

**On the challenges in discovering the nature of discrimination arising from the intersection of multiple social identities and the extent to which existing legal and political frameworks deal with such an intertwined form of discrimination**

Recognizing intersectional discrimination and adequate protection from that kind of discrimination, implies knowledge of historical, social, and cultural particularities that affect the position of members of specific social groups, as well as knowledge of community attitudes towards different social groups. Social groups are heterogeneous and diverse, and if we are not aware of the existence of “groups within groups” that are exposed to multiple inequalities, we will not have an effective fight against discrimination and protection of equality.

We are all aware of the nature of intersectional discrimination and we could talk about the theory for a long time. The problems we face in practice when it comes to recognizing intersectional discrimination come down to recognizing which personal characteristics of the discriminated person are the basis of discrimination. Often, in specific situations, when we act in individual cases, the facts lead us in the direction of protecting a person based on only one personal characteristic, without considering that all or more personal characteristics together influence the position in which that person is. Not knowing the specifics of the position of specific social groups can mislead us about the position of a discriminated group or individual. When we overlook that a discriminated person is in a specific position due to the existence of several personal characteristics that characterize them, then the whole group of persons remains invisible and unprotected.

The concept of intersectional discrimination offers us the opportunity to approach discrimination and social inequalities by recognizing patterns of behavior, forms of discrimination that tend to be invisible or ignored in the current legal frameworks and public policies for combating discrimination.

We need to comprehend the concept of intersectional discrimination in order to create public policies that are of use for all citizens, regardless of their differences, and in which there won't be people who are “invisible” and “forgotten”. Also, the concept of intersectional discrimination is necessary to prevent institutional and structural discrimination. Looking at the whole picture and recognizing the specificity of the interwoven influence of several personal characteristics of a person on their position in society, allows us to perceive the impact of public policies and regulations on all members of society. Following the concept of intersectional discrimination, we avoid the risk of failing to achieve the planned effects of a public policy, as well as the danger of members of certain “groups within groups” being prevented from fully realizing their guaranteed right.

Failure to recognize intersectional discrimination in a specific case may be caused by unawareness of the cultural and sociological aspects that lead to discrimination. For example, the dismissal of older women by employers who have both women and older men among their employees can conceal intersectional discrimination against older women, who are dismissed precisely because of the inseparability of both personal characteristics - age and gender. The employer keeps younger women and older men at work, thereby concealing traditionally rooted attitudes about older women as insufficiently capable workers. Only by analyzing the concept of intersectional discrimination, we comprehend that, in this particular case, the key is the

connection, the intersection of both personal characteristics of the woman employee. It is clear from this example that, in order to recognize intersectional discrimination, it is necessary to be familiar with the attitudes of the community in which discrimination occurs, that is, of the cultural and sociological aspects that lead to discrimination.

As an Equality body, we are not afraid of applying the concept of multiple and intersectional discrimination. On the contrary, this legal instrument gave us the opportunity to recognize hidden forms of discrimination, as well as to foresee the effects of regulations on socio-economic and other human rights of individuals and groups, more accurately.

In our practice, the Commissioner for the Protection of Equality acted in a case of sexual harassment of Roma women who are beneficiaries of monetary social assistance, and who were sexually harassed by a social worker who decided on their requests for exercising this right. I would also like to mention an example in which we established intersectional discrimination against Roma men and women who have the status of internally displaced persons and live in an informal settlement near a city. Considering that they live in an informal settlement where the streets do not have an address, these persons could not change their residence registration to a new address. The Roma, who make up the largest number of internally displaced persons are in a multiple disadvantageous position compared to the majority population, given the established stereotypes and prejudices that the majority population has about the Roma. Also, internally displaced Roma men and women are among the poorest citizens of Serbia and are in a disadvantageous position compared to other members of the Roma population, both because of their poverty and because of their status as internally displaced persons, i.e., because they do not have a registered residence.

A specific problem, when it comes to multiple and intersectional discrimination, is the lack of data that would enable continuous monitoring of the position of members of multiple discriminated groups, as well as of a comprehensive analysis of their position, which would contribute to a better perception and understanding of their needs and result in the inclusion of appropriate measures in public policies in order to remove the obstacles.

Often, certain regulations contain general provisions that require professionals who apply the regulation in practice to take into account the specific situation of the persons whose rights they decide on. Here lies a great danger of institutional discrimination in cases where professionals are not aware of the specificity of the situations in which the persons whose rights they are deciding are in, primarily because the professional does not recognize the multiplicity of the person's identity. These situations are common when it comes to migrants and asylum seekers, given the cultural and historical differences between the society the migrants come from and the society they are coming to. However, this risk is not necessarily related only to migrants, but also to ethnic groups that traditionally live in the area of a community. In practice, children are often at risk of intersectional discrimination given the specificity of the combination of age and other identities. In the Commissioner's practice, there have been cases of actions by centers for social work that were the result of stereotypical attitudes about the roles and behavior of women and prejudices that exist mostly towards members of the Roma population and parents with disabilities. Due to the prejudices that exist against the Roma population, their customs and lifestyle, the violence to which Roma women are exposed is minimized. There are also prejudices about the parental abilities of people with disabilities, especially women.

Regarding the issue of the extent to which the existing legal and political framework deals with multiple and intersectional discrimination, I would like to present to you the situation in the Republic of Serbia. Discrimination in Serbia is prohibited by the Constitution, and in addition, Serbia has three anti-discrimination laws: The Law on the Prohibition of Discrimination, which is a general law establishing a comprehensive system of protection against discrimination, while the other two laws are the Law on Gender Equality (2021) and the Law on Prevention of Discrimination against Persons with Disabilities (2006). In addition to these three specific laws, numerous other laws contain anti-discrimination provisions.

Since 2009, the Law on Prohibition of Discrimination has recognized discrimination against persons based on two or more personal characteristics as a severe form of discrimination. The law states that multiple and cross-discrimination are in question, but it did not define them. By amendments to the law from 2021, discrimination based on two or more characteristics is defined as multiple discrimination when the influence of individual personal characteristics can be separated, and as intersectional discrimination when the influence of individual personal characteristics cannot be separated. The Law on Gender Equality from 2021 contains the same definition of multiple and intersectional discrimination. The Law on Prevention of Discrimination of Persons with Disabilities regulates the general regime of prohibition of discrimination based on disability, the protection procedure and measures to be taken to promote equality and social inclusion of persons with disabilities. However, this law does not recognize multiple or intersectional discrimination against persons with disabilities as a specific form of discrimination.

The new Strategy for prevention and protection against discrimination for the period from 2022 to 2030 was adopted at the beginning of 2022. The Strategy looks at the problem of discrimination in the Republic of Serbia by analyzing the situation in priority areas for the sake of comprehensively perceiving the problem and formulating adequate measures and activities that can improve the situation. In addition, the strategy observes the position of groups that are at risk of discrimination, as multiple discrimination, in particular, can be more clearly observed in this way. The areas in which the problem of discrimination in the Republic of Serbia was considered in the Strategy are: public administration and judiciary; defense, internal affairs and security; education, vocational training and science; work and employment; social protection; housing; health protection; sport, culture and media. Such an approach shows that women with disabilities, elderly women, Roma women, Roma men and women with the status of internally displaced persons, Roma women with disabilities, children with developmental difficulties and disabilities, LGBT+ people, and women from the villages are discriminated against in multiple ways. By defining one general strategic goal it is ensured that all relevant social actors, individually and together, actively participate in its realization, through participation in the implementation of planned measures and activities.

The strategy for improving the position of persons with disabilities in the Republic of Serbia for the period from 2020 to 2024 recognizes the multiple and intersectional discrimination to which women and girls with disabilities, young people with disabilities, and Roma women with disabilities are exposed. The strategy stipulates as the Second special goal: Ensuring the enjoyment of the right of persons with disabilities to business capacity and family life on an equal footing with others, and effective protection against discrimination, violence, and abuse, while particularly emphasizing the need for actively combating all forms of discrimination, including multiple and intersectional discrimination of persons with disabilities.

The strategy for gender equality for the period from 2021 to 2030 recognizes vulnerable groups that are exposed to discrimination and multiple discrimination: Roma, women, LGBT people, people with disabilities, poor and elderly people, migrants, national minorities, Roma women, poor women, women from rural areas, and older women. The strategy contains strategic goals and measures for their achievement, which also include women who belong to multiple discriminated and vulnerable groups.

The experience from the current practice of the institution I lead has clearly demonstrated that, in addition to the existence of a relatively good legal and strategic framework, working with professionals who apply the legal norm and implement public policies is also necessary. Educations and trainings for these professionals are extremely important in order to prevent institutional discrimination. That is why the Commissioner for the Protection of Equality has implemented trainings for employees in state bodies and other institutions (e.g. police employees, judges and prosecutors, labor inspectors, employees in local self-government units and social and health care institutions, the national employment service, etc.) in order to eliminate stereotypes and prejudices of employees. The institution has a special type of cooperation with the Judicial Academy through the continuous education of law graduates who apply for the positions of judges and public prosecutors, as well as with law faculties throughout the country through moot court competitions. In this way, we want to influence the formation of attitudes and the removal of stereotypes and prejudices among future judges and prosecutors. Multiple and intersectional discrimination as severe forms of discrimination are always on the agenda of these educations and trainings for judges and law school students.