



Intersectionality and the Istanbul Convention

CURRENT REFLECTIONS ON EU GENDER EQUALITY LAW

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Structure

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- Introducing intersectionality
 - Normative reception
 - Istanbul Convention:
 - Entry points
 - Approaches (by States and Greivio)
 - State obligations from an intersectionality perspective across the IC pillars

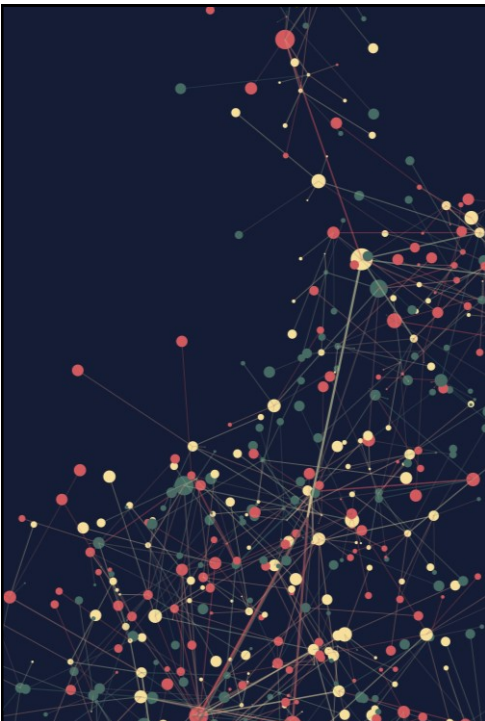
Introducing intersectionality

Intersectionality

Intersectionality reveals the interaction between gender and other social categories of difference in individual lives, social practices, institutional arrangements and beliefs and the outcomes of these interactions in terms of power (Davis 2008)



It provides a transformative conceptual framework for addressing intersectional and structural inequalities.



Dimensions highlighted by intersectionality

Individual level

- brings the experiences, needs and desires to the fore

Group level

- attention to marginalised groups at the intersection of two or more axes of inequality (lesbian women, migrant women, women with disabilities, trans women, etc.)

Structural level

- Focus on the dynamics and processes that create categories and subordination
- Focus on the grounds of discrimination (sexual orientation, migrant status) and social/institutional factors (migration)

Contextual level

- Attention to how grounds and factors help sustain systems of inequality (heteronormativity, lesbophobia) and determine individuals and groups positioning

Issues r. gender-based violence

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- Regional studies indicate that women lack access to support services due to discrimination based on their migrant/refugee status, sexual orientation, gender identity... and they face discrimination at the hand of enforcement agents.
 - See for instance:
 - FRA survey on violence against women of 2014
 - EU-MIDIS II (2019) survey on violence against Roma women in 9 EU countries
 - EU LGBTI Survey II (2020)
 - COVID

Intersectionality's potential

Useful for revealing how various intersecting categories of difference shape the inequalities women face and the complexity of the violence they suffer



Two ways: non-discrimination law and legal/policy approach

Examples of normative reception

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- CEDAW GR 28:

'The discrimination of women based on sex and gender is inextricably linked with other factors affecting women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity. Discrimination on the basis of sex or gender may affect women belonging to such groups to a different degree or in different ways to men.'

- + CEDAW article 5

- BELEM DO PARÁ, ART. 9:

'States Parties shall take special account of the vulnerability of women to violence by reason of, among others, their race or ethnic background or their status as migrants, refugees or displaced persons. Similar consideration shall be given to women subjected to violence while pregnant or who are disabled, of minor age, elderly, socioeconomically disadvantaged, affected by armed conflict or deprived of their freedom.'

Intersectionality 'entry points' to Istanbul Convention

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- Art. 4.2: principle of substantive equality men/women
 - Art. 4.3: prohibition of discrimination in implementing the IC:

'The implementation of the provisions of this convention by the parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.'

Intersectionality 'entry points' to Istanbul Convention

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- Art.12.3: address the specific needs of persons made vulnerable by particular circumstances
 - Art.18.3: address specific needs of vulnerable persons
 - Art.19: language
 - Other...

Approaches found in the monitoring procedure

State reports

Albania, Andorra, Austria, Belgium, Denmark, Finland, France, Italy, Malta, Monaco, Montenegro, The Netherlands, Portugal, Serbia, Spain, Sweden, Turkey.

Scarcity of measures and policies conceived with an intersectional lens

GREVIO GRAL APPROACH

States should take into account that several categories of women are likely to face specific obstacles in relation to the forms of violence covered by the IC because of their position at the intersection of several potential grounds of discrimination

Principle of due diligence

Measures addressing women's diversity: 3 approaches



- GREVIO
 - Grounds as barriers to protection
 - Specific groups facing discrimination when accessing services
- STATES

- Categories/grounds
- Groups Vulnerability
- Specific forms of violence
- Migration and asylum

- Mainstreaming Gender and GBV into general policies
- Mainstreaming diversity into policies on GBV

- Fighting stereotypes and bias
- Fighting inequality and discrimination

Attention to groups and policy areas

GREVIO

- Multiple inequalities as barriers to protect: national minorities, ethnic origin, disability, sexual orientation, gender identity, geographical location, age.
- Specific forms of discrimination when accessing services and protection: women using psycho-active substances, prostitutes, institutionalised women

STATES

- Pay attention to “discriminatory grounds”: ethnicity, disability, gender identity, socio-economic. status
- Vulnerability
 - a) a situation (made vulnerable by particular circumstances)
 - b) groups (disabilities, Roma women, LGBTI women...)
- Specific forms of violence- red flag! Risk of culturalization
- Migration and refugee status

Mainstreaming tactics

01

Gender Mainstreaming

- Mainstreaming actions on gender and GBVAW into general policies
- States having adopted policies for marginalised groups are encouraged to mainstream gender and GBV prevention and protection policies.
- Gender mainstreaming in Asylum & Migration policies

02

Difference Mainstreaming

- Mainstreaming difference into GB policies
- Introducing difference in GBV policies by incorporating the needs and views of women and girls located at the intersection of various grounds of discrimination across the 4 pillars
- Paying attention to specific needs- ex: "in a language the victim understands" (multiple languages, age appropriated, easy to read....)

Strategies addressing structural discrimination

Stereotypes


Fighting stereotypes and bias

- Training and education of service providers, awareness raising of general public and (self) regulation of media.
- Criminalising hate speech

Inequality

Fighting inequality and discrimination

- Paying attention to the broader context that may lead to new forms of violence or exacerbate existing VAW
- Working on the root or structural causes of vulnerability/discrimination

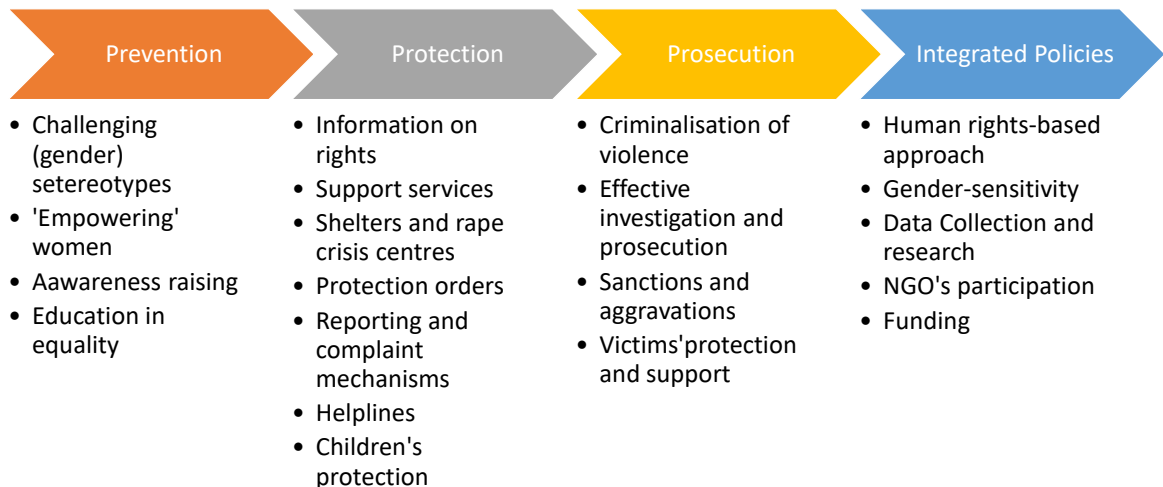


Defining state obligations from an
intersectionality perspective across
the IC pillars

Interpreting the obligations of the IC through an intersectional lens

- Participation crosscutting all pillars
- Guiding principles:
 - Art. 4.3 non- discrimination in implementation
 - Art. 5: due diligence obligations (refrain from discriminating – state and non-state agents)
 - Art. 6: adoption of gender-sensitive policies (empowering women through participation)
- Recognising that women made vulnerable by particular circumstances may encounter further barriers when seeking help because policies:
 - May be crafted in ways that impose upon them an extra burden
 - result in discrimination
 - reproduce stereotypes and stigma

Istanbul Convention: four pillar approach



Prevention

- To promote social changes in social and cultural patterns of behaviour based on the idea of inferiority; eradicate prejudices and stereotypes and take measures to empower women
 - Awareness raising campaigns reaching out to groups who have limited access to resources and information
 - Training of professionals to eradicate prejudice and bias and to avoid secondary victimisation
 - Elaboration of protocols for referral, accountability, respecting women's autonomy throughout the process

Protection

- Protection of *all victims* from *all acts of GBV* covered by the convention
 - Access to specialist and support services
 - i.e. shelters should be accessible to women with disabilities, prostitutes, LBT women...
 - Services must be carefully conceived to avoid extra burdens or hardship to women who are made vulnerable by particular circumstances, without requiring conditions that may be prohibitive
 - States must apply due diligence and ensure that general and specialist services provide support to all women equally across its territory.

Prosecution

- Criminal justice response to GBV: acts must be investigated and the perpetrator held accountable irrespective of the type of violence and the background of the victim.
- Criminalise all forms of GBVAW from an intersectional p.v:
 - Certain forms of violence may be more prevalent among certain groups (forced sterilisation)
 - Violence impacts women differently (rape, forced marriage, intimate violence)
 - All women deserve protection from all forms of violence
- Sanctioning:
 - consider adding aggravating circumstances
 - Reject justifications and defences based on culture or honour

Integrated Policies

- Designate a body that coordinates, implements, monitors and evaluates policies and measures regarding GBV.
 - Ensure that the 4 pillars are implemented in ways that diligently take into consideration the experiences and needs of all women.
- State-wide effective comprehensive and co-ordinated policies
- Data collection including 'diversity'
- Participation of NGOs and civil society in the design, implementation and monitoring of policies
 - States need to INSTITUTIONALISE the participation of voices seldom heard (not just mainstream/ majoritarian associations and groups)
 - Support a greater variety of NGOs to ensure diversity



Thank you!

Get in touch:

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Further readings

- Davina Cooper 'Intersectional travel through everyday utopias The difference sexual and economic dynamics make', in Grabham, E., Cooper, D., Krishnadas, J., & Herman, D. (Eds.). (2008). *Intersectionality and Beyond: Law, Power and the Politics of Location* (1st ed.). Routledge-Cavendish.
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- Sosa, L. (2017) *Inter-American Case Law on Femicide: Obscuring Intersections?* *Netherlands Quarterly of Human Rights* 35: 2, 85-103.