

ECRI Annual Seminar with equality bodies

“Expert insights and ways forward”

The objective of the last session is to identify potential avenues for using the intersectionality lens in anti-discrimination law and what specific role equality bodies can play in further developing such a tool.

How do you use the intersectional lens in your daily work? What difference, if any, does it make?

I am a Roma woman from Eastern Europe, a descendant of enslaved people, and born into a low-income family. I was the director of a well-known Roma NGO when I was a young woman. And I have lived on a different continent in the past decade.

So, in many ways, I have had to apply an intersectional lens to understand my own life trajectory and struggles. And I’ve learned first-hand that systems of domination, such as racism, racial capitalism, or patriarchy, overlap and create cumulative disadvantages.

In my work, both as an activist until ten years ago and then, as a scholar, I have, however, focused primarily on structural anti-Roma racism. But, even though I’ve prioritized what bell hooks called “the harsher, more brutal reality of racism,” while working or meeting with Roma women or LGBT+ Roma in communities in Romania; or impoverished children and young people in residentially segregated communities in Serbia; or migrant and EU mobile Roma living in camps in Italy or France, I could not, and we cannot draw a clear line between, for instance, racist and patriarchal practices and their specific impact, as often, they do not act independently of each other.

Multiple and intersectional disadvantages create multiple and intersectional threats, inequities, and disparities. As Robin Kelly argues, intersecting oppressions, built on grounds such as race, gender, or citizenship, determine wages, levels and quality of education, the type of work people do, access to credit and loans, where people live, and so on.

If we were to look, for example, at the Fundamental Rights Agency data, it shows that, and I quote, “in core areas of life, such as education, employment, and health, Roma women continue to fare worse than Roma men and than women in the general population.” And, of course, Roma women fare far worse than non-Roma men. Moreover, some Roma people confront the additional burden of other factors, such as ability, refugee/stateless status, religion, or age.

In this context, Alexandra Oprea, a Romani feminist and lawyer—and the former student of Kimberlé Crenshaw—has long called on us all to recognize “the intersectional nature of systems of oppression.” And Angéla Kóczé, also a Romani feminist and CEU professor, called on states to foresee “specific measures to address intersectional discrimination.”

And in my work at Harvard, when planning research projects, I include research questions and topics that could help us move the needle in unpacking, measuring, and addressing intersectional oppressions.

I am also very intentional about the diversity of Roma voices involved in our research projects and annual events. And it is great to show that the Roma movement and the scholarship are not led or voiced only by straight Roma men or, even worse, by non-Roma.

Such actions are motivated by my belief that there is an urgency for Romani feminist and LGBTQ+ voices, as well as other ignored Romani people, to enter all mainstream spaces and lead the way toward dismantling inequities and racialized and gendered poverty; ensuring representation and participation; and challenging the distorted and demonized representations of Romani women, LGBT+ and others.

Hence, to me, *representational intersectionality*, or what Crenshaw refers to as “how women of color are represented in cultural imagery,” is also a pressing issue that we need to address forcefully from the local to the European level and beyond.

Also, in the 2000s, when I worked with Romani CRISS, together with other Romani women, we asked the Romanian government, including in consultations with the United Nations CERD committee, to recognize intersectional discrimination in laws and policies. And the government eventually recognized multiple discrimination by law.

If or *how* that law impacts the lives of those struggling with intersectional oppressions is a more complex conversation. But national legislation and policies recognizing, measuring, and addressing intersectional discrimination are a must across Europe.

Thus, perhaps to conclude, for now, I’d say that several decades after the seeds of intersectional practices and scholarship have been planted by activists and academics, it is essential for state institutions to integrate them into targeted and mainstream laws, policies, and more so to translate them into budgets and practices at all levels and in all spheres of our societies.

Intersectionality has primarily developed as a critique of equality and anti-discrimination law and aimed at challenging any single-axis logic. Do you think that anti-discrimination law has progressively evolved to addressing intersectional disadvantages?

Please allow me to add or, rather, nuance that intersectionality also functioned as a response to white feminism, which focused predominantly on white women's economic status and white men's economic power.

To your question, I'd say that the failure to address intersectional discrimination and disadvantages can be observed both in laws and policies, scholarship, and feminist movements.

That lack of intersectional lenses in feminist and equality movements and frameworks has led to setbacks. In the case of the Roma, while in the past few decades, we have seen collaborations between white and Roma feminists, sometimes, such partnerships have been pushed solely into areas of domestic violence, human trafficking, and early marriages, somehow pointing to an intention to "save" Roma women and girls from men in their own communities.

Yet, many white feminists have failed to write or speak up against racism against Roma women or the inequities in education, income and wealth, health, and employment between Roma and non-Roma women.

A similar approach and pattern can be observed in policy circles. For instance, the 2019 European Commission's *Report on the implementation of national Roma integration strategies-2019* incorporated gender into the analysis of state measures that addressed antigypsyism and discrimination.

Some of the measures listed by governments tackled domestic violence, early marriages, or trafficking in human-being. However, the measures failed to name or address the inequities between Roma and non-Roma women. The report failed to analyze the structural inequities resulting from mainstream gender-neutral and race-neutral policies, which are neutral in form but biased and inequitable in application and outcomes.

Thus, in practice, as well as in policies, we continue to see a focus on a specific axis of oppression and a failure to recognize people's multiple and intersecting identities and practice intersectionality in its whole meaning.

Moreover, to further reflect on your question, provided that I am not a lawyer and don't feel confident enough to advance comments on laws, I would say, based on my work experience at Romani CRISS and the existing literature, that the European legal frameworks focus primarily on violations of individual human rights.

The liberal human rights framework is built on the idea that violations are perpetrated predominantly against individuals based on one ground or another. But some categories of populations, including racialized communities such as Roma, have also faced patterns of collective, enduring, and intersectional injustices.

For instance, in the Czech Republic and Slovakia, the European Court of Human Rights recognized that forced sterilization practices and segregation in special schools impact not one or ten individuals but a high number or a relevant proportion of the Roma population.

However, neither the European nor national legal mechanisms have the tools to oblige countries such as the Czech Republic or Slovakia to repair the damage suffered by all victims as a result of forced sterilization or segregation in special schools. The European Court did not even recognize the intersectional dimensions of race, class, and gender in the cases of forced sterilization.

Thus, to me, it is crucial to imagine and reform laws and policies to recognize, measure, and address not only intersectional forms of discrimination but also their structural, collective dimensions, often rooted in a history of injustice and domination.

There are some signs of hope, although not at a legislative level. At the level of the EU, we now have several strategies or action plans, each targeting a specific axis, namely LGBTIQ+ Equality, Gender Equality, anti-Racism, and Roma inclusion.

Moreover, in July this year, the European Parliament adopted a Resolution entitled Intersectional discrimination in the EU, which, as the title suggests, makes an argument for the EU policymaking to recognize intersectional discrimination. The Resolution calls on institutions to address and eliminate intersecting forms of discrimination, including through EU anti-discrimination and gender equality legislation and policies.

Moving forward, I think it is essential to put emphasis on how we dismantle intersecting oppressions -racism, racial capitalism, patriarchy- rather than focusing on intersecting identities and categories; it is crucial to imagine and implement legal and policy frameworks that focus on oppressions and agents of intersectional oppressions.

In your view and experience, what challenges do equality bodies have to deal with cases of intersectional discrimination? What can be done to better equip them in assisting victims and providing redress?

I do not want to state the obvious, but unfortunately, some basic prerequisites are missing in the work of equality bodies when addressing intersectional discrimination.

Taking a top-down approach, one of the main challenges in dealing with intersectional discrimination is both conceptual and political. Essentially, as the European Parliament Resolution on Intersectional Discrimination in the EU suggested, there is an urgent need to strengthen the European and national laws, policies, and caselaw in view of, first and foremost, recognizing and, of course, also defining, measuring, and addressing intersectional discrimination.

I think that both the Race Directive and the European Convention on Human Rights and their case law are extremely relevant, provided that they come from distinct institutions, as challenges to recognize and address intersectional discrimination exist not only at the level of equality bodies but also in courts.

And taking a more bottom-up approach, I think it's necessary to periodically review the work and the caselaw of equality bodies through intersectional lenses and identify gaps and challenges. For instance, have equality bodies taken into consideration membership in multiple and intersectional disadvantaged groups when assisting victims of discrimination?; are oppressed groups represented in equality bodies?; and more generally, do national legislation and policies address intersectional discrimination?