characterized by uncertainty and interpretation. Yet this strand of literature assumes that policy domains at the transnational level are unsettled landscapes and easily open to new actors with fresh and smart ideas. In many ways, the concept of an epistemic community can only be invoked when the network of professionals have already reached positions of bureaucratic power.

However, organizational formation and entry into the policy process is not an organic process, as actors compete for access and influence within intricate and tightly woven policy fields. We must therefore ask: how have certain expert communities gained credibility in valuable policy circles while others remain at the margins? And most importantly, who are these expert professionals and what are their objectives? Do epistemic communities also include policy-makers in the Commission or European Parliament that support a given position? Finally, what defines expert knowledge in the community? I argue that in the EU policy process, windows of opportunity to sway policy agendas are closing as technocracization limits access to those with particular skill sets. Unlike epistemic communities that are able to spring up and instantaneously access policy-makers, expert organizations of a technical nature must develop and nurture relationships with political institutions and interest organizations. In the present literatures, we know very little about what organizations experts represent, what professional functions they hold, and how they interact with one another.

Recent work on the evolution of American think tanks, policy institutes and specialized agencies could help to illuminate how ideational entrepreneurs organize and navigate complex policy environments in the EU (see, for example, Fischer 2005; Hird 2005; Rich 2006). Weiss (1992) argues that expert organizations fill a gap in the political structure caused by fragmentation in the government, and do so "with a philosophy of 'rationality,' 'logic,' 'evidence,' and 'expertise,' that is especially appealing to the American mind." Few organizations can aggregate interests and navigate elaborate policy processes. In order to meet the challenges of European multi-level governance, Majone advocates the agency model represented by flexible, specialized independent regulatory agencies that operate by contractual agreements "at arms length from central government" (Majone 1997: 152). Such a delegated (or proxy) government to experts and regulators relies on the legitimacy of scientific and economic knowledge that the language of "regulatory science" offers (Majone 1997: 157). Thus, technical experts typically do not consider themselves as policy experts, but rather as good scientists and researchers in their general fields. This need to distinguish expertise and research from politics reflects the delicate "boundary work" between science and policy that many expert organizations, such as think tanks and regulatory agencies, engage in to advance legitimate policy research (see, for example, Jasanoff 1990; Guston 2001).

The rise of NGO-consultancies

Technocracization has given rise to a new breed of expert research organizations that straddle technical and policy expertise, what I call a 'NGO-consultancy'. They differ from advocacy groups, think tanks, agencies, and public affairs consultancies across numerous measures: organizational formation, professional composition, funding resources, frequency and nature of interaction with the Commission, frequency and nature of interaction with organized interests, organizational objectives, and measures of success or failure. Unlike other research-based organizations, NGO-consultancies mainly begin as advocacy groups and then gradually professionalize their organizational competencies and objectives to align with the technocratic momentum of the Commission. To be more competitive with other expert research organizations and agencies, NGO-consultancies have begun to employ technical experts rather than policy experts, shifting their services from issue-based policy advice to general research. The most successful NGO-consultancies have insider knowledge of Commission proposals, because they are explicitly contracted to research on the Commission's behalf.

According to Jasanoff, "Science represents for many the only universal discourse available in a multiply fragmented world" (Jasanoff 1996: 173). Therefore, NGO-consultancies present research with claims to value-neutrality to help policy-makers better assess policy alternatives. On the other hand, this claim is problematic when different research organizations vie for access to political institutions. Some research organizations claim political neutrality, while others don a "mask of neutrality" (Radaelli 1999: 25). One EU lobbyists also finds that the proliferation of expert researchers with unknown policy agendas has changed the nature of evidence-based policy-making, making it more difficult for political officials to distinguish between evidence-based policy-making and a controversial "policy-based evidence-making."[iii] It is unclear then how NGO-consultancies hope to overcome their issue biases and provide a clear definition of their objectives.

For the majority of interest groups and industry lobbies that routinely compete for leverage in the policy process, the primary effect of technocracization is a convergence towards a NGO-consultancy model. Just as the structure of restricted forums of consultation compels interest organizations to adjust their service portfolio, the rise of NGO-consultancies reinforces technocratic methods of participation. Technical expertise has become the only game in town. In the last decade, European NGOs and unions have established internal research divisions to compliment their advocacy work. Several NGOs also contract independent researchers as a way to build their own policy credibility. For example in 2007, Greenpeace-EU contracted the work of Transport and Mobility Leuven (TML), a private research consultancy, to understand how models for vehicle emissions targets are conceived in the EU. TML was one of the consultancies contracted by the Commission to develop EU car emissions policy since the mid-1990s. While this is an example of a more measured form of technocratic adjustment, some are alarmed

of a complete transformation in the nature and identity of NGOs (see, for example, Bäckstrand 2003). Moreover, the proliferation of corporate-sponsored front groups in Brussels, which "hide their identities by masquerading as grassroots coalitions or by affiliating themselves with neutral organizations," makes the identification of interest from research much more difficult (Rosenstock and Lee 2002: 15).

In the next section of the paper, I will explore the different ways in which specific forms of organization building and the rise of expert consultations have mutually reinforced the technocracization of organized interests. I look at these developments within the formulation of EU anti-discrimination policies, a politically charged policy domain that is not typically considered a technocratic or depoliticized issue area where expert discourse dominates. By employing this sectoral approach across two policy periods, I can more accurately measure the changing interactions among interest organizations that pursue a common agenda, as well as isolate the role of technical expertise in the European Commission in each policy period.[2]

CASE STUDY: LEGAL EXPERTISE IN EU ANTI-DISCRIMINATION POLICY

Characterizations of the EU policy process as messy, informal, and network-like overlooks the rapid professionalization of interest intermediation and the importance of expertise in formulating policy. Recent studies on European anti-discrimination policy have pointed to a growing role of legal experts within EU institutions to activate change and introduce innovative rights regulation (see de Búrca 2006; Sabel and Zeitlin 2008; Lasser 2009). Sabel and Zeitlin point to fundamental rights and anti-discrimination legislation in the EU as a policy area dominated by "experimentalist regulation" in which policy-making predominantly consists of rules-making that is bolstered by peer review accountability. In this vein, participation in the policy process really amounts to deliberations over the legal interpretation of litigation and the delicate transposition of previous laws. Lasser (2009: 26) writes that there is indeed a race to the top "rights revolution" in the policy field, documenting that a unitary doctrinal and procedural fundamental rights framework in European legal terms is driven by "savvy" individual litigants, academic commentators, and institutional actors of the courts.

Turning to my case study, I ask several questions regarding the EU anti-discrimination policy domain: who are the main actors in policy formulation and how do they access the policy process? What are the key debates and points of contention? And finally, how has policy-making evolved? To answer these questions, I trace the interactions between organized interests and the European Commission over

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[2] For more on the sectoral approach in the study of interest participation, see Meyer and Imig 1993.

two key policy periods—the development of Article 13 in the Treaty of Amsterdam and its subsequent Directives (1993-1999) and the extension of the Employment Equality Directive to discrimination grounds beyond race and ethnicity (2004-2008). In the early 1990s, anti-discrimination policy across the European Union was very uneven. Only six member states—Austria, Belgium, France, the Netherlands, Great Britain, and Sweden—had specific anti-discrimination legislation, though with varying interpretations of discrimination. With further enlargements of the Union on the horizon, many rights-based groups began to pressure their national governments and EU parliamentary representatives to place a harmonized approach for anti-discrimination onto the European policy agenda.

Policy period 1 (1993-1999): crafting an agenda

Given the diversity of beliefs on human rights and minority protection across Western and Eastern Europe, many hoped to reach a harmonized, European approach on anti-discrimination before enlargement processes. The Starting Line Group (SLG), a UK-based NGO alliance of pro-migrant and rights-based organizations, was established in 1992 with this goal in mind.[3] A series of racial and xenophobic attacks across Europe in the early 1990s also catalyzed the need for wider anti-discrimination laws at the European level. In 1993, the coalition drafted a proposal for European legislation, called the 'Starting Line,' which broadly outlined legal measures to prohibit direct and indirect discrimination on the grounds of race and ethnic origin in various contexts, such as the workplace, education, and welfare. At the same time, the Commission responded that equal treatment on discriminatory grounds beyond gender was integral to an effective free movement of persons and market integration. In campaigning for increased EU competences in this policy area, the Starting Line Group focused specifically on combating racial and religious discrimination (see, for example, Niessen 2000).

The SLG had backed away from advocating a far-reaching legislation. Instead, the group switched tactics and began to formulate a proposal, renamed the "Starting Point," to amend the Treaty establishing the European Community and to grant the EU competence to legislate on grounds of discrimination. In preparation for the 1996 Inter-Governmental Conference, the SLG convened a number of advisory committees to generate support for the Starting Point campaign. To do so, the group mainly used a technical approach to compare national anti-discrimination legislations across the EU and emphasized the production of comparative policy research in their organization. Consequently, the SLG concentrated on combating discrimination though the adoption of concrete legal measures and sanctions (see Chopin 1999). They had enlisted lawyers, academics, and a former official of the European Commission to help draft a sample directive that would

[3] See Chopin 1999 for a comprehensive historical narrative of the Starting Line Group and its subsequent contributions to the development of European-level anti-discrimination policies.

combat discrimination against racism. The document had incorporated similar legal language found within established international and national legislation on gender equality, such as Article 119 of the Treaty of Rome and the 1976 Equal Treatment Directive on gender equality. Bell (2001) argues that by prioritizing research, SLG quickly became the leading experts of the anti-discrimination field. Using this draft proposal as a guideline, member states unanimously agreed to incorporate an anti-discrimination clause into the next treaty. Article 13 in the Treaty of Amsterdam gave the EU a legal basis for taking action to appropriately combat discrimination on the grounds of racial or ethnic origin, religion belief, disability, age, and sexual orientation.

By the signing of the Treaty of Amsterdam in 1997, the Starting Line Group consisted of nearly 400 NGOs, church-based organizations, and semi-official organizations, unions, independent experts and academics (see Niessen 2000). Shortly after their success, the SLG disbanded and were folded into a newly created organization in Brussels called the Migration Policy Group (MPG). The MPG would later become a preferred partner of the Commission Directorate-General of Employment, Social Affairs, and Equal Opportunities (DG EMPL) to discuss issues related to discrimination. Similar to the social dialogue model between the European employee and employer associations, DG EMPL had favored a more structured form of participation with external interests. According to one Commission official in DG EMPL, EU umbrella organizations, such as the MPG, provide the Commission with a comprehensive understanding of societal interest.[iv] Concurrently, the Commission funded the creation of the Social Platform in the mid-1990s, a coalition of European-level rights-based NGOs, including the European Network Against Racism, the European Disability Forum and the International Gay and Lesbian Association-Europe.

At the end of the European Year against Racism in December 1997, the Commissioner of Employment Social Affairs Pádraig Flynn announced that the Commission would employ the full scope of Article 13 to draft a directive proposal to fight racism and xenophobia immediately after the Treaty entered into force in May 1999. For this, the Commission proposed a package of measures to implement Article 13 to the Council in November 1999 in the form of two separate Directives on race and employment. The Commission's proposal resembled the earlier Starting Line proposal on many fronts, yet was considerably limited in the area of religious discrimination. Still, the Commission adopted the same legal language used by the SLG and its experts in its final Article proposal (see Bell 2001). In addition to efforts in the organized NGO community, the quick passing of the Racial Equality and Employment Directives through the Council in 2000 was attributed to the electoral success of Jörg Haider's far-right party in the Austrian parliamentary elections and the European Union's need to show a quick denouncement of rising populism and racism in Europe.

Policy period 2 (2004-2008): gaining expert capacities

In 2004, the President of the European Commission José Manuel Barroso announced that his Commission would work to bring the level of protection against discrimination on grounds of disability, sexual orientation, age, religion and belief on par with gender and race. A horizontal directive would extend protection against all grounds of discrimination currently in the Employment Equality Directive to social security, health and welfare benefits, education, and the provision of goods, facilities and services. A horizontal framework proposal cover diverse these grounds drew opposition from conservative-led governments and religious groups, which were primarily uncomfortable with promoting equality legislation concerning sexual orientation. Most members of the Social Platform and the European Trade Union Confederation favored a single, horizontal directive in order to ensure protection against multiple discrimination claims where grounds of discrimination may be intertwined. In their view, a horizontal directive avoids a hierarchization of discrimination grounds, a dangerous equality hierarchy that "sends out a signal that some forms of discrimination are viewed as less important than others" (Bell 2008: 6).

Splintering away from the Social Platform, the European Disability Forum (EDF) feared that morality politics and conservative groups would block a horizontal anti-discrimination legislation, and thus campaigned for a ground-specific anti-discrimination legislation for disabled people. During this period, the relationship between EDF and other members of the Social Platform was highly contentious, since a single-grounds Directive meant leaving other grounds of discrimination uncovered.[v] Several member groups of the Social Platform were furious with EDF, and predicted that their break with the group on this Directive would sour relationships among the collective organization in the future.[vi] Likewise, some Commission officials were concerned that fragmentation within the Social Platform would eventually dismantle the cohesion of the umbrella group.[vii] In March 2008, the Commission backed away from their initial support for a horizontal Directive, and reduced the scope of their non-discrimination package to a single ground Directive to combat disability discrimination.

Members of the larger policy community were dismayed that the Commission had bowed down to pressures from EDF and conservative governments. As a result, the Social Platform partnered with expert organizations, like the Migration Policy Group and equality bodies, to campaign harder in the spring of 2008 for a multi-grounds Directive. Having worked with the Commission on several projects since its inception, the Migration Policy Group weighed in on the policy debate without being direct advocates. They were keen to leave the politics to the Social Platform and identify themselves as a think and do tank" in order to provide expertise to the Commission.[viii] They argued that it would be in the EU's best interest to avoid a single Directive that would inevitably cobble together future European anti-discrimination legislation in bits and pieces. The Dutch Equal Treatment Commis-

sion (CGB), an equality body established to monitor the transposition of the EU Race Equality and Employment Framework Directives, also submitted an advisory opinion to support a horizontal framework directive directly to the Commissioner of Employment and Social Affairs Vladimir Špidla. After a few short months, Commissioner Špidla came out with support for a horizontal Framework Directive in line with Barroso's original commitment to bring forward legislation to level up protection for all four grounds of discrimination.

The Commission continues to rely on an array of expert researchers in the anti-discrimination policy domain, including equality bodies and the Migration Policy Group. For the most part, equality bodies are responsible for collecting data on different incidents of discrimination in their member state as well as advising concerned citizens of their new rights under equal treatment laws. Yet some have begun to function like a court, investigating and pursuing victim complaints (see Chopin 2000). One policy advisor in the Dutch equality body commented that "we are the experts; we provided our judgment and opinion over this matter based on our years of expertise in the national and European implementation of this legislation."[ix] The Commission has also created a large network of legal resources, such as the European Racism and Xenophobia Information Network, the Fundamental Rights Agency, the Network of Legal Experts. The Network of Legal Experts provides a forum to legal experts to discuss questions and compare challenges regarding transposition, and is jointly monitored by the MPG and the European Human Consultancy, a similar "think and do tank" that examines how national litigation on anti-discrimination might affect European policy agendas. Sabel and Zeitlin (2008) assert that these newly capacitated actors employ a peer review system of EU law that has institutionalized rights from regulation, which ultimately constituted the core of the EU Fundamental Rights Agency (Sabel and Zeitlin 2008: 302. See also Alston and De Schutter 2005 and de Búrca 2006).

CONSEQUENCES OF TECHNOCRACIZATION

In the first policy period leading up to the Article 13 of the Treaty of Amsterdam, anti-discrimination policy was not yet a circumscribed field of competence for European institutions. On the part of civil society, the Starting Line Group was indicative of a budding transnational epistemic community or advocacy coalition network. Rather than using protest tactics and calling for far-reaching legislation, the SLG employed strategic legal expertise to streamline their agenda towards advocating for an EC Treaty amendment. We see that already in the mid-1990s the SLG fashioned a commitment to pursue technocratic means to achieve their objectives. They had engaged political institutions by depoliticizing the discourse. By the second policy period for extending the Employment Directive to cover discrimination beyond the race, several expert organizations had sprung up to provide the Commission with valuable legal expertise. The Migration Policy Group, a

successor group to the SLG, was created to provide expertise to clients for various EU and non-EU funded projects regarding anti-discrimination, human rights, and immigration in Europe. Given their focus on research over advocacy, I argue that they embody the type of NGO-consultancy that we can expect see arise in the EU due to an increasing technocraticization of European policy-making.

For interest groups and the greater NGO community, acquiring legal expertise has become an organizational priority. In order to compete with NGO-consultancies, rights-based advocacy groups have quickly professionalized their research services to develop strategies on litigation and support, and may eventually shift their organizational identities entirely towards the consultancy model. With specialized legal training, NGOs are better equipped to engage in the technical discourse used among national equality bodies, trade unions and other expert organizations to advance anti-discrimination policy in Europe. Because of their unique position to monitor policies from agenda-setting through implementation, NGO-consultancies like the Migration Policy Group and the European Human Consultancy can significantly shape anti-discrimination policy in Europe. For this reason, ILGA-Europe established an internal research department and enlisted legal experts to help shape a shadow directive for the extended Employment Equality Directive.[x] Also as part of the 2001 Community Action Program to Combat Discrimination, a smaller transnational network was established to train national NGOs to understand the various grounds of discrimination and human rights, as well as to foster closer relationships between NGOs and lawyers.

Most notably, the Commission has begun to prioritize technical expertise in their consultations. In the anti-discrimination policy domain, we observe that the Commission frequently prefers structured dialogue with the Social Platform and its expert partners. Surprising, such closed expert group consultations sharply contrast with the highly emotional debates that are routinely seen at the national level on similar issues (see Geddes and Guiraudon 2004). The Commission has also taken steps to augment its own expert capacities. In addition to funding various networks of legal experts, the Commission also provides substantial funding to facilitate research, coordinate meetings between relevant groups, and train its own staff on anti-discrimination policy. Commission officials now regularly participate in conferences and workshops held by NGOs. In 2008, DG Employment and Social Affairs encouraged its personnel to attend a training seminar on the transposition of anti-discrimination legislation at the Academy of European Law in Trier, Germany. A representative from DG Employment and Social Affairs agrees that it is a good idea for the Commission to gain legal knowledge and stay aware of current debates since she herself was not a lawyer and did not know the specific details of certain Directives.[xi]

Given the organizational imperatives to gain access to important venues of policy formulation and an increasingly technocratic policy process that privileges technical expertise, interest groups have adjusted their objectives and identities to mimic

NGO-consultancies. Consequently, the rise and influence of NGO-consultants in Brussels has pushed out traditional advocacy groups in transnational policy environments. Meanwhile, the Commission reinforces the technocracization of interests by maintaining strong relationships with certain organizations and experts for the sake of policy continuity. As information and knowledge are appropriated by a distinct group of expert consultancies, the entrance of new ideational entrepreneurs becomes more difficult. As Meyer and Imig (1993) have argued, in technocratic climates, organized interests would opt to de-politicize the policy process, because "Internal pressures to institutionalize and centralize decision-making lead to the development of bureaucratic structures more suited to organizational survival than either tactical innovation or political influence" (Meyer and Imig 1993: 261). The diagram below illustrates both the shifts in the policy process as well the intra-organizational adjustments to professionalize that have contributed to an organizational convergence towards the NGO-consultancy model.

TECHNOCRACIZATION AND ORGANIZATIONAL CONVERGENCE

Interest organizations	Pressures of technical expertise	Organizational convergence
Grassroots interest group Industry group Epistemic community / advocacy coalition network * Independent regulatory agencies[4]	**Policy process (top down):** Expert group consultations Policy continuity Familiarity with policy discourse and methodologies **Organization building (bottom up):** Partnerships Contracting out Staff hires and research departments	*NGO-consultancy*

The overall landscape of interest representation is collapsed into a strategic, expert-driven engagement with political institutions to provide specific technical analysis. Grassroots organizations and corporate interest groups must adjust to a technocratic structure of interest intermediation in order to access important expert groups during the earliest stages of policy formulation. Expert organizations that have routinely worked with the Commission on specific policy are not

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[4] While not an interest organization, independent regulatory agencies in the EU are beginning to work on policy-specific analysis. Traditionally, the Commission prefers to keep agencies at arms-length in order to avoid political turf wars that might develop if agency staff began to influence policy. In recent years, however, there is momentum to increase the competences of agencies. For example, the newest director of the European Environmental Agency has indicated that the EEA should conduct policy scenarios for a variety of Commission proposals, rather than simply collect data (Interview, Climate Change and Transport, European Environmental Agency – April 10, 2008).

only familiar with the policy discourse and various methodologies employed in policies, but they serve as the fundamental components of institutional memory in a policy domain. Because of the high turnover of the Commission staff in sectoral DGs, officials frequently rely on the work of experts to push the agenda forward. The bottom-up pressures in the NGO community are primarily organization building activities, such as NGO partnerships with expert research organizations, contracting consultancies which have worked with the Commission in the past, and shifting the organization's composition by hiring technical experts on their staff. As stable resource for the Commission and interest group partner, NGO-consultancies have become very powerful players in the policy process.

CONCLUSION

In recent years, the organizational traits of many interest groups and the ways in which groups engage the Commission reflect a growing technocracization of organized interests in the EU. As observed in the European anti-discrimination policy domain, the role of expertise has come to dominate the way organized interests approach agenda-setting and policy debates. Grassroots advocacy groups and coalitions, like the Starting Line Group and the Social Platform, have all looked for ways to build their legal expertise in order to mimic the success of the Migration Policy Group and gain entry to Commission consultations. Due to numerous pressures to acquire technical expertise in policy-making, I argue that we should see an emerging NGO-consultancy model in the interest organization landscape.

Across diverse policy sectors, technical expertise is the main currency to enter complex policy dialogues. For instance in CO_2 emissions policies, conflicts between environmental NGOs and corporate stakeholders have many times involved the types of analytical tools and data-sets used to arrive at different policy outputs. Expert research organizations and NGO-consultants are therefore necessary to distill these battles for policy-makers. Similarly in women's mental health regulation, interest groups have felt a need to align their objectives and participatory methods to the Commission's own ideas of expert informed policy-making. Edquist (2007) affirms that managerial forms of regulation shapes the mobilization strategies available for advocacy groups in mental health policy that affects women, such as in combating eating disorders. Groups therefore employ regulatory language, such as quality assurance practices and political stability to enhance their policy platform, a strategy that distinctly conflicts with their common feminist discourse to disrupt politics as usual and liberate women from harmful gender constructs (Edquist 2007).

Thus, technocracization has led interest groups to play an incompatible role of both expert and outsider by promoting their professionalized capacities and contribution to legal and scientific expertise in policy regulation. For many advo-

cacy groups, technocracization threatens their organizational identity. The depoliticization of the policy language dilutes the gravity of much needed legislation and distances the general public from key policy debates. As we have seen, the Migration Policy Group seeks to garner expertise from lawyers and legal scholars on discrimination issues rather than generating support from local or national level interest groups. As their organizational identity sways between research and advocacy, NGO-consultancies could face significant accountability problems among their peers. The most successful consultancies are able manage a distinct agenda and uphold the reputation to provide neutral expert analysis to both political institutions and interest groups.

The Commission largely coordinates agenda-setting and consultation venues. However, technocracization and increased interactions among organized interests could lead groups to bypass these channels of interest intermediation and direct policy agendas outside formal Commission consultation venues. By the time policy ideas reach the Commission, technical experts and NGO-consultancies are able to already offer refined policy solutions. Moreover, the functional legitimacy of experts and regulators in the policy process substantiates these more obscure structures of intermediation. According to Sabel and Zeitlin (2008), this new architecture of technocratic governance no longer reflects decision-making in the shadow of hierarchy, "but rather deliberating when hierarchy has itself become a shadow: powerful not for what it can deliver, but what it can obscure and disrupt" (Sabel and Zeitlin 2008: 309). While opaque consultations and the general lack of transparency in the Commission are worrisome, has it become too enigmatic to overcome?

Despite certain obscurities, the rules-making and technocratic governance is rooted in order and accountability, and legitimated by the effectiveness and rationality it provides. Therefore, any efforts to democratize institutionalized technocracy may have to come in the form of more rules-making (see, for example, Woodhouse and Nieusma 2001; Maasen and Weingart 2005). Unlike in national governments, the EU has been described as a "post-parliamentary" government, in that the democratic deficit cannot simply be resolved by strengthening the role of the Parliament to control executive institutions (Andersen and Burns 1996). The Parliament itself does not wield enough democratic legitimacy to prop up the entire system of EU decision-making. Some possible ways to make venues of consultation more transparent could be a full disclosure of expert group lists and composition, regularly extending expert group invitations to new organizations, and granting contracts for EU-funded studies to different kinds of interest groups and consultancies. Democratic and technocratic governance are indeed complementary modes of decision-making. Hence, one avenue of future research will concern a more thorough examination of the variety of mechanisms that can ease the inevitable technocracization of interest groups and policy institutions.

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