

ROMA RIGHTS

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MULTIPLE DISCRIMINATION

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CHALLENGING DISCRIMINATION PROMOTING EQUALITY



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The Challenge of Multiple Discrimination

ROB KUSHEN

This topic of Roma Rights is devoted to the subject of multiple discrimination. Gay Moon and Barbara Bello begin the issue in each of their articles by describing the theoretical underpinnings of the concept of multiple discrimination and its origins in the academic discourse. Both writers note that the academic discourse has advanced more quickly than actual legal or judicial practice in Europe. While the intellectual and practical basis for recognizing multiple discrimination is clear, the legal basis is not so clear, with the exception of a few jurisdictions (Austria, Germany, Romania and Spain) where multiple discrimination is explicitly defined. At the EU level, legislation has not explicitly barred Member States from legislating against multiple discrimination, but the Racial Equality Directive and other EU instruments do not expressly prohibit such discrimination either. More recent interpretations of the Directive by the EU acknowledge multiple discrimination (at least as regards race and gender) to be a concern. Alexandra Oprea ends the more theoretical section of Roma Rights by refuting the criticism of some commentators that Romani women's issues have somehow unfairly come to dominate rights discourse.

The other authors in the series provide vivid examples of multiple discrimination in practice. Roman Kuhar describes the results of research in Slovenia that explores some examples of multiple discrimination at work: based on gender and ethnicity; or gender and sexual orientation. In the next article, Sara Gimenez and Fernando Martinez describe a recent case before the European Court of Human Rights, that of a Romani woman denied a widow's benefit because the Spanish state refused to recognise the validity of her marriage according to traditional Romani custom. The Court found Spain had discriminated against the woman on the basis of ethnicity. It did not expressly consider the issue of multiple discrimination. The authors argue that multiple discrimination was present in this case, at least indirectly, because of the disparate impact denial of a widow's benefit would have to a woman coming from a traditional society where women were more likely to be stay at home mothers dependant on men for income.

Angel Getsov next gives us the perspective of aging Roma, more dependent than younger Roma on social assistance

and thus more vulnerable than younger Roma if the State cuts off that assistance. The case described was one of indirect discrimination: against the backdrop of prejudice that regards Roma as overly and disproportionately dependent on public assistance (and genetically predisposed against work), a State social worker seemed intent on cutting off Roma from social assistance on any available technicality. The effect of such a cut-off was much more dire for an older Romani man than for someone younger. Interestingly, the case seems to have been resolved in the man's favor without any resort to anti-discrimination law at all. The absence of nuanced definitions of multiple discrimination in Bulgarian law does not seem to have been an impediment to rendering justice in this case.

Finally, the topic of multiple discrimination is tied up by a forthright, first-person narrative penned by a member of ERRRC's staff, Djordje Jovanovic, who describes his efforts to reconcile his identity as a gay Romani man with the prejudice against both groups expressed in his home country of Serbia. Djordje notes that, among his gay acquaintances, membership in one discriminated group did not necessarily sensitise members of that group to the discrimination faced by other groups: gay men were sometimes as intolerant to him as a Roma as non-gay men were. As Djordje's narrative demonstrates, the fight against multiple discrimination is not always (and not usually) a legal struggle but a personal one. His journey of personal self-discovery and reconciliation has taken place outside of the courtroom and without the assistance of any legal protection of which he has taken advantage. At the same time, his journey has been deeply informed by human rights law and the principles of equality that he discovered there. In his case, the legal framework did not provide a remedy in a particular case or controversy, but rather a value system to which he could dedicate himself and against which he could judge himself (in addition to holding others to account). This is perhaps the most significant value of human rights: defining a set of rules that need not be litigated, but that create a set of societal expectations and norms against which we can judge ourselves and others in every day conduct.

Multiple Discrimination: Justice for the Whole Person

GAY MOON¹

People are diverse, complex and multi-layered. They do not see themselves as merely being women, black or homosexual. However, too often, our equality laws seek to categorise people with a single label. None of us would see ourselves defined adequately by a single facet of our being. We are not monochrome. Despite this, all too frequently, our equality provisions are only capable of dealing with a single ground for discrimination, not an undivided combination of grounds. While this is now widely recognised by those working in the equality field, little has been done to address the problems that are provoked.² It is important to be alert to the division, the inequalities and prejudice that lead to tensions and conflict in society. Discrimination that prevents people's talents being fully used restricts their potential. This is to the disadvantage of us all, because skills are not being fully utilised – neither within society, nor the economy.

It is important to address cases of multiple discrimination: those who experience it are among the most vulnerable, marginalised and disadvantaged within our community.

Roma may find themselves discriminated against not only because of their racial or ethnic origin, but also because they are female, disabled, homosexual or elderly (or any combination of these). It will often be impossible to separate these

different aspects of their identity. The discrimination that a Romani woman experiences, for example, may be wholly different from that experienced by a Romani man or a woman from the majority population. In a way, this single-issue approach is itself a form of discrimination. Sandra Fredman has observed: “The more a person differs from the norm, the more likely she is to experience multiple discrimination, the less likely she is to gain protection.”³

This is a real issue for Roma. The EC study *Tackling Multiple Discrimination: Practices, Policies and Laws*⁴ identifies Romani women as particularly likely to experience cases of multiple discrimination. The report cites the example of a Romani woman who was given more difficult and degrading work than was given to either Romani men or non-Romani women. She was threatened with having her social benefits cut if she did not continue with the work. After 30 days' work, she fainted while working, but nevertheless felt that she had to return to the job as her social benefits were necessary to feed her children.⁵ Numerous other examples of multiple discrimination exist: the forcible sterilisation of Romani women in Hungary, Slovakia and the Czech Republic⁶ (this has not been applied to Romani men); the segregation of Romani women needing pre- and post-natal treatment;⁷ or the trafficking of Romani women.

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2 See, for example, UN General Assembly Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban: 2000), Declaration No. 2: “We recognize that racism, racial discrimination, xenophobia and related intolerance occur on the grounds of race, colour, descent or national or ethnic origin and that victims can suffer multiple or aggravated forms of discrimination based on other related grounds such as sex, language, religion, political or other opinions, social origin, property, birth or other status.”

3 Sandra Fredman, “Double trouble: multiple discrimination and EU law”, *European Anti-Discrimination Law Review*, Number 2 (2005): 13–18 (at 14).

4 European Commission, *Tackling Multiple Discrimination: Practices, policies and laws*, November 2007, available at: <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=51&type=2&furtherPubs=no>.

5 Ibid., 41.

6 See, for example: European Roma Rights Centre, *Ambulance Not on the Way: The Disgrace of Health Care for Roma in Europe*, 2006, available at: <http://www.errc.org/cikk.php?cikk=2632&archiv=1>.

7 Ibid.

The interlinking of prejudice

There may also be particular problems for Roma who are disabled, homosexual, elderly or younger. Research has shown that people who are prejudiced against any particular ethnic group are twice as likely as someone from the majority population to be prejudiced against gay and lesbian people, and four times as likely to be prejudiced against disabled people.⁸ So, it is reasonable to expect that that when someone is the subject of discrimination on the grounds of one aspect of their individuality, they may also be subject to discrimination on another aspect. This is sometimes called “intersectional prejudice”. It is likely to affect both individuals and groups.

An historical perspective

Awareness of multiple discrimination is relatively new and so the development of an appropriate response has not yet been concluded. The problems arising from such intersectional discrimination were identified and discussed by Kimberlé Crenshaw in 1990 while considering the position of African-American women. She argued that a single-ground approach to discrimination law ensures that the comparisons are only made with the privileged members of the class in question:

[...] in race discrimination cases, discrimination tends to be viewed in terms of sex or class-privileged Blacks; in sex discrimination cases, the focus is on race- or class-privileged women.

This focus on the most privileged group members marginalises those who are multiply burdened and obscures claims that cannot be understood as resulting from discrete sources of discrimination. I suggest further that this focus on otherwise-privileged group members creates a distorted analysis of racism and sexism because the operative conceptions of race and sex become grounded in experiences that actually represent only a subset of a much more complex phenomenon [...]. Because the intersectional experience is

greater than the sum of racism and sexism, any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which Black women are subordinated.⁹

Crenshaw has pointed out that this consideration of discrimination influences the way that politics are presented: struggles against prejudice are posed as arising only from singular issues. Remedies are crafted in the same way.

The limits of the law

European Union discrimination law, like the discrimination law in a number of different jurisdictions, has developed from the recognition of a number of different grounds for discriminatory behaviour. European law started with sex discrimination, later adding race and ethnic origin; later still, disability, sexual orientation, religion or belief and age were added. Each addition reflected the campaigns of single-interest groups. The proliferation of new grounds certainly adds to the complexity of the law, but how far does this reflect the patterns of discrimination in society?

There have been a number of research projects that highlight the reality of patterns of multiple discrimination in the day-to-day experience of many different classes of people. A study prepared by the Joint Equality and Human Rights Forum investigated the situation and the needs of a series of different multiply discriminated people and groups. It concluded that:

Even with harmonised legislation, people with multiple identities that increase their social vulnerability and marginalisation may require an ‘intersectional approach’ to equality and human rights claims [...] This approach has been defined as ‘taking account of the historical, social and political context, and recognising the unique experience of the individual based on the intersection of all relevant grounds’.¹⁰

Unfortunately, although the problem of multiple discrimination is believed to be widespread, on the whole it has not been integrated into legal remedies, policy making or

8 Stonewall, *Profiles of Prejudice* (2001).

9 Kimberlé Crenshaw, “Demarginalising the Intersection of Race and Sex: a Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics” (University of Chicago Legal Forum: 1989), 150.

10 Katherine Zappone (ed.), “Re-Thinking Identity: the challenge of diversity”, *Joint Equality and Human Rights Forum*, 2003, 149, available at: <http://www.equality.ie/index.asp?locID=105&docID=75>.

appropriate data collection. There have been few legal cases where it has been raised directly. In practice, lawyers will tend to take up cases on the strongest grounds available to them and ignore the other aspects. They will craft the case to meet the limitations of the law.

Types of multiple discrimination

Broadly, there are three ways in which multiple discrimination may manifest itself.

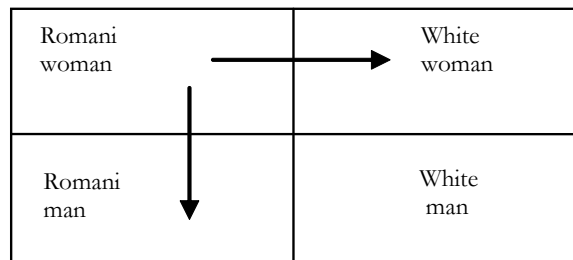
When someone experiences discrimination on different grounds on separate occasions. For example, a female wheelchair user may be passed over for promotion because her employers want a man to take the lead, and, on another occasion, she is unable to go to the work party because it is being held in an inaccessible place. Here the current laws are adequate, because a single aspect of a multiple identity is relevant to each case of discrimination.

In cases of “additive discrimination”, where the steps of the overall treatment can be analysed separately. Such a case arises where there are, for instance, a series of requirements (e.g. in a job description). Lacking one of the requirements may decrease chances of success in getting the job, and the lack of a further characteristic limits chances yet more. The UK case of *Perera vs. Civil Service Commission (No. 2)*¹¹ was such an example. A man was turned down for a job because of a variety of factors: his experience in the UK; his command of English; his nationality; and his age. Here, the law is normally able to deal with the situation because each element can be dealt with separately.

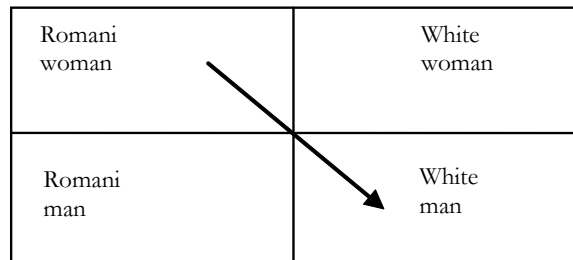
However, there are many situations where the current legal framework is totally inadequate. Thus, when discrimination involves more than one ground, and those grounds interact with each other in such a way that they are completely inseparable, it will not be possible or appropriate to analyse the grounds of treatment separately. This can occur when an employer promotes both black men and white women, but simply never promotes black women. So, the employer is not discriminating on grounds of race or gender, but may be doing so on grounds of a combination of race and gender. **This kind of discrimination is commonly referred to as “intersectional discrimination”.**

A Romani woman who operates a sewing machine complains of direct discrimination when she is refused employment. The employer argues that he has employed non-Romani women as well as Romani men. However, this only shows that the employer does not always exclude Romani people or women. The woman may be able to show that it is the fact of the combination that was critical. Yet, this may not be enough. The treatment may simply concern Romani women. So, to show the full extent of the discrimination that such a person is experiencing, she must be able to compare her situation to that of a non-Romani man. To show the full extent of the discrimination that she experiences, it is necessary to consider the combined effect of both her race and her gender.

The following diagrams express this graphically.



The law will only permit a horizontal or a vertical comparison (above), not a diagonal comparison (below).



In order to have an adequate remedy for the discriminatory treatment that the woman in the example has experienced, the grounds must be considered together.

What do the European directives say?

There is no doubt that European law is not as clear on this as it should be. The European directives which cover discrimination in gender, race, disability, beliefs,

11 UK [1983] IRLR 166.

sexual orientation and age¹² do not prevent Member States from legislating to prevent multiple discrimination. While the directives do not expressly provide for the consideration of multiple discrimination (nor do they expressly prohibit it), they do expressly recognise that different grounds may intersect.

Recital 14 of the Racial Equality Directive (2000/43/EC), for instance, says:

In implementing the principle of equal treatment irrespective of racial or ethnic origin, the Community should, in accordance with Article 3(2) of the EC Treaty, aim to eliminate inequalities, and to promote equality between men and women, especially since women are often the victims of multiple discrimination.

Additionally, each directive does provide that: “Member States may introduce or maintain provisions which are more favourable to the protection of the principle of equal treatment than those laid down in this Directive.”¹³

This shows that provisions to remove these unnecessary procedural hurdles and to fulfil the directives’ objective of “putting into effect in the Member States the principle of equal treatment” would not be contrary.

It is clear that some European states have adopted legislation that recognises multiple and intersectional discrimination. For example, the new legislation in Austria, Germany, Romania and Spain does (to varying degrees) expressly recognise multiple discrimination.¹⁴ Notably, Romania’s National Equality Body, *Agenției Naționale pentru Egalitatea de Șanse între Femei și Bărbați* (ANES), found that they were receiving complaints of multiple discrimination from Romani women. They were

therefore able to lobby the government to amend the Equal Treatment Act 2006 to include cases of multiple discrimination. As a result, Romanian legislation was amended so that if a person were subject to discrimination on more than one ground, it would be considered an aggravated situation.¹⁵

Consequently, it can be said that the directives do not prevent consideration of multiple discrimination. However, since there are currently no directives prohibiting discrimination outside the employment field regarding disability, belief, sexual orientation or age, multiple discrimination claims entailing these grounds outside employment cannot be brought to bear. The current EC proposal to bring forward a new directive to cover this area is therefore an important development. These are issues that need to be addressed explicitly in any new European equality directive. Unfortunately, although the Commission has acknowledged the existence and importance of multiple discrimination, the draft Equality Directive proposed in 2008 currently has no substantive provisions to deal with this problem, and the only reference to multiple discrimination in the draft Directive is in one of the recitals, which refers only to the position of women.¹⁶

It has been suggested that it may be possible to read the EC equality directives as prohibiting discrimination on combined grounds (at least in the fields of employment and occupation, as here, European equality law covers a number of different grounds, even though there are a variety of exceptions):

The purposive method of interpreting any norm of Community law would lend itself to assisting the Community courts to actually acknowledge these dimensions of multidimensionality. It would not do justice to the purposes of all the equality instruments taken together to deny the specific situation of intersected human beings.¹⁷

12 European Commission, Council Directive 2000/43/EC *implementing the principle of equal treatment between persons irrespective of racial or ethnic origin*; Council Directive 2000/78/EC *establishing a general framework for equal treatment in employment and occupation*; Directive 2006/54/EC *of the European Parliament and of the Council on the implementation of the principle of equal opportunities and equal treatment for men and women in matters of employment and occupation (recast)*; and Council Directive 2004/113/EC *implementing the principle of equal treatment between men and women in the access to and supply of goods and services*.

13 Ibid., among others.

14 European Commission, *Tackling Multiple Discrimination: Policies, practices and laws*, 20-21.

15 *Lege pentru modificarea și completarea Ordonanței Guvernului nr. 137/2000 privind prevenirea și sancționarea tuturor formelor de discriminare* (MNE(2006)56863) of 23 July 2006, Monitorul Oficial al României 626, 20 July 2006, 00006-00009, available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:72000L0043:EN:NOT#FIELD_RO.

16 European Council, *Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation* {SEC(2008) 2180} {SEC(2008) 2181}, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:DK EY=473800:EN:NOT>.

17 D. Schiek, “Broadening the scope and the norms of EU Gender Equality Law: Towards a Multidimensional Conception of Equality Law”, *Maastricht Journal of European and Comparative Law*, Vol. 12, No. 4, (2005): 427-466 (at 465).

This does not detract from the proposition that an EC directive that expressly deals with multiple discrimination would provide a more satisfactory solution.

Policy solutions

There are a number of ways that the effectiveness of public policy initiatives can be improved by recognising the relevance that multiple discrimination has to their work. Improved data collection should be able to expose patterns of discrimination that affect particular sub-groups of people. Additionally as most data collection is now computerised, the process of combining particular categories should not be too onerous. This can then be used to develop policies which can more effectively target the needs of those who are most disadvantaged by discrimination.

At the same time, further training and education is needed, as well as encouragement for the development of multiple-grounds NGOs.

Legal solutions

A law that can encompass multiple as well as single-ground discrimination would, at least in theory, be an improvement. However, how could this be achieved in practice without diluting, or making less effective current anti-discrimination provisions?

Multiple comparisons

One possible solution would be to permit multiple comparisons to be made, to expressly allow the courts to combine consideration of two or more grounds, perhaps stipulating a maximum number of grounds that can be considered in any one case. This would mean that a Romani woman could require that her situation be compared to that of a non-Romani man. While this would be relatively easy and may not even require the construction of a hypothetical comparator; the more elements that are added into the comparative exercise, the

more theoretical and hypothetical the comparison becomes. So, a Romani, lesbian, disabled woman may seek to compare herself to a non-Romani, able-bodied, heterosexual man. Are such comparisons too complicated to be practical?

In the United States, the courts have developed the notion of ground-plus cases to deal with this problem.¹⁸ However, this would still limit the complainant to two grounds for discrimination and he or she would have to elect which was the primary and which the secondary cause of action. In cases of truly intersectional discrimination, such distinctions will be difficult, if not impossible to make.

In Canada, although there is a rather different definition of discrimination compared to that used within Europe, the Canadian Human Rights Act 1998 has clarified that a discriminatory practice includes those that are based on more than one ground: “For greater certainty, a discriminatory practice includes a practice based on one or more prohibited grounds of discrimination or on the effect of a combination of prohibited grounds.”¹⁹

The adoption of a clause similar to this one might be possible within the European jurisprudence, without the need to adopt the rest of the Canadian definition for discrimination (which is substantially different from the European model). However, it may be that the existence of different exclusions, in the scope and level of protection for some of the prohibited grounds, could create challenges to this solution.

Differential exclusions

Each prohibited ground for discrimination has developed its own different set of exceptions. While there are some common to all the grounds (e.g. the genuine occupational requirement provisions), there are others (e.g. age discrimination) which have a much wider set of exclusions. The German solution to this problem is to say that any justification must apply to each of the grounds in question: “Discrimination based on several of the grounds [...] is only capable of being justified [...] if the justification applies to all the grounds liable for the difference of treatment.”²⁰

18 Ibid., Referring to *Phillips vs. Martin Marietta Corp.*, 400 US 542 (1971); and *Jeffries v. Harris County Community Action Association* 615 F 2d 1025 (5th Cir.1980).

19 Canada, *Canadian Human Rights Act 1998*, section 3(1).

20 Gesetz zur Umsetzung europäischer Richtlinien zur Verwirklichung des Grundsatzes der Gleichbehandlung (MNE(2006)55435) and (MNE(2006)55436) of 18 August 2006, Bundesgesetzblatt Teil 1 (BGB 1) 39, 17 August 2006, 01897-01910, available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:72000L0043:EN:NOT#FIELD_DE.

The German provisions for establishing direct and indirect discrimination are the same for all the named grounds, although the General Equal Treatment Act does have differential justification requirements, for religion or belief, and for age. This clause will mean that with any combined grounds, justification will need to be established at the highest standard.

Opening the list of grounds

Currently, both the European directives operate with a fixed or closed list of named grounds for prohibiting discrimination. In contrast, Article 14 of the European Convention on Human Rights prohibits discrimination “on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”²¹

An open-ended set of grounds like this enables a discrimination claim to be made in relation to any combination of these grounds, thus facilitating multiple discrimination claims. This is clearly one solution to the “problem” of multiple discrimination. However, if the range of grounds is not limited, it is impossible to have a principle which states that direct discrimination is unjustifiable. Consequently, all forms of discrimination (be they direct or indirect) will have to be open to justification. Such a solution is likely to put a much greater emphasis on the “justification” of alleged discriminatory acts, and in so doing, could put more power into the hands of the judiciary and perhaps create more uncertainty.

Conclusions

The evidence for multiple discrimination is clear and widespread. The best solution is far less clear or obvious, and requires much careful consideration. If the reality of discrimination and inequality in the 21st century is to be tackled, the law must find a workable solution to facilitate justice for the whole person.

In the narrow context of the EC equality directives, there do appear to be a number of adjustments that could be made. The inclusion of a provision similar to that in the Canadian Human Rights Act, which clearly permits action to be taken in respect of discrimination based on several grounds, would be of great assistance. As the comparison becomes more complex with each additional ground, it might be prudent (as least initially) to limit the number of grounds that could be combined, perhaps to a maximum of three. It could also be clarified that in awarding damages for cases of multiple discrimination, the amount awarded for injury to feelings may be increased to reflect the number of grounds in question, if appropriate in the light of facts.

In looking for a wider approach to solutions, the problems that have been identified need to be approached in a number of different ways. While enabling individual legal claims is important, so too is the need for group recognition for multiply discriminated groups. There is a need for more sophisticated data collection, to identify the extent and geography of different groups, which will in turn assist the formation of more appropriate policy responses. Finally, more NGOs are needed to represent these different groups.

21 Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, 1950, Article 14.

Multiple Discrimination Between the EU Agenda and Civic Engagement: the Long Road of Intersectional Perspective

BARBARA GIOVANNA BELLO¹

Introduction

In the European Union, the need to move from the traditional principle of formal equality to a strategy pursuing substantive equality has been largely recognised in practice.² New EU anti-discrimination legislation, which followed the amendments of Article 13 of the Amsterdam Treaty,³ has enhanced the debate on how to achieve the substantive equality of the most marginalised people. It goes without saying that equal opportunities of the Roma minority belong among the priorities of an enlarged Europe. Since 2000, the concept of “multiple discrimination” has started appearing in the political debate and legal documents of the EU, but no definition or regulation has been provided so far. Therefore, scholars from a wide range of disciplines and law practitioners have been trying to fill the conceptual gap concerning multiple discrimination. While the European debate on this issue has been quiet recently, multiple discrimination has already been discussed for more than two decades at the international level, within the United Nations and in American academic discourse. This contribution will describe diachronically the main theoretical issues surrounding the concept of intersectionality in the US-European debate, highlighting the interrelations of the concept of multiple discrimination at the international level. It will focus on the attempts and limits of European (binding and non-binding) legislation and policy in tackling multiple discrimination in relation to Roma. It will then describe one

best practice in tackling multiple discrimination against young Roma and offer some conclusions.

“Transatlantic discourse”⁴ on intersectionality and its contribution to multiple discrimination

In the 1970s, black feminists in the US developed the idea that female identities are multiple and complex and consequently, they may experience multiple forms of discrimination. In particular, they pointed out that black women experience oppression differently compared to “white middle-class women” because sex, class and race are inextricably bound together.⁵ In 1977, the Combahee River Collective (a black, feminist, lesbian group based in Boston) stated in its manifesto that “the major systems of oppression are interlocking” and committed to struggling against racial, sexual, heterosexual and class oppression.⁶ Black women were later joined by women with disabilities, poor women and women from different ethnic and cultural backgrounds; all demanded their right to equal treatment. Professor Kimberlé Crenshaw coined a neologism for this idea: “intersectionality”, which she illustrated through the famous “Traffic Intersection Metaphor.”

According to this metaphor, categories such as race, gender, class and others provide a route for determining the social, economic or political positions of empowerment and disempowerment of each person. At the crossroads of these routes are groups of women marginalised because

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2 Marc De Vos, “Beyond Formal Equality. Positive Actions under Directive 2000/43 and Directive 2000/78”, (Luxembourg: Office for Official Publications of European Communities, 2007), 74.

3 The Amsterdam Treaty, 1997, available at: http://europa.eu/legislation_summaries/institutional_affairs/treaties/amsterdam_treaty/index_en.htm.

4 Kathy Davis, “Intersectionality in Transatlantic Perspective”, in *Ueberkreuzungen. Fremdheit, Ungleichheit, Differenz* ed. Cornelia Klinger & Gudrun-Aveli Knapp (Münster: Westfälisches Dampfboot, 2008).

5 Gloria T. Hull, Barbara Smith & Patricia Bell Scott, eds., *All the Women Are White, All the Blacks Are Men, But Some of Us are Brave: Black Women's Studies* (New York: Feminist Press, 1982, new edition) 432.

6 Combahee River Collective, “A Black Feminist Statement”, in *All the Women Are White, All the Blacks Are Men, But Some of Us are Brave: Black Women's Studies* (New York: Feminist Press, 1982, new edition) 13-22.

of their specific intersectional identities and the overlapping of two or more of such categories. In this case:

[women] must negotiate the traffic that flows through these intersections to avoid injury and to obtain resources for the normal activities of life. This can be dangerous when the traffic flows simultaneously from many directions. Injuries are sometimes created when the impact from one direction throws victims into the path of oncoming traffic, while on other occasions, injuries occur from simultaneous collisions. These are the contexts in which intersectional injuries occur – when multiple disadvantages or collisions interact to create a distinct and compound dimension of disempowerment.⁷

Intersectionality was born as an attempt to deconstruct the monolithic idea of “women” and to overcome the dichotomy between race and gender by bringing race into the feminist discourse and by raising awareness of the specific vulnerabilities of women of colour. After focusing on the “triad of discrimination” or “triple jeopardy” deriving from the overlapping of class, race and gender, feminist discourse increasingly took into consideration other categories (sexual orientation, religion, illness, etc.). Intersectionality provided a broader approach suitable to tackling discrimination beyond traditional categories. This intersectional approach helps us understand how the convergence of multiple factors in a human being’s life takes place; and, more specifically, how racism, gender, class and other grounds contribute to create layers of inequality that help position human beings. In doing so, the approach challenges both monolithic constructions of specific groups and their stigmatisation or homogenisation. The approach can be used to describe each individual as a dynamic combination of categories (e.g. comprising gender, race, class, ethnicity, religion, age, health, language, economic and social status, affiliation and education). In recent years, scholars have formed different attitudes toward the analytical categories used in the intersectional approach. The three main ones are described by Leslie McCall, who distinguishes the “anti-categorical” approach, the “intra-categorical” approach and the “inter-categorical approach to intersectionality”. In

doing so, McCall also provides a methodological platform by which intersectionality can be a tool in feminist research.

The first approach is called “anti-categorical complexity” because it is based on a methodology that deconstructs analytical categories:

Social life is considered too irreducibly complex – overflowing with multiple and fluid determinations of both subjects and structures – to make fixed categories anything but simplifying social fictions that produce inequalities in the process of producing differences.⁸

The second approach is called “intra-categorical complexity” because authors working in this vein tend to focus on particular social groups at neglected points of intersection – “people whose identity crosses the boundaries of traditionally constructed groups” – in order to reveal the complexity of lived experience within such groups.⁹ At the end of the continuum, there is “inter-categorical complexity”, which requires that scholars “provisionally adopt existing analytical categories to document relationships of inequality among social groups and changing configurations of inequality along multiple and conflicting dimensions.”¹⁰

Having hereto described the very general development of intersectional debate in the US, it is time now to cross the ocean and look into the European debate, which came into being in the mid-1990s and developed predominantly in Austria, France, Germany, the UK, the Netherlands and Scandinavia. European scholars have been (critically or emphatically) looking at US developments of intersectionality in their conceptualisations.

In her recent contribution to the book *Überkreuzungen. Fremdheit, Ungleichheit, Differenz* Professor Kathy Davis pinpoints at least four main differences between US and European feminist approaches to intersectionality, which are mainly due to “the different histories of domination and exclusion, as well as the current multicultural realities of Europe, particularly in the context of increasing migration.”¹¹

7 Kimberlé Crenshaw, “Traffic at the Crossroads: Multiple Oppressions”, in *Sisterhood is Forever: The Women’s Anthology for a New Millennium*, Robin Morgan, (Washington Square Press, 2003), 512.

8 Leslie McCall, “The Complexity of Intersectionality”, *Signs* 30(3), (2005): 1771-1800.

9 Ibid.

10 Ibid.

11 Davis, “Intersectionality in Transatlantic Perspective”, 19-35.

The first difference concerns the centrality of the category “race” itself, which has been replaced by “ethnicity” in European academic discourse, because it seems to better explain “cultural differences, religious beliefs or adherence to traditions” and detaches itself from the “the biological determinism and essentialism” embodied in the term “race”.¹² Incidentally, in EU institutions, the category of “race” has not been left aside, given that European anti-discrimination legislation mentions discrimination based both on race or ethnic origin, as will be explained later in this article.¹³ According to Davis, the second difference in the debate concerns “which and how many” categories are necessary for an intersectional analysis, going beyond the traditional triad of “gender-race-class” and questioning whether the category of “gender” itself should be a central category of the analysis. The third difference regards a departure from Crenshaw’s “Traffic Intersection Metaphor”, which is seen to conceive of “the axes of inequalities”¹⁴ as separate systems more likely to be “additive than interactive”. Concerning this aspect, German scholars have contrasted US intersectional theory with another based on gender as an “interdependent category” with the aim of analysing the area between the various categories.¹⁵

The fourth difference concerns the issue of agency, meaning that in the US debate differences are often seen as a source of disempowerment undermining the ability of individuals to negotiate their multiple *identities in society*, whereas some scholars in Europe have used the expression “doing intersectionality” in order to inquire how the intersection of categories may enable creative ways of action.¹⁶ In recent years, many other voices have emerged and have complemented

the European debate, also outside feminist discourse, (e.g. the concept of “super-diversity” which describes the dynamic interplays of variables characterising complex social formations).¹⁷ This short and non-exhaustive overview tries to provide the reader with insight into the complex and still ongoing debate on intersectionality in order to set the scientific scene in which the concept of multiple discrimination has taken root. Indeed, as Professor Marsha Darling in the US has underlined: “intersectionality is conceptually inseparable from the anti-discrimination and women’s human rights legal standards established by the United Nations Charter and the Universal Declaration of Human Rights.”¹⁸ Therefore, the task of subsequent sections will be to describe the emergence of the concept of “multiple discrimination” in both international and European legal discourse, with a specific look at those legal documents which concern Roma.

Multiple discrimination at the international level

Outside academic debate, the official birth of the concept of “multiple discrimination” dates back to September 1995 when the Fourth World Conference on Women adopted the Beijing Declaration and Platform for Action and referred to the need to take into consideration the “multiple barriers” faced by minority women.¹⁹ Five years later at the Beijing Plus 5 Global Feminist Symposia (5-8 June 2000, City University of New York Graduate Center), the International Movement Against All Forms of Discrimination and Racism (IMADR) organised a workshop focusing on multiple discrimination

12 Ibid.

13 Consideration 6 of Directive 2000/43/EC makes clear that: “the European Union rejects theories which attempt to determine the existence of separate human races. The use of the term ‘racial origin’ in this Directive does not imply an acceptance of such theories.” Council Directive 2000/43/EC of 29 June 2000, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>.

14 Gudrun Aveli Knapp, Birgit Sauer & Cornelia Klinger, *Achsen der Ungleichheit: Zum Verhältnis von Klasse, Geschlecht und Ethnizität (Politik der Geschlechterverhältnisse)* (Campus Verlag, 2007) 289.

15 Gabriele Dietze et al., *Geschlecht als interdependente Kategorie. Intersektionalität, Interdependenz, Diversity-kritische Perspektiven aus den Gender Studies* (Budrich Verlag, 2007) 200.

16 Helma Lutz & Kathy Davis, “Geschlechterforschung und Biographieforschung: Intersektionalität als biographische Ressource am Beispiel einer außergewöhnlichen Frau”, in *Biographieforschung im Diskurs*, eds. Bettina Völter, Bettina Dausien, Helma Lutz & Gabriele Rosenthal (Wiesbaden: VS Verlag, 2005), 228-247.

17 Among these variables, Vertovec mentions “country of origin (covering ethnicity, language, religious tradition, regional and local identities, cultural values, practices, etc.), migration channel (often related to highly gendered flows, specific social networks and particular labour market niches), and legal status (including categories determining a hierarchy of entitlements and restrictions)”. Steven Vertovec, “Super-diversity and its implications”, *Ethnic and Racial Studies*, 30: 6, 1024-1054, available at: <http://dx.doi.org/10.1080/01419870701599465>.

18 Marsha Darling, “Human Rights for all: Understanding and applying ‘intersectionality’ to confront globalization”, quoted in *Women’s Rights and Economic Change*, No. 9 (August 2004), available at: http://www.hhh.umn.edu/centers/wpp/flf/pdf/AWID_intersectionality.pdf.

19 Fourth World Conference on Women, *Beijing Declaration and Platform for Action*, 1995, available at: http://www.unesco.org/education/information/nfsunesco/pdf/BEIJIN_E.PDF.

against minority women in parallel to the UN-sponsored Women 2000 Conference in New York in June 2000.²⁰ In the workshop, minority women from different countries raised awareness of the need to build a network of movements to connect racial and gender dimensions of discrimination. This helped to make clear that racial and ethnic discrimination does not affect women and men in the same way (women are more likely to suffer from discriminatory labour practices and be forced into underground or informal sectors) and that, on the other hand, gender discrimination has a different impact on black and white women, both in their public and private lives (women belonging to racially discriminated groups do not enjoy equal access to health, education or justice).

In 2001, the concept of multiple discrimination was finally explicitly addressed in the Declaration and the Programme of Action²¹ signed at the UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa.

In April 2009, the Durban Review Conference took place in Geneva with the aim of evaluating the progress achieved in the goal areas set out in the abovementioned Declaration and Programme of Action. Among the relevant activities organised during the conference, the side-event “Double odds: women overcoming multiple discrimination” should be mentioned.²² This forum, opened by UN High Commissioner for Human Rights Navi Pillay, marked the long-lasting UN commitment to tackling multiple discrimination. Awareness of the need to mainstream gender equality and racial equality throughout UN policy also led to a deeper cooperation between the Committee on the Elimination of Racial Discrimination, (the expert body that monitors the implementation of the UN Convention on the Elimination of All Forms of Racial Discrimination by States Parties) and the Committee on the Elimination of Discrimination against Women, (the

body of independent experts that monitors the enforcement of the UN Convention on the Elimination of All Forms Discrimination against Women). This cooperation aims at mainstreaming gender-related dimensions of racial discrimination in the works of the UN.²³

Going beyond the intersection of gender and race, the UN has recently used the term “multiple discrimination” in its Convention on the Rights of Persons with Disabilities: Article 6 recognises “that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms”.²⁴

From a strictly legal point of view, the main obstacle to enforcing the UN legal body on discrimination is the lack of compelling sanctions and penalties for non-compliance. Notwithstanding the non-binding nature of the UN anti-discrimination apparatus and initiatives, they have strongly influenced the European concern with multiple discrimination, as is described next.

Multiple discrimination as a European issue

Looking at the level of the EU, multiple discrimination has recently been mentioned in both EU binding and non-binding legislation. Increased attention to multiple discrimination has also been paid at the EU policy level. In order to provide a clear description of EU engagement in the field of multiple discrimination and its relevance with regard to Roma, this article describes the legal and political levels, distinguishing general instruments which fight multiple discrimination (which are *also* relevant for Roma, but do not directly address them) from those which specifically and directly address the situation of Roma.

20 The International Movement Against All Forms of Discrimination and Racism, available at: <http://www.imadr.org/>.

21 United Nations, *Durban Declaration and Programme of Action*, 8 September 2001, available at: <http://www.un.org/WCAR/durban.pdf>.

22 OHCHR, “Double Odds: Women overcoming Multiple Discrimination”, April 2009, available at: <http://www.ohchr.org/EN/NEWSEVENTS/Pages/DoubleOdds.aspx>.

23 United Nations, *Report of the Subregional Workshop on the Implementation of Concluding Comments/Observations of the Committee on the Elimination of Discrimination Against Women and the Committee on the Elimination of Racial Discrimination*, 19-22 December 2005, available at: [http://www.unhcr.ch/tbs/doc.nsf/0/445756c7d088c3e4c125716c00430f7c/\\$FILE/G0641403.DOC](http://www.unhcr.ch/tbs/doc.nsf/0/445756c7d088c3e4c125716c00430f7c/$FILE/G0641403.DOC).

24 The Convention on the Rights of Persons with Disabilities and its Optional Protocol were adopted on 13 December 2006 at the United Nations Headquarters in New York, and were opened for signature on 30 March 2007. United Nations, *Convention on the Rights of Persons with Disabilities*, 2008, available at: <http://www.un.org/disabilities/default.asp?navid=13&pid=150>.

Concerning binding legislation, the 14th Consideration of Racial Equality Directive 2000/43/EC²⁵ states that “the Community should, in accordance with Article 3(2) of the EC Treaty, aim to eliminate inequalities, and to promote equality between men and women, especially since women are often the victims of multiple discrimination.” For the first time, the concept of multiple discrimination entered into EU legislation, focusing the attention of practitioners and politicians on the fact that women may easily be victim of two-fold discrimination because of the presence of more than one factor deviating from the principle of equality.

Apart from the recognition of multiple discrimination affecting women, European institutions have not staged further efforts in the binding legal framework to counter it so far. At this stage, there are at least four limits to effective protection from multiple discrimination.

First of all, the Racial Equality Directive does not provide a definition of multiple discrimination; nor does it provide a regulation for it. This lack of further provision has created uncertainty toward the concept itself.

As Timo Makkonen maintains, at the moment, “there is considerable conceptual disorganization, as several different concepts are used, and more importantly, they are seldom defined or analyzed,”²⁶ even if a deep interest has arisen in recent years, thanks predominantly to scholars who have engaged tirelessly with the topic.²⁷ Scholars in Europe are indeed developing comparative studies on multiple discrimination and on the related concept of intersectionality,²⁸ deepening existing conceptualisations within the EU and elsewhere (Australia, Canada and the US).

From a legal perspective, a body which governs liability for multiple discrimination still needs to be set up, since it is far from clear whether (with a view to protecting the victim) the perpetrator’s liability is to be evaluated with respect to every possible risk factor, or whether it is sufficient that it is evaluated with respect of one discriminatory factor, being *fumus boni iuris* sufficient for the additional causes. It will only be when this aspect is clarified that an effective, proportionate and dissuasive apparatus for imposing sanctions on such conduct can be established, as required by the anti-discrimination directives.

A major problem in tackling multiple discrimination concerns the suitable “comparator”. In fact, in order to decide whether discriminatory treatment has occurred, a comparison between two persons is usually needed. For example, in the case of two persons competing for rented accommodation, a comparison between the person allegedly discriminated against and the non-discriminated one should be made. Where no real person exists to take the role of comparator, a hypothetical comparator is needed. With multiple discrimination, this scenario becomes even more difficult and is complicated by the fact that anti-discrimination directives have adopted a single-ground comparison model without directly addressing the problem of finding a suitable comparator in this specific case.²⁹ Incidentally, some authors argue that “it may be possible to read the European anti-discrimination directives purposively, as prohibiting discrimination on combined grounds, in the fields of employment and occupation.”³⁰ Professor Dagmar Schiek speaks about the multi-dimensionality of EU non-discrimination law, which “encompasses interrelations of different conceptions of equality law as well as intersections between discrimination grounds.”³¹

25 European Commission, Council Directive 2000/43/EC *implementing the principle of equal treatment between persons irrespective of racial or ethnic origin*.

26 Timo Makkonen, “Multiple compound and intersectional discrimination: Bringing the experiences of the most marginalized to the fore,” (2002), available at: <http://www.abo.fi/instut/imr/norfa/timo.pdf>.

27 This European wave of scholars is quite interdisciplinary and includes law professors (e.g. Dagmar Schiek, Susanne Baer, Gay Moon, Mark Bell, Timo Makkonen), linguistics scholars (e.g. Antje Hornscheidt, Katharina Walgenbach) and many others from a very diverse set of disciplines which can be subsumed under so-called social studies (e.g. Kathy Davis, Helma Luz, Ilse Lenz).

28 European Commission, *Tackling Multiple Discrimination: Policies, practices and laws*, 76.

29 Gay Moon, *Multiple discrimination – problems compounded or solutions found?* available at: <http://www.justice.org.uk/images/pdfs/multiplendis-crimination.pdf>.

30 Dagmar Schiek & Victoria Chege, eds., *European Union non-discrimination law: comparative perspectives on multidimensional equality law* (Abingdon: Routledge, 2009) 411.

31 Ibid.; D Schiek, “Broadening the Scope and the Norms of EU Gender Equality Law: Towards a Multidimensional Conception of Equality Law”, *12 Maastricht Journal of European and Comparative Law* (2005): 427-466.

The second limit is found in the fact that the Racial Equality Directive and gender anti-discrimination directives do not correlate entirely as regards their objective scope. This, in practice, make it very difficult to tackle multiple discrimination. For example, the Racial Equality Directive³² forbids racial and ethnic discrimination in such sectors as employment, training and education, social protection, social advantages and access to goods and services (including housing). Protection against gender discrimination is more limited: Directive 2006/54/EC³³ concerns the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. Council Directive 2004/113/EC³⁴ however, implements the principle of equal treatment between men and women in the access to and supply of goods and services.

Thirdly, while dealing with multiple discrimination in legal documents, the European institutions have predominantly focused on the overlap of race/ethnic origin and gender, disregarding the overlap of other discrimination grounds (age, disability, religion or belief, sexual orientation) covered by Council Directive 2000/78/EC on employment.³⁵ In any case, had higher attention been given to the multiplying effect of the grounds covered by Directive 2000/78/EC, there would still be the same gap as with regard to the gender directives. Indeed, the objective scope of this Directive does not go beyond occupation and work and this circumstance has led

some authors to envisage a “hierarchy of equalities” in the EU anti-discrimination framework.³⁶

A final concern regards the exclusion of the grounds of class³⁷ and citizenship from the anti-discrimination directives, which would otherwise play a relevant role in enhancing the socio-economic inclusion of Roma, given that Roma are victims of high rates of poverty throughout Europe and are in many cases third-country nationals.³⁸

We can conclude that binding EU legislation gives evidence of the EU institutions’ awareness of the need to provide holistic protection against discrimination based on gender and race/ethnicity. However, it ignores both the multiplying effect of the other grounds of discrimination mentioned in the anti-discrimination directives and the relevance of poverty.

The situation does not look much better at the national level. Going through the national implementation of EU anti-discrimination directives, few states (Austria, Germany, Romania and Italy) explicitly address the circumstance of discrimination based on more than one ground.

In Austria, Amendment BGBl. I Nr. 67/2008 altered Article 11 of the Austrian Disability Equality Act of 2005, empowering authorities to consider multiple discrimination based on the intersection of disability with gender and/or ethnicity, when assessing the remedy for discrimination.³⁹ The German legislation dedicates an

32 Council Directive 2000/43/EC of 29 June 2000, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>.

33 Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:204:0023:0036:EN:PDF>.

34 Council Directive 2004/113/EC of 13 December 2004, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0113:EN:HTML>.

35 Council Directive 2000/78/EC of 27 November 2000, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:EN:HTML>.

36 E. Barry, “Different Hierarchies-Enforcing Equality Law”, in *Equality in Diversity – the New Equality Directives*, eds. C. Costello & E. Barry, (The Irish Centre of European Law, 2003).

37 The term “class” is used instead of “income level” or “socio-economic status” because the main feminist theories of intersectionality use class as a sociological category of analysis. See, e.g., Margareth Andersen & Hill Collins, *Race, Class, and Gender*, (Wadsworth Publishing, 2009, 7th Edition). Morag Goodwin suggests exploring the intersection of race and poverty when dealing with Roma. See Morag Goodwin, “Multidimensional Exclusion and the (mis)uses of Non-Discrimination Law in Tackling Romani Exclusion” in Dagmar Schiek, *European Union Discrimination Law: Comparative Perspective on Multidimensional Equality Law* (2008) 137-161.

38 Article 3.2. of Directive 2000/43/EC states: “This Directive does not cover difference of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons on the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned.”

39 *Bundesgesetz über die Gleichstellung von Menschen mit Behinderungen (Bundes-Behindertengleichstellungsgesetz - BGStG)*, BGBl. I Nr. 82/2005, available at: http://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAuth&Dokumentnummer=BGBLA_2008_I_67.

autonomous article to multiple discrimination (Section 4 of the German Equal Treatment Act),⁴⁰ stating that if “discrimination is based on several of the grounds [...] it] is only capable of being justified if the justification applies to all the grounds liable for the difference of treatment” and providing the positive duty on judges to take into consideration the multiple effects of discrimination when calculating sanctions.⁴¹ Moreover, the German equality body (*Antidiskriminierungsstelle des Bundes*) is entitled to tackle discrimination on each ground (the so-called *Horizontaler Ansatz*).⁴² In Italy, the law only mentions the need to take into account the multiplying effects of discrimination and the Italian equality body (*Ufficio Nazionale contro le Discriminazioni Razziali*)⁴³ is still only entitled to deal with racial and ethnic discrimination. The Romanian Equality Act between Men and Women (Act 340/2006, Article 4h) defines multiple discrimination “as an act of discrimination, based on two or more grounds of discrimination” and provides that discrimination on two or more grounds is to be treated as an “aggravating circumstance”.⁴⁴

While the binding EU legislation deals with discrimination based on race and ethnic origin in general and does not explicitly address Roma as such, the non-binding legislation goes one step further. In particular, multiple discrimination regarding women within the Romani community is dealt with in more than one document. Thus, the European Parliament passed a Resolution on the situation of women from minority groups in the European Union, which, having regard to the equality directives of 2000:

draws the attention of the Commission and governments to the need to ensure (a) the effective application of policies implemented at Community and national level that are likely to improve Roma women’s

economic, social and political situation, their involvement in the decision-making process and protection of their human rights, (b) the inclusion of the issues concerning Roma populations in general, and equality of treatment and opportunity for Roma women in particular, in all relevant policies and programmes relating to employment policies and social inclusion, the European Social Fund, the Equal initiative, education and training programmes, the Daphne programme, and legislation and the action programme against discrimination, (c) consultation of Roma women when drawing up any programme or project likely to affect them and when adopting positive measures on their behalf.⁴⁵

Then, it calls on governments to take measures to improve the reproductive and sexual health protection of Romani women, to prevent and put an end to forced sterilisation, and to promote family planning, alternative arrangements to early marriages and sex education. A couple of years later, the European Parliament also passed an *ad hoc Resolution on the situation of Roma women in the European Union*,⁴⁶ which focused the attention of politicians and civic society on several aspects impacting Romani women both inside and outside their community (i.e. both in-group and out-group discrimination). Concerning in-group discrimination, the Resolution highlights the fact that “as a result of patriarchal traditions, many women – including Romani women and girls – do not enjoy full respect for their freedom of choice in matters concerning the most fundamental decisions of their lives, and are thus thwarted in their ability to exercise their fundamental human rights.” This statement goes directly to the heart of the vulnerability of “minorities within a minority” and of the power relations within the minority, which has been long discussed in the debate between multi-culturalists and feminists, above all in North America (the US and Canada) and in the UK.⁴⁷

40 Allgemeines Gleichbehandlungsgesetz, <http://www.gesetze-im-internet.de/agg/BJNR189710006.html>.

41 Alexandra Nemes et al., “Romanian Legislation and Institutional Framework on the Gender Field” (presentation), available at: http://www.genderkompetenz.info/w/files/gkompzpdf/taix_alexandra_nemes.pdf.

42 Antidiskriminierungsstelle des Bundes, available at: <http://www.antidiskriminierungsstelle.de/>.

43 Presidenza del Consiglio dei Ministri, Dipartimento per le Pari Opportunità, *Ufficio Nazionale contro le Discriminazioni Razziali*, available at: http://www.pariopportunita.gov.it/index.php?option=com_content&view=article&id=121&Itemid=126.

44 Nemes et al., “Romanian Legislation and Institutional Framework on the Gender Field”.

45 European Parliament, *Resolution on the situation of women from minority groups in the European Union* (2003/2109(INI)), available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P5-TA-2004-0153+0+DOC+XML+V0//EN>.

46 European Parliament, *Resolution on the situation of Roma women in the European Union* (2005/2164(INI)), available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2006-0244>.

47 Susan Moller Okin, Joshua Cohen, Matthew Howard & Martha C. Nussbaum, (eds.), *Is Multiculturalism Bad for Women?* (Princeton University Press, 1999) 146; Will Kymlicka, *Multiculturalism citizenship: A liberal theory of minority rights* (Oxford: Oxford University Press, 1995).

The Resolution then calls for the adoption of “positive obligations to ensure that Roma women are represented proportionately to their presence in the local population” and for measures able to enhance the self-empowerment of Romani women in society at large.

EU institutions also set the protection from multiple discrimination of women with a history of migration or who belong to an ethnic minority, among the priorities within the *Roadmap to equality between women and men 2006/2010*,⁴⁸ which, at Paragraph 1.6, states:

the EU is committed to the elimination of all discrimination and the creation of an inclusive society for all. Women members of disadvantaged groups are often worse off than their male counterparts. The situation of ethnic minority and immigrant women is emblematic. They often suffer from double discrimination. This requires the promotion of gender equality in migration and integration policies in order to ensure women’s rights and civic participation, to fully use their employment potential and to improve their access to education and lifelong learning.

Within its non-binding legislation, the EU has also been stepping up efforts regarding young Roma, and this commitment can be regarded as an important attempt to deal with the intersection of ethnicity/race and age. An example is given in Article 5 of the European Parliament *Resolution on the social situation of Roma and their improved access to the EU labour market*, which:⁴⁹

stresses that although the proportion of Roma young people in secondary and higher education has increased in certain Member States, their level of qualifications still remains far below the EU average; points to the gap between labour shortages on the one hand and a high unemployment rate linked with low skill levels among Roma on the other; demands, therefore, that the Member States

and the EU support the Roma to increase their qualifications as a priority; draws attention to the fact that, in the absence of formal qualifications, the position of Roma on the labour market can also be improved by devising a system for acknowledging practical skills.

Additionally, Article 9 recommends that “a comprehensive programme package be planned which promotes and motivates the return of Roma graduates to their communities and the employment of the Roma within their communities and in the interests of those communities.” Also, turning to the policy level, the EU recognises that for young, disadvantaged people “the main way of stepping out from the vicious cycle and to have positive representation within the society is (formal and non-formal) education.”⁵⁰

The next section of this article describes a good practice regarding young Roma, which is a valuable example of tackling the multiple marginalisation of Romani youth (aged between 18 and 30) who face discrimination based on their ethnic origin and vulnerability due to their age (e.g. in vocational training, accessing the job market and in educational structures). Bearing in mind that gender has been mainstreamed in EU policy addressing young Roma, the best practice presented can ultimately be seen as an attempt to fight discrimination based on the trio of age, ethnicity and gender.

An example of best practice using non-formal education as a tool to enhance the inclusion of Romani youth

Within the European Commission’s Youth in Action programme (YiA), an inclusion strategy has been drafted to provide a framework for non-formal education activities⁵¹ and to develop the skills and competences of young people across Europe, through mobility projects as well as initiatives and training. The Inclusion Strategy of the Youth in Action programme is based on two aims:

48 European Commission, *Roadmap to equality between women and men 2006/2010*, available at: http://europa.eu/legislation_summaries/employment_and_social_policy/equality_between_men_and_women/c10404_en.htm.

49 European Parliament *Resolution of 11 March 2009 on the social situation of the Roma and their improved access to the labour market in the EU*, (2008/2137(INI)).

50 European Commission, *Inclusion Strategy of the “Youth in Action” Programme (2007-2013)*, available at: http://ec.europa.eu/youth/pdf/doc399_en.pdf.

51 Non-formal education is described as “any organised educational activity outside the established formal system – whether operating separately or as an important feature of some broader activity – that is intended to serve identifiable learning clientele and learning objectives.” Dr Pasi Sahlberg, *Building Bridges for Learning – The Recognition and Value of Non-Formal Education in Youth Activity*, European Youth Forum 1999, available at: <http://www.pasisahlberg.com/index.php?id=53>.

1. to ensure the accessibility of the Youth in Action programme for young people with fewer opportunities (both those organised in youth organisations, youth councils, etc., as well as those not fully organised); and
2. to stimulate the use of the Youth in Action programme as a tool to enhance the social inclusion, active citizenship and employability of young people with fewer opportunities and to contribute to social cohesion at large.⁵²

As part of the European Commission's Training Strategy within the YIA, the SALTO Cultural Diversity Resource Centre⁵³ organised, in cooperation with the Hungarian National Agency (NA), a "Roma Youth Roundtable" in Budapest on 7-8 April 2008. Taking into consideration that young Roma are among the most marginalised groups in Europe, the meeting aimed at enhancing Roma youth participation through the YiA.⁵⁴ One of the main outcomes of the roundtable was a statement signed by the 20 Romani participants, with which they requested that the national agencies entitled to implement the YiA pay attention to the following needs of young Roma:

the Roma community (including Gypsy/Traveller/Sinti people) need recognition as an ethnic minority; the Roma issues should be mainstreamed in the activities of the National Agency (NA), in the same way as any work with other minorities is done; there must be national and international meetings between NAs and Roma organizations; there must be Roma representation and expertise in each National Agency. The role model for this is the Slovakian NA, where a Roma expert has been hired; include Roma participants in all programmes, not just in the Youth in Action Programme. Roma should be a horizontal priority in all programmes and programme elements; promotion and advertisement of the Programme to the Roma communities need to be improved.; cooperation with

existing organizations should be encouraged and more access to information should be available on a more regular basis; the Roma communities need help with the bureaucracy of project applications, and for training course participation. There should be special assistance available for young Roma in regards to the application procedure.⁵⁵

From 15-21 September 2008, the Hungarian NA and the SALTO Cultural Diversity Resource Centre promoted a youth training course with the aim of finding solutions for the challenges that young Roma are facing in Europe by: exploring how international projects can enhance the participation of Roma youth and their integration in the society; promoting good practices in local/regional or international youth projects; leading to more concrete action plans using the YiA Programme for various scale projects; and by exploring ways of cooperation between stakeholders.⁵⁶ Last but not least, in 2009, the SALTO Cultural Diversity Resource Centre edited a booklet entitled *Youth in Action and the Roma Community. Inclusion of Diversity*,⁵⁷ which describes good practices implemented through the Youth in Action Programme "with" and "for" young people belonging to the Romani community in Europe. Results were achieved with the inclusion of Romani youth through non-formal education. In an intersectional perspective, the most valuable aspect of the best practices collected in the booklet is the active participation and empowerment of Romani young people coming from very different backgrounds of gender, class, sexual orientation and religion. The booklet points out that "young people from Roma communities can see themselves represented in several of these areas [gender, religion, sexual orientation, ethnicity, etc], and as such often suffer from multiple discrimination and lack of opportunities."⁵⁸ This consideration leads to the argument that non-binding legislation and policy in the EU seem to be more aware and effective than the purely legal level in tackling multiple discrimination suffered by young Roma.

52 European Commission, *Inclusion on Strategy of the "Youth in Action" Programme (2007-2013)*, available at: http://ec.europa.eu/youth/pdf/doc399_en.pdf.

53 Salto-youth.net is a network of eight resource centres working within the framework of the European Commission's Youth in Action Programme, available at: www.salto-youth.net.

54 "Roma Roundtable", available at: <http://www.salto-youth.net/Romaroundtable/>.

55 "Roma Statement", available at: <http://www.salto-youth.net/Romastatement/>.

56 "Roma TC", available at: <http://www.salto-youth.net/RomaTC/>.

57 "Roma Booklet", available at: <http://www.salto-youth.net/Romabooklet/>.

58 *Youth in Action and the Roma Community. Inclusion of Diversity* (Salto Cultural Diversity Resource Centre, 2009): 18.

Drawing conclusions on the challenges to fighting multiple discrimination

Some conclusions can be drawn on the (in)ability of EU binding anti-discrimination legislation to cover the multiple dimensions of inequality suffered by Romani people. Indeed, as far as the binding legislation is concerned, the short and not exhaustive remarks described earlier in this article elicit at least two failures of the directives:

1. The fragmentation of protection, which prevents EU legislation from providing a holistic regulation of (multiple) discrimination. This situation is also mirrored in the functioning of the equality bodies (established following the Racial Equality Directive and the Gender Directives), which, in many States, is based on a “one discrimination ground” approach; and
2. The risk that “minorities within a minority” are forgotten. Due to the lack of a horizontal approach, different grounds of discrimination are still considered as non-communicating and isolated factors. Therefore, there is a risk that “Roma rights” and “women’s rights” and “age rights” and so on will continue to be conceived as “group rights”, with no interaction between them.

With regards to non-binding legislation and EU policy, the situation slightly changes because EU documents (Resolutions and communications) and programmes (e.g.

the Youth in Action Programme, and also EQUAL⁵⁹ or DAPHNE⁶⁰) capture the “multiple” issue as an indispensable approach for coping with the subordination of Romani women, young people and other vulnerable groups within the Roma minority.

The limit of this second level is that it provides soft law instruments, which are non-binding in a legal sense, even if they do carry some authority. In fact they are negotiated and agreed by European institutions, which hold some expectation that the non-binding commitments will be met as much as reasonably possible.

The current state of EU legislation and policy leads to the argument that the gaps which exist in EU binding legislation and in its implementation at the national level seem to be counterbalanced by EU non-binding legislation and policy, and by the spontaneous implementation of soft law instruments (primarily) by NGOs (i.e. stakeholders and civil society). If this is the case, we should conclude that the success of the fight against multiple discrimination must still rely on the activity of civil society and grassroots organisations. This then suggests that, through social dialogue, bottom-up strategies and an open method of coordination, Romani activists can place multiple discrimination onto the agenda of EU institutions, in order to pass an effective legal strategy which enhances the inclusion of all people “at the crossroads of discrimination”.

59 European Commission, *EQUAL*, available at: http://ec.europa.eu/employment_social/equal/index_en.cfm.

60 European Commission, *Daphne Programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk*, available at: http://ec.europa.eu/justice_home/daphnetoolkit/html/welcome/dpt_welcome_en.html.

Intersectionality Backlash: A Romani Feminist's Response

ALEXANDRA OPREA¹

I would like to begin to respond to some of the backlash aimed at intersectionality² in Romani contexts. Specifically, I would like to respond to the critique that intersectionality privileges Romani women and girls and marginalises Romani men in European policy discourses. I first heard it a couple of years ago at a conference at the University of Toronto, New College, organised by Ronald Lee, a Romani male feminist and a good friend of mine. I gave a talk that centred on the intersectional marginalisation of Romani women and how Romani feminists grapple with the dual task of criticising internal patriarchal structures while trying to avoid reinforcing negative stereotypes about the community. A white European woman in the audience said something to the effect of, “I have seen young Romani girls in Europe having more power than the older male leaders; they are put in power by the NGOs and are very disrespectful to the older leaders and to the culture.”

I was not sure what she had seen or where she had seen it. I tried to explain to her that what she was describing was an anomaly, that she would not be privy to the conduct that goes on in Romani homes and that if it were the case that she had seen young Romani activist women talking back³ to

male leaders, it was an act of resistance, not of oppression (of those men). In many ways this mirrored stereotypes of the rowdy, overbearing, uneducated, shameless Romani woman – images that circulate throughout Europe. This lens coloured her perspective on strides that had been made toward Romani women's empowerment such that seeing a Romani woman talk back to a male leader in a less than respectful tone became tantamount to oppression of that man. Thus, acts of resistance (no matter how minor) were placed on the same level as virginity tests, domestic violence, disproportionate childrearing, household responsibilities and the like. In other words, anti-subordinative acts (i.e., talking back) were not distinguished from subordinative acts and practices and thus were placed on equal footing. Context disappeared from this inquiry and so did patriarchal structures of subordination.⁴

The latest example of this critique is found in a document produced by Jasminka Dedić⁵ for QUING (Quality in Gender and Equality Policies),⁶ a committee assembled by the European Union (EU) to monitor gender equality in the member and candidate states of the EU. Dedić analysed country reports of the member and candidate states, searching for documents addressing Roma⁷ and gender. What she found

- 1 Alexandra Oprea is a Romanian Romani woman currently attending the UCLA School of Law. She obtained her Masters at the School of International and Public Affairs at Columbia University in 2007. For the past 10 years she has been active on issues dealing with Romani feminism, Romani culture and Roma and other minorities in the United States.
- 2 See Kimberlé Williams Crenshaw, “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color”, in *Critical Race Theory*, 357-383 (1995).
- 3 I have borrowed this concept from Bell Hooks, *Talking Back: Thinking Feminist, Thinking Black*, 5-10 (1999).
- 4 It is also important to note the patriarchal articulation of culture in her comment. Alexandra Oprea, “The Arranged Marriage of Ana Maria Cioaba, Intra-Community Oppression and Romani Feminist Ideals”, *European Journal of Women's Studies* Vol. 12, No. 2, (2005): 133-148. Alexandra Oprea, “Child Marriage a Cultural Problem, Educational Access a Race Issue? Deconstructing Uni-dimensional Understandings of Romani Oppression”, *Roma Rights* Number 2 (2005).
- 5 Jasminka Dedić, “Roma in European Gender Equality Policy Debates: Intersectionalized and Feminized”, available at: http://www.quing.eu/files/2009/Roma_intersectionality_JDedić_290909.doc (describing policy documents that have included Romani women).
- 6 QUING is “a project funded by the European Union under Framework 6 to investigate gender and citizenship in a multicultural context, 2006-2011. [It] compare[s] the meanings of gender equality in the 27 EU member states, together with 2 candidate countries for EU members. This involves close textual analysis of key policy documents on gender equality in employment, gender-based violence and intimate citizenship, as well as the comparative analysis of the varied institutional and social structural environments under which these meanings develop. Quing will contribute to the development of gender theory, especially in relation to intersectionality and to the theorisation of differences in gender regimes, as well as to more effective gender equality policies.” Lancaster University Department of Sociology, *QUING: Gender equality in the European Union*, available at: <http://www.lancs.ac.uk/fass/sociology/activities/529/>.
- 7 Other racial minorities were not looked at.

was that this intersection occurs in 16 documents, which were produced by eight of the 29 countries.⁸

One of Dedić's assertions is that the marginalisation of Romani women has been privileged by the QUING countries, in discourses on Roma and gender.⁹ She says that "most (if not all) feminist works addressing gendered issues related to Roma" position Romani women and girls as the normative subject. The simple response to this is, "That is the point: to make central what has been marginal."

Dedić points to "the glaring absence of Romani men in the European gender equality policies." Again, that is the point if taking a bottom-up approach.¹⁰ Making central the experiences of Romani women and girls is not an act of marginalisation.

What is especially concerning to me is the set of background assumptions that inform critiques of this sort. A critique that intersectionality has resulted in policy-makers becoming overly-focused on Romani women and girls, to the detriment of Romani men, supposes two things: 1) that Romani men and women are on equal footing with one another;¹¹ and 2) that it is a zero sum game such that attending to the experiences of Romani women and girls results in a loss for Romani men and boys.

I am not unsympathetic to the claim that there is value in including Romani men in gender discourses. This is true, for example, when addressing domestic violence or child marriages. Romani men would ideally be part of the solution (i.e., would be included in work-shops or counselling and the like). But problematising the inclusion of Romani women and girls in discourses around their subordination constitutes odd framing. This becomes evident if we consider it in the race context. How would it sound to say that unfortunately, most of the European Union's discourse on racism focuses on minorities and excludes White Europeans? It would sound ludicrous because those who are oppressed should be the focus.¹² This does not constitute any sort of special treatment or a privilege, but rather serves to chip away at white supremacy by centering the experiences of racial minorities.¹³

I view Dedić's critique, much like that of the white European woman in Toronto, as backlash against gains made toward intersectional policies, to the extent that such gains have indeed been made.¹⁴ Resistance to intersectionality has also come in the form of gender exceptionalism, or the insistence that gender should be given more attention or special attention as compared to other axes of subordination. This approach is reflected in a paper on European integration.¹⁵

In 2004, Hungary passed the Act on Equal Treatment and Promotion of Equal Opportunities, which addresses gender, race, ethnicity, religious belief, disability, age

8 Dedić, "Roma in European Gender Equality Policy Debates", 9.

9 Dedić admits that Romani women are neglected by feminist scholars: "I would agree with Oprea that Romani women generally do not receive due attention in feminist research. [...] However," she continues, "this is far from being the case on a policy level in the European Union." Thus, she shifts focus away from Romani women's general marginalisation in discourses dealing with gender for instance and focuses the reader's attention on discourses around Roma and gender, where it is expected that Romani women would feature prominently. Dedić, "Roma in European Gender Equality Policy Debates", 6.

10 Alexandra Oprea "Re-envisioning Social Justice from the Ground Up: Including the Experiences of Romani women", *Essex Human Rights Review*, 2004, available at: <http://projects.essex.ac.uk/ehrr/V1N1/Oprea.pdf>.

11 Only if the two groups are on equal footing would increased attention to one group mean favoritism toward that group. If they are not on equal footing, and one is indeed in a subordinate position compared to the other, then increased attention to the subordinate group is not favoritism or a privileging of any sort. It is merely a way to equalize the playing field. See Alexandra Oprea, "The Arranged Marriage of Ana Maria Cioaba". (discussing the rationale behind affirmative action).

12 This is not to say that whites should not engage in analyses around white privilege and the like.

13 I use the term racial minorities to refer to Roma and other racialised groups in Europe such as South Asians, Africans and Muslims.

14 I should note here that I have taken Dedić's assertions as true. Namely, I have assumed that Romani women were indeed the central focus of the reports she found and this may very well be up for debate. Another important thing to note is that even if this were the case, it could be that it is just lip service that is being paid to intersectionality. We must look for implementation and results before we draw conclusions that Romani women have indeed become central to policy making of any sort.

15 Ulrich Sedelmeier, "Post-accession compliance with EU gender equality legislation in post-communist new member states", in Post-accession compliance in the EU's new member states, *European Integration online Papers (EIoP)*, ed. Frank Schimmelfennig and Florian Trauner, Special Issue 2, Vol. 13, Art. 23 (2009), available at: http://eiop.or.at/eiop/index.php/eiop/article/view/2009_023a/140.

and sexual orientation. One criticism levelled at this law is that it “treat[s] all grounds of discrimination equally, rather than treating gender as a special case.”¹⁶ Specifically, the criticism is that race somehow overpowers gender discrimination: “gender discrimination in Hungary is perceived as less salient than racial discrimination – especially of the Roman [sic] minority [...] As a result, sexual harassment is not explicitly prohibited.”¹⁷ What is startling about this critique is the way in which; 1) Romani

women are erased (a male-centered “Romani minority” appears); and 2) the way in which the link is drawn between protecting Roma and neglecting women (not prohibiting sexual harassment).

Further research is needed evaluating the strides European countries have made toward adopting an intersectional framework. Preliminary research indicates that these strides are not significant.¹⁸

16 *Ibid.*

17 *Ibid.*

18 Duplicating my initial research in Alexandra Oprea, “The Erasure of Romani Women in Statistical Data: Limits of the Race Versus Gender Approach,” *OSI EUMAP*, available at: http://www.soros.org/resources/articles_publications/articles/roma-data-20030403, I note that some countries still fail to disaggregate statistics by race and gender, thereby erasing the experiences of Romani women. See, e.g., Asociația Femeilor Din România, *Proiecte interne și internaționale*, 2003, available at: <http://www.af2010.ro/proiecte.php> (equality between men and women, without mention of race). See also, European Commission, *Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Equality between women and men – 2009* {SEC(2009) 165}, 27 February 2009, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52009DC0077:EN:NOT> (report on equality between men and women 2009) and Center for Urban and Regional Sociology, *Domestic Violence in Romania*, 2008, available at: <http://webapps01.un.org/vawdatabase/searchDetail.action?measureId=6441&baseHREF=country&baseHREFId=1074j>, which disaggregates along gender lines, but not around racial lines, thus hiding frequency or severity of battering of Romani women.

(Intersectional) Discrimination as a Practice of Inequality

ROMAN KUHAR¹

At school, they agreed that every child should bring something for the other classmates on their birthday. When a non-Romani child had a birthday, he gave candy to everybody except to my daughter. The girl that helped the boy share the candy asked him: "What about Megi?" "No," he answered, "she is a Gypsy." [...] My daughter had her birthday two months later. I told her: "You decide, will you give your candy to everybody, or will you give it to everybody except that boy." And she said: "No, dad, I will give it to everybody." (Bobo, EX²)

When I was growing up, people told me that I stank, that I was a Gypsy, that I was this or that, because I was not Slovenian. You have to know that this definitely left a mark on me because when you keep saying to a child that he is nothing, then he grows up with this kind of thinking. (Sanja, 27)

Discrimination is a form of social practice which is generally based on prejudices and stereotypes, deeply rooted in a society's culture. Such practice results in formal or informal forms of segregation, marginalisation or social exclusion of an individual or a group. It puts them in an unfavourable situation and pushes them to the edge of society, either physically or symbolically.

Most often discrimination is understood as one-dimensional: a person can be discriminated against on the basis of one personal circumstance (age, gender, ethnicity, religion, sexual orientation, disability, etc.). But what happens when multiple dimensions of one's identity are the cause of discrimination?

Intersectional discrimination

Historically speaking, the discussion on intersectionality and discrimination based on several personal circumstances has its origin in the feminist analysis of black (female) authors, who drew attention to how racism substantially affects the gender experience. These debates are also informed by the criticism of identity politics and their unifying nature. Politics, in general, are implemented "on behalf of someone" and are related to their identity.

Romani politics are thus connected with issues that Roma face, gay and lesbian politics with issues that gays and lesbians face, women's politics with issues that are related with women, and so on. What is common to all these adjectives – female, Roma, gay, lesbian – is that they leave an impression of a unified group on behalf of which certain politics are performed. Thus, there are politics on behalf of a Gay, with a capital initial letter, a Woman, with a capital initial letter, etc. It is assumed that members of a group, of whose identity the identity politics is based, face the same problems and see the same solutions to these problems. Identity is therefore the source of the problem, and at the same time, the politics based on this identity contain the solution to the problem.³

Although we do not claim that such unified experiences are not possible, experiences can also vary. They can be influenced by the differences between individuals in the group. The experience of revealing the sexual orientation of a gay person who lives in a liberal environment is certainly a lot different than the experience of a gay person living in an environment where politics and culture are closely interwoven with a religion embedded with non-acceptance of homosexuality. In other words: certain individuals do share an experience of a certain identity but these individuals

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2 Testimony appearing in this article is from research conducted in Slovenia in which Mr Kuhar was involved. All names next to quotes from interviews and focus groups are fictitious. The number next to the name represents the respondent's age. If EX appears next to the name instead of a number, this means that the respondent was an expert from one of the participating non-governmental organisations.

3 Linda Nicholson and Steven Seidman, *Social Postmodernism: Beyond Identity Politics*, (New York: Cambridge University Press, 1995).

are also different compared to one another. Precisely these differences within certain groups, which are politically organised based on a certain identity, are not articulated in these politics. In the feminist movement it soon became clear that the political demands reflected the needs of only certain women – for example, middle-class white women – while specific intersectional positions, such as black women, lesbians, etc., were not represented and taken into consideration. Similar exclusions have also occurred (and are still occurring) in other identity politics.

The concept of intersectionality was established in 1991 by Kimberlé Crenshaw (although various versions of this concept have appeared before). She established that identity politics often conceal or ignore intra-group differences. Thus, politics that only address violence against women usually only consider the gender dimension, although other dimensions of identity, such as race, class, ethnicity, sexual orientation, etc., can also have an influence on violence against women. They can even be the main cause of such violence.

Such an approach can also be seen in case-law and legislative practice. The latter generally sees the individual through a single category – the individual has either a gender or an ethnicity or a sexual orientation or a disability – rarely does it happen that these categories are treated in courts or in anti-discrimination legislation as intersected. In this manner, such legislation or case law could address several sources of discrimination that can have a simultaneous effect. Based on a series of case-law studies related to discrimination at work, Tanya Hernández found that in the selected cases non-white women were at a disadvantage because the judicial system only considered one-dimensional discrimination, although their cases were mostly a combination of discrimination they experienced due to their gender and skin colour.⁴ If they claimed racial discrimination the judges did not wish to simultaneously consider the effect of gender, or vice versa: if they sued for sexual discrimination at work, the judges did not simultaneously consider the colour of their skin. They overlooked the fact that the issue of sexism is not exclusively related to gender, the same as the issue of racism is not exclusively related to race.

The key question posed when taking into consideration intersectional discrimination is: is it possible to simply sum different inequalities that occur based on different personal circumstances and address them as such in politics, or are these socially and culturally constructed circumstances in mutual interaction, which means that, at the intersection of various personal circumstances, new contents and new realities are generated that are not a simple sum in the sense of gender + sexual orientation + disability. In other words: if we wish to address discrimination of a black woman, do we simply address the discrimination she is experiencing due to her skin colour and discrimination she is experiencing due to her gender, or is the intersection of these two personal circumstances a new “reality” that does not correlate to the “reality” of a black person and the “reality” of a female person simultaneously.

Crenshaw’s answer to this question is clear: intersection establishes a “new reality” or a new content. She explains it with the example of a traffic junction:

Discrimination, like traffic through an intersection, may flow in one direction, and it may flow in another. If an accident happens in an intersection, it can be caused by cars travelling from any number of directions and, sometimes, from all of them.⁵

Types of intersections

Crenshaw makes the distinction between three types of intersection: *structural intersection*, *political intersection* and *representational intersection*.⁶

With structural intersection she denotes the need to address the structural context of a certain identity position to fully understand the manner in which discrimination and exclusion occur. Crenshaw thus draws attention to the fact that all interventions for the prevention of discrimination against women will have a limited reach if they do not also specifically address the economic, social and political contexts in which these women live. Social structure is

4 Tanya Kateri Hernández, “The Intersectionality of Lived Experience and Anti-discrimination Empirical Research”, in *Handbook of Employment Discrimination Research: Rights and Reality*, eds. Nielsen, L. B. and L. R. Nelson, (Dordrecht: Springer, 2005), 325-337.

5 Kimberlé Crenshaw, “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine”, in *Black Feminist Reader*, eds. Joy James and Tracey Denean Sharpley-Whiting (Oxford: Blackwell, 2000): 216.

6 Kimberlé Crenshaw, “Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color”, *Stanford Law Review* Number 6 (1991): 1241-1299.

therefore always in intersection with the individual's identity. Or, according to Verloo, structural intersection is an issue of reinforcement.⁷ The question is thus, how and in what manner does racism "reinforce" sexism, how do class structures "reinforce" homophobia, how does homophobia "reinforce" racism and so on.

Political intersection addresses various policies formed by groups that an individual can be a member of simultaneously. Policies of these groups can even be in conflict with each other or are exclusive and do not reflect the positions of those within a group that are in intersection with other identities. A homosexual person, who is also religious, definitely faces such a conflicting situation. While, for example, the issue of same-sex marriage is often placed at the top of the political agenda of gay and lesbian organisations, a religious group's top political agenda can be the opposition to such marriages. Verloo⁸ characterises political intersection as marginalisation of certain exclusions. Thus, these are questions on how feminism marginalises the issue of ethnicity, how the criteria that address equal opportunities for women marginalise the specific position of lesbians and so on.

While the first two forms of intersection are related to social structures and political agendas, representational intersectionality addresses structure, as well as politics, through discourse. Crenshaw calls attention to the fact that when a type of discourse does not recognise the importance of another type of discourse, the positions of power, against which both discourses are directed, are reinforced.⁹ A good example of this is the media presentation of gay and lesbian communities which are increasingly presented through the views of same-sex (married?) couples; meanwhile, this discourse does not simultaneously address issues of racism and sexism even though they are both constituent parts of homophobia.¹⁰ The latter cannot be fully understood if we perceive it narrowly and address it merely through the perspective of sexual orientation.

Intersectional and multiple discrimination

Quite often intersectional discrimination is understood as "multiple discrimination". However it is believed that in contrast to intersectional discrimination, multiple discrimination does not speak about "new content" established at the intersection of several personal circumstances but perceives various forms of discrimination, which an individual faces, as a sum. A disabled person faces discrimination due to her disability, but if the person is also religious this can also be the basis for discrimination. Therefore, she has to face discrimination on both grounds, which does not mean that the combination of both experiences establishes new content. The key difference between intersectional and multiple discrimination is the fact that the former takes into account the cross-section of the discriminations (the cross-section is the new content of discrimination), while the latter refers to the sum of the discriminations. In reality, it is of course sometimes hard to make the distinction between the two forms of discrimination.

Research on (intersectional) discrimination in Slovenia

This article is based on exploratory research undertaken by the Peace Institute in Slovenia. It was undertaken using the snowball method, beginning with 7 individuals (personal contacts of the researchers) and asking respondents for additional participant recommendations. The research started with 21 semi-structured interviews, lasting between 40 and 90 minutes.¹¹ The next research step was to organise six focus groups for representatives and users of non-governmental organisations that engage in work on various aspects of personal circumstances on which discrimination could be based. Participating in these focus groups were 35 individuals that engaged in issues of ethnicity (mainly working with Roma), mental health, development disorders, gender (e.g. violence against women), sexual orientation and disability.

7 Mieke Verloo, "Multiple Inequalities, Intersectionality and the European Union", *European Journal of Women's Studies*, Number 3 (2006): 213.

8 *Ibid.*

9 Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color".

10 Roman Kuhar, *Media Representations of Homosexuality*, (Ljubljana: Peace Institute, 2003).

11 Twenty-one percent of respondents were male and 79% were female. This unbalanced gender sample was the result of the fact that, generally, the female gender was perceived to be the personal circumstance which is the primary potential basis for discrimination. The average age of the participants was 35.5 years; the youngest was 23, the oldest 59. Other personal circumstances were represented in the sample with the following proportions: disability (14%), ethnicity (76%), religion (29%), sexual orientation (38%), skin colour (10%) and age (4%). Intersections of personal circumstances of the respondents were in general two-fold; six respondents mentioned three intersecting personal circumstances.

All interviews and focus groups – the total number of respondents was 56 – were recorded and later transcribed.

The results of this study can in no way be generalised. The study is to be understood as a descriptive incision into the field, which remains poorly researched in Slovenia and to which not enough attention is paid by various policies. During the interviews, notes were taken on a series of discriminatory situations that, by their nature, are not intersectional. Such material is important and has not been excluded from the following analysis.

The prevailing approaches in this research of individuals' personal circumstances and the social position that these circumstances (co)create are one-dimensional. Generally, individuals are treated as if they are defined by a single personal circumstance (e.g. studies of Roma, research about the disabled, etc.). But according to Bowleg, when conducting research on intersectionality, it is hard or nearly impossible to ask questions about intersection without simultaneously asking questions that relate to various personal circumstances separately or in addition.¹² According to Bowleg and also demonstrated by this research, respondents in studies on intersectionality usually ranked their identities – they were able to arrange them on a scale from the most important to the least important. They did not think about their identities in the sense of intersection, but additively.

It seems that individuals are often not aware of the intersection of their identities, especially in cases of discrimination, and attribute discriminatory incidents to the identity that they believe is the most important to them or the most obvious. But this does not mean that intersectional discrimination does not exist even if the individuals do not recognise it as such.

The purpose of this research was exploratory. It aimed to find out to what extent the individuals who experience an intersection of personal circumstances/identities (age, disability, sexual orientation, religion, gender and ethnicity) contemplate the intersection of those circumstances as a potential basis for discrimination or exclusion, and if they have ever experienced discrimination based on such intersections.

Attributions based on factual or imaginary traits as a basis for discrimination

The world is shaped according to the criteria of a white male, who is in top physical shape. Everything not in accordance with this is discrimination. (Nina, EX)

Discrimination based on attribution is the most explicit form of discrimination where individuals are unequally treated because certain characteristics and capabilities are attributed to their identity. These are of course not necessarily true since attribution is usually not based on experience. A great deal of this form of discrimination in the workplace is experienced by the disabled, people with a developmental disorder and people with mental health problems since they are *a priori* labelled as incapable of performing a certain task. But other personal circumstances can also be the basis for attributing reduced capabilities. Sanja's example – she is a member of a minority ethnic community – clearly shows how the logic of “us-them” is reproduced through the process of attribution, where “us” is positioned higher and “they” are used only to enable such positioning of “us”:

When [in primary school] I went to the school social worker, she said that I have to understand that we as a people [immigrants] were invited to Slovenia to work, not to receive education. Because of this, she suggested that I enrol in a vocational secondary school [and not gymnasium]. (Sanja, 27)

Attribution as a foundation for discrimination is based on visible traits such as gender or also on more or less non-visible traits that can be known or presumed, based on either partial or even completely false information. A trait as a visible symbol at first has an effect at the level of seeing or non-verbal communication. Stares, gazes, grimaces and similar can be forms of non-verbal discrimination or exclusion. Marija, who has a physical disability, recalls that such stares were very painful for her.

In my youth, I was very affected by the piercing stares of people. Very early on, I became aware that I was different. Occasionally, I wished that the earth would open and swallow me. What are they staring at me for? (Marija, 59)

12 Bowleg, “When Black + Lesbian + Woman ≠ Black Lesbian Woman: The Methodological Challenges of Qualitative and Quantitative Intersectionality Research”, *Sex Roles* Volume 59, Numbers 5-6 (September 2008).

Through visible traits, stereotypical notions are generated and attributed to certain traits. Stereotypes actually function based on a trait (as partial information) from which “the rest of the story” of a person is then created. This story is of course typical and therefore a perfectly fertile ground for discriminatory treatment:

You experience mistrust. You can often hear comments, like “Yes, he is an Arab, he is dishonest” and such. Sometimes this is said as a joke, but sometimes you do not rightly know what they are actually thinking. [...] I also have to say that this occurred a couple of times in public offices [...] mixed feelings. They were nice, but were also giving me sceptical looks. (Sani, 45)

Exclusion or violence, which individuals with visible traits of their stigmatised identity experience on the street, is often experienced in the context of official services, in public offices, transformed into discriminatory treatment or even denial of service:

At an inn, they would not serve us [because I am Romani]. [...] We sat down. All the others were served except us. After a long time the waitress came and was very rude [...] so we left. (Fani, 58)

I once had a granuloma; it was all swollen and I was in pain [...] but none of the dentists would take a look at me here in Novo mesto. Not one. (Fani, 58)

Just like skin colour, religion, ethnicity, etc., language – either spoken or written – can become a visible trait and a potential basis for discrimination. Language as a visible trait in minority ethnic communities in Slovenia has an effect that Miran Komac calls the “Roma syndrome”.¹³ This means that such communities are recognised through language (also through names) as a social problem and not as a cultural group. Language is a sign of the “problem” from which certain characteristics and capabilities are stereotypically derived. A respondent who engaged in activities to help Romani children transitioning into a new, unknown language in schools and prepared textbooks for them in the Romani language mentioned the opposition she faced from teachers for doing this. The teachers even labelled her a “Gypsy teacher”:

I believe that every child in school has the right [...] to hear the words ball, apple, tree, sunshine in their own language. [...] It is a

form of discrimination if the teachers say: “What? Now we will have to learn Gypsy? Why should we teachers, have to learn the Gypsy language?” But if a teacher would at least know the word “loli” which means red, “kham”, sun, or “kber”, house; if we only knew some basic words, then it really could mean something. I always felt sorry for the Romani kids; why should they pay attention to me if they do not understand me. No wonder they were restless; they did not understand us. (Anam, EX)

In schools, language as a trait is, judging by stories told by respondents of non-Slovenian ethnicity, an especially pressing problem. Not only are children who speak other languages excluded by their classmates but they are also excluded by the teachers, mostly through a *a priori* assumptions that members of ethnic minorities have a poor grasp of the Slovenian language:

A teacher told my mum that she would never be able to give me an A as my final grade in Slovene studies, despite my good grades, because I was not Slovenian by birth. (Sanja, 27)

It is interesting to note that some respondents experienced “positive discrimination” due to a better grasp of Slovene than was expected of them, but not in a traditional sense of “positive” but actually in a more negative way. Because they were assimilated, they were rewarded and excluded from the stigmatised group. They were thus put in a position where they could enjoy the “reward” provided that they distanced themselves from their stigmatised group and hid their identity so that it did not pose a threat for the majority group. Actually, at the relation “us” – “them” a new distinction was established: “good immigrants” and “bad čefurs” (a derogatory term for immigrants in the former Yugoslav Republics). Such cases of exclusion can also function as some form of patronisation:

I worked with clients over the phone. [...] I was talking to a woman and we were chatting. I explained everything to her, she was very kind and at the end she asked me to tell her my name. I told her my [Romani/non-Slovenian] name and she said: “Oh, have you lived here long? Your Slovene is very good.” I told her I was born here [...] this was in 2005! To have someone tell me, “Oh, you speak very good Slovene” because of my name [...]. (Elhira, 31)

Respondents in our study who were not ethnically Slovenian often mentioned that, alongside language, their name was also a trait that triggered discriminatory treatment. As some kind

13 Miran Komac “‘Nove’ narodne skupnosti”, in *Albanci, Bošnjaki, Črnogorci, Hrvati, Makedonci in Srbi v Republiki Sloveniji*, eds. Vera Klopčič, Miran Komac and Vera Kržišnik Bukič, (Ljubljana: Inštitut za narodnostna vprašanja, 2003), 38-136.

of “perverted” version of *nomen est omen*, the name is, when spoken and therefore becomes a visible trait, a good indication of potential discrimination. The subjectivity of individuals is reduced to their name:

I called the human resources department of a company and asked why they did not call me in for an interview because I knew that I met all the requirements specified in the employment tender. They asked me once again to tell them my full name and I told them. The woman said: “Well, that is why.” (Sanja, 27)

We [Roma] had to change our names. If your name was Brajdič, you were not certain if you were going to get the job or not. Would someone buy a car from you because it says Brajdič in the certificate of registration? Can you buy a car after you tell them that your name is Brajdič? [...] Many Roma had to renounce their culture for Slovenians to accept us as we are. (Bobo, EX)

Discrimination does not originate only from visible or obvious traits, but also from non-visible or merely imagined traits. Especially in cases of sexual orientation, the supposedly recognisable signs based on which persons that discriminate or are hostile recognise someone as a homosexual, can be grounds for discriminatory treatment, even though the perception of traits can be completely incorrect. Misreading visible traits leads to the attribution of certain (stereotypical) characteristics which the person with such a trait had no intent to communicate.

The wife of our director has the same last name as one of the currently popular Romani stars. When the nurse went to their home because they had a baby, she asked before even looking at the baby: “Are you Gypsies?” Can you imagine that? [...] Is it really important whether she is a Gypsy or not? [...] She obviously did not want to touch a Gypsy baby [...] (Sanja, 27)

Traits which stand out and are recognised as foreign whether or not they are accurately ascribed to an individual can become a basis of a demand for an explanation. The “questioner” automatically takes the position of their own culture as the norm (consequently also as something better) from which everything else deviates (as potentially problematic or dangerous). In such cases, this is not necessarily intentional discrimination, but such positioning does lead to exclusion at the level of discourse:

Just a couple of days ago a lady asked me [because of my headscarf]: “What sect do you belong to? What are you?” They ask such stupid questions that you do not know how to react. (Ajša, 29)

Discrimination is concretely manifested through various forms. Despite the fact that the conclusions of this study cannot be generalised, it is characteristic of the sample that the most common discrimination is verbal in the form of negatively connoted expressions, while respondents most often mentioned discrimination in the workplace. Discrimination at work is not necessarily expressed in tangible unequal measures, but it can be seen in the relations between superiors and employees and of course in relationships among employees. It seems that one of the most common forms of ethnicity-related discrimination is the use of negatively connoted expressions. Their purpose is to marginalise a certain worker, humiliate them and thus establish a clear distinction between people who perform various forms of work:

At work I hear various insults, for example: “There are no Slovenians in the house, nothing but those whose names end with ‘ič’, all ‘southerners’”. All of us “southerners” had to work more, arrange goods; we had more tasks to perform than Slovenians. [...] Whenever [my superior] said my name she always stressed the “ič” ending of my last name. She had a different tone of voice when she spoke to us “southerners” than when she spoke to Slovenians. (Zdenka, 25)

Ethnicity, expressed through a person’s name, often conceals the individual’s capabilities, knowledge, qualifications, and it seems that in certain situations, for example finding employment, the mere physical body remains in the foreground and is determined by a non-Slovenian name or a name that is typical for Roma. Members of minority ethnic groups, including Roma, are sometimes forced to change their names to be invited to a job interview.

Despite the fact that this study outlined verbal and work place discrimination, every individual’s experience is different, which makes the analytical division used here potentially misleading. It might be better to say that each aspect of everyday life is full of potential forms of discrimination and that discrimination has an incredible capability of mutating.

Intersectional discrimination in everyday life

When the question of intersectional discrimination was introduced in the interviews and focus groups the first response was silence. The one-dimensional perception of discrimination is so prevalent and the practice of the dominant identity covering up others is so pervasive that under-

standing intersectional discrimination is generally difficult. To the question of how he would react if a Romani woman who is also a lesbian turned to him for help, the representative of a gay and lesbian organisation replied:

We could only accept her and discuss her sexual orientation. We would, in a way, ignore the fact that she is Roma. Except if she said that she has difficulties because she is Roma. Then we would have to turn to someone that has experience with this, because we do not. [...] We would direct her there. Otherwise we would accept her as an equal. (Matjaž, EX)

In general, the respondents never considered discrimination as a result of a joint effect or the intersection of several personal circumstances. Even non-governmental organisations generally function one-dimensionally.

The explanation of intersectional discrimination made respondents recall some incidents that could be categorised as examples of such discrimination. A typical example that creates “new” and “different” content for women with Slovene and non-Slovene ethnicity is Milka’s story. When she was seeking employment, she was put in an unfavourable position not only because of her gender but also because of her ethnicity:

The employers told me that because I am a woman I will one day have children, but because I am also Bosnian I will probably have several. They would not hire me because of that. [...] I was hurt and I told them that I would sign a paper stating that I would only have two children. (Milka, 41)

As already mentioned intersectional discrimination is not the sum of one-dimensional types of discrimination but instead establishes a new content and requires a special attention, clearly shown in the next example. A respondent working in a shelter for women, victims of violence, mentioned that a Romani woman took refuge in their shelter once, who alongside domestic violence also experienced discrimination in the shelter (discrimination within the group of women who were victims of violence). For the staff, this meant that the woman required specific treatment and additional attention had to be devoted to her. It is clear from this case that the method of work, which is probably adjusted for women who are victims of violence, middle-class Slovenians, did not function in the case of the Romani woman even though she shared the same or similar experiences of violence with the other women:

We really paid her special attention for a couple of hours a day because we knew what a risk it would be if she went back. [...] [Other women from the shelter asked us:] “Why does she have to be here with us? Turn her away, she is not like us! Why does she not go to, I do not know, a psychiatric hospital? Why do we have to put up with her? Why do you not tell her to wear something different?” This is a sample of the society that these women bring with them. And they believe they are less worthy if they spend their time with someone that is not up to their standards. Imagined standards of course. Those created by society during their lives. (Mateja, EX)

Respondents reported that disability is often such a strong identity marker that it covers up other identities. Considering the conducted interviews, one could say that the intersection of a disability with other personal circumstances primarily functions at the level of the (stereotypical) social perception of men and women, which is then translated into the context of a disability. As such, for example, women with disability are more likely to be subject to sexual abuse than men with disability. Similar observations were mentioned by experts engaging in mental health disorder issues. They agreed that gender has a meaning in intersection with disability especially in the context of social perceptions of these persons: women are perceived as less dangerous, while men, as “the stronger gender”, are perceived as more dangerous:

People are less afraid of women because they are not as physically strong as men. They do not feel as endangered among them even if they totally lose it. [...] People are convinced that women are more likely to hang themselves, take some pills, if they go crazy, or throw themselves under a train. Their suicidal tendency. With men, it is automatically assumed that they will be physically aggressive. (Nina, EX)

Respondents mentioned that there are also different reactions to male and female homosexuals. According to respondents’ opinions, certain conservative environments that are determined by macho and patriarchal culture act against male homosexuality more severely. Similar to the relation between gender and ethnicity, respondents with an intersection of sexual orientation and ethnicity also mentioned the differences in the perception of sexual orientation within their minority ethnic group compared to the broader society:

A Slovenian can be gay, however, a ‘čefur’ can only be straight. (Tine, 25)

The problem was in my immediate family. It was a big shock because my nationality is Serbian and gay on top of that. This was a giant tragedy. (Milan, 34)

The intersection of religion and same-sex orientation is unique due to the fact that frequently one identity is perceived to exclude the other; our study included members of the Muslim, Orthodox and Catholic religions that all condemn homosexuality and perceive it as sinful. Individuals who are simultaneously religious and homosexual use different strategies for balancing both identities. Most commonly this is a form of adapting the religious belief to the same-sex desire, as evident in the example of Lepa, who is lesbian and Muslim. She first believed that her homosexual identity was so unacceptable that she voluntarily agreed to be treated for homosexuality in some kind of exorcism:

I told [Muslim priests] about my problem and they said it was okay, that it could happen to anybody. There was no discrimination; nobody said they did not want to treat me. They tried but failed. [...] It was a kind of hypnosis [...] with prayer. They hypnotise you and start a kind of an exorcism. Only, it was done in Arabic. They failed to hypnotise me. If there is something in you, they can not succeed. [...] Then I felt good because I had resolved some things. [...] After all that, it became clear to me that it was what it was and that I had to accept it. (Lepa, 25)

Despite the fact that our exploratory study showed a substantially higher prevalence of one-dimensional discrimination – or the discrimination was perceived in such manner – it is possible that several circumstances had joint effects on discrimination, which the respondent was not aware of. The above examples nonetheless indicate

that it is necessary to thematise intersectional discrimination. Those who work with people who are discriminated against should be aware that discrimination can be caused by the joint effects of several circumstances. Such sensitisation is also important for anti-discrimination policies that, by considering only one dimension, still do not prevent intersectional discrimination.

The endless spiral of discrimination

The numerous and sometimes almost unbelievable stories about discrimination identified during this research at first stir up feelings of compassion. Even though such feelings are honest, they cannot do much in our efforts against discrimination. Evoking compassion can be very counterproductive, since the discriminated become “poor victims” in the compassionate perspective; they become passive subjects of social exclusion. It seems that instead an active position must be taken: namely, discrimination is always relational; that is why victims of discrimination are not only those who are directly discriminated against, but discrimination can also be destructive for the society in which it occurs.

The spiral of discrimination is definitely endless, but legal regulations and anti-discrimination legislation, examples of good practice and greater sensibility to discrimination are nonetheless proof that the fight against discrimination is not fruitless after all. Maybe we will never succeed in doing away with all discrimination, but this does not absolve us from the obligation to actively prevent discrimination, educate about discrimination, draw attention to discrimination, recognise it and strive for an inclusive society.

Discrimination Against a Romani Woman Before the European Court of Human Rights

SARA GIMÉNEZ GIMÉNEZ AND FERNANDO REY MARTÍNEZ¹

This article examines the case of “la Nena”, a Spanish Romani woman who was denied the right to receive a widow's pension by the highest court in Spain, the Spanish Constitutional Court, in a decision dated 24 May 2007. The woman, María Luisa Muñoz, took her case to the European Court of Human Rights (ECtHR) in Strasbourg, with the help of the Fundación Secretariado Gitano. Europe's highest court recognised her right to receive a widow's pension in its ruling of 8 December 2009, which concluded that the refusal of the Spanish government to grant a pension because she had been married in accordance with Romani rites was discriminatory and ordered the Spanish government to pay compensation in the sum of 70,000 EUR in damages caused to the plaintiff.

María Luisa Muñoz married her husband in 1971 in the only way she felt was right: based on the customs of her people.² Since 1425, marriage in the Romani community has been a free and voluntary decision of the parties involved to unite in matrimony before the elder representatives of their families, at which time a large wedding ceremony is celebrated with the whole community. In 1971, the Romani community in Spain lived in a pre-constitutional era, in which Romani men and women did not enjoy full citizenship, and in which there were still regulations targeting their cultural identifiers.³ At that time, Roma were mostly unaware of the legal formalities of marriage, but married according to their customs. Today, the Romani community has more information about the relevant administrative procedures and marriages conducted according to Romani rites are entered into the Civil Register.

María Luisa Muñoz has always considered herself properly married. She lived as a married Romani woman: caring

for her family, depending financially on her husband, not working outside the home and raising their six children.

The marriage had legal validity because the government itself recognised it: since 1983 the couple had a Family Record Book.⁴ They were designated a “large family” and all of the family members were recognised on the husband's social security card. Furthermore, in 1971, civil ceremonies were not possible.

Her husband worked hard throughout his life, making a tremendous effort to integrate himself into majority society. He abandoned traditional Romani work and earned his living doing “regular” jobs, such as bricklaying. He paid his social security taxes like any other worker for more than 19 years.

Ms Muñoz's husband died in December 2000. She had six dependent children and tried to exercise her right to receive a widow's pension. The response of the Spanish government was to refuse her request because it considered that she had never been married. According to the government, although the marriage had been conducted according to her traditions and had thus far appeared to be legally recognised, it was not valid.

When Ms Muñoz became aware that the Spanish government did not consider that she had been married, she found it impossible to comprehend. She had married in good faith according to the customs of her people and had lived as a married Romani woman according to the customs of her community. However, now that she needed to exercise her right to a widow's pension she was told

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2 Roma have been celebrating marriages in Spain in accordance with their uses and customs since 1425, the year in which King Alfonso V issued a safe-conduct pass to Juan de Egipto el Menor, allowing him to freely travel throughout the Kingdom of Aragon.

3 It must be borne in mind that even in Articles 4 and 5 of the 1943 Civil Guard regulations, it is stated that “the Gypsies shall be closely watched, and great care shall be taken to examine all of their documentation and to investigate their way of life [...]”

4 The Family Record Book (*libro di familia*) is received upon civil registration of the marriage.

that she had never been legally married because of a mere procedural error.

From the standpoint of anti-discrimination law, there are several forms of discrimination suffered by the plaintiff as a result of the resolution passed by the Spanish courts in this case.

Discrimination Through Failure to Provide Differential Treatment. A comparison of the treatment of Ms Muñoz to that of other women who have been denied a widow's pension because they had not married in accordance with applicable civil law demonstrates that this is an obvious case of discrimination resulting from failure to provide differential treatment. In such cases, the constitutional principle of equal treatment has been violated not because of the different treatment of substantially similar cases, but rather because of the identical treatment of substantially different cases. This is discrimination by equalisation. Indeed, some important factors distinguish the case of “la Nena” from others that might arise, in which the ethnic/racial factor was not present. Because no distinction is made between these two possible types of cases, the result is discrimination, brought about by not giving different legal treatments to two factually dissimilar situations.

The ECtHR has recognised the possible validity of discrimination through failure to provide differential treatment in the matter of *Thlimmenos v Greece*⁵ and this doctrine could be extended to the present case. It is important to recall the brilliant statement from the ECtHR in *Nachova and Others v Bulgaria*, regarding the vision of “democracy

as a society in which diversity is not perceived as a threat, but rather as a source of wealth”,⁶ as well as the rulings in the cases of *Beard*,⁷ *Coster*,⁸ *Chapman*,⁹ *Smith*¹⁰ and *Lee v. United Kingdom*¹¹ which also stated that “the vulnerability of the Roma entails giving special attention to their needs and their particular lifestyle”. This idea was to be repeated once again in *D.H. and Others v. Czech Republic*: “The vulnerable position of Roma/Gypsies means that special consideration should be given to their needs and their different lifestyles both in the relevant regulatory frameworks and in reaching decisions in particular cases.” They added that the “cultural diversity [of the Roma is] of value to the whole community.”¹² How can this interpretation be reconciled with that of the Spanish Constitutional Court? The ECtHR has stated that the Romani community needs special protection (as seen in the *D.H. and Others* ruling) and that cultural diversity (e.g. the secular Romani marriage rite) is a valuable resource for a democratic society. How can the manner in which the Romani applicant in this case is treated be compatible with the treatment given to any other (non-Romani) couple who did not enter a civil marriage in the absence of any racial or ethnic motivation or tradition? In short, we are witnessing a clear case of (racial/ethnic) discrimination by failure to provide differential treatment.

Furthermore, if one analyses the treatment received by Ms Muñoz in comparison with other legally constituted marriages (the former was not granted access to pensions for widows, whereas the latter would be), Ms Muñoz must be considered to have been subject to two types of discrimination.

- 5 ECtHR, *Thlimmenos v. Greece*, Application no. 34369/97, 6 April 2000, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=696438&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.
- 6 ECtHR, *Nachova and Others v. Bulgaria*, Application nos. 43577/98 and 437579/98, July 6, 2005, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=778855&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.
- 7 ECtHR, *Beard v. United Kingdom*, Application no. 24882/94, 18 January 2001, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=697032&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.
- 8 ECtHR, *Coster v. United Kingdom*, Application no. 24876/94, 18 January 2001, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=697033&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.
- 9 ECtHR, *Chapman v. United Kingdom*, Application no. 27238/95, 18 January 2001, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=697031&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.
- 10 ECtHR, *Jane Smith v. United Kingdom*, Application no. 25154, 18 January 2001, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=697035&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.
- 11 ECtHR, *Lee v. United Kingdom*, Application no. 25289/94, 18 January 2001, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=697034&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.
- 12 ECtHR, *D.H. and Others v. Czech Republic*, Application no. 57325/00, 13 November 2007, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=825443&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>, Paragraph 181.

There was racial/ethnic discrimination that is indirect or has a disparate impact. The ECtHR recently included in its jurisprudence the concept of indirect discrimination in its ruling on *D.H. and Others v. Czech Republic*.¹³ This concept is well known in the European Union legal system and in those of most European countries. In this case, different treatment was applied to the applicant (the denial of a widow's pension) based on a trait, factor or criterion that is non-suspicious or neutral from a racial, sexual, etc., perspective (the requirement for a legal form of marriage in order to access a widow's pension) and which has had an adverse impact on people belonging to a disadvantaged group (widows married according to Romani customs) without there being sufficient justification (i.e. differential treatment is not an objective or essential requirement for obtaining a legitimate public aim or, at least, the government has not justified it). In principle, the governmental legislative body may link the provision of widows' benefits to some forms of cohabitation and not to others for reasons of legal certainty. However, to entirely exclude a form of cohabitation based on Romani customs at a point in history when the plaintiff could not (except in a very limited way) enter into a civil marriage ceremony would de facto exclude a whole group of women from accessing a widow's pension based on ethnic/racial grounds.

This is a case of multiple discrimination (combining ethnic/racial and gender criteria). The concept of multiple discrimination, although referred to in different sections of EU legislation, has not been judicially recognised to date. This case asked the ECtHR to recognise it for the first time. The applicant was treated differently and in a worse fashion than widows who had married legally because she is – at one and the same time – both Romani and a woman (i.e. because she is a Romani woman). It is true that a Romani man would also have suffered discrimination had he been denied a widower's pension for the same reasons, but the concept of “widow's” pension – although not only available to women – connotes a specific meaning (in quantity and quality) with regard to women. In the case at hand, a Romani woman has been discriminated against due to a situation that can only create victims who are Romani women. The applicant lived in accordance with the traditional role of the Romani women of her time. She married based on the customs

of the Romani people and she devoted herself to caring for her children and home. Not employed outside the home, she remained economically dependent on her husband's income. She cared for her husband until he died and fulfilled all of her obligations as a wife, but when the time came, the law denied her a widow's pension due to a situation highly unlikely to be applicable to a non-Romani woman or Romani man. This is a specific form of discrimination. It is multiple discrimination because the victim can be no one other than a Romani woman.

After outlining the approach from the standpoint of combating discrimination, we now analyse the resolution provided on this case by the ECtHR in its ruling of 8 December 2009.¹⁴

The ruling was in favour of Ms Muñoz. Specifically, the ECtHR ruled that there had been a violation of the prohibition of racial discrimination (Article 14, European Convention on Human Rights (ECHR)) in combination with a violation of the right to respect property (Article 1 of the First Additional Protocol).

The case is of interest, firstly because it involves a reversal of the Constitutional Court's ruling 69/2007 of 16 April, which dismissed the appellant's appeal, refusing to consider both the particular elements of the case or its obvious ethnicity-related aspects. The ruling of the Spanish Court is a shining example of a “race blind” approach that is indifferent to the ethnic factor.

Once again, it has been demonstrated that the Spanish Constitutional Court lacks a serious interpretation of racial discrimination. It is no coincidence that only two cases of racial discrimination have been decided (compared to dozens of conflicts related to gender discrimination, for example); that the rulings resulting from the two cases have been directly contrary to those requested by the member of the minority suffering racial discrimination; and that both cases have been overturned by international human rights institutions.

One of those institutions is the ECtHR, discussed here, and the other is the UN Human Rights Committee. The latter handled the “Williams case”, decided by the Constitutional Court ruling of 29 January 2001, which dismissed an appeal

13 ECtHR, *D.H. and Others v. Czech Republic*, Application no. 57325/00, 13 November 2007, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=825443&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.

14 Case of Muñoz Díaz v. Spain, Application no. 49151/07, 8 December 2009, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=859369&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.

against police action in which a woman was requested to identify herself just because she was black, finding that this police action was not the result of either clear or underlying discrimination (despite the fact that only the black woman, among all the passengers disembarking from a train, was required to show identification). The Human Rights Committee declared this ruling a violation of Article 26 (right to equal protection of the law) in conjunction with Article 2.3 (right to an effective remedy) of the United Nations International Covenant on Civil and Political Rights.¹⁵ It is therefore possible to assume that the ECtHR's ruling in the case of "la Nena" can be understood as a warning that the Spanish court's "race blind" line of interpretation is too acquiescent to the authorities and lacks sensitivity to the ethnic factor present.

What is the ECtHR's reasoning in this case? The first thing to note is that the ECtHR refused to consider that the failure to recognise the traditional Romani marriage as a marriage for civil purposes implies a violation of civil rights. Furthermore, the ECtHR did not consider it to violate the right to marry enshrined in Article 12 of the ECHR or for this to be a form of racial discrimination forbidden by Article 14, because a civil marriage ceremony is as equally available to Roma and non-Roma in Spain. The ruling cannot be seen, therefore, as a legal recognition of Romani marriage, an issue that comes under the competence of each country's internal legislation.

The ruling does not have, therefore, a general effect or objective that could possibly be applied to many other subsequent cases. Rather, it is a decision that provides a fairer solution in one particular case. The ECtHR first admitted that the proprietary interest of the plaintiff, derived from the denial of her widow's pension, falls within the scope of Article 1 of the First Additional Protocol of the ECHR.

The ECtHR did find a violation of Article 14 in conjunction with Article 1 of Protocol No. 1, since the government failed to recognise a marriage which was not a civil union despite the applicant's good faith belief that she was married

(supported by official government-issued documents) and failed to take into account the possible impact of membership in a minority community on the application of law.

The ECtHR found that the refusal of the applicant's widow's pension was a discriminatory difference of treatment because the treatment differed from situations that should be considered equivalent with respect to the effects of a marriage in good faith, such as the existence of good faith in annulled marriages.¹⁶ Additionally, in the Constitutional Court's ruling 199/2004, the Court did understand that there was a right to a widow's pension in the case of marriages celebrated in accordance with legal requirements (via the Roman Catholic rite) but which had not been recorded on the Civil Register due to reasons of conscience. This is the essential issue. The Spanish authorities treated María Luisa Muñoz in a manner which differed from other, comparable instances of marriage in good faith. According to the ECtHR, the plaintiff's good faith understanding of the validity of her marriage, celebrated according to Romani tradition, was reinforced via the Spanish State's recognition of its validity, or at least the appearance thereof, in official documents including the Family Record Book and the social security card (with the designation of a "large family").¹⁷ One of the judges is quoted in the judgment as having stated: "It is disproportionate that the Spanish State, which took into consideration the applicant and her Roma family [through all these official documents] now [...] refuse[s] to recognise the Roma marriage when it comes to the survivor's pension."¹⁸ The ECtHR also took into account that, in 1971 when the two joined together, there was only one valid rite, that of the Catholic Church. In order to be exempt, one had to renounce it in advance.¹⁹

To all this, the ECtHR added another argument, the argument of ethnicity. The ruling emphasised, firstly, that the applicant's belief that her marriage was valid was also demonstrated by her membership in the Romani community, "which has its own values that are well established and deeply rooted within Spanish society".²⁰ The ECtHR recalled the "international consensus" within the Council of Europe:

15 United Nations Human Rights Committee, Communication No. 1493/2006, 27 July 2009, available at: <http://www2.ohchr.org/tbru/ccpr/CCPR-C-96-D-1493-2006.pdf>.

16 Muñoz Díaz v. Spain, Paragraph 65.

17 Ibid., Paragraph 62.

18 Ibid., Paragraph 20.

19 Ibid., Paragraph 57.

20 Ibid., Paragraph 56.

recognising the special needs of minorities and an obligation to protect their security, identity and lifestyle [...] not only for the purpose of safeguarding the interests of the minorities themselves, but to preserve a cultural diversity that is of value to the whole community.²¹

Thus, though belonging to a minority does not exempt one from respecting marriage laws, it may influence the way these laws are enforced. The ECtHR recalled its earlier statement that “the vulnerable position of Roma means that some special consideration should be given to their needs and different lifestyle, both in the relevant regulatory framework and in reaching decisions in particular cases.”²² This statement was questioned by the only dissenting judge, Judge Myjer. According to him, the Spanish state was not in any way responsible for Ms Muñoz’s ignorance (it was more likely a mistake), and

the case concerned recognising the validity of Romani marriages (as had been reported by some of the press).²³

It is a ruling to be celebrated; a ruling that brings justice to a woman belonging to a minority which has traditionally been a victim of discrimination. Similar cases had previously been resolved insufficiently by Spanish judicial authorities as a matter of routine. The argument of these authorities is limited, inconsistent, lacking in rigour and even more lacking in creativity. However, this ruling also has a “political” reading as it entails a serious warning for national authorities to take the prohibition of racial discrimination seriously. It is a reference resolution to encourage the practical application of the principle of equality. This is good news which we want to celebrate with society as a whole and especially with the Romani community.

21 Ibid., Paragraph 60.

22 Ibid., Paragraph 61.

23 Ibid., Dissenting Opinion of Judge Myjer.

It's Hard Being an Old Roma in Bulgaria

ANGEL GETSOV¹

The Roma minority in Bulgaria is disproportionately dependant on the social care system to maintain a minimal living standard. Access to health care and social services for members of this group is restricted by discriminatory attitudes and treatment and by legislative requirements. Social rights are fundamental: proclaimed as such within the Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights and the European Social Charter. They place a positive obligation on governments to ensure that people can live and work under conditions suited to a basic level of human dignity. Exclusion from several social rights, such as social assistance and health care, negatively impacts older Romani individuals.

To illustrate, consider the example of Mr Stefan Manev, a 63-year-old Romani man from the village of Strahilovo, Bulgaria, who suffers from age-related diseases. He is unemployed and without a pension. His only income is a monthly social assistance and a subsidy for heating. He reported that his monthly social assistance was suspended and that a local Romani woman who had been helping him with housekeeping had found a job and left the village. Mr Manev, having no family members to look after him, was left unattended.

Investigation into his case revealed that he was cut off from his monthly social welfare payments because he had stopped going to his local state employment bureau to declare that he remained unemployed. During a visit to Strahilovo, a social worker determined that an elderly Romani lady from the local community was looking after Mr Manev and that he was thus violating legal requirements defined in the Social Assistance Act:² namely, to declare on a monthly basis that he was unemployed and also to declare any income of members of his household. The social worker made the assumption that Mr Manev was cohabitating with the Romani woman in question, without being legally married to her. Under the Social Assistance

Act, in such a case the cohabitant would be treated as the legal spouse of the person applying for social assistance and his or her income would need to be declared too.

The project coordinator of the social worker who would terminate Mr Manev's assistance benefits asked her to explain why such an assumption had been made without thorough investigation; at least without having asked neighbours whether Mr Manev was actually living with the Romani lady or if she was providing domestic help. The social worker barely remembered the case and answered: "I did what I had to do. [Manev] received an administrative act to stop his benefits and he did not contest it." The social worker had not visited Mr Manev since the termination of his benefits and was unaware of his condition.

A legal review of the case revealed that the Act on Employment Affirmation indicated that persons who had reached a pensionable age were not obliged to register their unemployment at local employment bureaus and thus were able to receive social welfare benefits (if they were not receiving a pension) under the Social Assistance Act. The director of the State Social Agency was approached with a petition to abolish the Local Social Worker Administrative Act issued to end Mr Manev's social assistance payments. The petition was approved and Mr Manev's right to monthly social assistance was restored.

This case, which our NGO was involved in, reveals that there have been violations of the State's obligation to provide essential elements of social security, as defined in General Comment 19 of the Committee on Economic, Social and Cultural Rights.³ These include creating a social security system capable of addressing *social risks and contingencies* related to old age. Such social security or other assistance exists for older persons who have reached retirement age but are not receiving a pension on an equal basis with other persons qualified for welfare allowances.

1 Mr Angel Getsov is an activist from Bulgaria affiliated with the NGO Roma Together.

2 Law on Social Assistance (ЗАКОН за социално подпомагане), revised 1 July 2009, available at: www.mlsp.government.bg/bg/law/law/ZSP.doc.

3 United Nations Committee on Economic, Social and Cultural Rights, *General Comment 19, The right to social security*, available at: http://www.roma-together.org/documents/GRI9_CESCR.pdf.

However, aged Bulgarian Roma are often in practice excluded from this. The social worker perceived her duties as being to check for violations of regulations set forth in the Social Assistance Act, but not to examine real needs and the situation in which the person was living. In terms of checking if a change in circumstances had occurred and whether the person had fallen under these criteria, it appears that rather than providing social services (or in fact being a “public” servant), the social worker had defined her authority in terms of an investigator. The social worker had decided that Mr Manev was in breach of legal restrictions regarding the receipt of social services and she had acted as a law enforcement agent who would punish the misdemeanours of Roma. Furthermore, there is no special social security system for elderly citizens: these people apply for monthly social benefits on the same basis as any other benefit-seeker who wishes to obtain sufficient means to meet the necessary costs of living

in a manner consistent with human dignity. Combining this with widespread prejudice towards Bulgaria’s Roma as being “dependant on social welfare by profession” (a widely used term toward unemployed Roma in the media, used by journalists, political leaders, social workers), the result is the inevitable harsh treatment of older Roma by social workers.

Through legislation, policy and practice, Roma face discrimination in the enjoyment and fulfilment of their rights to social security and health care. Older Roma may face increased vulnerabilities, be further impacted by multiple discrimination and make up one of the most vulnerable sections of the Romani community; especially those who have lost their families and live alone, without help from other community members. The approaches of social and health-care providers are often inadequate and can even be seen to exacerbate their situation.

The Difference That Makes a Difference: We Need More Guts!

DJORDJE JOVANOVIĆ¹

Our deepest fear is not that we are inadequate. Our deepest fear is that we are powerful beyond measure. It is our light, not our darkness that most frightens us. We ask ourselves, who am I to be brilliant, gorgeous, talented, fabulous? Actually, who are you not to be?

As we let our own light shine, we unconsciously give other people permission to do the same.

As we are liberated from our own fear, our presence automatically liberates others.

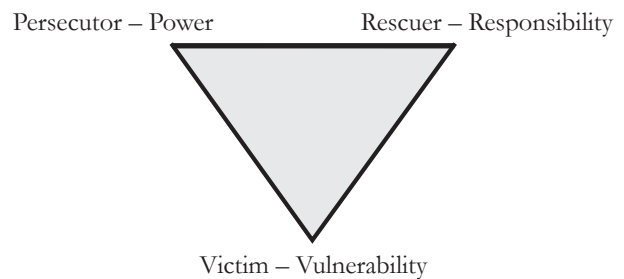
Marianne Williamson

When I arrived on this planet, for the first few years I felt very small and it seemed to me that so many other people were bigger and had more understanding of what was going on. I believe we have all experienced this. Day-by-day, the problematic world of adults becomes our own as we grow. “Teachers” who were supposed to teach us actually do only what was done to them. We find a “new” experience in the process of becoming civilised. This process has different values in different times and different places. In the time and place where I grew up, this process was mainly led by people with low self-esteem who openly or secretly undermined others to make themselves feel better. In such surroundings, being a child, going through puberty or just being alive makes you feel ashamed. If, on top of all that, you are designated as being among the most stigmatised groups in Europe, you are in big trouble. Growing up Romani and gay in the 1980s in Serbia was something you really have to hear about!

When I was asked to write a testimony about the multiple discrimination I experience being both Romani and gay, it became a really big challenge to do so without reliving traumas and tragedies (which are certainly there, and there is a need to speak about them). On the other hand, this story offers the hope that it *is* possible to cope with such things and at the same time feel pleasure and enjoyment in life. Things in themselves are neither good nor bad, but we give them those qualities through our perception of them. Something that most people believe is a curse can be experienced as a blessing.

My growth into an adult was the real drama, and of course I was quite the queen. In my drama, I went through all the main roles: from seeing myself as a victim I turned into a persecutor, full of hate; and then from persecutor I became a rescuer, realising my own responsibilities.

The Drama Triangle² is a transactional analysis model for understanding human interactions. The model posits three habitual psychological roles: Victim, Persecutor and Rescuer.



Here I present my feelings, my state of mind and my view on the whole world (and also some personal moments) while experiencing and passing through the three different states of Victim, Persecutor and Rescuer, and learning to cope with and react to the various discriminations I face.

Being a victim

Vulnerability. Almost every child has the feeling of being dependent on adults. Children are aware of their vulnerability.

¹ Djordje Jovanovic is ERRC Research Coordinator.

² Stephen Karpman, “Fairy tales and script drama analysis”, *Transactional Analysis Bulletin*, 7(26), (1968): 39-43.

TESTIMONY

It is interesting to me that, even as a child, I realised that I was different. I knew that my sexual orientation was something I shouldn't talk about with adults or even my peers. Now, more than 20 years later, I realise that I acted entirely properly. In those days, telling my parents that I was gay would have led me to a very traumatising experience. At the very least, they would have taken me to the doctor who at that time most likely thought that homosexuality was a disease. When the doctors would not have been able to "cure" me, my parents would probably have taken me to church or a fortune teller or some other spiritualist who would have tried to drive the devil out of me.

I was alone with myself. For the first 10 years of my life, I thought I was the only homosexual in the world. In a small Serbian village in the 1980s and with only a few radio stations and two television channels, where such things were never spoken about, I was sure I was the only one. But then, one day, while playing in the dump near my house I found a pornographic magazine. There was an ad saying "man seeks men". Oh my God, I felt so weird.

Church. My mother is a very religious woman, and even if the church was not that popular at that time for my mum it was. With her low level of education, she believes literally in all that the holy books describe. Through her influence I grew up with angels and the devil: dragons which want to deceive people; water that cleans your sins; snakes that persuade you to do evil things. As a teenager at that time, I thought that the desire to have same-sex relations was a curse. The first person to whom I ever confessed that I had sexual preferences towards men rather than women was an Orthodox monk. Of course, he told me that if I ever had sex with men I would burn in hell; that sin would reserve me a one-way ticket to hell. And at that time, I believed him.

Ill-Treatment. When you are a teenager, the word that best describes you is confusion. On top of all the confusion teenagers have I would add fighting against "curses"

and discrimination. There was a lot of discrimination when I was a child; Romani children in school regularly received beatings from their teachers. My teachers never beat me; but from the first day of class my teachers forced me to sit in the last row with other Romani students because it was the custom in that school. Romani parents, who went through the same or even more primitive treatment when they were kids, never complained of such treatment towards their children; they never thought about raising their voice against authority. My older brother came home one day with a broken and bloody nose because his teacher beat him. This was before I started school, so how was I supposed to look forward to it? However, being a kid, there were so many other interesting discoveries about life that I paid very

little attention to these happenings. But, when you are a teenager and you are supposed to have developed some kind of self-esteem, the fact that your peers in school and authorities discriminate against you (and by default see you as a second-class citizen) is very hard to cope with. It is hard to convince yourself that it is they who are all crazy and that, in fact, you are OK. There was no information about discrimination or un-

equal treatment at that time. In the 1990s, Yugoslavia was falling apart along with the value systems of Serbian society. We were living in an atmosphere of savagery, with the strong oppressing the weak.

Imagination. The beautiful world of fantasy: surrounded by so many social diseases that began to erupt from people I ran into a world of imagination. People literally went mad; there was news about killings in Bosnia and Croatia every day. Yesterday's friends and neighbours were slaying each other's children. On the front page of some newspapers appeared a man who had killed children in the war and made necklaces with their fingers. In my world, everything was fine. I was dating a beautiful guy a few years older than me. We had some issues in our relationship, just like those of Brenda and Dylan in the popular TV show *Beverly Hills 90210*.



ERRC Research Coordinator Djordje Jovanovic

PHOTO CREDIT: SINAN GÖKÇEN/ERRC

Motivation to commit suicide. Even in my world of imagination, I had no peace. The loud arguments of my parents through the door of my room were pushed into my imaginary world. Their world was destroyed; we came to the brink of poverty. The war slashed jobs, especially for Roma, and there was no money. People were even crazier than before. Finding no peace in my fantasy world, I decided to kill myself. I was depressed and did not see any way that my situation would change or improve; I had no power to change the circumstances into which I was born. I tried to let my feelings die, though my curiosity remained to live and see what would happen next. Eventually, a glimmer of hope and maybe also fear overpowered these feelings; I decided not to kill myself and see how life played out. So, somehow I did and I did not kill myself.

Being a persecutor

Power of hate. Because I had to kill myself, I began to hate. I hated God and his hell. I hated my parents. I hated my teachers. I hated non-homosexuals. I hated non-Roma. Hate was a power that gave me inspiration to do good things, though not for good reasons. My intentions were selfish; I began to document human rights abuse of Roma, not primarily to help Roma, but more to make myself feel better. I did not know that was wrong. I tried to hide on the side of good, so that I could actually persecute those who had first made me a victim.

Embarrassment gave me power. Throughout my childhood and teenage years I felt embarrassed because I am gay and also because I am Romani. My classmates and my teachers treated me as inferior only because I am Romani: once, instead of calling me by my name to stand up for oral exam, my ecology teacher called me “mulo balo” with reference to the stereotype that Roma eat dead animals. The whole class was laughing at me. I felt embarrassed. I did not know that I should not be embarrassed, but that they should be! I wanted to embarrass those who embarrassed me and so I turned to human rights work. I wished to change things. But, what I did not know was that it is not possible to draw energy for good from a source that is sick; the origin of my motivation was wrong.

Roma have suffered a lot. As a persecutor, I thought it was time that somebody else should suffer; people who treated Roma badly should be made to feel defeated. Licking the wounds of each other as wolves, we should rebel against those who have made us suffer; against those who have per-

secuted us for centuries; writing our history with our own blood and the blood of those who keep our children in fear while receiving rewards for it. In the state of mind of persecutor I was nationalist; I liked someone just because he or she was Romani. I even though that we, as Roma, have something that non-Roma do not, that we are better people, that we have better understanding and a unique view on things. My partner, who is non-Romani, asked me if I really believed in all of that and gave me some very good examples of why those beliefs were wrong. I did not know that every form of nationalism is wrong, even if it comes as a reaction. At some point, even patriotism is a disease.

Sex. I first experienced sex when I was in the state of persecutor. All the time, I fought with hate for that part of my identity, my homosexuality, that I, in fact, enjoyed. I should also mention that most of my sexual partners did not explicitly know that I was Romani. I am sure that some of them wouldn't have been in a “relationship” with me if they had known. One non-Romani guy I dated had been the one to make the first move. But he dropped his original intentions after realising I was Romani. When people belong to a minority group, it does not mean that they are open-minded enough to understand another minority which has similar or completely different problems. Belonging to one minority can even make you more intolerant of another, which is sad.

Emancipation. The process of turning my attention to human rights began. I was beginning to understand that all people are the same, and all have the same rights. I always knew that, but finally I had the tools to fight and persecute those who were mistreating others just because they were different. I fell into a trap which still holds a lot of people. What I had originally experienced as my personal defeat I tried to compensate by fighting for the rights of those who are treated unfairly, without realising that it is not the fight itself which is the point.

The **Circle** can be ended here. Hate provokes hate. Hate cannot bring any good. Activism for *non*-discrimination, not *against* discrimination. Not against, but *for* something; not to hurt the oppressors, but to help the oppressed. Our feelings must be our guides; if we are feeling angry, if we are feeling disappointment, dissatisfaction or displeasure, people around us will sense the same.

Universality. All human beings have equal rights. That is something that a person who feels like a persecutor will never accept. I realised that I was on the wrong path for a long time,

I realised that I had to make change. First I had to accept myself; by doing this I truly accepted the universality of rights. As my personal development progresses, as a Romani person and a gay person, I would prefer it if these two groups could accept each other. I am sure that will happen in the future.

Taboo. In the society in which I grew up and live, it is more or less taboo to speak about certain things. There are lots of people I know (and some of them are very close to me) who find it difficult to speak with me about being Romani and gay. Even if they are very interested in these topics, they do not know how to approach it. For some, it is totally taboo (especially this part, being gay). In the state of mind of persecutor I was afraid to respond to them; having moved from that role, I now encourage them to speak openly about this topic.

Objectivity. This is something that is missing from a persecutor's judgments, although the persecutor himself thinks that all his tendencies to make others suffer are perfectly justified. What is more interesting is that a victim accepts those justifications. I was playing this "game" with myself: even if in general I accepted myself for my whole being, sometimes I still persecuted that accepted part of me by going back to old feelings that it is wrong to be gay. At times I still felt more comfortable in that role. What concerns me is that some people I personally know who belong to Romani or LGBT minorities think that they deserve the unfair treatment that they receive. Actually, what is happening is that the surroundings in which they live never really give them the opportunity to accept themselves. Even if from the outside it looks like they can deal with it through their behaviour, sometimes you can see this incongruence.

Reaction. In the state of persecutor, there was no waiting for me; I reacted immediately to everything that I perceived as a provocation and which reinforced stereotypes. This kind of reaction can be good, but such behaviour can be without wisdom and shows only the power of youth and energy. However, sometimes a strong immediate reaction is something that the Roma movement is missing. Sometimes we need to have more guts.

Being a rescuer

Religion. My own relationship with God is the most important thing for me. I first have to be in balance with

myself and my religion, and then I believe my actions are balanced and correct. How I regard religion at this moment is perhaps best described by this quote:

Someone once asked why the Master is so distrustful of religion. Is not religion the best thing that humanity has? The Master's response was enigmatic: The best and the worst – it gives you a religion. Why the worst? Because, people usually adopt enough religion to hate, but not enough to love.³

Emotional intelligence. This is something that every responsible person needs to have. If you want to be an agent of change in the world, and I certainly have the desire to be this, you need to understand your own emotions and the emotions of other people. However, understanding is not enough; the key is in regulation. We need to regulate our emotions and to use them for efficient and creative thinking to achieve change.

Security. We all want to feel secure, it is easier to see the things around you if you feel that you are in a secure position. It is easier to make plans and to bring decisions. We must feel secure to be able to help other people; but different people feel secure for different reasons. To live in poverty and feel secure is almost impossible. Of course, there are people that choose that way of life because of ascetic reasons. However, the greatest numbers of people who suffer in poverty have not chosen to do so and we must all understand that we are also partly responsible for their plight. Taking for ourselves more than we need, we are responsible for the poverty of others. Working for the human rights of Roma, and living in conditions ten times better than those we advocate for, is something I am not sure I will be able to cope with in the moment of truth, in the moment when I will have to leave this world.

The Circle ended here for me. When I accepted and started to love myself, I stopped hating others, and not just that but I also started enjoying life. What we achieve in our life can not only be measured by the achievements we have, but must be also measured from the position in which we started.

Universe. It is so big and unexplored and there are so many means for exploration. I thought that being Romani and gay was a burden to carry through life, but now I see the different elements of my being as valuable to the way I

3 Anthony de Mello, *One Minute Wisdom*, 1998.

learn about and discover the universe in which we live, and also the way to understand God and his creation. It is hard to explain with words but I think we have all experienced that moment when our inner self tells us that there is nothing we should be afraid of and that the things that are happening to us were really meant to happen. Put simply, I can not imagine that my life could be different and from this perspective if someone would ask me if I *wanted* something to be different in my life I would not want any change. I think that the situation in which I grew up contributes to the fact that now I feel good and happy.

Every change should first come from ourselves. I had to change myself first and the greatest task was to accept and respect myself in that change. Now that I respect

myself it is easier for me to venture in to help others. If we wish other people to treat us with respect, we first have to respect ourselves. If you want to change someone, first change yourself. “*We must become the change we want to see*”, as Gandhi said.⁴

Responsibility. It is very easy to hide from responsibility but I learned that I have to accept it and that, actually, I am responsible. Sometimes we are not aware of the responsibility we have. I am not just talking about the usual ways of showing commitment or dedication; here I mean the responsibility we have to ourselves, that which we are so afraid of – the responsibility to examine our own life.

As Socrates said: “An unexamined life is not worth living”.

4 See: http://thinkexist.com/quotation/we_must_become_the_change_we_want_to_see/11442.html.

ERRC Interviews Thomas Hammarberg, Council of Europe Commissioner for Human Rights

Commissioner Hammarberg, there has been increased attention towards the concept of multiple discrimination by European human rights activists, legal experts and academia in recent years. In your opinion, which developments paved the way for this? What is the underlying reason?

A determining factor was the realisation of the particularly vulnerable situation of women in respect of discrimination. In Europe, discrimination against women has been in focus for longer than discrimination on other grounds. When the latter also started to be addressed, it became obvious that multiple discrimination was a widespread phenomenon, which required specific responses.



European Commissioner Thomas Hammarberg

PHOTO CREDIT: MTI

From a more technical perspective, the concept of multiple discrimination has developed hand-in-hand with the refinement of the thinking about discrimination generally. In Europe, discrimination has been particularly in focus for the last decade and has brought about better awareness among human rights activists, legal experts and academia of the mechanisms behind it. Attention to multiple discrimination has developed as part of this process.

Does multiple discrimination really matter? What is the practical import of identifying actions as constituting multiple discrimination in a country's legal system?

The added value is essentially the possibility for the victim of discrimination to address exactly the type of treatment to which s/he has been subjected; i.e. to have the multi-dimensional reality of her or his experience recognised by the legal system.

This has an important practical dimension, too, since cases of multiple discrimination cannot always be successfully

litigated on the basis of individual grounds. Thus, victims of multiple discrimination may remain without protection.

Theoretically, since the prejudice brought to a person who has been discriminated against on multiple grounds is often greater, this should be adequately reflected in sanctions on offenders or in the remedies provided to the victim.

Over and beyond the added value of a definition in a given legal system, however, a definition or clear concept of multiple discrimination is important when it comes to devising targeted policies to address inequalities and prevent discrimination.

Recognising and combating multiple discrimination may require a paradigm shift for the victims of this practice, for jurists and for law and policy-makers. How do you think European societies may become more focused on and responsive to multiple discrimination? What is the role that your office can play in this process?

Through a combination of awareness-raising measures, strategic litigation and the designing of official policies targeted as much as possible to those who experience disadvantage and discrimination on multiple grounds.

The Office of the Council of Europe Commissioner for Human Rights helps by raising awareness of these issues in Member States, through its country and thematic work and through continuous, constructive dialogue between the Commissioner and governments of the Member States. In this context, the Commissioner has stressed the importance of ratification by all Member States of Protocol No. 12 to the European Convention on Human Rights, which contains a general prohibition of discrimination.¹

¹ Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, available at: <http://conventions.coe.int/treaty/EN/Treaties/Htm1/177.htm>.

In your opinion, what are the main problems in identifying the occurrence of multiple discrimination?

It depends on the grounds in question and the specificities of the country concerned. Generally speaking, however, multiple discrimination suffers particularly from the difficulties linked to identifying and proving discrimination generally, such as lack of (reliable) statistical data and the conduct of situational tests.

When challenging a discriminatory practice on more than one ground before a tribunal, one of the main obstacles is to find a comparator. How do you think this barrier can be overcome?

It is only in certain countries that a comparator is needed to make a discrimination case. Therefore, consideration should be given first to the more general question of the extent to which a comparator should be required as a rule for all discrimination cases.

In countries where this is the case, however, it would be useful if comparisons on multiple grounds were explicitly permitted, so that courts could consider combinations of grounds and not just individual grounds.

How can domestic and international legal instruments be developed or improved to combat multiple discrimination?

One way is to ensure that the list of prohibited grounds of discrimination is an open, non-exhaustive one.

It is also important that domestic anti-discrimination legislation does not require, for discrimination having occurred, that one specific prohibited ground be the “only” ground for the unjustified differential treatment. It should be enough for any ground to have played a role.

Celebrities and Roma Rights, or, the Perils of Being Adopted by Madonna

ROB KUSHEN AND CATHERINE TWIGG¹

Recent years have seen the rise of “celebrity diplomacy”,² championed by a new breed of artists, musicians, actors and athletes whose fame fuels an activist agenda. They have a prominent and significant impact and recognise their social power. Not on Our Watch, an advocacy and grantmaking organisation founded by Don Cheadle, George Clooney, Matt Damon, Brad Pitt, David Pressman and Jerry Weintraub, raised and granted 1 million USD in emergency relief funds to Haiti within five days of the devastating earthquake there. The organisation describes its mission as “drawing upon the voices of cultural leaders to protect and assist the vulnerable, marginalized and displaced.”³

This phenomenon is really nothing new, except perhaps in frequency and scope. In 1979, one of the authors (the older one) attended an anti-nuclear rally with 200,000 people in New York City, followed by a concert at Madison Square Garden organised by a group called Musicians United for Safe Energy. Bruce Springsteen and dozens of others played their music over several days and tried to publicise the threat of nuclear weapons and nuclear waste. The event received extensive media attention for the anti-nuclear cause around the world.

What is new is the engagement of celebrities in the cause of Roma Rights. In August of 2009, the pop star Madonna was touring Eastern Europe with a group of Romani musicians. In Bucharest, she spoke out from the stage about the discrimination faced by Roma in Romania (as well as by gays and lesbians). She was booed for her efforts and the incident was widely reported in print and electronic media.⁴ Some of her fans suggested that she stick to music

and stay out of human rights. Which prompts a question: what role should celebrities play in Roma rights?

At the national level, the potential value of enlisting celebrities for the Roma cause is clear: few world leaders can refuse an audience with a celebrity campaigner and the media are happy to oblige with coverage. It is a mutually beneficial undertaking: the politicians enable the celebrities to advance their activist agenda and image in the public, in exchange for heightened visibility and perhaps legitimacy and popularity flowing to the politicians. In many cases, this can result in national leaders publicly addressing an issue and joining or facilitating a public campaign.⁵

But can they really be effective?

Madonna’s message in Bucharest was not well received by some of her fans. Some questioned her legitimacy and asked: Who is she to tell us how our country should be changed? She is not from here, and she is not an expert. She is not elected. She is just a musician.

Madonna’s fans were not signing up for a human rights lecture when they bought their tickets. But they were signing up for a concert, part of which featured Romani music and Romani musicians. And in a country with a large Romani population and rampant discrimination, they should not have been surprised at hearing a bit about the issue. In fact, Madonna may have been speaking from personal experience as her remarks were reportedly prompted by the fact that a number of Roma who were

1 Rob Kushen is Managing Director of the ERRC. Catherine Twigg is the ERRC Communications Officer.

2 Andrew Cooper has written extensively on this phenomenon. Andrew Cooper, “Celebrity Diplomacy and the G8: Bono and Bob as Legitimate International Actors” *Centre for International Governance and Innovation (CIGI); University of Waterloo Working Paper No. 29*, September 2007, available at: www.cigionline.org/workingpapers. Andrew Cooper, *Celebrity Diplomacy*, (Boulder and London: Paradigm Publishers, 2007).

3 Information available on the homepage of Not on our Watch: <http://notonourwatchproject.org/>.

4 Haroon Siddique, »Romanian fans boo Madonna for supporting Gypsies«, *Guardian*, 28 August 2009, available at: <http://www.guardian.co.uk/music/2009/aug/28/madonna-booed-at-romania-concert>; *Madonna booed in Bucharest Romania* [Video]. (2009), available at: <http://www.youtube.com/watch?v=uYdFYcAOr0>; *Madonna buidnita/Madonna booed in Bucharest Romania* [Video]. (2009), available at: http://www.youtube.com/watch?v=Whsgf_Bb3bw&feature=related; *Madonna gets booed in Bucharest for defending gypsies and gays* [Video]. (2009), available at: <http://www.youtube.com/watch?v=PymLiIBgQ9g&feature=related>.

5 Cooper, “Celebrity Diplomacy and the G8: Bono and Bob as Legitimate International Actors”.

given VIP passes to the Bucharest concert by her band were initially denied entry to the VIP section by security guards, who could not imagine how those “Gypsies” could have secured such tickets apart from stealing them.

Celebrities, while experts at attracting the media, do not always attract the best kind of media attention. Madonna undoubtedly got as much coverage for being booed as for the content of her anti-discrimination message. Celebrity attention does not necessarily encourage deep and intelligent analysis of issues. The media space given to celebrities can be brief and competitive, forcing celebrities to be relevant and catchy, arguably to the detriment of issues that require sustained and long-term attention.

In this type of conversation, the focus can be on the celebrity advocate rather than those she purports to help, which carries a serious risk of obscuring the real issues and also may overshadow the efforts of marginalised groups to speak for themselves: “The loud voice of the celebrity doesn’t go to the depth of the issues [...] Celebrities don’t raise the more philosophical questions.”⁶

Bianca Jagger, a celebrity and activist herself, argued against the diluting influence of celebrity advocacy. Describing celebrities’ cooperation with heads of state and willingness to applaud and endorse them for even a small amount of progress, she said that she felt “betrayed by their moral ambiguity and sound bite propaganda, which has obscured and watered down the real issues.”⁷

Another serious concern about the celebrity approach is the implication of the alliance. Although it may increase the audience hearing about an issue or organisation, the constant media spotlight on celebrities often uncovers or incites further trouble. Celebrities’ lives are constantly discussed and followed in great detail and their reputations, under constant scrutiny, are linked to the messages they promote. For the cause that they take up it is

necessary that they are able to maintain integrity and live a life consistent with their mission.

According to some, part of the reason that celebrities are not taken seriously as legitimate advocates is because of the expectation that they are using an issue to draw attention away from a scandal or to restore positive reputation for themselves in the media. An organisation utilising this sort of celebrity runs the risk of triggering a backlash.⁸

Madonna’s statement against discrimination may or may not prove to be short lived. In the field of Roma rights, there is at least one other notable example of an initiative using the power of celebrities to affect positive change. In Romania, the Policy Center for Roma and Minorities has run several programmes which include celebrity involvement, in order to ensure that its positive messages about anti-discrimination are communicated in a language other than the “human rights activist rhetoric [which] is often tuned out by the public as being part of the ‘informational noise.’”⁹

The Run Against Discrimination was a public run to raise awareness about xenophobia and interethnic tension in Italy (particularly affecting Romanian Roma living there). With the participation of Romani, Romanian and Italian celebrities, the event was well publicised and has become an annual event. A successful football match organised in 2006 to raise awareness of anti-Gypsyism, violence and racism sparked the Racism Breaks the Game campaign. It grew to a large campaign involving prominent messages in the media, a children’s football tournament and legislation against racist violence at sporting events.¹⁰

In this case, sports institutions provided a progressive example of celebrities affecting social change. Valeriu Nicolae, who was responsible for organising these activities, explained: “As an example when it comes to racism, inclusion and promoting social dialogue, football’s governing bodies are far ahead of our societies. The presidents of

6 Paul Vallely, “From A-lister to Aid worker: Does celebrity diplomacy really work?” *The Independent*, 17 January 2009, available at: <http://www.independent.co.uk/news/people/profiles/from-alister-to-aid-worker-does-celebrity-diplomacy-really-work-1365946.html>

7 Bianca Jagger, “Why I Don’t Trust Them or Sleeping With the Enemy”, 11 July 2005, available at: http://www.wagingpeace.org/articles/2005/07/11_jagger_dont-trust-them.htm.

8 Eliot Van Buskirk, “Is It So Bad That Bono Does Good?”, *Wired*, 3 September 2008, available at: http://www.wired.com/listening_post/2008/09/celebrity-cause/.

9 Email correspondence with Valeriu Nicolae, Policy Center for Roma and Minorities, 2 February 2010.

10 Policy Center for Roma and Minorities, “Activities”, available at: <http://www.policycenter.eu/>.

the Union of European Football Associations (UEFA) and the International Federation of Association Football (FIFA) have been very vocal against racism. Most famous footballers have also been involved in anti-racism campaigns. Celebrities and sport celebrities appeal to a broad audience and resonate strongly with fans' senses of identity; [they] can be a powerful force for social change."¹¹

Beyond the criticism

Whether one agrees or disagrees with the approach and impact of celebrity advocates, we live in a celebrity-obsessed world. As the media does not always pay sufficient attention to humanitarian and human rights issues, arguably there is little to lose.

Oliver Buston, the European head of Bono's organisation, DATA, astutely argued that we need loud voices to compete: "In a perfect world we would have a democracy in which everyone is perfectly informed, everyone's voice is heard and public policy reflected the collective best interest [...] But the world isn't like that. It is a world of media moguls, corporate lobbyists and powerful interest groups [...] What we're trying to do is redress the balance."¹²

In the end, the potential impact of celebrity endorsement is like any other form of advocacy. Before engaging this strategy, the potential dangers must be considered along with the positive impact. The ultimate responsibility for the harm or good lies with those NGOs and other expert advocates who hope to generate and use celebrity attention for their cause.

11 Email correspondence with Valeriu Nicolae, Policy Center for Roma and Minorities, 2 February 2010.

12 Valley, "From A-lister to Aid worker: Does celebrity diplomacy really work?" quotation from Oliver Buston, the European director of DATA.

Coercive Sterilisation – an Example of Multiple Discrimination

LYDIA GALL¹

The coercive sterilisation of Romani women is well documented across Europe in both law and practice, both past and present. Take for instance the case of Czechoslovakia, where a Public Decree on Sterilisation² from 1972 enabled the government to take specific steps to encourage the sterilisation of Romani women in order to reduce the birthrate of the Romani population, which they characterised as “high [and] unhealthy”.³ This legal provision resulted in giving the government more or less free reign to systematically sterilise Romani women without their full and informed consent. Similarly, Hungarian legislation⁴ during the socialist regime included provisions that enabled authorities to sterilise Romani women without their full and informed consent. In the past, similar governmental sterilisation campaigns have been found in, for instance Sweden, against women belonging to the Romani minority.⁵

The practice of sterilising Romani women against their will did not end with the fall of Communism and the establishment of new, democratic regimes in Central and Eastern Europe. ERRC research from 2002-2004 in the Czech Republic, Slovakia⁶ and Hungary⁷ showed that Romani women continued to be sterilised despite the replacement of totalitarian regimes with democratic governments which committed to respect and safeguard individual human rights. Cases occurring as recently as 2008 have since been reported.⁸

Coercive, or involuntary, sterilisation is a sad example of multiple discrimination suffered by Romani women,

when it comes to health issues in general, and reproductive health in particular. Romani women belong to a vulnerable and marginalised minority; as part of such a community, they face daily discrimination due to their ethnicity. As women, they are exposed to further discrimination both within their own communities and by the majority society due to their gender. Lower levels of education (or in some cases, complete lack of education) make the situation for Romani women worse than that of Romani men. In relation to their reproductive rights, Romani women find themselves in a vulnerable position when encountering medical professionals. Often, the paternalistic attitudes of medical professionals result in Romani women being excluded from decision-making processes concerning their treatment.

Generally speaking, domestic and international legislation pertaining to discrimination often focuses on single-ground discrimination and frequently do not take into account cumulative grounds of discrimination.⁹ Similarly, in their rulings both national and international courts and tribunals fail to address multiple discrimination and stick with the single-ground approach when determining cases of discrimination.

Cases of coercive sterilisations since the fall of Communism have been brought to the attention of national authorities in Slovakia, the Czech Republic and Hungary; investigations and court cases are pending. Recently, in November 2009, the Czech Prime Minister, Mr Jan Fischer, publicly expressed his regret over instances of coerced sterilisation that had oc-

1 Lydia Gall is a lawyer at the European Roma Rights Centre.

2 1972 Decree on Sterilisation. *Bulletin of the Ministry of Health of the Czech Socialist Republic* (29 February 1972).

3 Helsinki Watch, *Struggling for Ethnic Identity – Czechoslovakia’s Endangered Gypsies*, (New York: Human Rights Watch, 1992), 19.

4 Section 187 of the 1997 CLIV law, available at: http://www.egalitas.hu/doku/20041011184716_1997cliv.htm.

5 1934 Law on Sterilisation (1934: 171); and 1941 Law on Sterilisation (1941: 282).

6 ERRC, *Ambulance Not on the Way: The Disgrace of Health Care for Roma in Europe* (Budapest, 2006), 44.

7 ERRC unpublished report. On file with author, available upon request.

8 The ERRC has received reports of new cases as recently as 2008.

9 According to the 2007 European Commission report “Tackling Multiple Discrimination: Practices policies and laws”, only Austria, Germany, Romania and Spain (to different degrees) have references to multiple discrimination in their respective anti-discrimination laws.

curred in the country. His statement followed the adoption of a motion by the Czech government which required that, by 31 December 2009, the Ministry of Health undertake a series of measures to ensure that such violations do not again occur.¹⁰ As there are currently some 20 outstanding complaints with regional health authorities to be investigated, local organisations, activists and victims hope that these will be addressed as a matter of priority. In Slovakia, cases are pending before domestic courts. In Hungary, Ms A. S. successfully brought a case to the Committee on the Elimination of All Forms of Discrimination against Women, which held the Hungarian government accountable for her non-consensual sterilisation.¹¹ In addition to ordering the state to award damages to Ms A. S., the Committee requested the Hungarian government to amend the law concerning informed consent so that it would be in compliance with international standards on the topic.¹²

In the case of Ms A. S., the Committee found a violation based on discrimination due to her gender. However, it did not take into account the aggravated fact of her Romani ethnicity. In view of systematic practices of coercive sterilisation of Romani women in the region, it appears it would have been relevant to address multiple grounds for discrimination.

It is clear that, in practice, cumulative grounds of discrimination often fail to constitute part of court decisions or legal arguments in cases with clear aspects of multiple discrimination. Such claims are rarely raised directly due to the failure of domestic legislation to include multiple discrimination as grounds for litigation; instead lawyers tend to bring cases arguing the strongest ground and ignore

other features of discriminatory practices.

The limited applicability of multiple discrimination in domestic legislation has meant that international tribunals and courts have been unable to rule on the issue thus far.

For victims though, it is important that all grounds for discrimination are properly addressed in submissions to domestic and international courts in order to ensure that justice is properly served. It is important to acknowledge that people are diverse, complex and multi-layered, and view themselves not only as women, as Romani or as homosexual. The current problem with equality laws is that they often assign people a particular label, failing to acknowledge the complexity of human nature or the ways in which discrimination can occur in practice.

However, as cumulative grounds of discrimination often hit the most vulnerable and disadvantaged groups in society, it is pertinent to address the issue via legal routes by invoking multiple discrimination grounds in domestic proceedings and by requesting international courts (in particular the European Court of Human Rights) to rule on the issue. The European Court of Human Rights has (in great part due to persistent litigators advocating on behalf of Romani applicants) developed a progressive jurisprudence in regard to Article 14 which prohibits discrimination. In a string of cases (e.g. *Nachova v. Bulgaria*,¹³ *Cobzaru v. Romania*,¹⁴ *Angelova and Iliev v. Bulgaria*¹⁵) the Court started defining the obligations of States under Article 14. In 2000, the Court recognised that discrimination might have direct as well as indirect effects,¹⁶ a principle which has been upheld in later cases.¹⁷ In its landmark judgment in *D.H. and Others v. Czech Republic*¹⁸ regarding the segregation of Romani students in special schools, the

10 Apology and motion available at: [http://kormoran.vlada.cz/usneseni/usneseni_webtest.nsf/0/6430E40ED2EFF39AC1257674004347C2/\\$FILE/1424%20uv091123.1424.pdf](http://kormoran.vlada.cz/usneseni/usneseni_webtest.nsf/0/6430E40ED2EFF39AC1257674004347C2/$FILE/1424%20uv091123.1424.pdf).

11 Communication No. 4/2004, available at: http://www2.ohchr.org/english/law/docs/Case4_2004.pdf.

12 Ibid., Paragraph. 11.4.

13 ECtHR, *Nachova and Others v. Bulgaria*, Application Nos. 43577/98 and 43579/98, 6 July 2005, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=nachova&sessionId=39827805&skin=hudoc-en>.

14 ECtHR, *Cobzaru v. Romania*, Application No. 48254/99, 26 July 2007, available at: <http://www.echr.coe.int/ECHR/EN/Header/Case-Law/HUDOC/HUDOC+database/>.

15 ECtHR, *Angelova and Iliev v. Bulgaria*, Application No. 55523/00, 26 July 2007, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?item=3&portal=hbkm&action=html&highlight=anguelova&sessionId=39827805&skin=hudoc-en>.

16 ECtHR, *Thlimmenos v. Greece*, Application No. 34369/97, 6 April 2000, at Paragraph 44, available at: <http://www.echr.coe.int/ECHR/EN/Header/Case-Law/HUDOC/HUDOC+database/>.

17 ECtHR, *Chapman v. the United Kingdom*, Application No. 27238/95, 18 January 2001, at Paragraph 129, available at: <http://www.echr.coe.int/ECHR/EN/Header/Case-Law/HUDOC/HUDOC+database/>.

18 ECtHR, *D.H. and Others v. Czech Republic*, Application No. 57325/00, 13 November 2007, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=825443&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.

Court went further. For the first time, it concluded that patterns of discrimination in a particular sphere of public life were in violation of Article 14 of the Convention.

For Romani women who have been victims of coercive sterilisation, it is clear that they have been discriminated against both in respect of ethnicity and gender. Weak domestic and international legal frameworks, however, are largely unable at present to provide them with any effective legal remedies that adequately address the cumulative grounds for their discrimination.

For those cases that fail in bringing redress to victims of coercive sterilisation domestically, the option to seek re-

dress from the European Court in Strasbourg (and other international tribunals) remains. As the European Court of Human Rights has been moving towards broadening the scope of the acts of discrimination covered by Article 14, it would be interesting to pursue the Court as an avenue when it comes to arguing multiple discrimination in cases of coercive sterilisation. A legal exercise by lawyers is warranted with the aim of pushing the Court to recognise the prevalence of multiple discrimination in cases of sterilisation of Romani women without their full and informed consent. Such recognition and acknowledgement by the Court would constitute a major step on the road to justice for victims of violations suffered at the hands of biased medical professionals.

Towards Substantive Equality

DARYA ALEKSEEVA

Once I was travelling by bus in Budapest with my son and there was a Romani girl sitting next to us. She and my son immediately became friendly and started playing with each other without even speaking a common language. This happened before I joined the European Roma Rights Centre (ERRC) as a lawyer and learned so many things about Roma and the huge number of problems they encounter in everyday life. The unusual thought then struck me that all the difficulties Roma face in the world today and all the prejudices about them are to a large extent a reflection of the social patterns prevailing in modern society and governing the approach of the majority to a particular minority group, like Roma. In other words, at some point in their life little children, who are free from any kind of artificially cultivated prejudices towards children of other races/nationalities, become adults with a number of unreasonable and irrational negative feelings about a specific group of people, be they Romani, African American, Jewish or any other minority group. This has a tremendous effect in modern society with a range of implications for each and every one of us, and in my mind this where the problem lies.

It is especially true about the country I originally come from. I was born and raised in Rostov-on-Don, a city in the south of the Russian Federation populated with a number of different ethnic groups, where I rarely witnessed discrimination against people of different backgrounds, except for Roma. This is particularly astonishing to me because for many centuries Roma were not such a target of discrimination, offensive remarks or violence in Russia as they are now. Previously, they were mostly perceived as being artistic, romantic souls who brought along music, dance, poetry and fun. It has only been in the last several decades that their image in society has shifted from that of the romantic artist to that of the violent beggar, thief and drug-dealer. Among other sources, this image has been established and developed by the rapidly increasing number of media institutions which have started to portray the Roma as the main threat to a stable

and safe life. I was a witness to how a negative image was quickly created and perpetuated.

I was working as a lawyer in Russia for several years before coming to the Central European University (CEU)'s Legal Studies Department in Budapest. CEU became a turning point in my life, not only in terms of acquiring a good education, but also in terms of the unique opportunity it offered to interact in a multi-national environment and to adjust and to learn how to communicate with people of different backgrounds. Since that moment I have been driven by the idea of human rights and the promotion of cultural diversity and protection not only from a professional point of view, but also from the purely human one.



ERRC Lawyer Darya Alekseeva

PHOTO CREDIT: ERRC

After having moved to Budapest, I was looking for opportunities to continue my professional path. Of course, I knew about the ERRC long before I joined the staff here, but could never imagine that a lawyer's job can be so challenging and emotionally consuming. When I was entrusted with writing this article about my job at the ERRC and why I like it, two things immediately came to my mind.

First of all, this job is not only about legal techniques and legal skills that one applies when dealing with particular issues, but this is about an *actual outcome* at the end of the day. The outcome, which can be practically perceived and noticed by Roma in their everyday lives, is equally, if not more, important than the process of reaching this outcome itself.

Second, a changing societal approach to Roma is critical to achieving success in what we are doing from day to day. This is the most difficult task one could ever imagine because it implies working from inside out and reaching to the very heart of the problem. But at the same time, as one might know, the more difficult the aim, the more satisfaction you get when you actually achieve it. In no other field of human rights it is so evident and obvious, as in the field of Roma rights. These two things really inspire me.

MEET THE ERRC

While there are a considerable number of individuals and NGOs working on different human rights issues in Russia, there is almost no one talking about Roma living in the settlements. This is an important issue to tackle as long as Roma constitute a considerable proportion of the Russian population. Their situation in society is no less marginalised (in some instances, even more) than that of their counterparts in Europe, but compared to Europe where Roma issues are included among the priorities of most States' political agendas, this issue is rarely visible in Russia and there are almost no initiatives from State authorities or from civil society to

improve it. This is why I started with an illustration of my son and I riding on a bus with the Romani girl and the need to bring social changes in the first place, along with legal ones. From where the problem began, so it should end.

Being a part of the ERRC team provides me with a unique opportunity to challenge existing social stereotypes about Roma, apply legal skills I have in order to fight against human rights abuses of Roma and at least attempt to ensure that all people, irrespective of their ethnic origin, enjoy substantive and not only formal equality.

Konvencija vash e manushengere hakaja/chachipena/ saven so isi varesavo limitirbe ko shajipena/zor/kabilipe/disabiiteto/

Preambula

E Thema Gende vash kodi Konvencija,

- a. Akharena pes ko principija phendine/proklamirime/ ani Khetanutne Nacijengiri Carta savi so prendjarel digniteto thaj jakhe shajipena savoreng e kotar e bari manushengiri familija, sar so si e hakaja vash slobodija, pakhiv thaj ekhipe ki sasti luma,
- b. Prendjarindoj kaj e Khetanutne Nacije, an Unoverzalno Deklaracija vash Manushikane Hakaja thaj i Internacionalo Konvencija vash e Manushikane Hakaja, proklamirinena thaj sikavena kaj sako jekhe manushe isi sa e hakaja thaj slobodije, bizi te dikhel pes kon savo si,
- c. Referirindoj ko univerzaliteto, interjekhipe thaj phanglipe mashkar peste vash sa e manushikane hakaja thaj fundavne slobodije thaj o trubujimata e manushenge savengere zora si limitirime, khamela pes olenge te den pes sa e hakaja bizi savi te ovel diskriminacija,
- d. Akharindoj pes ki Internacionallno Konvencija vash Ekonomikane, Socijalakere thaj Kulturakere Hakaja, e Internacionallno Konvencija pe Civilno thaj Politikane Hakaja, e Internaciojnalno Konvenija vash Eliminiripe ko Sa e Forme katar Rasaki Diskrimancija mamuj e Djuvlja, i Konvencija mamuj i Tortura thaj Javera Na-Manushikane Degradiriba thaj Tretmanija, i Konvencija vash e Chavengere Hakaja, thaj i Internacionalo Konvencija vash Hakajengoro Protektiribe sa e Migrantno Bucharnenge thaj Olengere Familijakere Manushenge,
- e. Prendjarindoj kaj o disabiliteto/nashtipe/nanipe zor/ si jekh koncepto thaj o nashtipe rezultirinela katar e interakcija mashkar e manusha saven isi varesave bariere thaj nashti te len pengi efektivno thaj sasti participacija ano them.societa/ upral jekh funda/baza/ sar so shaj kodo te keren e javera manusha,
- f. Prendjarindoj i importanca katar e principura thaj politiki save si phendine ano Lumako Programo vash Akcija pe Manusha saven isi nashtipe/disabiliteto/ thaj ande Standardura vash Jekhipe thaj Shajipena vash kodola manusha, leindoj kate e promocija thaj e formulacija vi e evaluacija ande politike, planura thaj programura, sar vi akcije pe nacionalno, regionalno thaj internacionalno nivelu, te keren pes shajipa vash e manusha kolenge zora si limitirime,
- g. Djanindoj i importanca kotar o bikhabilipe/nanipe zor/ sar jekh integralnop kotar katar e relevantno strategije thaj majodorutno buhljaripe/zuraripe/,
- h. Prendjarindoj vi kodo so i dskriminacija mamuj e manusha kerdini upral kodi funda/baza/ kotar o disabiliteto/khovlipe/nanipe zor/nashtipe/, si lengoro dignitetoskoro phageripe, phageripe ko manushikane hakaja/chachipena/,
- i. Majodorig prendjarindoj e manushengoro javeripa/diverziteto/ vash e manusha saven isi varesavo disabiliteti,
- j. Prendjarindoj o trubujimata te promovirinene pes thaj te protektirinene pes e manushikane hakaja vash sa e manusha thaj e manusha saven isi varesavo disabiliteti, leindoj kate vi e manushen savenge trubuj buteder zhutipen thaj bareder sama,
- k. Leindoj sa kodo an godji, vi kodo so isi but instrumentura, e manusha saven so isi varesavo disabiiteto, vi majodorig arakhena pes barijrencar thaj nashti te en participacija sar e javera manusha ando them/societa/ thaj lengere hakaja si phagerdine ko sa e kotora umatar,
- l. Djanindoj i importanca katar e internacionalno kooperacija vash e kondicijengoro lachharipe vash lachheder djivdipe pe sako jekh them, specijalno ande thema so zurarena pes,
- m. Dikhindoj e potincijano distribucije kerdine kotar e manusha disabiitetoncar ande lengere komunitetura, khamela pes olenge promoviribe bash e sasto integriribe sar manusha thaj lengere bazikane manushikane hakaja thaj slobodije, khamipasas te trajin/djiven ano manushikano them, ano socijano thaj ekonomikano zuralo them thaj te harnjarel pes o chorolipe,
- n. Dikhinodj i i mportanca vash kodole manushengiri individualno autonomija thaj korkorutnipe, leindoj kate vi o hakaja te shaj von korkore te keren penge decizije,
- o. Ikerindoj ani godji kaj e manushen saves isi disabiliteto trubuj te ovel olen shajipe te oven aktivno involvirime

ano procesi ktoc soanela pes decizija vash e politike thaj programura save si pashe phangle olencar,

- p. Leindoj sama vash e phare kondicije saven so arakhena e mansha saven isi disabiliteti, save si butivar subjektura upral savende kerena pes but forme kotar e diskriminacija upral olengiri rasa, koloro, si mursha vaj djuvlja, chhib, religija, politikano ja palem javer gindipe, nacionalno, etnikano, ja palem save te ovel javer statuso,
- q. Prendjaribe e romnjen vaj e djuven savn so isi disabiliteti, si teli bareder risiko, vash e kherutni violenca/maripe/ ja paelm avrijal o kher, bilachho tretmano, maltretiribe vaj eksploatiribe,
- r. Prendjarindoj kaj e chhavoren saven isi disabiliteto khamela pes te ovel olen sa e manushikane hakaja thaj fundamentalno sobodije upral funda savi si vash sa e javera chhvora, thaj kodo trubuj te keren e Thema akharindoj pes ki Konvencija vash e Chavengere Hakaja,
- s. Dikhindoj kaj kote trubuj te inkorporirinel pes vi i gender perspektiva ko sa e zora save so trubuj te promovirinen sasto ejbi kotar e manushikane hakaja thaj fundamentalno slobodije vash sa e persono saven isi disabiliteto,
- t. Ikerindoj ani godji o fakto kaj e mazhorita katar e mansha disabilitetoncar djivdinen ko but chorole thaj bilachhe kondicije, khamela pes te harnjarel pes o negativno impakto save so isi e chorolipa upral kadala manusha,
- u. Ikerindoj andi godji kaj e kondicije vash slobodija thaj siguriteto si bazirimo upral sasto respekto thaj principija save si vakerdine ano Charta e Khetanutne Nacijengiri vash shajipe te len pes sa e instrumentura vash sasti protekcija e manushengi saven so isi varesavo disabiliteto, specialno pe vrama kana isi konflikto, vaj themeskiri okupacija,
- v. Djanindoj i importanca katar e fizikano, socijano, ekonomikano thaj kulturakoro trujalipe, sastipe, edukacija, informiribe thaj komuniciribe, khamela pes savorengere te del pes jekh shajipe te len sa kodo, leindoj kate vi lengere manushikane hakaja thaj fundamentalno slobodije,
- w. Djanindoj kaj e individualcon isi obligacija mamuj e javera individualcija thaj mamuj i kom8uniteta kotar so vonaven, khamela pes savore te promovirinen e Internacjonalno Hakajen thaj sa e javera Manushikane Hakaja,
- x. Ikerindoj ani godji kaj i familija si naturalno thaj fundamentano grupa ande them.societa/, si teli Themeskoro protektiribe, thaj kaj e familija kote so isi manush kole isi disabiliteto, trubuj te lel zhutipe

thaj protekcija te shaj o manush ani familija kas isi disabiliteto te lel sa peskere hakaja,

- y. Djanindoj kaj jekh lachhi thaj integralno internacjonalno konvencija vash promoviribe thaj protektiribe e hakajengo thaj dignitetosko e manushengo saven so isi varesavo disabiliteto ka kerel bareder kontribucija ani kodole manushengoro promoviribe thaj partitiribe ano civilno, politikano, ekonomikano, socijallno thaj kulturaki sfera jekha-jekh shajipenencar, vi ko chorole, vi ko barvale thema,

Kerdine duma/halile pes/hachardine/ vash kodo:

Artklo 1 – Sostar gasavi Konvencija

Kodi Konvencija si vash kodo te promovirinel, te protektirinel thaj te sigurinel sasti thaj jekha-jekh participacija ko sa e manushikane hakaja thaj fundamentalno slobodije vash sa e mansha saven isi disabiliteto thaj te promovirinen olengoro digniteto.

Mashkar e mansha saven isi disabiliteto si vi kadala saven isi lungi vrama varesavo fizikano, mentalno, intelektualno ja palem senzorengoro khovlipe/na-zoralipe/ save so, vi kodo so isi barieri, te shaj te len sasti thaj efektivno participacija/te len than/ ande them/societa/ khetane e javera manushencar.

Artklo 2 – Definicije

Vash kodi adadjiveskiri Konvencija:

- “I komunikacija” lel andre e chhibjen, teksteskoro sikavibe, Brajeskeri abeceda, taktilno komuniciribe, bare printija, e multimedijen vi skrinisarden, audio, pe but chhibja, sa e augmentativno thaj alternativno modija, sa e komunikacijakere formaton thaj komunikacijakere tehnologija;
- “Chibja” asatrel sa e vakerdine thaj skrinisarde chhibjen thaj sa e javera forme kotar na verbalno chhibja;
- “Diskriminacija kerdini upral vareasavo disabiliteto” si savi te ovel distinkcija, ekskluzija vaj restrikcija kerdini upral e disabilitetoskiri baza thaj savi so harnjarela akale manushengoro lejbe e hakajanegoro sar so shaj sa e javera mansha te len upral jekh funda/baza/ ko sa e manushikane hakaja thaj fundamentalno slobodije, politikane, ekonomikane, socijallno,

kultura, civilno, ja palem javer sfera. Kate lena pes vi sa e diskriminacijakere formi, leindoj andre vi e lachhe akomodacija;

- “Lachhi akomodacija” si kodo kana dena pes thaj modificirinena pes sa e disproporcionalno pharipena, save so khamena pes te sigurinel e manushenge saven so isi varesavo disabiliteti te shaj te len sa e hakaja upral jekha-jekh baza e javera ma nushencar;
- “Univerzalno dizajno” kodo phenel kaj sa e produktongoro dizajno, o trujalipe, e programija thaj e servisija te shaj te len pes sa e manushendar, bizi te kerel pes varesavi ekstra adoptacija ja palem specijalizirimo dizajni, “Univerzalno dizajno” na crdela pe rig varesave aparaton vash partikulrano grupe save khamena pes manushenge saven isi varesavo disabiliteto.

Artiklo 3 – Generalno principija

E principija kodole Konvencijako trubuj te oven:

- a. Respekto vash digniteto/baripe/, individualno autonomija, leindoj kate e slobodija e manusha te keren korkori pengi decizija, thaj e manushengo korkorutnipe;
- b. Na-diskriminacija;
- c. Sasti thaj efektivno participacija vi inkluzija ano them/societa/;
- d. Respekti vash e diference/javeripe/ thaj e manusha disabilitetoncar te akcveptruin pes sar sa e javera manusha;
- e. Jekha-jekh shajipena savorence;
- f. Avipe/resipe/ dji pe sako jekh than;
- g. Jekhipe mashkar e mursha thaj e djuvlja;
- h. Respekto vash e kapaciteto saven isi e chhavora disabilitetoncar thaj respekti pe hakaj e chhavorongo saven isi disabiliteti te ikerel pes olengoro identiteti.

Artiklo 4 – Generalno obligacije

1. Sa e Thema trubuj nte sigurinen thaj te promovirinen sasti realizacija pe sa e manushikane hakaja thaj fundamentalno slobodije vash sa e manusha saven isi varesavo disabiliteto bizi, savi vi te ovel diskriminacija. Kodoleske e Thema trubuj te:

- a. Adoptirinen sa e legisaltive/neve kanunija/ administracijakere thaj javer aktivitetura vash implementiribe e hakajengo phendine an kodi Konvencija;
 - b. Kerel sa e aktivitetija, leindoj kate vi e legisalcija, te modifirinel ja palem chhinavel e kanunija so aba egzistuin, e regulacijen vaj e praktiken saven isi varesavi diskriminacija mamuj e manusha disabilitetosar;
 - c. Te len sama vash e protektiribe thaj promoviribe pe manushikane hakaja e manushengo saven isi disabiliteti pe sa pengere politike thaj programuiria;
 - d. Te sigurinel kaj naj te kerel pes savo te ovel akto ja pale praktika save so ka oven mamuj kodi Konvencija thaj te sigurinen kaj e publikane autoritetija thaj institucije ka ikeren pes dji pe kodi Konvencija;
 - e. Te keren sa e aktivitetija te eliminirinel pes i diskriminacija kerdini upral e manushengere disabilitetija, ki organizacija ja palem privatnikani firma;
 - f. Te keren vaj te promovirinen rodipena thaj zuraribe vash univerzalno dizajnirime bucha, servisija, aparatija, sar so si vakerdino ano artiklo 2 an kodi Konvencija, thaj save so aparatija ka shaj te oven lachhe vi vash e mnusha saven isi disabiliteti;
 - g. Keren vaj te promovirinen rodipena thaj te zuraren neve tehnoloigijen, leindoj kate vi e informacijent thaj e komunikacijakere tehnoloigijen, vash e manusha saven isi disabiliteti deindoj prioriteti upral e tehnoloigije save naj te oven but kuch;
 - h. Te den informacije e manushenge saven isi disabiliteti vash sa e zhutipena, aparatija thaj tehnoloigije, leindoj kate vi e neve tehnoloigijen thaj e javera formen vash zhutipe, suportto vaj servisija;
 - i. Te promovirinen treningo vash e profesionalcija save so keren buti e manushencar saven isi disabiliteto te keren buti pali i Konvencija thaj te del pes e manushenge shajipe vash lengere garantirime hakaja kodole Konvencijasar.
2. Vash e ekonomikane, socijalne thaj kulturakere hakaja, sako jekh Them khamela pes te del pesko maksimumo kote so trubuj, te kerel internacionalno kooperacija, te shaj te resel dji pe sasti realizacija e hakajengi save si vakerdine ani kodi Konvencija thaj sar so phenel o internacionalno kanuni.
 3. Kana ka zuraren pes thaj ka implementirinen pes e legisaltive thaj e politike te djan pali kodi Konvencija,

thaj vi ane procesija kana kerel pes decizija te len pes ani godji e manusha saven isi disabiliteti, leindoj kate vi e chhavoren saven isi disabiliteti, trujal olengere reprezentativno organizacije.

4. Khanchik an kodi Konvencija nashti te afektirinel save vi te oven provizijen save si pasheder dji pe realizacija akale hakajengi vash e manusha saven isi disabiliteti thaj so ka arakhel pes ande Themeskere Kanunija, ja palem ko internacionalno kanuni. Nashti te keren pes save vi te oven restrikcije upral kodi Konvencija, djaindoj pali e kanuni, konvencije vaj varesave javer regulacije. Kodi Konvencija prendjarela sa e hakajen sar validne.
5. E provizija katar kodi Konvencija si validne vash sa e kotora themesatar, ki sasti teritorija bizi savi vi te ovel limitacija.

Artiklo 5 – Jkehipe thaj na-diskriminacija

1. E Thema prindjarena kaj sa e manusha si jekh anglal o kanuni thaj nashti mamuj khanikaste te kerel pes savi te ovel diskriminacija upral e manushengiri jekh protektiribe thaj jekhipe anglal o kanuni/zakono/.
2. E Thema trubuj te chhinaven sa e diskriminacijen kerdine upral e disabilitetoskiri funda/baza/ thaj te garantirinen e manushenge saven so isi disabiliteti jekh thaj efektívno legalno protektiribe mamuj savi te ovel diskriminacija.
3. Te shaj te promovirinen pes jekhipe thaj te eliminirinel pes i diskriminacija, e Thema trubuj te keren sa so khamela pes te sigurinen lachho akomodiribe.
4. E specijalno aktivitetija save so trubuj te keren pes thaj te resel pes de facto jekhipe e manushengo disabilitetoncar e javera manushencar nashti te dikhen pes diskriminacijakere aktivitetija, sar so phenel i Konvencija.

Artiklo 6 – E djuvlja disabilitetoncar

1. E Thema prindjarena kaj e djuvlja thaj e chhaja saven isi disabiliteti si subjekti katar butivar kerdini diskriminacija, thaj kodoleske khamela pes te keren pes aktivitetija thaj te sigurinel pes sasti thaj jekh tretmano te shaj te len pengere manushikane hakaja thaj fundamentalno slobodije.
2. E Thema trubuj te keren sa so khamela pes te sigurinen sasto zuraripe e djuvlenge thaj te den garancije kaj von

shaj te len sa e manushikane hakajen thaj fundamentalno slobodijen sar so si vakerdino an kodi Konvencija.

Artiklo 7 - Chavore disabilitetoncar

1. E Thema trubuj te keren sa te sigurinen e chhavenge disabilitetoncar te shaj te len pengere manushikane hakaja thaj fundamentalno slobodije upral jekh funda/baza/ sar sa e javera chhavore.
2. Pe sa e akcije save so kerena pes vash e chhavore saven isi disabiliteto, e majlachhe chhavorengere interesija trubuj te oven kotar e primarno importanca.
3. E Thema trubuj te sigurinen kaj e chhavore saven isi disabiliteto ka shaj te sikaven pengere dikhipena slobodne, thaj te shaj te ovel olen jakha-jekh funda sar e javer chhavora, sar vi te ovel olen shajipena te realizirinen kodola pengere hakaja.

Artiklo 8 – Vazdibe sama

1. E Thema trubuj te keren but sigo efektívno thaj adekvatno aktivitetija te:
 - a. Vazden sama ano them, astarindoj katar e familijako nivelo, vash e manusha saven so isi disabiliteti thaj te vazdel sama vash olengoro digniteto thaj baripe sar manusha;
 - b. Maren pes mamuj e stereotipura thaj mamuj dukhavidine praktike mamuj e manusha saven isi disabiliteti, leindoj kate vi e stereotipura save si bazirime upral kodo so vareko si mursh vaj djuvli, upral lengere bersh thaj pe sa e sfere kotar o odjvidipe;
 - c. Te promovirinen sama thaj lachho gidno vash kodole manushengiri kontribucija ko sassto djivdipe.

Mashkar kodola aktivitetura si:

- a. Keribe thaj iniciribe efektívno publikani sama thaj kampanje dizajnirime te:
 - i. Te keren receptiviteto vash e hakaja e manushengo disabilitetoncar;
 - ii. Te promovirinen pozitivno percepcije thaj bareder socialno sama vash e manusha saven isi disabiliteto;

- iii. Te promovirinen kodole manushengere kabilipa/ shajipa/ thaj lengiri kontribucija ko buchakere thana thaj ko marketi e buchako;
- b. Te kerel pes jekh sama pe sa e edukacijakere nivelija, leindoj kate vi e chhavoren kotar e majtikne bersha te keren respekto vash e hakaja e chhavengo saven so isi disabiliteto;
- c. Te shaj sa e organija ande mediumija te keren protretija e manushengere saven so isi disabiliteto, sar so phenela pes an kodi Konvencija;
- d. Te promovirinen pes trening programura vash vazdipe sama upral e manusha saven isi disabiliteti thaj olengere hakaja.

Artiklo 9 – Shajipe te avel pes dji pe var-esavo than

- 1. Te shaj e manusha saven so isi disabiliteto te djiven korkore pengoro djivdipe thaj te participirine/ te aven dji pe/ sa e aspektija djivdipastar, e Thema trubuj te keren aktivitetura thaj te sigurinen akale manushenge avipe/akseso/ upral jekh baza sar sa e javerenge, te shaj te aven dji ko transporti, te avaen dji ki informacija thaj komunikacije, leindoj kate vi o avipe dji pe komunikacije, tehnologije thaj sistemija thaj sa e servisija so si phutarde sa e manushenge, vi ande forura vi ande gava. Kodola aktivitetija trubuj te pheraven sa e barieri te shaj e manusha te aven dji ko, inter alia:
 - a. Khera, droma, transporti thaj javera bare khera, leindoj kate vi e shkole/sikljovne/ nasvalipaskere khera/ hoshpitalija/ thaj lengere buchakere thana;
 - b. Informacije, komunikacije thaj javera servisija, leindoj kate vi e elektronikane servisija thaj thana ikljovibaske vash urgentno ikljovibe.
- 2. E Thema trubuj te keren aktivitetija te shaj te:
 - a. Buhljaren, zuraren thaj te keren monitoringo thaj implementiribe ko minimum standardija te shaj akala manusha te len sa e servisija thaj te shaj te aven dji pe sako jekh than so si vash sa e javer manusha;
 - b. Sigurinen kaj e privatnikane entitetija save so dena servisija so si phutardine sakone jekhe manusheske, te

shaj dji pe kadala thana te aven vi e manusha saven so isi varesavo disabiliteti;

- c. Del treningo e manushenge save so butiva an penge-re buchakere thana arakhena pes manushencar saven so isi disabiliteti;
- d. Pe sa e phutarde thana thaj bare khera te chhiven pes znakoja save so ka shaj lokheste te dikhen pes kotar e mausha saven so isi varesavo disabiliteti;
- e. Te del varesave forme, ja palem zhutipen javere manushestar, savo so prendjarela akale manushengi chhib znakoncar ja palem javer vakeriba, te shaj pe kodola phutarde thana e manusha te len zhutipe;
- f. Te promovirinen pes javereder forme vash kodole manushengoro asisitiribe thaj suportto te shaj lokheder te aven dji pe savi vi te oven informacije;
- g. Promovirinen lokheder avibe dji ko informacije vash sa e manusha kolen isi varesavo disabiliteti pe sa e komunikacijakere tehnologije thaj sistemija, leindoj kate vi e Internetete;
- h. Promoviribe ko dizajni, zuraripe, produkcija thaj distribucija pe sa e informacije thaj komunikacijakere tehnologije thaj sistemija kotar majtikne bersha, thaj kodola tehnologije thaj sistemija ma te oven but kuch.

Artiklo 10 – Hakaj pe djivdipe

E Thema vi jekhvar afirmirinenka kaj sakone jekhe manushe isi inherentno hakaj pe djivdipe, thaj e thema trubuj te keren sa e aktivitetija te sigurine efektivno djivdipe vi vash e manusha saven so isi varesavo disabiliteti, sa kodo upral jekh baza sar sa e javera manushenge.

Artiklo 11 – Situacije teli riziko thaj urgentno humanitarno bucha

E Thema trubuj, djaindoj pali e obligacije so isi olen teli e internacionalno kanuni/zakono/, leindoj kate vi e internacionalno humanitarno kanuni thaj e internacionalno manushikane hakajengoro kanuni, sa e aktivitetura te shajte sigurinen protektiribe thaj siguripe e manushengoro saven isi disabiliteti ande sa e situacije teli riziko, maripa, humanitarno urgencije thaj naturalno katastrofe.

Artiklo 12 – Jekhipe anglal o kanuni

1. E Thema trubuj te prendjaren e manushen saven so isi varesavo disabiliteti an sako than sar manusha save si jekh javerencar ando kanuni.
2. E Thema trubuj te prendjaren e manushen saven so isi varesavo disabiliteti sar manusha save so ka len sasto legalno kapaciteti upral jekh baza sar e javera manusha ko sa e djivdipaskere aspektija.
3. E Thema trubuj te ekren adekvatno aktivitetija te shaj te del pes aksesi/avibe/ e manushenge disabilitetoncar dji ko suporti so trubuj oeln te aven dji ko pengo legalno kapaciteti.
4. E Thema trubuj te sigurinen kaj sa kodola aktivitetija so anena dji ko manushengoro legalno kapaciteti ka den vi adekvatno standardija te kerel pes prevencija pe internacionalno manushikane hakajengoro kanuneskoro phageripa. Gasavo siguripe trubuj te sigurinel kaj naj te ovel konflikto katar e interesija thaj ki majharno vrama e manusha disabilitetoncar te shaj te len pengere hakaja. Sa kodo te kerel pes teli dikhibe katar jekh independentno grupa vaj autoriteti. Kodola aktivitetija te oven proporcionalno kodolesar ko bor si bare e manushengere hakaja thaj interesija.
5. Sar subjekti vash e provizije kotar kodo artiklo, e Thema trubuj te keren efektívno aktivitetija te sigurinen jekha-jekh hakaja vash sa e manusha saven isi disabiliteto te shaj korkore te kontrolirinen pengere finansije, te ovel olen shajipen te len kreditija kotar e banki thaj save vi te ovel finansijkere zhutimos. Kodo trubuj te sikavel kaj kodole manushen isi fundavno hakaj vi ande finansije.

Artiklo 13 – Tromalipe an krisaripe

1. E Thema khamela pes te sigurinen efektívno tromalipe vash krisaripe vash e manusha disabilitetoncar upraj jekh funda sar vi vash vavere manushenge trujal provizije thaj lachhe akomodacije, te shaj kdoola manusha te len direktno thaj indirektno than sar participantija ko krisaripaskere procesija, legalno procedure, investigacije thaj javera krisaripaskere faze.
2. Cilosar te zhutil thaj te sigurinel efektívno aksesu/avipe/ ko krisaripe vash sa e manusha, e Thema trubuj te promovirinen adekvatno treningo kodolenge so keren buti ande justicijaki administracija, policija thaj manusha so keren buti an phanglape.

Artiklo 14 – Manusheski slobodija thaj siguriteto

1. E Thema trubuj te sigurinen e manushenge disabilitetosar, upral jekh funda javerencar te:
 - a. Len pengiri slobodija thaj siguriteto;
 - b. Naj te oven deprivirime kotar pengi slobodija thaj sako jekh chhinavipe pe lengiri slobodija ka ovel mamuj o kanuni, thaj nikana o disabiliteto nashti te dikhel pes sar slobodijakoro limitiribe.
2. E Thema trubuj te sigurinen kaj e manusha saven isi disabiliteto naj te oven chhinavde kotar lengi slobodija trujal nisavo procesi thaj von si jekh sa e javera manushencar kolenge e internacionalno manushikane hakajencar si garantirime olengiri slobodija thaj sar vi phenen e principura katar kodi Konvencija.

Artiklo 15 – Slobodija katar i tortur, bimanushikano tretmano vaj maripen

1. Khonik nashti te ovel subjekto vash tortura, bimanushikano tretmano vaj maripen. Dureder, khonik nashti vi te ovel subjekti ko varesave medicinakere eksperimentija vaj javer eksperimentija manushencar.
2. E Thema trubuj te keren efektívno legislativa, administracija, krisaripe, ja pale vaver aktivitetija te shaj te keren preventiva thaj e manusha disabilitetoncar ma te oven subjekto katar i tortura, bimanushikano tretmano, ja palem maripen.

Artiklo 16 – Slobodija katar eksploatiribe, maripen/violenca/ thaj bilachhipe

1. E Thema trubuj te keren sa e aktivitetija vash lachhi legislativa, administracija, socijalno, edukacijakere ja vaver varesave aktivitetija te shaj te protektirinel e manushen saven isi varesavo disabiliteto kotar sa e formi eksploatacijatar, maripenestar vaj bilachhipnastar, leindojo kate vi e gender aspekton.
2. E Thema trubuj vi te keren sa e aktivitetija te shaj te keren preventiva kotar sa e formi vash eksploatiribe, maripen vaj bilachhipen kodolesar so ka sigurinel, inter

alia, lachhe formi gender thaj bershengoro senzibilno asistencija thaj suportu vash e manusha disabilitetoncar thaj vash lengere familije trujal provizije katar e informiribe thaj educiribe vash kodo sar te prendjarel pes thaj te phenel pes savi te ovel eksploatacija, maripe vaj bilachhipe. E Thema trubuj te sigurinen kaj e protekcijakere servisija si vi gender senzibilne.

3. Te shaj te kerel pes preventiva pe sa e eksploatacijakere formi, maripen vaj bilachhipen, e Thema trubuj te sigurinen kaj sa e programura dizajnirime te oven serviso e manushenge saven isi varesavo disabiliteto, ka oven efektivno monitoririme kotar e independentna autoritetija.
4. E Thema trubuj te keren sa e aktivitetura te shaj te promovirinenfizikano, kognitivno ja palem psihologikano saslaripe, rehabilitiribe thaj socialno reintegracija vash e manusha disabilitetoncar save so sasa zhertvi kotar savi vi te ovel forma eksploatacijatar, maripnastar vaj bilachhipastar, leindoj kate vi e provizijen kotar e protektiribaskere servisija. Gasavo saslaribe thaj reintegracija trubuj te kerel pes ande specijalizirime khera vash sastipe thaj te ikerel pes e manushengoro digniteti, sar vi te lel pes ani godji e gender trubujimata.
5. E Thema trubuj te keren efektivno legislative thaj politike thaj te ovel olen fokuso upral e djuvlja thaj chhave, te shaj te sigurinen kaj i eksploatacija, maripen thaj bilachhipen mamuj e manusha saven isi disabiliteto ka ovel identificirimo thaj ka ovel dendino pe krisaripe.

Artiklo 17 – Protektiribe pe manusheskoro digniteto

1. Sako jekhe manushe disabilitetosar isi hakaj te ovel respektirimo vash leskoro vaj lakoro fizikano thaj mentalno integriteto upraj jekha-jekh baza sa e javerencar.

Artiklo 18 – Slobodija vash mishkipe thaj nacionaliteto

1. E Thema trubuj te prendjaren e hakaja e manushengo disabilitetosar vash lengi slobodija ko phiripe/mishkipe/, pi slobodija von korkore te phenen kote ka trajin/djivdinen/ thaj savo nacionaliteto ka len, upral jekh funda sar sa e javera manushen, lindoj kate vi te sigurinel pes e manushenge saven so isi varesavo disabiliteto te:

- a. Ovel olen hakaj te roden vaj te pharuven pengoro nacionaliteto thaj olengoro nacionaliteto nashti te dikhel pes kotar olengoro disabiliteto;
 - b. Oven andi situacija korkore te keren pengere dokumentura vash lengoro nacionaliteti vaj javere dokumenton vash identificiribe, vaj te roden korkore imigracijakere procedure. Khonik nashti upral lengoro disabiliteti te chhina vel olendar e vakerdine hakaja;
 - c. Shaj te ikljoven avrijal pengoro them vaj te phiren ano javer them;
 - d. Iranen pes palpale an lengo them thaj khonik nashti te harnjarel olendar olengoro hakaj sostar isi olen varesavo disabiliteto.
2. E chhave so ka oven bijame disabilitetosar trubuj te oven registririme pali olengoro bijandipe thaj isi olen hakaj te ovel olen alav, te roden peske nacionaliteto thaj isi olen hakaj te oven arakhlina kotar lengo dad thaj dej.

Artiklo 19 – Te djivel pes independentno thaj te ovel pes kotar komunitatar

E Thema, djaindoj pali kodi Konvencija prindjaren jekh hakaja vash sa e manusha disabilitetoncar te djiven an pengere komunitetija sar savore javer manusha thaj shaj sar sa e javera te keren efektivno aktivitetija thaj te len sa e hakajen, sar vi te keren participiribe an komuniteto thaj ande them, sar vi te sigurinel pes kaj:

- a. E manushen disabilitetoncar ka ovel shajipe te arakhen korkori peske than djivdipaske thaj kasar ka djivdinen thaj khonik nashti phenel olenge kote thaj sar ka djivdinen;
- b. E manushen disabilitetoncar ka ovel aksesu pe sa e khereskere thaj komunitakere servisija thaj ma te djivdinen ande izolacija vaj segregacija kotar e komuniteta;
- c. E servisija ande komuniteta si vash savore so djiven ani komuniteta, leindoj kate vi e manushen saven so isi disabiliteto.

Artiklo 20 – personalno mobiliteto

E Thema trubuj te keren efektivno aktivitetura te sigurinen o personalno mobiliteto majbare independencijasar vash e manusha disabilitetosar leindoj kate vi akala aktivitetura:

- a. Te keren fasilitacija upral e personalno mobiliteto vash e manusha saven isi disabiliteto pe vrama savi so e manushenge ka avel mishto;
- b. Te keren fasilitacija vash aksesos pe manusha disabilitetosar vash kvalitetno zhutipe an mobiliteto, tehnologije thaj forme kotar djivdipaskiri asistencija, thaj sa kodo ma te ovel but kuch;
- c. Te keren treningoja vash mobiliteto manushenge saven isi disabiliteto thaj vi vash e manusha save so keren buti manushencar saven isi disabiliteto;
- d. Te motivirinen e entiteton save so producirinena aparatija vash kodola manusha te len ani godi sa e aspektija phangle e mobilitetosar vash manusha disabilitetosar.

Artiklo 21 – Slobodija te phenel pes i opinija thaj te avel pes dji ki informacija

E Thema trubuj te keren sa e aktivitetija te sigurinen e manushenge saven isi disabiliteto te shaj te phenen pengoro gindo/opinija/ thaj te ovel olen slobodija te roden thaj te resen informacije thaj ideje sar sa e javera manusha thaj trujal sa e formi katar i komunikacija, sar so si vakerdino ano artiklo 2 kadale Konvencijatar, leindoj ani godi vi kodo so e Thema trubuj te:

- a. Den pes informacije vash e generalno publika thaj vash e manusha disabilitetosar pe drom savo so von shaj te hacharen thaj pe sa e formatija thaj tehnologije save si pashe dji pe sa e disabilitetija bizi te rodel pes olendar love;
- b. E informacije te den pes pe chhib savi so haljovena e manusha disabilitetosar sar so si i chhib vastencar, Brajeskiri abeceda, augentativno thaj alternativno komuniciribe thaj sa e javer formatija thaj modelija ki komunikacija;
- c. Te motivirinen pes e privatnikane entitetija te den servisija vash e generalno publika, leindoj kate vi e Interne, te shaj te del pes avri informacija pe save formatija shaj e manusha te len i informacija;
- d. Te motivirinen pes e mediumija thaj e provajderija informacijengo trujal o Internet te den avri e informacije te shaj vi e manusha disabilitetoncar te haljoven;
- e. Te prindjarel pes thaj te promovirinel pes i chhib vastencar.

Artiklo 22 – Respekto vash privatnipe

1. Nijekh manush disabilitetosar, bizi te dikhel pes kote trajil/djivel/ nashti te ovel subjekto ani bikanuneskiri interferencija oleskere privatno djivdipasas, familijasas, kheresar vaj ki korespondencija e javere manushencar, ja pale, vareko te kerel atako upral leski pakhiv thaj reputacija. E manushen disabilitetosar isi hakaj te len protektiribe kanunestar te achhile pes gasave atakura.
2. E Thema trubuj te den privatnost e personaleske, sas-tipe thaj ani informacije vash rehabilitiribe e manushengo, upral jekh funda sar sae javera manushenge.

Artiklo 23 – Respekti pe kher thaj familija

E Thema trubuj te keren efektivno thaj lachhe aktivitetura te eliminirinen i diskriminacija mamuj e manusha saven isi disabiliteti pe sa e sfere, ki phrandin, familija thaj privatnikane relacije, upral jekha-jekh baza sar sa e javerenge, thaj te sigurinel kaj:

- a. O hakaj e manushengo disabilitetosar ka ovel respektirimo vash kodo te phrandinen pes thaj te keren pengiri familija, thaj kodo te keren slobodijasas;
- b. O hakaj vash kodo te keren korkore penge decizija sode chhavore ka ovel olen, kote ka djiven, te resen sa e informacije vash reprodukcija thaj familijakoro planiribe, so ka anel dji pe kodo te respektirinel pes vi kodo hakaj;
- c. E manusha disabilitetosar, leindoj kate vi e chhaven te dikhen pes upral jekha jekh funda sar e javera manusha.
2. E Thema khamela pes te sigurinen e hakajen thaj e responsibilitetura e manushengo saven isi disabiliteti, vi kana von khamen te len chhavores kotar o kher vash e chhave bizi daj thaj bizo dad, te djan pali e nacionalno legislativa thaj te protektirinel pes e chhvengoro majlachho interesi. E Thema trubuj te den vi asistiribe e manushenge disabilitetosar kana von ka keren performiribe an peskere responsibilitetija sar dad thaj daj.
3. E Thema trubuj te sigurinen kaj e chhaven disabilitetosar ka ovel jakha-jekh hakaj thaj respekto pe familijakoro djivdipe. Te shaj te respektirinel pes kodo hakaj thaj te kerel pes preventiribe upral kodole hakajeskor phageripe thaj e chhvengoro segregiribe, e Thema khamela pes te den ki vrama informacije,

servisija thaj suporto e chhvenge disabilitetoncar thaj olengere familijenge.

4. E Thema khamela pes te sigurine kaj e chhavora naj te oven ulavdine kotar pengere dada thaj daja mamuj olengi voja. Te trubuj te avel dji pe jakh gasavi separacija trubuj te djal pes pal o kanuni/zakono/ thaj te dikhel pes save si e malachhe chhavigere interesija. Numa, nikana, shoha, nashti e chhavore te ulaven pes familijatar, numa kodoleske sostar olengere dades vaj daja isi varesavo disabiliteti.
5. E Thema, pe kodola familije kote so e chhvenge disabilitetosar i familija nashti te del lachhi grizha thaj sama, ka arakhen drom ani buhleder familija te den e chhovres ande familijako trujalipe.

Artiklo 24 – Edukacija

1. E Thema prindjaren e manushengoro hakaj vash edukacija. Kodi edukacija vash e manusha disabilitetosar trubuj te kerel pes bizi diskriminacija thaj upral funda vash jekh shajipena savorenge. E Thema khamela pes te sigurinen jekh inkluzivno edukacijako sistemo pe sa e djivdipaskere nivelija thaj te direktirinel pes upral:
 - a. Sasto zuraripe ko manushengo potencijali, upral sa e respektija kotar e manushikane hakaja, fundamentalno slobodije thaj javeripa mashkar e manusha;
 - b. Zuraripe e manushengo disabilitetoncar, zuraripe ko lengoro personaliteto, talenti thaj kreativibe, sar vi vash olengere mentalno thaj fizikane zora, te shaj te resen pengo potencijali;
 - c. Te motiviinen pes e manusha disabilitetoncar te len efektivno thaj sasti participacija ando them/societa/.
2. Te resen pes kodola hakaja, e Thema trubuj te sigurinen kaj:
 - a. E manusha disabilitetosar naj te oven crdime pe rig kotar o generalno edukacijakoro sistemo numa kodoleske sostar isi olen disabiliteto, thaj e chhavore disabilitetosar naj te crden pes kotar bilovengi fundavni edukacija, vaj kotar mashkaruni edukacija, numa kodoleske sostar isi olen disabiliteti;
 - b. E Manushen disabilitetosar ka shaj te resen dji pe inkluzivno, kvalitetno thaj bilovengi fundavni thaj mashkaruni edukacija upral jekh baza/funda/ sar sa e javerenge ande komuniteta kote so djiven e manusha disabilitetosar;

- c. Ka ovel dendini akomodacija e manushenge saven isi disabiliteti;
 - d. E manusha disabilitetosar ka resen suporto ano generalno edukacijako sistemo, te shaj te len efektivno educiribe;
 - e. Ka keren pes zora te zhutil pes individualno, te shaj manushenge te del pes lachho thaj efektivno trujalipe ano edukacijako sistemo thaj te resen dji pe sasti inkluzija ano them.
3. E Thema khamela pes te den shajipe e manushenge disabilitetosar te sichon djivdipaskere thaj socijalne butja te shaj korkore te len sasti participacija andi edukacija thaj sar membrura/manusha/ kotar pengere komunitetija. Kodoleske e Thema trubuj te keren aktivitetija, sar so si:
 - a. Zhutipe te sichon e Brajeskiri abeceda, alternativno skrinisariba, augmentativne thaj alternativno modija, formatija vash komuniciribe, orientiribe thaj te del pes olengesuporto thaj mentoringo;
 - b. Fasilitiribe te sichon i chhib vastencar thaj te promovirinen e lingvistikane identitete ande kashuki komuniteta;
 - c. Siguripe vash kodo kaj manusha astarde edukacijasar, specijalno e chhave save so chi dikhen, chi ashunen, ka shaj te len sa e shajipena te sichon varesavi chhib vash komuniciribe thaj te del pes olenge gasavo trujalipe te shaj vi majodorig te phiren ani edukacija so ka zurarel olengo akademikano thaj socijalno zuraripe.
 4. Cilosar te sigurinel pes realiziribe pe kodola hakaja, e Thema khamela pes te keren adekvatno aktivitetija, te den buti e sicharenge, leindoj kate vi e sicharen saven isi varesavo disabiliteti, save si kvalificirime te sicharen pe chhib vastencar vaj pe Brajeskiri abeceda, thaj te trenirinel profesionalno manushen save ka keren buti kodole manushencar pe sa e nivelura katar i edukacija. Gasave treningura trubuj te vazden e manushengi sama vi von te sichon varesave augmentativno thaj alternativno modija, formatija ki komunikacija, edukacijakere tehniko thaj materijalija save shaj te den suporto e manushenge disabilitetoncar.
 5. E Thema te sigurinen kaj e manusha disabilitetoncar shaj te aven dji pe generalno edukacija, vokacijakere treningoja, edukacija vash e phure manusha, bizi te kerel pes upri lende savi vi te ovel diskriminacija. Thaj pe agor, e Thema musaj vi te den adekvatno akomodacija pe sa kodo vash e manusha disabilitetoncar.

Artiklo 25 – Sastipe

E Thema prindjaren kodo kaj e manushen disabilitetoncar isi hakaj te len sa thaj e majuchhen standardon ano sastipe bizi diskriminacija vash lengoro disabiliteto. E Thema trubuj te keren sae aktivitetija te sigurinen e manushenge disabilitetoncar aksesos/avibe/ dji pe sastipaskere servisija, leindoj kate vi e rehabilitacija ano sastipe. Specifikanes, e Thema trubuj:

- a. Te den e manushenge disabilitetoncar shajipe jakh sar e javerenge, te resen kvaliteto thaj uchhe standardija ano sastipe thaj sastipaski sama bilovengo, leindoj kate vi e areja sar so si o seksualno thaj reprodukciribaskoro sastipe thaj publikane sastipaskere programija;
- b. Te del sa kodola sastipaskere servisura e manushenge disabilitetoncar save so trubuj olenge, ikerindoj ani godi save disabilitetoske trubuj savi sastipaski sama, sar vi te chhinaven o majodorutno olengo disabiliteto vaj nasvalipe;
- c. Sa kodola servisura te del so shaj pasheder e manushenge saven isi varesavo disabiliteti. Pasheder dji pe lengi komuniteta thaj pashe dji lenge gava;
- d. Te del sastipaskere profesionalcon te shaj te den so shaj majuchho kvaliteti ani sastipaski sama e manushenge disabilitetosar, inter alia, te vazden e manushengeri sama vash akale manushengere hakaja, digniteto thaj avtonomija, sar vi vash olengere trubujimata, te promovirinen etikane standardura vash e publikano thaj vash e privatnikano sastipe;
- e. Te chhinavel savi vi te ovel diskriminacija mamuj e manusha disabilitetoncar vash olengoro sastipaskoro siguripe garantirimo nacionalno kanunesar, thaj kodo te kerel pes ko jekh lachho thaj fer drom;
- f. Te kerel diskriminacijakoro preventiribe an sastipaskere servisija, habe vaj pijimata upral i baza kaj von si manusha disabilitetosar.

Artiklo 26 – Habilitiribe thaj rehabilitiribe

1. E Thema trubuj te ekren lachhe thaj efektivno aktivitetija, leindoj kate vi suport, vash e manusha disabilitetoncar, te shaj te len korkorutnipe dji ko maksimumi, sasti fizikani, mentalno, socijalno thaj vokacijaki zor, thaj sasti inkluzija thaj participacija ko sa e aspektija djivdipastar. Te resen kodo, e Thema khamela pes te organizirinen komprehenzivno habilitiribe thaj rehabilitiribe, servisija

thaj programija vash kodo, specifikane ande areje sar so si o sastipe, bucharipe, edukacija thaj socijalno servisija, thaj kodola servisija thaj programija trubuj te:

- a. Astaren so shaj angleder, kotar tikne bersha, thaj te oven bazirime upral jekh multidisciplinarno drom vash e individualcongere trubujimata thaj zora;
 - b. Den suport vash participiribe thaj inkluzija ande komunitetija pe sa e themeskere/socijalno/ aspektija, ka oven volontarno thaj vash sa e manusha saven so isi varesavo disabiliteti save so djiven ande foro, vaj ando gav.
2. E Thema trubuj te promovirinen zuraripe thaj te inicirinel treningoja vash e profesionalcija thaj manusha save so keren buti ki habilitacija thaj rehabilitacija.
 3. E Thema khamela pes te promovirinen o djanibe thaj te lel sae tehnologijen dizajnirime vash e manusha disabilitetoncar, save ka shaj te len pes an lengi habilitacija thaj rehabilitacija.

Artiklo 27 – Buti thaj bucharipe

1. E Thema prendjarena o hakaj e manushengo disabilitetoncar vash buti, upral jekh baza sar sa e javerenge; kodo lel andre vi o shajipe te keren korkore buti thaj te keren love. E Thema majodorig, trubuj te arakhen thaj te promovirine o hakaj vash e buti, vi pe kodola thana kote so shaj te kerel buti varesavo manush disabilitetosar, trujal i aktielno legislativa te, inter alia:
 - a. Te chhinavel thaj stopuil e diskriminacija kerdini upral olengoro disabiliteto vash sae formi kotar butikeribe, leindoj kate vi e kondicije bukjake, keribe buti, kariera thaj sasto butjakoro trujalipe;
 - b. Te protektirinel e hakaja e manushengo saven isi disabiliteti upral jekh baza javerencar, te del lachhe butjakere kondicije, leindoj kate e jekh shajipena te len love sar so lena vi e javera manusha vash kodi buti thaj sa so si phanglo olengere butjasar;
 - c. Te sigurinel kaj e manusha disabilitetoncar ka shaj te oven gende/membrura/ anobutjarnengere unije thaj sindikatija, sar so shaj te keren sa e javera;
 - d. Te del shajipe e manushenge disabilitetoncar te len efektivno aksesos/avipe/ dji pe generalno tehnikane programija, servisija thaj vi majodorig te mangle te phiren pe treningora;

- e. Te promovirinel shajipena vash arakhibe buti thaj karrera vash e manusha saven so isi disabiliteti ande butjako marketi thaj te del asistencija ko arakhibe buti;
 - f. Te promovirinel shajipena vash korkore te keren penge buti vaj bizniso, ja palem te keren kooperacija javerencar;
 - g. Te den buti manushenge saven so isi disabiliteti ko publikano sektoro;
 - h. Promovirinel arakhibe buti vash kodola manusha ande privatnikano sektoro trujal e adekvatno politike thaj aktivitetija, save so shaj andre te len vi afirmativno akcijakere programija;
 - i. Sigurinel pes kaje manushenge disabilitetoncar ka del pes lachhi akomodaaacija thaj trujalipe an lengo butjako than;
 - j. Te promovirinen e manushen savi aba isi varesavi eksperienca ano phutardino marketo butjako;
 - k. Te promovorinen vokacionalno thaj profesionalno rehabilitacija thaj programija vash e manusha saven so isi varesavo disabiliteti.
2. E Thema trubuj te sigurinen kaj e manusha disabilitetoncar naj te oven sklavuri/robura/ thaj ka oven protektirime sar sa e javera manusha kotar keribe buti zorasar.

Artiklo 28 – Adekvatno djivdipaskere standardija thaj socialno protektiribe

1. E Thema prindjarena o hakaj vash manusha disabilitetoncar vash adekvatno djivdipaskere standardija lenge thaj olengere familijenge, leindoj kate vi adekvatno haben, sheha, cohi thaj khera, shajipasari e manusha te lachharkeren pengere djivdipaskere kondicije thaj te dikhel kodo hakaj ma te ovel phagerdino vaj kerdini savi vi te ovel diskriminacija kerdini kodolekse sostar olen isi disabiliteto.
2. E Thema premdjarena vi o hakaj vash e manusha disabilitetosar pe socialno protektiribe thaj kod hakaj te len bizi varesavi diskriminacija vash lengoro disabiliteti, thaj te keren pes phundre vash promocija ko realiziribe kodole hakajesko, leindoj kate vi kodola aktiviteton:
 - a. Te sigurinel pes e manushenge disabilitetoncar aksesi/avipe/ dji pe vuzho paj pijbaske thaj javera servisija thaj asistencija relatirimi/phangli/ olengere disabilitetosar;
 - b. Te sigurinel pes avibe e manushengo disabilitetosar, specialno e djuvlenge thaj chhajenge disabilitetosar thaj phureder manushenge disabilitetosar, dji pe socialno protekcijakere programija thaj programija vash e chorolipaskoro harnjaripe;
 - c. Te sigurinel pes avibe/akseso/ lenge thaj lengere familijenge save djiven ano chorolipe, dji pe asistencija Themestar, leindoj kate vi treningura save so trubuj olen, finansijengiri asistencija thaj sama;
 - d. Te sigurinel pes kodole manushengo avipe/akseso/ dji pe publikane kherengere programija;
 - e. Te sigurinel pes jkeha-jekh avibe di pe sa e beneficije thaj prograija.

Artiklo 29 – Participirbe/lejbe than/ ko politikano thaj publikano djivdipe

E Thema trubuj te garantirinen e manushenge disabilitetoncar olengere politikane hakaja thaj e shajipena te len kodola hakaja sar sa e javera manusha thaj specialno te:

- a. Sigurinen kaj e manusha disabilitetosar shaj efektivno thaj lachhe te participirinel ande politikano thaj publikano djivdipe sar e javera, direktno vaj trujal olengere reprezentantura, leindoj kate o hakaj thaj o shajipe e manusha disabilitetosar te shaj te alusaren thaj te oven alusarde, inter alia, kodolesar so:
 - i: Sigurinel pes alusaribaskere procedure, materijalija save so von shaj te hacharen;
 - ii: Protektirinel pes o hakaj e manushengo disabilitetoncar te alusarel korkoro ande elekcije vaj publikane referendumija bizi te chhina vel pes lesko hakaj thaj te ovel olen shajipen te len sa e tehnologije thaj butja so shaj lokheder te anel olen vash jekh efektivno participacija;
 - iii: Garantirinel pes olenge slobodno eksperesija e manushengi sar elektorija thaj pe agor, kote so trubuj thaj kote so ka roden korkore e manusha disabilitetoncar;
- b. Promovirinen aktivno jekh trujalipe kote so e manusha disabilitetoncar shaj efektivno thaj sasto te participirinen ande sa e publikane butja, bizi diskriminacija thaj pe jekh funda sar e javera manusha, te motivirinel olengiri participacija leindoj kate vi:

- i: Participiribe ko na-gavernoskere organizacije thaj asocijacije save si aktivne ko publikano thaj politikano djivdipe ando them, sar vi ande aktivitetija thaj administracija ande politikane partije;
- ii: Te keren pengere vaj te oven membrura ko organizacije vash manusha saven so isi disabiliteti thaj te prezentirinen e manushen disabilitetosar pe internacionalno, nacionalno thaj lokalno nivelura.

Artiklo 30 – Participiribe an kulturako djivdipen, rekreacija thaj sporti

1. E Thema prindjarel vi e manushengo disabilitetoncar hakaj vash kodo te len than upral jekh baza sar e javera, ande kulturako djivdipen thaj khamela pes te kerel adekvatno aktivitetija te sigurinel kaj e manusha disabilitetoncar ka:
 - a. Shaj te aven dji ko kulturakere materijalija pe formato savo von hacharen;
 - b. Ovel olen aksesu dji pe televizijakere programija, filmi, teatro thaj ajvera kulturakere aktivitetija pe formato savo so ka hacharen;
 - c. Shaj te aven dji pe thana kote so ikerena pes e kulturakere aktivitetija, sar so si e tatrura, muzeumija, kino, thaj turistikane servisija, thaj kobor so shaj te shaj te aven dji pe hisotrikane monumentija saven isi bari importanca ki nacionalno kultura.
2. E Thema khamela pes te keren adekvatno aktivitetija te shaj e manusha disabilitetoncar te zuraren thaj buhljaren pengo kreativiteto, artistikano thaj intelektualno potencijali, na numa korkori peske, numa vi vash barvaleder kulturako them.
3. E Thema trubuj te keren adekvatno phundre, djaindoj pali internacionalno kanuni/zakono/ te sigurinen kodole manushengoro intelektualno barvalipe thaj ma te khuven pes diskriminacijakere barierencar.
4. E manusha disabilitetosar te shaj sar e javera manusha te zuraren pengoro kulturakoro thaj lingvistikakoro identiteti, leindoj kate i chhib vastencar thaj e kashuka kultura.
5. Te shaj e manusha disabilitetoncar te participirinen khetane e javera manushencar ande rekreacijakere thaj sporteskere aktivitetija, e Thema trubuj te keren adekvatno aktivitetija:

- a. Te motivirinen thaj te promovirinen kobor so shaj sasti participacija e manushenge disabilitetonca pe sa e sportikane aktivitetija pe sa e nivelura;
- b. Te sigurinen kaj e manushen disabilitetoncar ka ovel shajipe te organizirinen, zurakeren thaj te participirinen an specifikane olenge sporteskere thaj rekreacijakere aktivitetija, kodolesar so ka keren pengere treningoja thaj resorsija;
- c. Te sigurinel pes kaj e manushen save isi disabilitetija shaj te aven dji pe sporteskere, rekreacijakere khera;
- d. Te sigurinen kaj e chhaven disabilitetoncar ka ovel jekh aksesu sar e javera chhavoren te khelen, te rekreirinen pes thaj te keren pengere sportikane aktivitetija vi ande shkola/sikljovni/;
- e. Te sigurinen kaj e manusha disabilitetoncar shaj te aven dji pe servisija kodolendar save so organizirinen rekreacijakoro turizmo thaj sporteskere aktivitetija.

Artiklo 31 – Statistike thaj informacijengo khedipe

1. E Thema khamela pes te kheden informacije, leindoj kate vi e statistika te shaj te formulirinen thaj te implementirinen politike thaj te den efekto an kodi Konvencija. O procesi vash informacijengoro khedipe trubuj te:
 - a. Te djal pali e legalno procedura, leindoj kate vi e legisacija vash e informacijengoro protektiribe te sigurinel pes respekto thaj privatnipe e manushengo saven isi disabilitetija;
 - b. Djaindoj pali e internacionalno akceptuime norme te protektirinen pes e manushikane hakaja thaj e fundamentalno slobodije sar vi e etnikane principija kana khedena pes gasave informacije;
2. E informacije khedime djaindoj pali kodo artiklo trubuj te ovel disegregirimi thaj te lel pes te zhutil te implementirinel pes e Themeskiri obligacija teli kodi Konvencija thaj te identificirinen pes thaj te adresirinen pes e barriere saven arakhena e manusha disabilitetoncar.
3. E Themen trubuj te ovel responsibiliteto te den shajipe e manushenge kolen isi disabiliteto te shaj te aven dji pe kodola informacije.

Artiklo 32 – Internacionalno kooperacija

1. E Thema prendjarena i importanca kotar e internacionalno kooperacija thaj gasave kooperacijakoro promoviribe, cilosar e nacionalno zora vash realiziribe e cilon save si vakerdine an kodi Konvencija. Majodorig, te lel efektivno aktivitetija mashkar e Thema thaj ko partneriribe relevantno internacionalno organizacijencar, specifikane e organizacijencar vash e manusha disabilitetoncar. Gasave aktivitetija, shaj te len andre, inter alia:
 - a. Siguripe kaj i internacionalno kooperacija, leindoj kate vi e programon vash zuraripaskere programija, si phurtarde vash e manusha disabilitetoncar;
 - b. Te zhutil pes i fasilitacija thaj suportto ko kapacitetoskoro vazdipe, ulavipe informacijengo, eksperiencongong, trening programong thaj majlachhe praktikong;
 - c. Deindoj dumo pe gasavi kooperacija vi ande tehnikano djanibe thaj vigiani/nauka/;
 - d. Te del, kote so trubuj, tehnikani thaj ekonomikani asistencija, ulavipe tehnologijengo thaj e tehnologijengo transferi.
2. E provizije kotar kodo artiklo si bizi stereotipura pe obligacije e Themngi thaj si telal e obligacije kodola Konvencijaki.

Artiklo 33 – Nacionalno implementiribe thaj monitoringo

1. E Thema, djaindoj pali olengoro organizacijako sistemo, shaj te keren jekh vaj buteder fokalno punktija ano gaverno vash sa e butja phangle kodole Konvencijakere implementijasar thaj majodorig shaj te kerel koordinacijakere mehanizmura te kerel fasilitacija vash e akcije pe but sektorura thaj pe diferentno/javereder/ nivelura.
2. E Thema, djaindoj pali lengere legalne thaj administracijakere sistemija, shaj ano pengo them te keren nekobor independentno mehanizmura te promovirine, te protektirinen thaj te monitoririnen kadale Konvencijako implementiribe. Kana ka dizajnirinen pes gasave mehanizmura e Thema trubuj te ikeren ani godji e principura an e nacionalno sistemongoro funkcioniribe vash protektiribe thaj promoviribe pe manushikane hakaja.

3. O civilno them, specifikane e manusha disabilitetoncar thaj olengere reprezentativno organizacije, trubuj te oven involvirime thaj te len participacija ko monitiriribaskoro proces.

34. Artiklo 34 – Komiteto vash e Hakaja e Manushengo Disabilitetoncar

1. Trubuj te ovel keredino Komiteto vash e Hakaja e Manushengo Disabilitetoncar (majodorig ko teksto “Komiteti”) savo so ka lel sama vash sasto funkcioniribe.
2. An kodo Komiteto, djaindoj pali kodi Konvencija, trubuj te khuven desh thaj duj manusha – ekspertura. Pali e ratificiribe kodole Konvencijako, e manushengo numero an kodo Komiteto trubuj te bajrol vash shov javera thaj te avel pes dji pe maksimumo kotar desh thaj ohto manusha.
3. E manusha ano Komiteti trubuj te den pengo sasto personalno kapaciteto thaj trubuj te ovel olen uchho moralo/etika/ an kodi areja savi uchharela o Komiteto. Kana ka nominirinen pengere kandidatija e Thema si akhardi te den provizija ko artiklo 4.3 kadale Konvencijatar.
4. E manusha ano Komiteto trubuj te oven alusardine kotar e Thema, ikerindoj ani godji adekvatno geografikani distribucija, reprezentiribe kotar e javereder forme thaj principija katar e legalno sistemija, te ovel balansirimo gender reprezentacijasar thaj participacijasar katar ekspertura saven isi disabiliteto.
5. E manusha ano Komiteti trubuj te oven alusarde garavde alusaribasar katar e lista e manushengi nominiririmi katar e Thema so arakhline pes pali e Konferencija e Themengiri. Pe kodola khidipena, kote so duj kotar e trin kotora Themendar shaj te keren kvorumo, e manusha elektirime ko Komiteto trubuj te oven kodola save so resline majbaro numero kotar e vote thaj apsolutno butipe katar e reprezentantura Themendar save so alusaren.
6. O inicijalno alusaripe shaj te ikerel pes na dureder kotar e shov chhon pali o datumo kana i Konvencija ka lel zor. Majcera shtar chhona angleder kodo datumo vash alusaribe, o Generalno Sekretari ande Khetanutne Nacije trubuj te adresirinel lil dji pe Thema akharindoj te keren nominacija an avutne duj chhona. O Generalno Sekretari trubuj te kerel preparacija lista kotar sa e nominirime manusha, manushendar nominiririme e Themendar thaj trubuj te bichhavel e Themenge.

7. E manusha ano Komiteto trubuj te oven alusarde vash shtar bersh. Saj te oven vi jakhvar alusarde numa jekh drom. Sar te si, e majanglune shov manusha shaj te oven ano Komiteti numa duj bersh, pali e avguni elekcija. E manushengere anava shaj te oven alusarde kotar e Prezidento e Komitetosko, djaindoj pali o pragrafo 5 kodole artiklostar.
8. O alusaribe e shove manushengo ano Komiteti shaj te djaj pali regularno alusariba, sar so phenen e provizije kodole artiklostar.
9. Kana jekh manush katar o komiteti merel, vaj korkoro phenel kaj nashti majodorig te ovel membro, o Them savo so nominiringja akale manushes trubuj te del javeres save so isi kvalifikacije so rodona pes ano kodo artiklo te shaj te lel lesko than.
10. O Komiteto korkoro kerel peske lil sar te kerel e procedure.
11. O Generalno Sekretari ko Khetanutne Nacije trubuj te arakhel fasilitacija te shaj kodo Komiteto te kerel buti thaj akharela pe avgo khidipe.
12. Kana i Generalno Asambleja dikhel kaj si kerdino o Komiteto sar so phenel kodi Konvencija, e Khetanutne Nacije dela resursija vash leski buti thaj dela importanca ki Komitetoskiri buti.
13. E manusha Komitetostar shadj te len fasilitacije thaj imuniteto katar e Khetanutne Nacijengiri misija thaj vash kodo ani kodi Konvencija skrinisarela vash e Privilegije thaj Imuniteto ande Khetanutne Nacije.

Artiklo 35 – E Themengere reportija

1. Sako jekh Them pali o Generalno Sekretari ende Khetanutne Nacije, shaj te del reporto vash pengere aktivitetija thaj e efektija save si kerdine djaindoj pali kodi Konvencija thaj vi vash o progresi so si kerdino.
2. Djaindoj pali kodo, sako jekh Them trubuj te del reporti sakola shtar bersh thaj vi kana o Komiteti ka rodel e themestar.
3. O Komiteti trubuj te lel decizija vash kodo so ka ovel ano reporti.
4. O Them so aba dija inicijalno reporti dji ko Komiteti, ano pesko subsekvencio reporti trubuj vi jekhvar te phenel kodola informacije. Kana keren preparacija ko

reporti vash o Komiteti, e Thema si akhardine te keren pengo raporti ko jekh transparentno drom thaj te djaj pali o artiklo 4.3 phendino an kodi Konvencija.

5. E reportija shaj te phenen vi vash e faktorija thaj e pharipena save so kerdine phareder e obligacije so trubuj tekerel o them djaindoj pali kodi Konvencija.

Artiklo 36 – E reportengi konsideracija

1. Sako jekh reporti trubuj te ovel dikhlino kotar o Komiteti savo so shaj vi te del sugestije thaj generalno rekomandacije vash o reporti thaj pesko gindipe te bichhavel e themeske savo kerel kodo reporto. O Them trubuj palpale te del informacija thaj te bichhavel lil dji ko Komiteti. O Komiteti vi majodorig shaj te rodel Themestar informacije vash kodo sar implementirinela pes kodi Konvencija.
2. Te kerdinas o Them submisija e reporteskoru, o Komiteti shaj te phenel e Themске kaj trubuj vi majodorig te djaj pali implementacija e Konvencijako an pesko Them thaj upral e informacija Komitetostar trubuj vash trin chhona te bichhavel pes vi jekhvar o reporto. O Komiteti shaj te akharel e Themn te participirinela pe gasavi jekh egzaminacija. Te na kerdijas kodo o Them, ka djaj pes trujale paragrafo 1 thaj e provizije so ikljona lestar.
3. O Generalno Sekretari ko Khetanutne Nacije shaj te bichhavel e reportira pe sa e javera Thema.
4. E Thema shaj pengere reporton te del phutardes dji pe buhleder publikumo thaj te lel sugestije vash e generalno rekomandacije phangle kodole reportesar.
5. O Komiteti shaj te prebichhavel o reporti thaj dji pe specijalizirime agencije, te arakhljas kaj trubuj te kerel kodo, dji pe fondija thaj programija ande Khetanutne Nacije thaj javera kompetentno grupe, te trubujas te lel majodortne tehnikane sugestije thaj asistencija, pali e Komitetoskiri obzervacija thaj rekomandacije.

Artiklo 37 – Kooperacija mashkar e Thema thaj o Komiteti

1. Sako jekh Them trubuj te kerel kooperacija e Komitetosar thaj te del asistencija te phergjon olengo mandato.
2. Ki relacija e Themencar, o Komiteti shaj te del gindipe vash o drama sar te dopherel pes o nacionalno kapaciteti

vash implementiribe kodle Konvencijaki, leindoj kate vi e internacionalno kooperacija.

Artiklo 38 – E Komitetoskere relacije javere butjake gruponcar

Cilosar te avel pes dji ki efektivno implementiribe katar kodi Konvencija thaj te motivirinel pes internacionalno kooperacija te shaj te uchharel pes kodi Konvencija:

- a. E specijalizirime agencije thaj e javera Khetanutne Nacijengere organija shaj te oven reprezentirime thaj te len konsideracija vash e implementiribe katar e provizije so ikljona kodole Konvencijatar, so si vi olengo mandato. O Komiteto shaj te akharel e specijalizirime agencijen thaj e javeren kompetentno grupon thaj olendar te lel ekspertsko gindipe vash e Konvencijaki implementacija ande kodola areje/sfere/ kote so isi ole mandato.
- b. O Komiteto an pesko mandato, shaj te konsultirinel, kote so trubuj, vi javere relevantngo organon save ker-en buti teli internacionalno manushikane hakajengere phangle vorbi, te shaj te sigurinel reportesko legaripasko lil, sugestije thaj rekomandacije, te shaj ma te kerel dupliribe an peskiri funkcija.

Artiklo 39 – E Komitetoskoro reporti

O Komiteto trubuj te kerel reporti sako duj bersh thaj te del ki Generalno Asambleja thaj ko Ekonikano thaj So-cijalno Konsili vash peskere aktivitetija, thaj shaj te kerel sugestije thaj generalno rekomandacije bazirime upral e reportija thaj informacije so resljas kotar e Thema. Gasave sugestije thaj generalno rekomandacije shaj te khuven andre ano Komitetoskoro reporti khetane e komentarencar, te si gasave, kotar e Thema.

Artiklo 40 – E Themengi Konferencija

1. E Thema shaj regularno te arakhen pes ki Themengiri Konferencija thaj te diskutirinen sa so si phanglo akale Konvencijakere implementiribasar.
2. Na buteder kotar shov chhona pali kodo kana kodi Konvencija ka khuvel ani zor, e Themengi Konferencija trubuj te kerdini kotar o Generalno Sekretari ko Khetanutne

Nacije. Kodo khidipe trubuj te ovel kerdino kotar e Generalno sekretari thaj e Khetanutne Nacije, vaj pali i decizija kerdini ani Themengiri Konferencija.

Artiklo 41 – Depozitori

O Generalno Sekretari ko Khetanutne Nacije trubuj te ovel depozitori vash kodi Konvencija.

Artiklo 42 – Somnatura

Kodi Konvencija trubuj te ovel phutardini vash somnatura kotar e Thema thaj kotar e regionalno integracijakere organizacije ko Khetanutne Nacije ano New York asatrindoj katar 30-to mart 2007 bersh.

Artiklo 43 – Butja save si obligatorno

Kodi Konvencija trubuj te ovel subjekto vash ratificiribe kotar e Thema so kerena somnatura thaj konfirmacija kotar e regionalno integracijakere organizacije. Trubuj te ovel phutardini vash aksesija kotar savo te ovel Them vaj regionalno organizacija savi so dji akakna kerdas somnatura pe kodi Konvencija.

Artiklo 44 – Regionalno integracijakere organizacije

1. „Regionalno integracijakiri organizacija,, si gasavi jekh organizacija savi si kerdini kotar o Them pe varesavo themeskoro regiono. Kodole organizacijake o Them dijas e kompetencije save so rodene pes kotar kodi Konvencija. Gasavi jekh organizacija trubuj te deklaririnel, an peskere instrumentura konfirmacija vash kodi aksesija thaj voja kaj ka djaj pali i Konvencija. E theme trubuj te informirinel te kerdjas varesavi modifikacija an peskere kompetencije.
2. I referenca “Thema” an kodi Konvencija si vash gasave organizacije save si limitirime peskere kompetencijencar.
3. Djaindoj pali o artiklo 45, paragrafo 1, thaj artiklo 47, paragrafija 2 thaj 3, savo vi te ovel instrumento depozirimo kotar e regionalno integracijakiri organizacija, naj te genel pes.

4. I Regionalno integracijakiri organizacija, telal olakere kompetencije, shaj te lel peskoro hakaj te alusarel ani Konferencija e Themengiri, odoborom votencar, kobor so isi ola manusha ande Thema thaj si teli kodi Konvencija. Gasavo alusaribe organizacijatar shaj te kerel vaj na, athinel kotar kodo, lije vaj na, olakere membrura Thema kodo hakaj.

Artiklo 45 – Kana khuvela ki zor

1. Kodi Konvencija ka khuvel ki zor pali trijandato dives kotar kodo dive kana kerela pes i depozicija kotar e bishto instrumento ratifikacijatar vaj aksesijatar.
2. Vash sako jekh Them vaj regionalno integracijakiri organizacija ratificirinela pes, kodolesar so konfirmirinela pes kodi Konvencija pali o depozito katar o bishto instrumento, pali so kodi Konvencija khuvela ki zor po trandato dives.

Artiklo 46 – Rezerviribe

1. Rezerviribe savo si inkompatibilno ciloncar katar kodi Konvencija, nashti te kerel pes.
2. O rezerviribe shaj te kerel pes pe savi vi te ovel vrama.

Artiklo 47 – Amandmanija

1. Sako jekh Them shaj te del propozalo vash varesavo amandmano vash kodi Konvencija thaj te bichhavel kodo amandmano dji pe Generalno Sekretaro ko Khetanutne Nacije. O Generalno Sekretari trubuj kodo amandmano te komunikirinela ani Themengi konferencija thaj pe kodi konferencija lela pes decizija vash kodo propozalo thaj amandmano. Pali kodi komunikacija savi so shaj te dja shtar chhona pali i konferencija thaj pali kodo kana majcera jekh kotar trin kotora e Themengere numerostar ka alusaren, o Generalno

Sekretari shaj kodo te del majodorig dji ko Khetanutne Nacije. Savo vi te ovel amandmano trubuj te alusarel pes duje kotorendar, katar e trin Themengere numerostar thaj kodo alusaribe trubuj te del pes dji pe Generalno Sekretari thaj dji pe Generalno Asambleja te shaj te konfirmirinela pes kodi akceptacija katar e Thema.

2. Amandmano savo si adoptuimo/lendino/ djaindoj pali o paragrafo 1 kodole artiklostar trubuj te khuvel ki zor pe trandato dive pali o instrumentongoro numero vash depoziteskiri akceptacija thaj pali alusaribe kotar e mazhoriteta kotar e Thema. Pali kodo, kodo amandmano shaj te khuvel ki zor pe Thema save so akceptirinde kodo amandmano, pali trijandato dive.
3. Te lijas pes decizija ki Themengiri Konferencija konsenzusesar, o amandmani savo si adoptuimo/lendino/ djaindoj pali o paragrafi 1 kodole artiklostar savo si pashe phanglo e artikloncar 34, 38, 39 thaj 40 shaj te khuvel ki zor kotar sa e Thema pe trandato dives pali i adoptacija so ka keren e Thema vash kodo amandmano.

Artiklo 48 - Phutardino krisaribe

O Them shaj te krisarel kodi konvencija skrinasrde informiribasa dji ko Generalno Sekretari ko Khetanutne Nacije. O krisaribe/kritika/ ka ovel efektívno vaj ka khuvel ki zor jekh bersh pali kodo kana o Generalno Sekretari ka le o skrinisardo lil.

Artiklo 49 – Formati e tekstosko

O teksti kodole Konvencijako trubuj te ovel gasavo te shaj te arakhel pes ko sa e komunikacijakere formatija.

Artiklo 50 – Avtentikane tekstija

I arabikani, kitajsko, anglikani, francikani, rusko thaj espaniakiri verzija e Konvencijaki ka oven avtentikane sar e javera.

Chronicles

ERRC CAMPAIGNING, CONFERENCES, MEETINGS AND TRAININGS

- 9 JULY:** Provided expert input at a seminar on Roma and the right to freedom of movement and residence in the EU: Strasbourg, France.
- 6-13 SEPTEMBER:** Hosted a training workshop for Romani activists and university students entitled “Capacity Building for Roma Rights Advocacy”: Antalya, Turkey.
- 17-18 SEPTEMBER:** Delivered an opening address at the 17th International Steering Committee of the Decade of Roma Inclusion: Spisska Nova Ves, Slovakia.
- 24 SEPTEMBER:** Awarded the Peter and Patricia Gruber Foundation Justice Prize at a ceremony at Samford University’s Cumberland School of Law: Alabama, Unites States.
- 25 SEPTEMBER:** Conducted a grassroots human rights training session: Odessa, Ukraine.
- 28 SEPTEMBER:** Attended the second meeting of the European Platform for Roma Inclusion organised by the Swedish Presidency of the Council of the European Union and the European Commission: Brussels, Belgium.
- 28 SEPTEMBER:** Attended the Informal Contact Group of international organisations and civil society on Roma issues, organised by the Swedish Presidency of the Council of the European Union and the European Commission: Brussels, Belgium.
- OCTOBER – NOVEMBER:** Conducted country-based consultation meetings with Romani NGOs: Bulgaria, Macedonia and Serbia.
- 6-10 OCTOBER:** Conducted field research in project on housing rights supported by the UN Democracy Fund: Bosnia and Herzegovina.
- 7 OCTOBER:** Made oral interventions and co-hosted a side event on violence against Roma at the OSCE Human Dimension Implementation Meeting: Warsaw, Poland.
- 8 OCTOBER:** Participated in a coordination meeting on combating trafficking in human beings organised by the Hungarian Ministry of Justice and Law Enforcement: Budapest, Hungary.
- 12 OCTOBER:** Hosted a meeting of the Council of Europe’s Human Rights Commissioner and Hungarian NGOs: Budapest, Hungary.
- 12-13 OCTOBER:** Attended the High Level Conference on the Security Situation of Roma in Europe, organised by the European Roma and Travellers Forum and the Committee for Human Rights, Cults and National Minorities Issues of the Romanian Parliament: Bucharest, Romania.
- 15-16 OCTOBER:** Attended the Operational Networking and Co-operation and Joint Multidisciplinary Training Process for Judicial, Law Enforcement, NGOs and International Organisations Specialists in Fighting Trafficking in Human Beings (NETWORK III): Budapest, Hungary.
- 19 OCTOBER:** Co-organised a conference with the European Union Agency of Fundamental Rights to launch the report, “Housing conditions of Roma and Travellers in the European Union”: Brussels, Belgium.
- 21 OCTOBER:** Made a presentation at a conference organised by the Peace Institute entitled “Multiple Discrimination and Intersection: Experience and Opportunities”: Ljubljana, Slovenia.
- 3 NOVEMBER:** Participated in roundtable with NGOs and local government officials: Milan, Italy.
- 5-6 NOVEMBER:** Conducted a human rights training workshop for Romani researchers on housing rights documentation and reporting: Budapest, Hungary.
- 5-6 NOVEMBER:** Participated in PILI European Pro Bono Forum: Budapest, Hungary.
- 9-10 NOVEMBER:** Participated in the joint FRA/OSCE/COE conference on Roma Migration and Freedom of Movement, launching the study “The situation of Roma EU citizens moving to and settling in other EU Member States”: Vienna, Austria.
- 10 NOVEMBER:** Hosted a meeting of the Finnish Ombudsman for Minorities, the Finnish Embassy in Budapest and the Hungarian Minorities Ombudsman’s Office: Budapest, Hungary.

- 11 NOVEMBER:** Participated in an expert meeting on legal and institutional conditions for combating prostitution and trafficking for the purpose of sexual exploitation: Budapest, Hungary.
- 12-13 NOVEMBER:** Participated in the UN Minority Forum on minorities and effective political participation: Geneva, Switzerland.
- 13-17 NOVEMBER:** Conducted field research within a project on housing rights supported by the UN Democracy Fund: Niksic and Podgorica, Montenegro.
- 23 NOVEMBER:** Hosted a consultation of the ERRC Women's Rights Strategy with gender experts: Budapest, Hungary.
- 24 NOVEMBER:** Convened a meeting of the ERRC Board of Directors: Budapest, Hungary.
- 25 NOVEMBER:** Hosted a business breakfast with international journalists based in Budapest and briefed them on Roma rights issues: Budapest, Hungary.
- 2 DECEMBER:** Participated in a coordination meeting on combating trafficking in human beings organised by the Hungarian Ministry of Justice and Law Enforcement: Budapest, Hungary.
- 4 DECEMBER:** Met with European Commission representatives to discuss the study "Activities to Improve the Impact of Policies, Programmes and Projects Aimed at the Social Inclusion and Non-Discrimination of Roma People in the EU": Brussels, Belgium.
- 4 DECEMBER:** Took part in the Council of Europe's televised programme, The Roma 'Viewpoint', released in January 2010 (<http://www.youtube.com/user/CouncilofEurope>): Strasbourg, France.
- 10-DECEMBER:** Attended the annual Fundamental Rights Conference, organised by the EU Fundamental Rights Agency (FRA) and the Swedish Presidency of the EU: Stockholm, Sweden.
- 14-18 DECEMBER:** Conducted field research within a European Commission study on the situation of Roma in Turkey, co-implemented with the Fundación Secretariado Gitano (FSG) and the Edirne Roma Association (EDROM): Antakya, Turkey.

EUROPEAN ROMA RIGHTS CENTRE

The European Roma Rights Centre (ERRC) is an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma. The approach of the ERRC involves strategic litigation, international advocacy, research and policy development and training of Romani activists. The ERRC has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations.

The ERRC has been the recipient of numerous awards for its efforts to advance human rights respect of Roma: in 2010, the Silver Rose Award of SOLIDAR; in 2009, the Justice Prize of the Peter and Patricia Gruber Foundation; in 2007, the Max van der Stoep award given by the High Commissioner on National Minorities and the Dutch Foreign Ministry; and in 2001, the Geuzenpenning award (the Geuzen medal of honour) by Her Royal Highness Princess Margriet of the Netherlands.

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The ERRC was founded by Mr Ferenc Koszeg.

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CHALLENGING DISCRIMINATION PROMOTING EQUALITY