

A vertical strip on the left side of the page shows a close-up of a person's eye, looking slightly to the right. The eye is light-colored, and the skin around it is fair. The strip is positioned to the left of the main teal background.

## **CHAPTER 1**

# **Gender identity, gender-based violence and human rights**

# Gender identity, gender-based violence and human rights

Gender equality is an essential aim for any society based on human rights, democracy and the rule of law. Gender equality concerns almost every aspect of social interaction and public policy, including youth policy and youth work. Every individual is directly and personally affected by issues relating to gender equality and gender-based violence.

However, discussing gender and gender-based violence can be difficult, as these discussions include concepts and terms which are not always clear, which may change over time, and which cut across different disciplines such as psychology, sociology, culture, medicine, law, education, activism or politics.

The baseline is that gender-based violence is a human rights violation and affects not only people who are directly targeted by it, but also the whole of society.

The Spotlight Initiative of the United Nations and the European Union provides the following data<sup>1</sup>:



In addition:

- 1612 transgender people were killed in 62 countries between 2008 and 2014<sup>2</sup>;
- almost half of the respondents to an EU LGBT survey stated that they had experienced discrimination or harassment because of their sexual orientation<sup>3</sup>.

These statistics show a little of the extent of gender-based violence, but it is important to note that most examples of the problem continue to go unreported. Acting against gender-based violence requires active involvement from state authorities, from institutions, NGOs and indeed from all members of society. Addressing the problem is a key task for youth work.

## 1. What is gender-based violence?

‘Gender-based violence’ and ‘violence against women’ are two terms that are often used interchangeably, as most violence against women is inflicted (by men) for gender-based reasons, and gender-based violence affects women disproportionately. The UN Declaration on the Elimination of Violence against Women defines violence against women as

any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life<sup>4</sup>.

In more recent legal documents, there are examples of the two terms being merged, and the term ‘gender-based violence against women’ is used. For example, in the Council of Europe’s Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention), Article 3 offers the following definition:

gender-based violence against women shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately<sup>5</sup>.

Definitions such as these apply to instances where gender is the basis for violence carried out against a person. However, there is more to gender than being male or female: someone may be born with female sexual characteristics but identify as male, or as male and female at the same time, or sometimes as neither male nor female. LGBT+ people (lesbian, gay, bisexual, transgender and other people who do not fit the heterosexual norm or traditional gender binary categories) also suffer from violence which is based on their factual or perceived sexual orientation, and/or gender identity. For that reason, violence against such people falls within the scope of gender-based violence. Furthermore, men can also be targeted with gender-based violence: statistically, the number of such cases is much smaller, in comparison with women, but it should not be neglected.

Using the definition of ‘gender-based violence against women’ from the Explanatory report to the Istanbul Convention<sup>6</sup> as a starting point we can say that:

**Gender-based violence refers to any type of harm that is perpetrated against a person or group of people because of their factual or perceived sex, gender, sexual orientation and/or gender identity.**

Gender-based violence is based on an imbalance of power and is carried out with the intention to humiliate and make a person or group of people feel inferior and/or subordinate. This type of violence is deeply rooted in the social and cultural structures, norms and values that govern society, and is often perpetuated by a culture of denial and silence. Gender-based violence can happen in both the private and public spheres and it affects women disproportionately.

Gender-based violence can be sexual, physical, verbal, psychological (emotional), or socio-economic and it can take many forms – from verbal violence and hate speech on the Internet, to rape or murder. It can be perpetrated by anyone: a current or former spouse/partner, a family member, a colleague from work, schoolmates, friends, an unknown person, or people who act on behalf of cultural, religious, state, or intra-state institutions. Gender-based violence, as with any type of violence, is an issue involving relations of power. It is based on a feeling of superiority, and an intention to assert that superiority in the family, at school, at work, in the community or in society as a whole.

## **Why is gender-based violence a problem?**

- **Gender-based violence is a human rights violation**

It is an unrelenting assault on human dignity, depriving people of their human rights. Freedom from violence is a fundamental human right, and gender-based violence undermines a person's sense of self-worth and self-esteem. It affects not only physical health but also mental health and may lead to self-harm, isolation, depression and suicidal attempts.

- **Gender-based violence threatens a person's physical and psychological integrity**

Everyone has the right to feel safe and secure, and where this is not present, people's ability to function in the family, community and society is likely to be impaired, as self-realisation and development are affected. Gender-based violence is an obstacle to the realisation of every person's well-being and to their right to fulfilment and self-development.

- **Gender-based violence is discrimination**

It is deeply rooted in harmful stereotypes and prejudices against women or other people who do not fit into a traditional gender binary or heteronormative society. For that reason, gender-based violence can have the effect of pushing women and others who are affected to the margins of society and making them feel inferior or helpless. In the case of men who do not act according to dominant masculine gender roles, gender-based violence has the function of

correction by example. The severity of the ‘punishment’ for men who do not act according to expectations concerning male gender roles (whether gay, bisexual or heterosexual) may be related to the perceived danger that their difference presents to normalised and dominant assumptions about gender. Their very lives might collide and appear to contradict the idea that there are natural forms of behaviour and social roles in general for men and women.

- **Gender-based violence is an obstacle to gender equality**

Gender equality is central to safeguarding human rights, upholding democracy and preserving the rule of law. Gender-based violence contributes to cultivating a heteronormative society and perpetuates the power of men. Gender equality, on the other hand, entails equal rights for people of all genders, as well as equal visibility, and equal opportunities for empowerment, taking responsibility and participating in all spheres of public and private life. Gender equality also implies equal access to, and equal distribution of resources between women and men.

- **Gender-based violence is under-reported and there is often impunity for perpetrators**

Common myths, such as that ‘what happens at home should stay at home’ or that ‘it is nobody’s business what happens in the family’ are very powerful. This makes denouncing violence in the family difficult, and it may affect the provision of help and support services, thereby exposing the abused person to greater harm, with possibly fatal consequences. Furthermore, violence very often silences those who are affected by it. By failing to speak out against domestic violence we also mirror the techniques used by perpetrators. In some countries, most types and forms of gender-based violence are illegal and punishable by law, but there are countries which lag behind in this respect. The Istanbul Convention of the Council of Europe asks for criminalisation of different forms of gender-based violence.

- **Gender-based violence affects everyone**

Children raised in families where a woman is abused are also victims of violence (sometimes not physically, but always psychologically). The children witness violence and may form the impression that such behaviour is justified or ‘normal’; in other words, they assimilate violent norms. They are also brought up in a culture of violence that may negatively affect their self-development and ability to function in society. Gender-based violence affects family members, friends and colleagues.

- **Gender-based violence has a very heavy economic cost.**

It requires the involvement of different services - medical, psychological, the police or justice system – and it results in the loss of resources or of employment by victims. It makes people underachieve at work and in education, and it negatively affects their productivity. Many people who suffer from gender-based violence cannot stay at home and need a place to stay, which sometimes

results in homelessness. Shelter services need to be provided for such people, and while there are services for abused women and their children in many places in Europe (although not in sufficient numbers), the inadequate number of shelters for LGBT+ people remains critical.



Poster created by the No Hate Ninjas (Portugal) for the No Hate Speech Movement youth campaign.

## 2. What causes gender-based violence?

Gender-based violence, and in particular violence against women, is one of the most pronounced expressions of the unequal power relations between women and men. The main cause of the violence is the perpetrator him or herself: it is very important to keep in mind that a person who has been affected by gender-based violence is never responsible for the perpetrator's actions.

There is no single factor that can explain gender-based violence in our societies, but rather a myriad of factors contribute to it, and the interplay of these factors lies at the root of the problem. Four types of factors can be identified: cultural, legal, economic and political.

### Cultural factors

Patriarchal and sexist views legitimise violence to ensure the dominance and superiority of men. Other cultural factors include gender stereotypes and prejudice, normative expectations of femininity and masculinity, the socialisation of gender, an understanding of the family sphere as private and under male authority, and a general acceptance of violence as part of the public sphere (e.g. street sexual harassment of women), and/or as an acceptable means to solve conflict and assert oneself.

Religious and historical traditions have sanctioned the physical punishment of women under the notion of entitlement and ownership of women. The concept of ownership, in turn, legitimises control over women's sexuality, which, according to many legal codes, has been deemed essential to ensure patrilineal inheritance.

Sexuality is also tied to the concept of so-called "family honour" in many societies. Traditional norms in these societies allow the killing of women suspected of defiling the "honour" of the family by indulging in forbidden sex or marrying and divorcing without the consent of the family. Norms around sexuality also help to account for the high numbers of homeless LGBT+ young people, and for the prevalence of hate crimes against them, on the grounds that they are considered a "threat" to societal norms. The same norms around sexuality can help to account for the mass rape of women.

### Legal factors

Being a victim of gender-based violence is perceived in many societies as shameful and weak, with many women still being considered guilty of attracting violence against themselves through their behaviour. This partly accounts for enduring low levels of reporting and investigation.

Until recently, the law in some countries still differentiated between the public and private spaces, which left women particularly vulnerable to domestic violence.

The Istanbul Convention ensures the right for everyone, particularly women, to live free from violence in both the public and the private spheres.

While most forms of gender-based violence are criminalised in most European countries, the practices of law enforcement in many cases favour the perpetrators, which helps to account for low levels of trust in public authorities and for the fact that most of these crimes go unreported.

The decriminalisation of homosexuality is still very recent in many societies. While progress has been achieved in many states by adopting equal marriage, this has sometimes led to a backlash, for example by strengthening opinions holding the traditional family to be the union between a man and a woman, or where countries have adopted laws that forbid “homosexual propaganda”.

### **Economic factors**

The lack of economic resources generally makes women, but also LGBT+ people particularly vulnerable to violence. It creates patterns of violence and poverty that become self-perpetuating, making it extremely difficult for the victims to extricate themselves. When unemployment and poverty affect men, this can also cause them to assert their masculinity through violent means.

### **Political factors**

The under-representation of women and LGBT+ people in power and politics means that they have fewer opportunities to shape the discussion and to affect changes in policy, or to adopt measures to combat gender-based violence and support equality. The topic of gender-based violence is in some cases deemed not to be important, with domestic violence also being given insufficient resources and attention. Women’s and LGBT+ movements have raised questions and increased public awareness around traditional gender norms, highlighting aspects of inequality. For some, this threat to the status quo has been used as a justification for violence.



### 3. Types of gender-based violence

Violence is often associated only with physical violence, neglecting other non-physical forms. Violence is a complex issue and categorising different ‘types’ of violence can never be exact. The Council of Europe Istanbul Convention mentions the following types of violence:

- psychological violence (Art. 33)
- stalking (Art. 34)
- physical violence (Art. 35)
- forced marriages (Art. 37)
- sexual violence, including rape (Art. 36)
- female genital mutilation (Art. 38)
- forced abortion and forced sterilisation (Art. 39)
- sexual harassment (Art. 40)
- aiding or abetting and attempt (Art. 41)
- unacceptable justifications for crimes, including crimes committed in the name of so-called “honour” (Art. 42).

Using these as a basis, in this publication, we shall distinguish five inter-related types of violence:

- Physical
- verbal (including hate speech)
- sexual
- psychological, and
- socio-economic.

There also two other categories of violence that can be found in this chapter: domestic violence and (sexual) harassment – both of which may be a combination of all five types of violence mentioned above. In reality, some or many forms of violence can be present at the same time, particularly in abusive relationships. All forms can occur both in the private sphere (in families and intimate relationships) and in the public sphere, committed by (unknown) individuals in public space, or by organisations, institutions, and states.

#### Physical violence

Physical violence includes beating, burning, kicking, punching, biting, maiming or killing, or the use of objects or weapons. Some classifications also include human trafficking and slavery in the category of physical violence because initial coercion is often experienced, and the people involved often end up becoming victims of further violence as a result of their enslavement. Physical violence is an act

attempting to cause, or resulting in, pain and/or physical injury. As with all forms of violence, the main aim of the perpetrator is not only – or may not always be – to cause physical pain, but also to limit the other’s self-determination. Physical violence sends a clear message to the victim from the perpetrator: “I can do things to you that you do not want to happen.” Such violence demonstrates differences of social power, or may intend to promote particular demands, sometimes regularly, through coercion. Physical violence in intimate relationships, often referred to as domestic violence, continues to be a widespread phenomenon in every country.

Physical violence in the private sphere also affects young people. As mentioned above, witnessing the abuse of one parent by another leads to serious psychological harm in children. Often, children and young people who are present during an act of spousal abuse will also be injured, sometimes by accident and sometimes because they try to intervene. Young men sometimes commit criminal offences against the abusive parent (mostly fathers), in order to protect their mother and siblings, and children regularly become victims of an act of revenge by the abuser against the mother. In fact, for many mothers a prime motivation to stay in an abusive relationship is that the abuser threatens to harm or kill the children if she tries to leave.

Physical violence also appears in the intimate relationships of young people. The fact that they might not live together often adds to the difficulties in talking about it.

Gender-based violence in public is often related to assumptions and expectations concerning gender roles. Verbal abuse, name-calling, threats and attacks may take place, and it is common that LGBT+ people or those perceived to be gay, lesbian or ‘different’ may become victims of public violence. Violence against LGBT+ people can be organised (groups going to well-known meeting places of gay men to beat them up) or ‘spontaneous’ outbursts, for example, when a lesbian woman is attacked when she walks in the street holding hands with her partner. In this respect, public affection becomes a safety issue, and research shows that many LGBTs refrain from showing affection in public. This kind of street violence usually remains under-reported.

## **Verbal violence and hate speech**

Many cultures have sayings or expressions to the effect that words are harmless, and there is a long tradition that teaches us to ignore verbal attacks. However, when these attacks become regular and systematic and purposefully target someone’s sensitive spots<sup>7</sup>, the object of the attacks is right to consider themselves victims of verbal abuse.

Verbal violence can include issues that are specific to a person, such as put-downs (in private or in front of others), ridiculing, the use of swear-words that are especially uncomfortable for the other, saying bad things about the other’s

loved ones, threatening with other forms of violence, either against the victim or against somebody dear to them. At other times, the verbal abuse may be relevant to the background of the victim, such as their religion, culture, language, (perceived) sexual orientation or traditions. Depending on the most emotionally sensitive areas of the victim, abusers often consciously target these issues in a way that is painful, humiliating and threatening to the victim.

Most of the verbal violence that women experience because of being women is sexualised, and counts as sexual violence. Verbal gender-based violence in the public sphere is also largely related to gender roles: it may include comments and jokes about women or may present women as sex objects (e.g. jokes about sexual availability, prostitution, rape). A great deal of bullying is related to the (perceived) sexuality of young people (especially boys). The regular negative use of words such as 'queer' or 'fag' is often traumatising for those perceived as gays and lesbians. This is very likely one of the reasons why many gays and lesbians only 'come out' after secondary school.

Verbal violence may be classified as hate speech. It can take many forms: words, videos, memes, or pictures that are posted on social networks, or it may carry a violent message threatening a person or a group of people because of certain characteristics. The European Commission on Racism and Intolerance defines hate speech as:

(...) advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatisation or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of "race"<sup>8</sup>, colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status<sup>9</sup>.

Gender-based hate speech mainly targets women (in this case, it is often called 'sexist hate speech')<sup>10</sup> and LGBT+ people, on the basis of sex, gender, sexual orientation or gender identity both in the private and public spheres. This includes the Internet, which is considered a public sphere. However, people may also be affected by this kind of gender-based violence in private e-mails or messages sent using online messaging software.

Gender-based hate speech can take many different forms – jokes, spreading rumours, threats, slander, incitement of violence or hate. It aims at humiliating, dehumanising and making a person or group of people scared. As with any type of violence, gender-based hate speech is usually very destructive for the person

targeted: people who experience hate speech often feel helpless, and do not know what to do. They feel uneasy, frightened, and they lose self-confidence and sometimes even attempt suicide. Hate speech can sometimes lead to hate crimes – crimes that are motivated by prejudices targeting a person whose identity is different from the perpetrator's. Hate crimes can take various forms: physical violence, destroying property, arson or killing. The victims are deliberately chosen because of certain characteristics that they are perceived to possess.

## Psychological violence

All forms of violence have a psychological aspect, since the main aim of being violent or abusive is to hurt the integrity and dignity of another person. Apart from this, there are certain forms of violence which take place using methods which cannot be placed in other categories, and which therefore can be said to achieve psychological violence in a 'pure' form. This includes isolation or confinement, withholding information, disinformation, and threatening behaviour.

In the private sphere, psychological violence includes threatening conduct which lacks physical violence or verbal elements, for example, actions that refer to former acts of violence, or purposeful ignorance and neglect of another person.

One common example of such violence in the public sphere includes the isolation of young women or men who do not act according to traditional gender roles. Isolation in the public sphere is most often used by peer groups, but responsible adults – such as teachers and sports coaches – can also be perpetrators. Most typically, isolation means exclusion from certain group activities. It can also include intimidation, in a similar fashion to psychological abuse in the private sphere.

## Sexual violence

As more and more information has become available about the circumstances surrounding sexual violence, it has become clear that sexual violence, like other forms of violence, is an abuse of power. Sexual violence includes: engaging in non-consensual vaginal, anal or oral penetration with another person, by the use of any body part or object; engaging in other non-consensual acts of a sexual nature with a person; or causing someone else to engage in non-consensual acts of a sexual nature with a third person. Marital rape and attempted rape constitute sexual violence. Examples of forced sexual activities include being forced to watch somebody masturbate, forcing somebody to masturbate in front of others, forced unsafe sex, sexual harassment, and abuse related to reproduction (e.g. forced pregnancy, forced abortion, forced sterilisation, female genital mutilation).

Certain forms of sexual violence are related to a victim's personal limits, and are more typical of the private sphere. The perpetrator deliberately violates these limits: examples include date rape, forcing certain types of sexual activities,

withdrawal of sexual attention as a form of punishment, or forcing other(s) to watch (and sometimes to imitate) pornography.

All forms of sexual violence can appear in both the private and the public spheres. There are, however, three particular forms of sexual violence in the public sphere which are worth noting: sexual harassment at the workplace, sexual violence as a weapon of war and torture, and sexual violence against (perceived) LGBT+ people as a means of 'punishment' for abandoning prescribed gender roles.

## **Socio-economic violence**

Socio-economic deprivation can make a victim more vulnerable to other forms of violence and can even be the reason why other forms of violence are inflicted. Global economic data clearly show that one of the consequences of globalisation is the feminisation of poverty<sup>11</sup> (making women generally more economically vulnerable than men), however economic vulnerability is a phenomenon that also exists on the personal level. It has been recognised in a vast number of abusive relationships as a distinct phenomenon, which is why it deserves a category of its own. However, even when the relationship is reversed, and a woman has a higher economic status in a relationship, this does not necessarily eliminate the threat of violence: conflicts about status and emasculation may arise, particularly in already abusive relationships.

Typical forms of socio-economic violence include taking away the earnings of the victim, not allowing them to have a separate income (giving them 'housewife' status, or making them work in a family business without a salary), or making the victim unfit for work through targeted physical abuse.

Socio-economic violence in the public sphere is both a cause and an effect of dominant gender power relations in societies. It may include denial of access to education or (equally) paid work (mainly to women), denial of access to services, exclusion from certain jobs, denial of pleasure and the enjoyment of civil, cultural, social and political rights. In the case of LGBT+ people, they may even be subject to criminalisation.

Some public forms of socio-economic gender-based violence contribute to women becoming economically dependent on their partner (lower wages, very low or no child-care benefits, or benefits being tied to the income tax of the wage-earning male partner). Such a relation of dependency then offers someone with a tendency to be abusive in their relationships the chance to act without fear of losing their partner.

## **Domestic violence or violence in intimate relationships**

Domestic violence, or intimate partnership violence, is the most common type of gender-based violence. It also requires special attention, because it is a relational

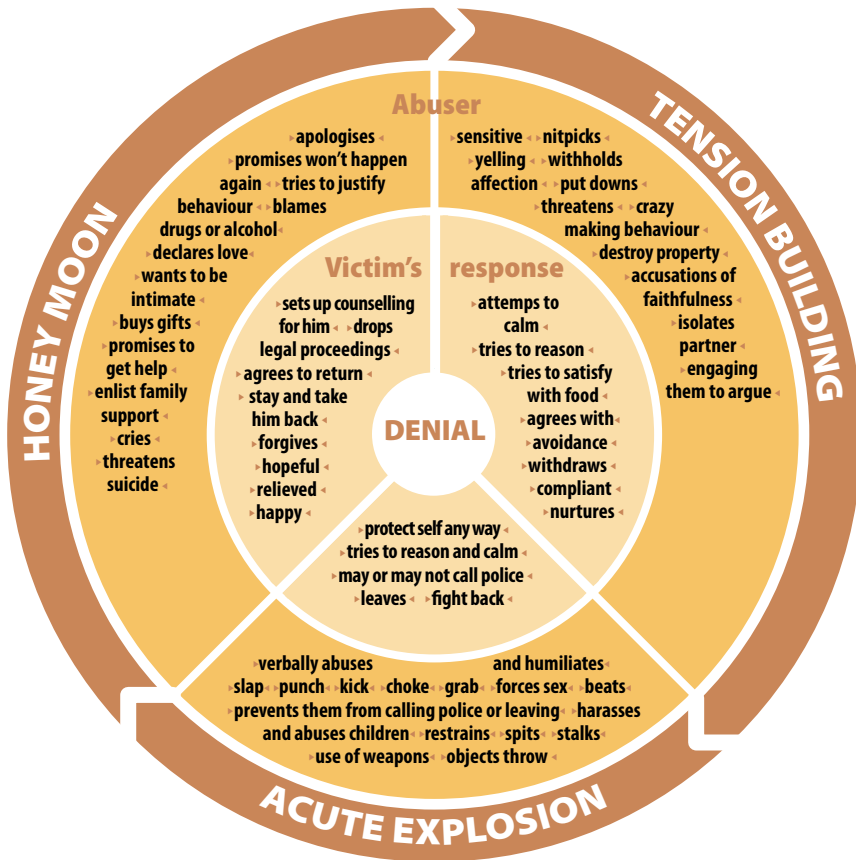
type of violence, and the dynamics are therefore very different from violent incidents that occur among strangers.

The fact that domestic violence was long considered to be a private, domestic issue has significantly hampered recognition of the phenomenon as a human rights violation. The invisibility of the phenomenon was reinforced by an understanding of international human rights law as applicable only to relations between individual and the state (or states). However, it is now recognised that state responsibility under international law can arise not only from state action, but also from state inaction, where a state fails to protect citizens against violence or abuse (the “due diligence” principle).

According to the Istanbul Convention, domestic violence includes “acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim”. Although the vast majority of domestic violence is perpetrated against women by men, it actually occurs in same sex relationships just as frequently as in heterosexual relationships, and there are cases of women abusing their male partners. Domestic violence such as rape, battering, sexual or psychological abuse leads to severe physical and mental suffering, injuries, and often death. It is inflicted against the will of the victim, with the intention to humiliate, intimidate and exert control over her or him. Very often the victim is left without recourse to any remedies, because police and law enforcement mechanisms are often gender-insensitive, hostile or absent<sup>12</sup>.

A question often asked in relation to domestic violence is ‘why doesn’t (s)he leave?’ There is no simple answer to this question, because domestic violence is a complex phenomenon which often involves physical, psychological, emotional and economic forms of abuse. It may often lead to ‘battered woman syndrome’, where a woman in an abusive relationship starts feeling helpless, worthless, powerless, and accepting of the status quo. However, this syndrome does not explain why some women kill their violent partners and detracts attention from other reasons why women end up staying in a violent relationship. Such reasons may include financial dependence on the abuser, social constraints, and a lack of alternatives such as shelters for abuse victims. Domestic violence often involves isolation of the victim from family and friends, deprivation of personal possessions, manipulation of children, threats of reprisals against the individual, against children, or against other family members. Furthermore, common social pressures regarding the nature of a family – ‘some kind of father is better than no father for your children’ – often makes getting out of an abusive relationship not only difficult, but also extremely dangerous.

One further reason why people stay in abusive relationships can be understood through the so-called ‘Cycle of Violence’<sup>13</sup>:



The abusive behaviour involved in this cycle is sometimes instinctive and reactive, and sometimes planned and deliberate. It aims to keep the abused person in the relationship through promises and denials. The basic cycle consists of an outburst of violence, which is followed by a so-called 'honeymoon period' characterised by a sudden positive change in the behaviour of the abuser. It is known as the honeymoon period because victims often describe this period as being very similar to the early part of the relationship. The abuser is typically very apologetic about his or her behaviour, makes promises to change, and may even offer presents. However, this period does not last long, as its only function is to eliminate the worries of the victim regarding the future of the relationship. The victim is typically engaged and involved at this stage, as nobody likes to remember negative experiences. The victim therefore welcomes the apparent changes and promises made.

Once the victim's worries have been silenced, the old power structure is re-asserted. The many typical characteristics of domestic violence will again breed

the kind of tension that eventually erupts in a further act of violence on the part of the abuser. Early in a relationship, violent incidents may be as far apart as six months or even a year, making it difficult to recognise the cyclical nature. Early incidents are likely to be verbal incidents followed by minor acts of physical violence, also making it hard for the victim to recognise the cycle, or to realise that put-downs, breaking of cups, even shoves and slaps are likely to escalate and end in beatings or worse.

The cycle does not only escalate as far as the severity of violence is concerned, but the incidents typically become closer to each other. Eventually, the honeymoon phase can disappear completely, and in some abusive relationships it may not exist at all. Instead, it may be replaced, particularly in social groups where domestic violence and rigid gender roles are less accepted, by attempts to minimise or deny the violence altogether.

In contexts where gender roles are more rigid, the perpetrator has greater freedom to deny responsibility. The set of gender roles that we are taught to adhere to as women and men contain many contradictions or demands that cannot be fulfilled. At the same time, part of the hegemonic male gender role is to oversee women and children in fulfilling their roles, and if necessary, to discipline them. These two conditions combine to create common justifications for those who are abusive in relationships: they can easily find one thing or another to blame the woman for in cases of violence inflicted, and thereby to claim the right to inflict it.

In many countries, physical abuse and emotional abuse, often accompanied by acts of sexual violence, are seen as acts or crimes of 'passion', motivated by jealousy or the failure of the partner to fulfil expectations. Such a portrayal is particularly common in the media. However, this kind of vocabulary should be avoided when talking about forms of gender-based violence as it perpetuates ideas of impunity and implies responsibility on the part of the victim. The influence of alcohol is also often cited as a mitigating factor in cases of sexual abuse or exploitation, but this ignores the fact that abuse is perpetrated in a systematic way. As Ronda Copelon remarks, alcohol does cause violence, but "many men get drunk without beating their wives and...men often beat their wives without being drunk. To the extent that alcohol facilitates male violence, it is an important factor in the effort to reduce violence, but it is not the cause"<sup>14</sup>.

## Harassment and sexual harassment

*Can I hug my colleague at work without asking, or is this sexual harassment?  
Is it OK to comment on a woman's body?*



When, in fact, does harassment start? It is helpful to note, from the start, that any form of harassment is usually humiliating and degrading and threatens the physical and mental integrity of a person. The Istanbul Convention of the Council of Europe defines sexual harassment as:

any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.<sup>15</sup>

Harassment and sexual harassment are also defined in EU Directive 2002/73/EC<sup>16</sup>. Harassment is said to occur “where an unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment”. Sexual harassment is “where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment”. This EU Directive states that harassment is both a form of discrimination and that it is illegal.

Verbal examples of sexual harassment may include: making sexual comments about a person’s body, making sexual comments or innuendos, asking about sexual fantasies, preferences, or history, asking personal questions about someone’s social or sex life, making sexual comments about a person’s clothing, anatomy, or looks, repeatedly trying to date a person who is not interested, telling lies or spreading rumours about a person’s sex life or sexual preferences.

Examples of non-verbal harassment include: looking a person up and down (‘elevator eyes’), following or stalking someone, using sexually suggestive visuals, making sexual gestures with the hands or through body movements, using facial expressions such as winking, throwing kisses, or licking lips.

Instances of physical harassment include: giving someone a massage around the neck or shoulders, touching another person’s clothing, hair, or body, hugging, kissing, patting, touching or rubbing oneself sexually against another person.

The key concept in understanding harassment is that any overtures are unwelcome. A person may welcome and accept a sexist remark or a comment about their body, but this is likely to depend on the particular situation and circumstances. However, it is important to remember that even if someone accepts – or welcomes – the behaviour, it may still be degrading and humiliating. In addition, such acceptance may not be fully voluntary: it may be a result of often invisible pressure from the outside world.

## 4. Exploring gender and gender identity

Gender enters into all our social relations. When people interact, their view of themselves, including their identity and their rights and possibilities, comes up against the way they are perceived by other people, and the way that others behave towards them. However, it often appears that gender in its truest sense is absent from our social relations, because the way in which most people perceive gender tends to be internalised so deeply that it appears 'normal' and natural. Understanding how we live together means being able to question the things we take for granted in our everyday lives. This includes a key part of our identity: our gender.

This manual is a resource for working with others, but it is also a resource that underlines the need constantly to work with oneself. It could even be said that one is not really possible without the other. In some ways, the reasoning behind this can be expressed easily: each of us is a person with our own subjectivity and experience of living with others in society – so everyone is personally involved in discussions of gender. It is easy to test this out: most people have had experiences where someone's appearance does not immediately signal 'male' or 'female'. Perhaps fewer people then go on to ask themselves what this indicates about gender, or about how they perceive gender stereotypes. In fact, on a daily basis, it is common for people to organise their perceptions according to gendered assumptions that have never been questioned.

The concept of 'gender awareness' reminds us that we all need to be aware of issues such as the following:

- We are likely to see ourselves within such categories as male/female or man/woman, but these categories do not in fact do justice to the complexity of gender and sexual identities;
- We consciously and unconsciously express our gendered selves in numerous ways, including in our relations with others;
- We interpret and evaluate other people's gender and this affects the ways that we interact with them;
- We use images, associations, assumptions and normative standards to interpret the gender(s) and sexualities of others, and are often unaware of the way this happens or how these influences originate;
- Gender is of key importance in defining the power, privilege and possibilities that some people have and some people do not have in a given society. It affects progress towards equality and freedom from discrimination.

Gender awareness is necessary as an end goal for everyone, but deliberate work on this issue is particularly important for youth workers and young people who want to address issues of gender and violence with their peers. Gender awareness is necessary because no one is ever completely able to 'step outside' of the social

and cultural processes that partly shape our identities, values and perceptions, but we can still develop ways of reflecting and ways of interrogating ourselves, and this is very important for group work and group interaction. Gender awareness should also be seen as a process, because our ways of thinking about ourselves and others as gendered, sexual beings shift over time and in different contexts.

## Sex and gender

Different terms are regularly used in theories of sexuality and gender, for example sex, gender, gender identity, gender expressions, gender roles, sexual orientation. It is important to be clear about the meanings of such terms.

Gender is an area that cuts across thinking about society, law, politics and culture, and it is frequently discussed in relation to other aspects of identity and social position, such as class, ethnicity, age and physical ability. Gender is also an important concept within a range of social and political debates and may influence these debates differently according to cultural context.

'Gender' is a 'heavy' word: politicians and public figures often use it with negative connotations, for example in referring to 'gender police', or to ideologies that 'threaten our kids'. These are examples of how gender can be misunderstood and politicised.

There are some languages which do not have a word for 'gender'. In such cases, the word 'sex' is normally used, and in order to distinguish between sex and gender, different terms may be employed, for example 'biological sex' may be used to refer to 'sex', and 'cultural and social sex' may be used to refer to 'gender'. However, even when the terms exist in the language, 'sex' and 'gender' are often used interchangeably.

### **Definitions of sex and gender**

A number of definitions have been put forward by different organisations. They provide a useful starting point for discussion.

The World Health Organisation summarises the difference between sex and gender in the following way:

*Sex refers to "the different biological and physiological characteristics of males and females, such as reproductive organs, chromosomes, hormones, etc."*

*Gender "refers to the socially constructed characteristics of women and men – such as norms, roles and relationships of and between groups of women and men. It varies from society to society and can be changed. The concept of gender includes five important elements: relational, hierarchical, historical, contextual and institutional. While most people are born either male or female, they are taught appropriate norms and behaviours – including how they should interact with others of the same or*

*opposite sex within households, communities and work places. When individuals or groups do not “fit” established gender norms they often face stigma, discriminatory practices or social exclusion – all of which adversely affect health<sup>17</sup>.”*

The Council of Europe Convention on preventing and combating violence against women and domestic violence is the first international human rights document that contains a definition of gender. In Article 3, gender is defined as “socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men.”<sup>18</sup>

The European Institute for Gender Equality, an autonomous body of the European Union, provides very extensive definitions of sex and gender:

*“Sex refers to the biological and physiological characteristics that define humans as female or male. These sets of biological characteristics are not mutually exclusive, as there are individuals who possess both, but these characteristics tend to differentiate humans as females or males.”*

*“Gender refers to the social attributes and opportunities associated with being female and male and to the relationships between women and men and girls and boys, as well as to the relations between women and those between men. These attributes, opportunities and relationships are socially constructed and are learned through socialisation processes. They are context- and time-specific, and changeable. Gender determines what is expected, allowed and valued in a woman or a man in a given context. In most societies, there are differences and inequalities between women and men in responsibilities assigned, activities undertaken, access to and control over resources, as well as decision-making opportunities. Gender is part of the broader sociocultural context. Other important criteria for sociocultural analysis include class, race, poverty level, ethnic group and age.”<sup>19</sup>*

Other definitions have been proposed<sup>20</sup>, but the general differences between the terms can be summarised as follows:

## **SEX**

- ‘Sex’ refers to biological differences between males and females (e.g. gonads, sexual organs, chromosomes, hormones).
- Sex is usually assigned at birth (there are examples when it is assigned later, when sex characteristics do not clearly indicate the sex of the baby, for example in the case of ‘intersex’ people).
- Sex can be changed: in the case of transsexual people, who are born with the sex characteristics of one sex and gender identity of the other, sex reassignment surgeries are performed. This includes a change of sex organs and the administration of hormones.

## GENDER

- Gender is a social, psychological and cultural construct and it is developed in the process of socialisation. Different societies and cultures may therefore have different understandings of what is 'masculine' or 'feminine'. Societies create norms and expectations related to gender, and these are learned in the course of people's lives – including in the family, at school, through the media. All of these influences impose certain roles and patterns of behaviour on everyone within society. Gender norms – often limited to notions of masculinity and femininity – change over time, but are usually based on a heteronormative order which stipulates that there are two sexes (genders) and they are attracted to each other. People who do not appear to fall under this binary notion of gender often suffer from exclusion, discrimination and violence.
- Gender is both an analytical category – a way of thinking about how identities are constructed – and a political idea which addresses the distribution of power in society.
- Gender norms are learned and internalised by all members of society.
- Gender norms vary across different cultures and over time.
- Traditional gender norms are hierarchical: they presuppose an unequal power structure related to gender that disadvantages mostly women.
- Gender is not necessarily defined by biological sex: a person's gender may or may not correspond to their biological sex. Gender is more about identity and how we feel about ourselves. People may self-identify as male, female, transgender, other or none (indeterminate/unspecified). People that do not identify as male or female are often grouped under the umbrella terms 'non-binary' or 'genderqueer', but the range of gender identifications is in reality unlimited.
- Gender is deeply personal to every individual: some people recognise their gender identity early in childhood, and some only later on.
- Gender intersects with other categories, such as class, skin colour, ethnicity, religion or disability. (You can read more about intersectionality in Chapter 4).
- Gender is something we express (gender expression), sometimes intentionally, and sometimes without thinking. We communicate our gender in a number of ways, for example by the way we dress, the way we move, our hair style, and the way we interact with others<sup>21</sup>.

Gender expression can vary for an individual from day to day or in different situations, but most people can identify a range on the scale where they feel the most comfortable. Some people are comfortable with a wider range of gender expression than others.

Gender may appear to be a complicated idea, but once the biological determinism common in everyday thinking about differences between women and men is challenged, it becomes easier to understand gender.

Aspects of sex will not vary substantially between different human societies and over time, while aspects of gender may vary greatly.

*Examples of sex characteristics:*

- Women can menstruate while men cannot.
- Men have testicles while women do not.
- Women have developed breasts that are usually capable of lactating (producing milk) while men have not.
- Men generally have bigger bones than women.

*Examples of gender characteristics:*

- In most countries, women earn significantly less than men.
- In some countries, the tobacco industry targets women by “feminising” cigarettes packaging for certain brands (small “purse” packs that resemble cosmetics and evoke slimness, the use of “feminine” colours, such as pink).
- In most countries of the world, women do more housework than men.
- In some countries, the law allows people to marry a partner of the same sex; in other countries this is not allowed.

## **Facilitating discussion on gender issues**

Before examining gender and socialisation, it is important to bear in mind some considerations about approaching gender and gender issues in a local context, including how this relates to working with young people.

- Gender is a sensitive issue. Understandings and feelings about gender and gender issues can often be deeply personal, and approaching these issues can trigger memories and feelings about past or current experiences. When we deal with issues concerning identity, it is not always possible to know ‘who is in the room’. Before engaging in discussions such as these with your youth group, you need to think carefully about how to conduct them with sensitivity and responsibility.
- Gender is a political issue. Discussions around gender often become heated and are likely to raise political issues where there are strong disagreements, often based on different ideological, religious or other firmly held beliefs. Facilitating such discussions is challenging, and involves being acutely aware of our own attitudes and beliefs and understanding how to support others to discuss these issues in a meaningful way.
- Key terms are generally not well understood. Despite the definitions and differentiations offered above, you will hear the terms ‘gender’ and ‘sex’ used interchangeably in society. For example, some questionnaires or forms may ask for your ‘gender’ and simply provide the categories ‘male’ and ‘female’ for you to choose from, neglecting other options.
- Gender is everyone’s concern. Awareness of gender issues has primarily

been brought about as a result of the work of the women's movement and of feminist politics, which includes work on gender equality, challenging the status and roles of women and men in society, and addressing the creation of gendered stereotypes. For this reason, there is a tendency to associate gender with women and women's issues alone. However, it is important to note that everyone has a gender identity, and discussing gender is not only about discussing women's issues.

- Gender relations are relations of power. A proper gender analysis cannot examine the construction of male and female identities in relation to each other without considering how these relations are a function of power, and how they serve to reproduce differences in access to power and resources – and other inequalities. In general, these relationships tend to privilege men and subordinate women. It is also important to recognise that "...current norms of gender marginalise many men and that cultural constructions of gender exclude and alienate those who do not fit neatly into the categories of male or female".<sup>22</sup>

### ***Gender and socialisation***

Humans learn the norms of society through the experience of living within it and interacting socially. However, we are not necessarily always aware of how or what we are experiencing and learning. In other words, people may be highly attuned to signs of gender in the environment, while not necessarily being able to reflect on how these signs have become gendered.

Our everyday knowledge includes a sense of values, norms, roles and ways of evaluating behaviour, and this kind of knowledge is constantly expanding and constantly being fine-tuned: "although deeply immersed in our daily routines, informed by practical knowledge oriented to the social settings in which we interact, we often do not pause to think about the meaning of what we have gone through; even less frequently do we pause to compare our private experiences with the fate of others...".<sup>23</sup> Reflecting on how we learn about gender involves a challenge: it invites us to take a critical distance from ourselves and our daily modes of seeing and interacting, and to pause and think about the meaning of gender, and of how we have been able to acquire such a vast and seemingly 'natural' knowledge of gender roles, values and identities.

We have all been born into socio-cultural arrangements and meanings that pre-date us. 'Socialisation' is the term that is often given to how we learn, from early childhood, to fit into and negotiate the normative expectations which allow us to be able to behave and fit into society. This applies, among other things, to the sets of masculine and feminine codes, roles and behaviours. Being born as a 'he' or 'she' does not merely mean acquiring a biological sex category, but marks the 'him' or 'her' out as the inheritors of characteristics that women and men ought to have, together with preconceptions about how they should behave, play, be played with, dress, react and express emotions. As Jane Pilcher and Imelda Whelehan explain:

The concept of socialisation features in explanations of gender difference, where emphasis is given to the process of how individuals learn to become masculine or feminine in their identities, appearance, values and behaviour. The primary stage of socialisation occurs during infancy and childhood, via interaction between adults (especially parents) and children. Socialisation is, though, a life-long process. As individuals grow up and older, they continually encounter new situations and experiences and so learn new aspects of femininity and masculinity throughout their lives.<sup>24</sup>

However, knowing that something called ‘socialisation’ takes place is different from analysing how it takes place, and this can be a challenging topic for discussion, particularly given the many different contexts in which a resource such as this manual may be read. A key concern for anthropologists who study gender is that the ways in which women and men relate to each other and interact, and the social senses in which the sexes themselves are conceptualised vary enormously from place to place. With this in mind, we can talk about socialisation in two ways. It is (a) a general concept relating to processes that shape and orient us over time through our interaction with others, resulting in the acquisition of a gendered identity, and (b) a concept that has a more specific history in sociology.

Generally, theories of socialisation suggest that we learn about prevalent gender roles, differences and values through interaction with important agents. Such agents include the family, teachers, peer groups, and mediated images and information. However, this general idea becomes more complicated when we look at the divergence of views concerning the processes by which socialisation takes place. Key questions include:

- How much importance should different agents of socialisation be given in our considerations?
- To what extent, and in which ways, are people able actively to negotiate these influences and fashion their own concepts of gender identity?

Theories of role-learning, which were most influential in the 1970s and which have become widely accepted, argue that children learn and internalise correct gender roles and behaviours through interaction with adults, especially their parents. In everyday situations, it is argued, parents often sanction and set boundaries of appropriate gendered behaviour for children, such as which games and toys to play with. They also implicitly offer themselves as gendered role models through their own behaviour. Children learn to travel as girls or boys by using maps that reflect the important directions, laid down by key adult influencers. Thus, across theories of socialisation that emphasise role-acquisition, recurring ideas include the ways in which boundaries for behaviour – the rigidity of which depend on



the context – are reinforced by logics of positive and negative reaction, resulting in the internalisation of norms for feminine and masculine roles and behaviours.

### ***Agency (personal involvement) in gender construction***

Although we are unable to do full justice to role-learning theories here, it is useful to note some of the limits to this kind of approach. Role-learning theories may be useful for suggesting how ‘dominant’ or ‘hegemonic’ gender roles are formed, but they do not give a satisfactory account of how some men and women come to oppose sexism and heterosexism (sexism directed at people on the basis of sexual orientation). Neither do such theories explain how, in many ways, gender roles have become more complex and confused. Why, for example, do some people seem to accept and live within certain roles, and others reject or subvert them?

For example, a stereotypical gender role constructs a man as a father working outside the home, and associates the male historically with the role of soldier. However, in some European countries it is becoming increasingly common to see fathers who have both been in the army for national service and taken parental leave to be the primary carer of a child. Similarly, while schools have been identified as associated with stereotyped femininities and masculinities, in many contexts this identification does not stand up to analysis, given the changes in the ways in which educational materials and curricula now reflect an increased sensitivity to gender. However, a lot of work still needs to be done in this area.

Perhaps most importantly, over-emphasising socialisation as a force that guarantees conformity is as limiting as denying the influence of society on the individual. After all, the educational logic of resources such as this one is based on a belief that our understandings of gender can change, and that people can and do adapt gender norms in their own lives. For that reason, many contemporary theories of gender emphasise the power that people have to reflect on, shape and construct their own gender identities. Young people in particular, in their use of style, popular culture and networking have, in many contexts, increased their autonomy with respect to how they represent themselves and live in their bodies. Such considerations have led to a tendency to opt for a balance between accounts of socialisation and the autonomy of the individual.

### **Gender equality and gender mainstreaming**

The notion of gender equality<sup>25</sup> is often used to refer to equality between women and men. It describes a state of affairs in which women and men enjoy equal rights and opportunities, where the behaviour, aspirations, wishes and needs of women and men are equally valued and favoured. An equal distribution and access to resources is also implied.

However, gender equality can also refer to broader notions of equality in relation to gender identity (social expectations and norms attached to the masculine and

the feminine) and sexual orientation.

The Council of Europe has adopted a number of standards relating to gender equality, for example addressing violence against women, balanced participation in political and public decision-making, gender equality in media, education, health and sport.<sup>26</sup> These standards interpret gender equality as equality between women and men. Issues relating to gender identity and sexual orientation are dealt with separately by the Council of Europe.<sup>27</sup>

For the Council of Europe, gender equality means:

**an equal visibility, empowerment and participation of both sexes in all spheres of public and private life. Gender equality is the opposite of gender inequality, not of gender difference, and aims to promote the full participation of women and men in society. It means accepting and valuing equally the differences between women and men and the diverse roles they play in society. Gender equality includes the right to be different. This means taking into account the existing differences among women and men, which are related to class, political opinion, religion, ethnicity, race or sexual orientation. Gender equality means discussing how it is possible to go further, to change the structures in society which contribute to maintaining the unequal power relationships between women and men, and to reach a better balance in the various female and male values and priorities.**<sup>28</sup>

Although a great deal has been achieved internationally to guarantee gender equality, many women are still confronted with discrimination and violence. Globally, women in the labour market still earn 24% less than men on average,<sup>29</sup> and in Council of Europe member states, women account for only about 25% of members of parliaments and 13% of mayors.<sup>30</sup> One of the UN's Sustainable Development Goals (Goal 5) is "Achieving gender equality and empowering all women and girls".<sup>31</sup>

A number of different models and theories have been put forward to explain how men have predominantly placed themselves, and been placed, in social hierarchy over women. The idea of 'patriarchy' is often used as a shorthand for male dominance, and it has also itself been the subject of more detailed theories. In general, patriarchy describes the way in which gender roles and possibilities have tended to subordinate women to men. Patriarchy involves the acceptance of fundamental ideas about the nature and value of women, their potential, and their roles – including the heterosexual norms of wife and mother. Such ideas tend to be based on appeals to biological reasoning, for example, on suggestions that

women are more “naturally” suited to be carers. Some discussions of patriarchy argue that it is dependent on divisions in labour that have tended to dominate in industrial capitalist societies. In other words, the predominance of men at work in the public sphere, and of women’s work in the private sphere ‘making a home’ has deeply influenced the durability of traditional gender roles. However, it is important to recognise that this is a partial story, as it fails to take account of women’s role in the work force of industrial societies, and does not acknowledge the many changes that have taken place in work-gender roles in societies where heavy industry has been replaced by the service and information industries.

One important contribution of feminist theory and the women’s movement has been to include the private sphere within political and economic discourse. This has led to heightened awareness about the invisible contribution of women to the economy and to general well-being, and to the adoption of policies advocating the equal distribution of unpaid care work between women and men as an essential step towards gender equality in the public sphere and in paid employment.

Heteronormative societies impose a very distinct way of understanding the role of men and women. As Mary Holmes puts it: “Social rules about ‘normal’ gender and sexuality demand that you must be clear about who are boys and who are girls, so that boys and girls can grow up, fall in love with each other, and have more little boys and girls.”<sup>32</sup> Such assumptions and norms lead to direct or indirect discrimination of LGBT+ people in the public sphere, limiting their access to – or even denying them access to different services. LGBT+ people also experience systemic discrimination and violence. In many countries, they cannot legally enter into a civil union or get married; and in some countries, they can be sentenced to death simply because of their sexual orientation or gender identity. You can find more information on gender-based violence affecting LGBT+ people in Chapter 4, in the section on LGBT+.

### ***Gender mainstreaming***

The concept of gender mainstreaming arose because it was recognised that a new approach to policymaking was needed – one which took into account the concerns and needs of both women and men. Gender mainstreaming means integrating a gender equality perspective into policies, programmes and projects, at every level. Women and men have different needs and circumstances, and unequal access to power, resources, and the justice system, including human rights institutions. The men and women’s circumstances also differ according to country, region, age, ethnic or social origin, and other factors. The aim of gender mainstreaming is to take into account these differences when designing, implementing and evaluating policies, programmes and projects, so that the benefits accrue equally to women and men, and do not increase inequality but enhance gender equality. Gender mainstreaming aims to solve gender

inequalities, even when they are hidden. It is a tool for achieving gender equality.

Gender mainstreaming is one of the objectives of the Council of Europe Gender Equality Strategy, and different parts of the organisation have been actively working to implement this Strategy, including in the areas of sports, media, audiovisual, health, and more. Gender mainstreaming is also an objective of the European Union, as provided by Article 8 of the Treaty on the functioning of the EU.<sup>33</sup>

Gender mainstreaming does not take the place of specific policies aimed at redressing gender inequalities. It should go hand in hand with specific policies for the advancement of women, including positive actions designed to reach gender equality. Gender mainstreaming is a transformative tool to reach this goal.

## 5. Gender-based violence and human rights

Gender-based violence is a human rights concern. People who experience gender violence may suffer from different human rights violations – for example the right to life, freedom from torture and degrading treatment, freedom from discrimination and the right to safety and security. All these rights can be found in international and regional human rights documents, in particular by the United Nations and by the Council of Europe.

### United Nations

The right to life, gender equality, prohibition of discrimination on the grounds of sex, protection of physical integrity, the right to health - to mention a few of the human rights impacted by gender-based violence - are safeguarded in the Universal Declaration of Human Rights and the International Covenants on Civil and Political Rights and on Social, Economic and Cultural Rights.

In order to step the combat against violence and discrimination against women, the United Nations adopted specific instruments and measures.

#### Convention on the Elimination of All Forms of Discrimination Against Women' (CEDAW)

One of the most important international human rights documents dealing with women's rights is the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This Convention prohibits discrimination on the basis of sex. It defines discrimination against women as:

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, social, cultural, civil or any other field.<sup>34</sup>

States that are parties to this Convention are obliged to adopt all necessary measures to ensure that women enjoy equality with men. This means that State Parties should adopt necessary legislation to combat discrimination and advance women's rights. It should be noted, however, that the aim of equality for women does not mean that they can be denied special protection where this is needed – for example, in relation to maternity.

CEDAW reviews states' compliance with the Convention. State Parties have to submit periodic reports on any measures undertaken to implement the

Convention, and the CEDAW Committee monitors states' compliance. However, the implementation mechanism is regarded as weak, and relies primarily on the force of moral persuasion. Implementation is further weakened by the many reservations and exceptions to the original document which have been negotiated by states.

Unlike other women's issues – such as suffrage (the right to vote), equality, or discrimination – violence against women has only recently been recognised as deserving of special attention by international human rights law. CEDAW dates back to 1979, and came into force in 1981. It makes no mention of violence, rape, abuse or battery.<sup>35</sup> However, in 1992, General Recommendation 19 was issued by the CEDAW Committee, recommending that violence against women should also be reported on by the States Parties. An individual complaint mechanism was added to CEDAW, whereby individuals, after exhausting domestic remedies, were able to file a complaint against the State in relation to provisions of the Convention.

In 1993, in Vienna, the United Nations General Assembly adopted the 'Declaration on the Elimination of Violence Against Women'. This Declaration was significant in that it made violence against women an international issue, not subject to claims about cultural relativism. The Declaration therefore included a variety of issues such as female genital mutilation, rape and torture, domestic battery and female sexual slavery, all of which had previously been regarded, in some quarters at least, as acceptable or beyond the realm of the law. The inclusion of such practices within the realm of international law was an important statement from the UN, and it placed individual rights to physical integrity above claims of cultural rights. It also recognised that national or cultural support for such practices ignores the wishes of women themselves, as well as the many voices, even in supposedly homogenous cultures, which are opposed to such practices.

Another aspect of the Declaration is that it recognises the need to re-draw the apparently 'natural' boundaries between public and private – a challenge long advocated by feminist groups. The UN Declaration prohibits not only state violence against women, but also private violence, including '...battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence or violence related to exploitation'.<sup>36</sup> The Declaration also prohibits violence against women based on cultural practices.

Although it is not a binding document, the Declaration made an important contribution towards breaking a wall of silence, and recognising violence against women as an international human rights violation.

### Independent Expert on Sexual Orientation and Gender Identity

In 2016, the UN Secretary General appointed an Independent Expert on Sexual Orientation and Gender Identity, with a mandate "to assess the implementation

of existing international human rights instruments with regard to ways to overcome violence and discrimination against persons on the basis of their sexual orientation or gender identity, and to identify and address the root causes of violence and discrimination<sup>37</sup>.

## COUNCIL OF EUROPE

As a human rights issue, gender equality and gender-based violence are addressed firstly by human rights instruments such as the European Convention on Human Rights and the European Social Charter. The growing awareness of the extent and persistence of the problem has led to the creation of specific instruments addressing gender-based violence in its various forms.

### The European Convention on Human Rights

The European Convention on Human Rights and Fundamental Freedoms (ECHR), includes a number of articles relevant to gender-based violence:

**Article 8** of the ECHR protects the right to private and family life, and gives people of marriageable age the right to marry.

**Article 14** forbids discrimination on any grounds in relation to any of the other rights in the Convention. This includes discrimination on the grounds of sex or gender.

**Article 5** of Protocol 7 to the Convention states that spouses should have equal rights in marriage.

**Protocol 12** to the Convention extends the prohibition of discrimination in Article 14 to cases not engaged by other rights in the Convention.

The European Convention has a strong and well-known enforcement mechanism, the European Court of Human Rights (ECtHR), which is able to address complaints from individuals against their state, as well as state vs. state complaints.

### The European Social Charter

The European Social Charter (ESC) was adopted in 1961 and revised in 1996 and complements the European Convention on Human Rights. The ESC addresses economic and social rights, and guarantees the enjoyment of rights in the areas of housing, health, education, employment, legal and social protection and the movement of persons. All rights in the Social Charter must be implemented

without discrimination on any grounds, and this includes on grounds of sex or gender. The revised form of the Charter provides for equality between women and men in education, work and family life, for positive measures to ensure equal opportunities, and the right to equal remuneration.

### The Lanzarote Convention

The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)<sup>38</sup> entered into force on 1 July 2010. It has been signed by all 47 member states of the Council of Europe (but not ratified by all).

The Lanzarote Convention is a comprehensive international legal instrument for the protection of children against sexual exploitation and sexual abuse. The Convention covers sexual abuse within a child's family and in the "circle of trust" as well as acts carried out for commercial or profit-making purposes. It also tackles all possible kinds of sexual offences against children (including sexual abuse of a child, exploitation of children through prostitution, grooming and corruption of children through exposure to sexual content and activities and offences related to child abuse material). According to the Convention, governments in Europe and beyond should develop legislation to criminalise all forms of sexual exploitation and abuse against children, and should take concrete measures designed to prioritise the best interests of children, in four areas:

- **Prevention:** children should be made aware of the risks of sexual exploitation and sexual abuse and should be empowered to protect themselves; persons working in contact with children should be screened and trained; intervention programmes or measures for sexual offenders (whether convicted or potential) should be regularly monitored.
- **Protection:** reporting any suspicion of sexual exploitation or sexual abuse should be strongly encouraged; telephone and Internet helplines should be set up; programmes to support victims and their families should be established; therapeutic assistance and emergency psychological care should be provided; child-friendly judicial proceedings for protecting the victim's safety, privacy, identity and image should be put in place (e.g. the number of interviews with child victims has to be limited, the interview has to be carried out in a reassuring place, with professionals trained for the purpose).
- **Prosecution:** the Convention requires states to criminalise all sexual offences against children (including sexual abuse within the family or circle of trust, exploitation of children through prostitution, pornography, participation in pornographic performances, corruption of children, solicitation of children for sexual purposes). The Convention requests that countries extend their statute of limitation on sexual offences against children, so that proceedings may be initiated after the victim has reached the age of majority. It also establishes common criteria to ensure that an effective and proportionate punitive system is put in place in all countries, and foresees the possibility



of prosecuting a citizen for a crime even when committed abroad (“extraterritoriality principle”). For example, prosecution can be brought against sexual offenders when they return to their home country.

- **Promotion of national and international co-operation:** Co-operation helps countries to identify and analyse problems, find and apply common solutions, share data and expertise, combat impunity and improve prevention and protection measures. The Lanzarote Convention is open to accession from non-European as well as European countries, in order to facilitate international co-operation in fighting the problem of sexual offences against children.

The implementation of the Convention is monitored by the Committee of the Parties to the Convention (the Lanzarote Committee), which assess the protection of children against sexual violence at national level on the basis of information provided by national authorities and by other sources. The Lanzarote Committee also acts as a platform to discuss and give visibility to challenges arising and examples of good practice.

### Istanbul Convention

The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) was adopted by the Committee of Ministers and opened for signature in Istanbul on 11 May 2011. The Convention entered into force on 1 August 2014, and recognises gender-based violence against women as a violation of human rights and a form of discrimination.

It focuses on several areas, obliging States Parties to the Convention to take a number of measures to act against violence against women and domestic violence, including:

- **Prevention:** States should regularly run awareness-raising campaigns, train professionals in close contact with victims, include within teaching materials issues such as gender equality and non-violent conflict resolution in interpersonal relationships, set up treatment programmes for perpetrators of domestic violence and for sex offenders, work closely with NGOs, and involve the media and the private sector in eradicating gender stereotypes and promoting mutual respect.
- **Protection:** This includes granting the police the power to remove a perpetrator of domestic violence from their home, ensuring people’s access to adequate information on available services in a language they understand, setting up easily accessible shelters in sufficient numbers and in an adequate geographical distribution, making available state-wide 24/7 telephone helplines free-of-charge, and setting up easily accessible rape crisis or sexual violence referral centres.
- **Prosecution:** The Convention defines and criminalises the various forms of violence against women, including domestic violence. States that have

signed and ratified the treaty must introduce a number of new offences where these do not already exist, for example, psychological and physical violence, sexual violence and rape, stalking, female genital mutilation, forced marriage, forced abortion and forced sterilisation. In addition, States Parties will need to ensure that culture, tradition or so-called “honour” are not regarded as a justification for any of the above-listed courses of conduct. States parties will have to take a range of measures to ensure the effective investigation of any allegation of violence against women, including cases of domestic violence. This means that law enforcement agencies will have to respond to calls for help, collect evidence, and assess the risk of further violence to adequately protect those at risk. In addition, judicial proceedings should be run in a manner that respects the rights of victims at all stages of the proceedings and that avoids secondary victimisation.

- **Development of integrated policies:** It is difficult for one institution alone to act against violence. For that reason, the Convention asks States Parties to implement comprehensive and co-ordinated policies involving government agencies, NGOs, and national, regional and local parliaments and authorities. The aim is for policies to prevent and combat violence against women, including domestic violence, to be carried out at all levels of government and by all relevant agencies and institutions.

The Convention sends a clear message to the whole of society, that violence is never the right way to solve difficulties and cannot lead to a state of peace – either in private or public life. It reinforces the importance of understanding that violence against women is not acceptable and will not be tolerated. While the focus of the Convention is on all forms of violence against women, including domestic violence, it also recognises that there are other victims of domestic violence, such as boys and men. This may include gay men, transgender men or men that do not conform to what society considers to be appropriate behaviour. The Convention devotes an entire chapter to women migrants and asylum-seekers facing gender-based violence. It also recognises the work of NGOs, and seeks to ensure greater political and financial support for their work.

The Convention establishes a monitoring mechanism, consisting of two bodies:

- GREVIO (Group of Experts on Action Against Violence Against Women and Domestic Violence), which is a body of independent and impartial experts known for their expertise in the fields of human rights, gender equality, violence against women, or assistance to and protection of victims; or having demonstrated relevant professional experience in any of these fields. GREVIO draws up and publishes reports on legislative and other measures taken by countries that have ratified the Convention, designed to give effect to its provisions (evaluation procedure). In specific circumstances, the group may initiate inquiries (inquiry procedure).
- The Committee of Parties is composed of representatives of the Parties to the Convention. The Committee may adopt recommendations on measures to be taken to implement conclusions contained in GREVIO’s reports. The

Committee also supervises the implementation of its own recommendations, examines the findings of any inquiry conducted by GREVIO members, and considers any necessary measures pursuant to these findings.

The Istanbul Convention is in many ways an innovative document:

- It is the first international document that contains a definition of gender.
- It calls for the involvement of all relevant state agencies and services, so that violence against women and domestic violence are tackled in a co-ordinated way. This means that agencies and NGOs are encouraged not to act alone, but to work out protocols for co-operation.
- It criminalises offences, such as female genital mutilation, forced marriage, stalking, forced abortion and forced sterilisation. This means that states will be obliged, for the first time, to legislate against these serious offences.
- It recognises violence against women as a violation of human rights and a form of discrimination. States are held responsible if they do not respond adequately to such violence.
- It obliges states which have signed and ratified the Convention to invite their parliaments to participate in the monitoring process.

### Recommendation on the Protection of Women Against Violence

Recommendation Rec(2002)5 of the Committee of Ministers of the Council of Europe on the Protection of Women Against Violence sets out a series of measures to end all forms of violence against women.<sup>39</sup> These measures include legislative and policy measures to prevent and investigate violence against women, to assist victims, work with perpetrators, increase awareness, education and training, and collect relevant data. Implementation of this Recommendation is regularly monitored and member states are provided with information on progress achieved and any existing gaps.

### Convention on Action Against Trafficking

The Council of Europe Convention on Action against Trafficking in Human Beings<sup>40</sup> was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005 and entered into force on 1 February 2008. The Convention builds on existing international instruments, but goes beyond the standards previously established, and strengthens protections afforded to victims.

The Convention has a broad scope and covers all forms of trafficking, national and transnational, whether or not it is linked to organised crime. It also takes in all victims of trafficking (women, men and children). The forms of exploitation covered by the Convention include sexual exploitation, forced labour or services, slavery and similar practices, servitude and the removal of organs.

The main innovations of the Convention are the human rights perspective it

brings, and the focus on victim protection. The Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The body of the Convention then outlines a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for any damages suffered.

Another important innovation introduced by the Convention is the monitoring system set up to supervise the implementation of the obligations contained within it. This monitoring system consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

The Convention is not restricted to Council of Europe member states: non-member states also have the possibility of becoming Party to the Convention, as does the European Union.

### Recommendation on sexual orientation and gender identity

On 31 March 2010, the Council of Europe Committee of Ministers adopted Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity.<sup>41</sup> This Recommendation is the first instrument in the world to deal specifically with discrimination against LGBT+ people. It begins by setting out principles relevant to this group, deriving from existing European and international instruments, with particular emphasis on the European Convention on Human Rights and case law from the European Court of Human Rights. The review process for implementation of the Recommendation is carried out periodically by the Steering Committee for Human Rights (CDDH) in the Council of Europe. This helps to provide an overall picture of the state of discrimination against LGBT+ people in Europe and enables the Council of Europe to establish priority areas for its work. More information about this Recommendation can be found in Chapter 4, in the section on LGBT+.

### Recommendation on Preventing and Combating Sexism

In March 2019, the Council of Europe Committee of Ministers adopted a Recommendation on Preventing and Combating Sexism. This text contains the first ever internationally agreed definition of sexism.

It also proposes a set of concrete measures to combat this wide-spread phenomenon including through legislation and policies and through awareness-raising. The recommendation proposes specific tools and measures to prevent and combat sexism and sexist behaviour in the areas of language and communications, Internet and social media, media and advertising. The recommendation proposes specific attention to sexism in justice and education institutions, in culture and sport, as well as in the private sector.

### ***Action at national level remains essential***

Despite the significant progress achieved with the instruments mentioned above, recognition and existing legal measures are not sufficient. Effective mechanisms and processes for violence prevention and gender mainstreaming need to be put in place. In addition to the international human rights mechanisms, important policies or bodies at national level need to include:

- National committees for gender advancement with a clear plan of action;
- Equality ombudsman;
- Effective legislation to ensure legal and substantive equality;
- Affirmative action, such as quotas for women in education and employment;
- Women's NGOs, LGBT+ organisations and women's or LGBT+ studies in universities. These may play an important role in advocacy or lobbying efforts.

## 6. Youth work and youth policy responses to gender and gender-based violence

The youth sector of the Council of Europe plays an important role in establishing and promoting standards to address the challenges faced by young people. The Youth Department guides member states in the development of their national youth policies, using recommendations from the Committee of Ministers, as well as other texts. All guidelines are firmly based on the Council of Europe's values, and aim to ensure a minimum level of standards in youth policy throughout Europe.

Issues related to gender, gender equality and gender-based violence have always been a part of the Council of Europe youth sector's strategy and activities. In 2008, at the 8th Conference of Ministers responsible for Youth, a strategic document on youth policy – known as Agenda 2020 – was approved by the Youth Ministers. This strategic document set the implementation of gender equality and the prevention of all forms of gender-based violence as one of the priorities for the youth sector.<sup>42</sup>

Attention has been given to this priority at the level of the Council of Europe as a whole, and also at national level, where it has been taken into account by member states in their youth policy development and implementation. The principle of gender equality is applied in the educational programme of activities which strives to include people of different genders and which addresses the topics of gender, gender equality and gender-based violence. In 2017, the Joint Council on Youth, which is jointly responsible for decision making in the Youth Department,<sup>43</sup> adopted the "Guidelines on integrating and mainstreaming gender equality into the intercultural youth activities of the Council of Europe and its partners".<sup>44</sup> These Guidelines were intended to support organisers and educational teams in intercultural youth activities of the Council of Europe and its partners in ensuring gender equality in all phases of an activity or project.

The work on gender, gender equality and gender-based violence has been particularly visible in human rights education programmes run by the Council of Europe youth sector. The experiences of the training courses, study sessions and educational resources developed in the European Youth Centres, such as the *Compass* manual, contributed greatly to the development of the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education. This document establishes gender equality as one of the aims of human rights education and education for democratic citizenship.

The No Hate Speech Movement youth campaign implemented by the Council of Europe between 2013 and 2018 mobilised hundreds of thousands of young people to act against hate speech online, including sexist and homophobic hate speech.

In 2009, the Council of Europe's youth sector initiated the *Enter!* project, to develop youth policy responses to exclusion, discrimination and violence affecting young people – particularly in disadvantaged neighbourhoods. Based on the activities of the project, the Committee of Ministers of the Council of Europe adopted Recommendation CM/Rec(2015)3 on the access of young people from disadvantaged neighbourhoods to social rights. The Recommendation calls on member states to develop gender-sensitive approaches to the development of youth policies in disadvantaged neighbourhoods, and provides support for capacity building and for the equal participation of young women and young men aiming to improve gender equality among young people living in disadvantaged neighbourhoods.

Gender-related issues cut across all areas of the Youth Department's work, including in dealing with challenges faced by marginalised groups, such as refugees or Roma people. The Youth for Democracy programme, within which these activities are implemented, prioritises combating all forms of discrimination and exclusion and addressing intersectionality (including gender equality, sexual orientation LGBTQI, gender identity and disability).

In 2018, the Committee of Ministers of the Council of Europe adopted a Recommendation on Youth Work (CM/Rec(2017)4).<sup>45</sup> This Recommendation encourages member states to develop and strengthen youth work policies and practice. It also includes proposals for the youth sector of the Council of Europe to support member states in this task, maximising the positive contribution that youth work can make to Europe's future through co-operation, peer learning and collaboration. Youth work is defined in the document as:

a wide variety of activities of a social, cultural, educational, environmental and/or political nature by, with and for young people, in groups or individually. Youth work is delivered by paid and volunteer youth workers and is based on non-formal and informal learning processes focused on young people and on voluntary participation. Youth work is quintessentially a social practice, working with young people and the societies in which they live, facilitating young people's active participation and inclusion in their communities and in decision making.

The Recommendation on Youth Work draws special attention to the fact that youth work needs legal and political support, sustainable funding and structures, improved co-ordination both across sectors, and between local and national levels, as well as a competency-based framework for the education and training of youth workers. Such demands are particularly important when working with issues of gender, gender-equality and gender-based violence: work on these issues can be particularly challenging in contexts where there is a hostile environment or where strong gender stereotypes prevail.

## Endnotes

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- 4 UN Declaration on the Elimination of Violence against Women, Article 1, <http://www.un.org/documents/ga/res/48/a48r104.htm>.
- 5 Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), Article 3, <https://rm.coe.int/168008482e>.
- 6 The Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, <https://rm.coe.int/16800d383a>.
- 7 'Sensitive spots' can be anything that one is especially emotional about. It can be an important person, one's religion or ethnic identity. It can be also something that one is ashamed of (whether it is justified or not, whether it is the product of internalised oppression or personal conviction).
- 8 Since all human beings belong to the same species, ECRI rejects theories based on the existence of different races. However, in this Recommendation ECRI uses this term "race" in order to ensure that those persons who are generally and erroneously perceived as belonging to another race are not excluded from the protection provided for by the Recommendation.
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- 19 Source: <http://eige.europa.eu/dic/thesaurus/terms/1361>.



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- 24 Pilcher, J. & Whelehan, I. (2004). *50 Key Concepts in Gender Studies*. London: Sage, p. 7.
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<https://rm.coe.int/analytical-report-data-2016-/1680751a3e>.
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