GENDER JUSTICE IN FEMINIST ANALYSIS OF PUBLIC POLICIES IN ARGENTINA, BRAZIL AND CHILE

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Abstract: This paper presents part of the authors' postdoctoral research at the University of Sao Paulo, Brazil. It focuses on the transformation processes triggered by feminist-driven governmental actions in Brazil, Argentina and Chile over the last few years, especially during the terms of Cristina Fernández, Dilma Rousseff and Michele Bachelet. Using concepts and theoretical insights from specialized literature, we address questions about lobbying and disputes in the political arena in order to understand the impact of feminisms on public policies, and the extent to which these policies relate to the intersectional nature of discrimination (gender, race / ethnicity, class). Four major public policies areas are examined, namely economic autonomy, social facilities, health, and violence, from three analytical angles: 1) the role of women's policy agencies in policy making processes; 2) Gender-Aware Public Policies during the mandates of female presidents in Argentina, Brazil and Chile; 3) the intersectionality of gender justice in public policy-making.

Keywords: Gender-based public policies, intersectionality, South America, female presidents, gender justice.

Introduction

This paper summarises key aspects of ongoing postdoctoral research by the authors,¹ and insights from seminal discussions on gender equality in public policies held within the feminist research group “50 years of feminism [1965-2015]: New Paradigms, Future Challenges – Argentina, Brazil and Chile.”² Its main focus is examination of the transformation processes triggered by feminist-driven governmental actions in Brazil, Argentina and Chile over the last few years, especially during the terms of Cristina Fernández, Dilma Rousseff and Michele Bachelet. Building upon concepts and theoretical insights from specialized literature, it addresses questions about lobbying and disputes in the political arena in order to understand the impact of feminisms on selected areas of public policies, and the extent to which these policies relate to the intersectional nature of discrimination.

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⁴ “50 Anos de Feminismo (1965-2015): Novos Paradigmas, Desafios Futuros - Argentina, Brasil e Chile”, Department of Sociology, University of São Paulo. Processo Fapesp: 12/23065-8. The academic articles written by the authors will be published in: FORTHCOMING.
intersectional nature of discrimination in material reality (gender, race/ethnicity, class). The discussion hinges upon three analytical angles: (1) the role of women’s policy agencies (WPAs) and femocrats in policy making processes; 2) Gender-Aware Public Policies during the mandates of female presidents in Argentina, Brasil e Chile; 3) the intersectionality of gender justice in public policy-making.

The paper is structured as follows. The first section includes a theoretical discussion on the role of women’s political agencies (WPAs) and femocrats in processes of formulation and approval of gender-aware public policies, highlighting the limitations of feminist institutional actions. Secondly, it examines feminisms’ contribution to gender equality public policies (in particular economic autonomy, social equipments, violence and health). Thirdly, it problematises the correlation between public policies promoting gender equality, and intersectional discrimination. This seminal discussion is done through the analytical canvas furnished by intersectional gender justice, encompassing issues related to convergences and dissonances in feminist approaches, the role of the State to ensure de jure and de facto equality, and the complexity inherent in public policies attempting to redress inequalities through recognition and distributive justice policy-making.

I. The role of women’s policy agencies in policy-making processes

In order to comprehend gender mainstreaming processes, as well as gender equality policies, it is necessary to address the links between feminist movements and women’s policy agencies in post-dictatorship Argentina, Brazil and Chile. The interaction between these two distinct actors is often addressed as “state feminism”: a specific kind of alliance between women’s movements, women’s policy agencies (WPAs)\(^5\) and the state, forged in order to make women’s interests gain access to policy arenas\(^6\).

States that have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) have committed to taking measures against gender inequity and inequality. In this regard, WPAs have played an important role. Most states established their first WPAs in 1970s and 1980s, thus initiating a new phase in the relations between feminist movements and the state. The first WPA was set up in Brazil (National Council for Women’s Rights, established by Law nº 7.353/85), two years before Argentina launched the Women’s Sub-secretariat. Still in this country, a Public Policy Coordinating Council was created in 1991, to be finally replaced by the National Women’s Council (Decree nº 1.426/92). In Chile, the National Women’s Service was instituted in 1991 (Law nº 19.023/91). Nearly 20 years later, a second generation of WPAs emerged in Brazil: the Women’s Policy Office (Law nº 10.683/2003). More recently, the Ministry of Women and Gender Equality in Chile was created (Law nº 20.820/2015). During the 1990’s

\(^5\) A women’s policy agency (WPA) is the smallest unit of the state structures designated to develop policies to redress gender inequality and to promote women’s rights.

and early 2000’s, Latin America witnessed the advent of a new correlation of forces, with the emergency of progressive governments, and focus on the state’s social functions (Paradis 2013).

When discussing the notion “state feminism,” a first fundamental question to consider is its geopolitical provenance - the Global North. A major problematic aspect relates to the appropriation of the term “state feminism” by researchers from countries, which were colonised by the very Nation-states that forged the concept. From a post-colonial or coloniality-of-power standpoint, the notion “state feminism” would may not be relevant to the contextual realities of Global South nations (Muñoz-Cabrera, 2015). Acknowledging its limitations, Bohn (2010) indicates that despite the fact that they are not the only strategy to diminish inequality between men and women, WPAs play a key role in that process, and represent an important claim from women’s movement. Correct and accurate as the critiques above can be, state feminism has benefited women’s movements, in that it has empowered feminist movements to conquer more space within the state.

A second fundamental question is the nature of the state itself. A state’s capacity to guarantee the promotion of economic equity, equality, and social well-being of all citizens is undermined when gender equality becomes an instrument of political hegemony. In some cases, focus on gender mainstreaming has deviated policy attention from women’s human rights and jeopardized progress towards gender policies that are non-discriminatory from an intersectional viewpoint, namely policies that bear a concern with race, class and gender intersections affecting women’s political participation. Overlooking this debate can hamper WPAs’ ability to contribute to sustainable improvements in women’s political representation (Muñoz-Cabrera, 2015). Considering the above, when it comes to deeper and sustainable transformation of complex power relations, the potential of state feminism as an emancipatory paradigm proves insufficient, both from a theoretical and political standpoint. Here, an intersectional approach (often referred to as “multiple discrimination”) proves necessary, as discussed in the third section.

2. Gender-Aware Public Policies during the mandates of female presidents in Argentina, Brasil e Chile

A relevant question here is what concrete improvements did WPAs manage to bring about in terms of gender equality public policies? This section attempts to respond to this seminal interrogation, presenting an overview of gender-relevant governmental actions undertaken during the mandates of Cristina Fernández de Kirchner in Argentina (2007-2011; 2011-2015), Dilma Rousseff in Brasil (2010-2014; 2014-2016) and Michelle Bachelet in Chile (2006-2010; 2014-till now). Discussion tackles four key areas: economic autonomy, social equipment, violence and health.

The data was collected by Lucia Avelar e Patricia Rangel from different sources. The result was a huge amount of actions which in this paper appear clustered in four main areas. The research was done in the framework of the Research project “50 Anos de Feminismo (1965-2015)” . See Avelar & Rangel, 2017.
Economic autonomy is a key domain for women’s emancipation. It includes several specific policies, such as vocational training to enhance women’s insertion in labour markets, tackling the gender wage-gap, female entrepreneurship. In Argentina, apart from a programme on regulation of the domestic work sector, little was done in this respect. In Brasil, several actions were undertaken to enhance women’s access to labour markets (training, skills-enhancement, crèche availability, micro-entrepreneurship, to name but a few). One important action was a constitutional amendment that led to legislative changes to improve the status of domestic workers. In Argentina, apart from a programme on regulation of the domestic work sector, little was done in this respect. In Brasil, several actions were undertaken to enhance women’s access to labour markets (training, skills-enhancement, crèche availability, micro-entrepreneurship, to name but a few). One important action was a constitutional amendment that led to legislative changes to improve the status of domestic workers. In Chile, Pdt. Bachelet achieved policy improvements in women’s status in labour markets, domestic workers’ status in particular (Law 2008) but met with resistance to approve laws to reduce gender discrimination in labour markets. There were also policy initiatives related to poverty eradication, in particular, cash transfers to low-income households. Examples of this are Bolsa Familia in Brasil, Asignación Universal por Hijo (AUH) in Argentina, and the programme Bôno por hijo and solidarity basic pension for men and women in the 60% of low income. Thanks to these policy actions, extreme poverty decreased (Tielemans, 2014, and Jalalzai, 2015).

In relation to social facilities for social protection, during Bachelet’s office, actions aimed at enhancing women’s autonomy included: increase in creches availability such as the program "Chile Crecce Contigo". The goal of this program is to ensure access to day care crèches, and preschool free of charge for children from poor households. The WPA "National Service for Women" (SERNAM) was key in achieving this. In Brazil, the program Brasil Carinhoso benefitted children from 0 to 6 years of age. It focuses on increasing the number of kindergartens and pre-schools in the country. In Argentina, little progress was achieved.

Regarding violence against women (VAW), several actions were undertaken. During the mandate of Fernández Kirchner, a law was passed aiming at eradicating violence against women (Law 26.458/2009). Progressive as it was considered, this Law was not implemented during her office. In Brasil, a National Plan titled "II Plano Nacional de Políticas para as Mulheres (2008-2011)" was approved in 2007. This Plan included improvements in access to shelters by women victims of VAW, and gender-awareness of public officials. Prior to Roussef’s term the Maria da Penha Law had been passed, after a long struggle by feminist and women’s movements. Drafted by a group of legal experts and feminist NGOs, this Law reshaped the Brazilian public policy landscape. In Chile, Bachelet strongly supported a bill to combat gender-based violence, and increased the number of shelters for victims of domestic violence. The president allocated twice more resources to the budget of these shelters that her predecessor, President Ricardo Lagos.
In the area of women’s integral health, some improvements were made under Pdt. Fernández Kirchner, for example, the Programa Nacional de Salud Sexual y Procreación Responsable (Law of 2003), and Programa Nacional de Educación Sexual Integral (Law of 2006). However, existing laws still limit the budget allocated to the programme, as well as women’s access to it. Furthermore, in some provinces, religious practices hamper actual application of the programme. Brazil deserves a special note for its National Policy on Integral Health. This Policy benefits black and indigenous women in rural and urban areas, not only in terms of access to improved equipments but also regarding access to better health services, including access to contraception facilities and methods. In Chile, progress was made in humanisation of childbirth. With the support of the Consultative Council for Women and Movements, contraception measures were implemented in public health centers, guaranteeing access to emergency contraceptives for girls over 14 years old, a controversial measure that faced resistance from the Catholic Church. Regarding legalisation of abortion, Pdt. Fernández de Kirchner refused to engage with the issue during both terms. In Brazil and Chile, legalisation of abortion was strongly rejected by religious groups, conservative groups in Congress, and some civil society groups. Nomination of a committed academic feminist as Minister by Pdt. Rousseff did little to advance proposals for decriminalisation of abortion. Showing similarities with Brazil, Pdt. Bachelet has continued to push for legalisation of abortion on three grounds: in case of rape, danger of death of the mother, and in case the fetus is non-viable.

It is important to note that successful governmental actions on gender equality depend not only the political will of a given President. As Jalalzai (2015) argues, if the president has no support in parliament, it is highly unlikely that she will push her political agenda through. Hence the importance of political pressure of organized feminist groups in civil society, working in synergy with femocrats, and women’s policy agencies, often associated with state feminism, as discussed in the previous section.

3. The Intersectionality of Gender Justice in public policies: the cases of Argentina, Brazil and Chile

This section examines three major areas of gender justice in public policies: a) convergences and dissonances in feminist approaches; b) the role of the State to ensure de jure and de facto equality, and c) the complexity inherent in recognition and distributive policy-making.

Convergences and dissonances in feminist approaches to gender equality in public policies. A plethora of works attests to the social and political gains of incorporating gender equality in public policies,
not only in terms of reconfiguring public institutions, but also in terms of galvanising the democratic fabric of Argentina, Brazil, and Chile. To date, there is consensus on the fact that the return to democratic regimes in the three targeted countries led to the development of new conceptual and legal frameworks, not only in the domain of human rights, but also regarding equality between the sexes as a problem of public policy.

Preliminary findings corroborate the fact that during the re-democratisation period, feminist and women’s movements, through persistent advocacy and lobby work, managed to democratise the patriarchal hetero-normative fabric of policy-making in ways that were empowering to women, thereby helping to consolidate their citizenship. Important gains were achieved in terms of creating a critical consciousness on the structural subjugation of women as political, economic and social subjects, and of their invisibility in institutions that were responsible for ensuring the well-being of men and women, on equal terms with each other. This transition reveals a paradigmatic gain: the shift from gender blind to gender-equality policies.

As a result, gender equality policies were implemented through an overall *mainstreaming* strategy. These strategies consistently questioned the social construction of gender in different areas of public policy-making, and the lack of recognition of women as subjects entitled to human rights, in particular the right to a life from any form of violence. Gustá e Caminotti (2010) have highlighted the heterogeneity of mainstreaming efforts to push for gender equality in the region. The authors highlight three main features of mainstreaming strategies that Argentina, Brazil and Chile share: “gender inequality, women’s citizenship and women’s representation.” They argue that it is through consideration of these three pillars that engagement by the state with the issue of gender inequality can be understood. According to them, this commitment is illustrated by the proliferation of gender equality policies that emerged during the re-democratisation period, such as Equal Opportunities Programmes and Gender National Plans. In Chile, mainstreaming gender equality into public policy-making has been for many years the main goal of the Women’s and Equality Ministry (SERNAMeg) and a spearhead of Bachelet’s two periods in office. Chile has been praised and criticised for its achievements of mainstreaming gender equality in public policy-making. One external evaluation of SERNAM stresses that a key gain of the National Equality Plan for the period 2000-2010 was to mainstream gender in processes of institutional assessment, aiming to improve performance of public institutions (SERNAM 2005). In a rather opposite direction, several feminist NGOs have complained that on several occasions, Chile’s gender mainstreaming strategy in public policies has been more top-down than bottom-up, and has excluded indigenous men and women, as well as LGTBI subjects (interview 2017).

**b) The role of the State to ensure de jure and de facto equality**

Significant challenges remained after the paradigmatic transition from gender-blind to gender-equality public policies achieved during the re-democratisation processes. A first challenge relates to the...
intersectional nature of inequality and discrimination. By intersectional inequality, we mean mechanisms of negative differentiation based on race, social class and ethnicity, amongst others, which result in web of multiple discrimination against women, men and Trans persons in social, economic and political life. This is a challenge that public policies promoting gender equality have insufficiently addressed or simply overlooked. Engagement with overlapping factors of discrimination, which generate new forms and perpetuate old forms of inequality could better explain by which social, racial and cultural dynamics a "social marker of difference" becomes a factor of inequality, and what makes this shifting possible in a given context. As Staunæs (2003) argues, this is an important issue for comparative intersectional analysis of state policies promoting gender equality, since it calls for an examination of those unmarked social categories where power and privilege cluster (ctd. in Yeon Hae 2010:133). In addition, it relocates discussion on how equality (or inequality, its binary opposite) works at the formal (de jure) and practical (de facto) level.

An important critique on the lack of engagement by public policies with the persistent inequalities affecting black, indigenous and non-heterosexual men and women, is that, in pushing for gender mainstreaming in all areas of policy-making, feminist theorising fell in the trap of conceptual sameness (Spelman 1988). This means that women and men were defined as homogeneous categories rather than heterogeneous subjects, and as universally devalued by androcentric thinking and patriarchal policies, ignoring the impact of racism and heteronormative discrimination on women and men whose subjectivity did not conform to hegemonic definitions of manhood and womanhood. Several scholars have critiqued the epistemic privilege granted to women's discrimination as solely explained by their being a woman; hence their socially constructed gendered condition. Joining the critique of black Brazilian feminist scholars, De Paula argues that due to racial ideologies at work in the Brazilian social mindset, focus has been on the black subject as "other" and in a position of inequality to a universal ideal of subjectivity assumed as primarily white (2014, p. 149). Recalling the matrix of intersectional discrimination theorised by Patricia Hill Collins (2000), Cubillos (2015) regrets the epistemic privilege granted to gender discrimination in feminist theorising, adding that it is necessary to understand how power relations between the sexes interact with other discriminatory mechanisms to further disenfranchise black, indigenous and migrant women. Cubillos refers to a paradox that feminist theory wrought from its own theoretical canvas: in its efforts to deconstruct the peripheral location assigned to the female subject and the centrality of the male subject in patriarchal ideology, feminist theorising forgot to rescue the indigenous and black female subject. In the same line of thought, Sueli Carneiro (2011) stresses the fact that the whiteness ideology continues to shape institutions and policy-making processes in ways that are disenfranchising to black men and women.

A radical refusal of the epistemic privilege informing gender mainstreaming in public policies appears to have invigorated debates on gender justice, a paradigm that is closely linked to global social justice movements, and which relocated equality de jure and de facto as primary...
responsibility of the state and its institutional fabric. Gender justice debates, along with increased attention to the intersectional dimension of inequality and discrimination have greatly contributed to the repolitisation of the struggle for equality in Latin America. The nexus justice and rights, which Vergel defines as "conceptual collage" (2011) has served as a road map in the struggle for gender justice in the domain of civil and political rights; (2) economic, social and cultural rights; 3) sexual and reproductive rights. From this analytical angle, an idea of justice and fairness in policy frameworks has emerged, locating the state as the main duty-bearer, i.e. the main responsible for implementing policies and laws to guarantee the right to equality, both de jure and de facto (Facio, 2008, p.11). Significantly, intersectional gender justice has also paved the way for relocating equality as a human right, with particular emphasis on the indivisibility of individual and collective human rights, a key claim of women, men, and Trans persons belonging to peasant movements, to indigenous and afro-descendant peoples, to LGTBI collective.

From an intersectionality standpoint, it appears that recognition and distributive policies are strongly related. Intersectional gender justice exposes the androcentric structure of legal and policy frameworks (social and economic) and the colonial legacy that prevents full compliance by the state with international conventions that guarantee the full enjoyment of rights to de jure and de facto equality by indigenous, black and Trans subjects in Latin America. For this reason, MacKinnon (1982) and Crenshaw (1995) have insisted on the need to constantly deconstruct laws and policies, since they can also represent a hindrance to the achievement of non-discriminatory legal and policy arrangements.

c) The bi-focality of gender justice: recognition and distributive policy-making.

One of the areas of greatest debate in the area of gender justice is the relationship between the recognition of difference and distributive justice, understood as equity in the distribution of wealth and resources resulting from economic activity in a given country or Region. This productive tension has given rise to rich theoretical debates. These debates have included claims for recognition of subaltern identities and subjectivities in local contexts, and strong demands for redistributive policies. The latter have attempted to relocate the feminist critique of social class and its pernicious impact on the bodies and subjectivities of historically subjugated men and women.

Reflecting on the false duality built around recognition and redistribution, Fraser emphasises that it is a "false antithesis" (2006: 84). The authors warns against reification of the identities of groups and people who have struggled for the achievement of social justice, and in particular, of
distributive justice. She proposes to conceptualize gender justice as a paradigm that contains "intersected axes of subordination" that produce and reproduce multiple and intertwined patterns of discrimination (ie discrimination of gender, race, ethnicity, sex, age, cultural origin, amongst others). To do this, she proposes a bifocal approach that includes, in a plane of epistemological equity, the struggle for recognition of difference and the struggle for distributive justice. In her theoretical proposal, Fraser calls for overcoming the conceptual monolithism inherent in unitary and exclusive struggles. Fraser's approach, assumes that recognition and redistribution constitute a two-dimensional conception of social justice, "centered on the normative principle of parity of participation" (cf. Fraser, 2008).

Inspired by Fraser's proposal, Valenzuela and Rangel point out that in Latin America, because of an androcentric culture, which controls interpretation and communication patterns that have naturalized exploitation mechanisms, struggles against social injustice have tended to focus on recognition, despite a marked increase in distributional inequality (Valenzuela & Rangel, 2004). In her analysis of Argentina, Graciela Di Marco (2015) warns of a growing reluctance to redistribute policies (for example, income transfers, targeted policies, positive discrimination, quota policies), since the current trend is to value productivity over the equitable distribution of wealth. Surprisingly as it may be, the reluctant to further implement distributive policies occurs in countries with persistent levels of inequality, as is the case of Argentina, Brazil and Chile.

Empirical evidence demonstrates that of the three countries chosen for comparison, Brazil is the one that shows the strongest concern with intersectional gender justice, addressing recognition and redistribution in gender equality policy-making (Abramo 2008; Lavinas 2005). In the case of Brazil, the incorporation of intersectional analysis paved the way for making progress towards gender just policy frameworks. In contrast, evidence of this was not found in Chile and Argentina. In fact, several interviewed experts from Chile regretted the lack of intersectionally disaggregated data. They added that this style of data collection would be extremely useful in the design of more inclusive policy-making. In Brazil, the relevance redistributive policies for intersectional equality has been highlighted by scholars such as Lavinas, who argues that redistributive measures, such an income policy for active households with children, investment to maintain social rights achieved through the right to citizenship, and increased social investment were, and still are, necessary to reduce gender differentials, ethnic and racial discrimination in Brazilian society (Lavinas et al., 2005, p.3).

Preliminary findings show that in Argentina, Brazil and Chile, anti-distributive discourse has gained momentum, thus reducing the state's capacity to implement policies aimed at more equitably distribution of wealth and resources. Moreover, the challenges posed by the pressure on national economies to become more competitive in international markets has contributed to a shrinking of the state, with the consequent
weakening of its capacity to design and implement policies that aim at the achievement of intersectional gender justice, both in its dimensions of equality *de facto* and *de jure*.

**Referências**


**Justiça de gênero na análise feminista de políticas públicas em Argentina, Brasil e Chile**

*Abstract*: Esta comunicação oral apresenta parte das pesquisas pós-doutorais de ambas as autoras (FFLCH/USP). O trabalho foca nos processos de transformação das ações governamentais sensíveis a gênero no Brasil, na Argentina e no Chile ao longo dos últimos anos, como especial atenção para os mandatos de presidentas (Cristina Fernández, Dilma Rousseff e Michele Bachelet). A partir de conceitos e tipologias da literatura especializada, abordam-se questões sobre a atuação de grupos de pressão e as disputas na arena política para compreender o impacto dos feminismos nas políticas públicas e buscar identificar se essas políticas de Estado atendem focos específicos da abordagem interseccional (gênero, raça/etnia, classe). Tratamos aqui, especialmente, de quatro grandes áreas de ações estatais (autonomia econômica, equipamentos sociais, violência, saúde) adotadas nos três países, observando dois aspectos em particular: 1) o papel das agências de políticas para mulheres e femocratas no processo de formulação e aprovação das políticas públicas; 2) justiça de gênero, ou convergências e dissonâncias na análise feminista (englobando temas como igualdade formal e substantiva, reconhecimento e justiça distributiva, a interseccionalidade da justiça de gênero). Nesse esforço, discutiremos o valor agregado das políticas de igualdade de gênero e resgataremos a problematização de políticas públicas como ações “neutras” ou “cegas ao gênero” vs. políticas públicas de gênero”.

**Keywords**: Políticas públicas sensíveis a gênero, interseccionalidade, América do Sul, presidentas, justiça de gênero.