CITIZENSHIP RIGHTS, VOTING RIGHTS, MIGRATION AND MOBILITY

From the multi-dimensional to the personal: approaching intersectional discrimination against Roma women

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Associacions de dones gitanes de Madrid entreguen la seva bandera a la delegada de Polítiques de Gènere i Diversitat, Celia Mayer, el 24 de maig de 2018, en la commemoració del Dia de les gitanes i els gitanos de Madrid. Fotografia: Diario de Madrid/CC BY 4.0

The North American author Kimberlé Crenshaw was the first person to introduce the concept of intersectionality through her legal studies and the paper she wrote in 1989 on black feminism. Prior to this, many Chicana and Afro-descendent women who were active in anti-racist, anti-colonialist and feminist movements had expressed their unease due to the two-fold oppression which they were suffering, for their ethnic origin and status as women, both with respect to the majority – or privileged – population, as well as at the heart of the movements themselves. We would like to take this opportunity to recognise the efforts of women who have played a vital role in the fight against racism and sexism, without

intending to provide an exhaustive list. Here are the names of some of these women: Maria Stewart, Sojourner Truth, Anna Nieto Gómez, Cherríe Moraga, Gloria Anzaldúa, Angela Davis, bell hooks, Gloria T. Hull, Patricia Bell Scott, Kum-Kum Bhavnani and Margaret Coulson.

The concept of intersectional discrimination [1]

However, as previously mentioned, we owe the theoretical and academic recognition of this concept to the law professor Kimberlé Crenshaw. Although she initially used this concept to define the different ways in which race and gender interact to shape the experiences of North American black women in the labour market, she has gradually employed it more broadly over the years, regarding many discriminatory situations. Out of all the definitions of this term, we chose to use the following one, mentioned during an interview conducted in 2017 to mark the 20th anniversary of the founding of the African American Policy Forum (AAPF):

"Intersectionality is a lens through which you can see where power comes and collides, where it interlocks and intersects. It's not simply that there's a race problem here, a gender problem here, and a class or LBGTQ problem there. Many times that framework erases what happens to people who are subject to all of these things."

The issue of intersectional discrimination has also been discussed by Roma authors engaged in the fight against anti-Gypsism and sexism, such as Angéla Kóczé, Nicoleta Bitu and Ethel Brooks. Kóczé, a professor at the Central European University, describes the unique circumstances typically faced by Roma women in Europe as follows (Jovanović, Kóczé y Balogh, 2015, p.23):

"Roma women are exposed to multi-dimensional inequalities, which silence and weaken them. There are undoubtedly many differences between Romani women. However, several worrying general tendencies can be identified […]. In some European countries, the majority of Roma women fail to complete secondary education. Across Europe, only a small minority manage to pursue higher education (secondary education, bachelor's degree or post-graduate studies). When they manage to find work, Romani women are often restricted to jobs in the bottom end of the labour market. Their sexual and reproductive lives are threatened by the violence inflicted upon them by public officials and medical service providers, among others, and, sometimes, by their own families and communities. The combined effects of racism, sexism and poverty that shape the social environment surrounding many Roma women prevent them from taking a stand against internal gender oppression so that they do not suffer personally and fuel further stigmatisation from their own families and communities."

Following the tenets of the theoretical and academic recognition of this concept, many international and European organisations specialised in protecting human rights have been coining the term 'intersectional' or 'multiple' discrimination over the past few years [2]. On various occasions, the United Nations Committee on the Elimination of Racial

Discrimination (CERD) has mentioned the fact that both racism and anti-Gypsism affect women in different ways. This phenomenon of intersectionality, of how sexism affects racial and ethnic minority women, has also received the specific attention of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), which, in 2010, stated that "Intersectionality is a basic concept for understanding the scope of the general obligations of States […]. The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or beliefs, health, status, age, class, caste, and sexual orientation and gender identity". The European Court of Human Rights has also explored the issue of multiple and intersectional discrimination in several of its judgements (see the judgements of the ECHR in the cases Beauty Solomon v. Spain or Carvalho Pinto de Sousa Morais v. Portugal).

> In the case of Roma women, the patriarchal system, historical anti-Gypsism, poverty, and in some cases their immigration status, interact and coalesce

By focusing specifically on intersectionality, we have been addressing the specific plight of Roma women for several years at the Gypsy Secretariat Foundation (FSG), in order to respond more effectively to the various forms of discrimination that they face and to adapt the support that we provide to the reality of their situation, in which historical anti-Gypsism and the patriarchal system (and, most often, poverty, and, in the case of Romanian gypsies, their immigration status) interact and coalesce. We have been doing this since 2016, more specifically through the Calí Programme for the Equality of Roma Women (*Programa Calí, por la Igualdad de las Mujeres Gitanas* in Spanish), with the support of the 30 or so equality technicians present across Spain.

To better understand the reality of these situations and the human impact of the intersectional discrimination from which they suffer, we will now provide several real examples of situations faced by Roma women with whom we work at the FSG [3].

Intersectionality at play in situations faced by Roma women

The case of a young Roma woman who was wrongly convicted of theft in a shopping centre in Madrid

The first example is of a young Roma woman who visited Carrefour with her baby and her sister-in-law. As she was leaving the store, she was stopped by the security guard, who was convinced that the toy her baby was holding, and which cost €6.90, had been stolen. The young woman assured the guard that she had not even visited the toy section in Carrefour on that day and that that particular toy had been given to her baby as a present during the opening of a toyshop several days earlier. However, the young woman heard the guard say to his colleague: "They're Gypsies, of course they've stolen it."

Although the young woman pleaded her innocence, the guard kept her and her baby in the security office, in the cold, for over an hour and a half, not even allowing her to feed her baby or change its diaper until the police arrived. When the police officers arrived, they filed a complaint based solely on the guard's testimony. They did not consider the young woman's account of the situation, who asked them to look at the security cameras in order to prove that she had not even visited the toy section. She left the shop with a complaint which ordered her to face a speedy trial for theft.

The speedy trial took place the following day, during which the young woman asked the judge to call the sales assistant at the toyshop to stand as a witness and asked everyone to take a look at the security cameras. However, the judge refused to grant her this request, violating her right to a fair trial. Based on the security guard's testimony – the only form of evidence provided – the young woman was ordered to pay a fine of €26 for theft, which also led to her receiving a criminal record.

We at the FSG valued this case as a form of strategic litigation, and in order to represent this young woman we lodged an appeal before the Madrid Provincial Court, which was regrettably dropped. We will therefore continue to pursue this case, taking it to European and international institutions if necessary, so as to achieve effective redress for this violation of human rights, which should account for the intersectional nature of the discrimination and harm caused.

This case represents a clear example of intersectional discrimination, in which ethnic origin, gender, age, motherhood and the young Roma woman's social class have coalesced. This case occurred because the stereotype that Roma people steal from supermarkets and shops is more marked against Roma women than Roma men. Likewise, given her circumstances, the time that she and her baby spent detained by the security guard had a much greater impact on her than the situation would have had otherwise. We are also convinced that her young age and social status, coupled with her ethnic origin and gender, determined the treatment that she received from the judge and the prosecutor during the trial, during which she had barely been given the opportunity to speak, as well as from the Madrid Provincial Court itself, which confirmed the sentence in spite of the irregularity-ridden judicial process.

The case of a Romanian Gypsy who was refused the right to report a theft

In May 2020, a young Romanian Gypsy woman went to a police station in Barcelona to file a complaint, having been a victim of theft. On this very day, her bag had been stolen from inside her vehicle, which contained various belongings, including electronic purse receipts, health cards, a social services card and two mobile phones.

The women visited a *Mossos d'Esquadra* (Catalan Autonomous Police) station, where she was twice denied the opportunity to file a complaint by officers, who claimed that they first needed to prove her ownership of the two mobile phones by checking the receipts. Despite

being the victim of a crime, and thus wanting to exercise her right to file a complaint at a police station as would any other person, she ended up being deemed a suspect. This being the year 2020 and in a country such as Spain, it is difficult to imagine someone needing to prove their ownership of an object before being allowed to lodge a complaint, even when strong xenophobic prejudice and anti-Gypsy stereotypes are involved as was the case here.

The young woman was therefore denied the right to information as well as the right to lodge a complaint and to receive fair treatment without facing any form of discrimination, which constitute fundamental rights for all people. For this reason, we at the FSG lodged a complaint with the *Síndic de Greuges* (Catalan Ombudsman), which launched an investigation. This investigation concluded that the young woman was treated inappropriately, urging chiefs at this station to improve the training provided to the officers who attended to the young Romanian Gypsy in this way.

In this case, an act of discrimination took place in which ethnic origin, nationality, the woman's status as a female immigrant and her belonging to a highly stigmatised neighbourhood in the province of Barcelona intersected.

Cases of forced sterilisation of Romani/Roma women in Europe

Reproductive rights are a part of the international basic human rights principles. These include the right to life, physical integrity, health services, not to be subjected to torture, liberty and security of the person, a private and family life, to decide freely on the number and spacing of one's children, freedom of expression, to receive and impart information, to marry and found a family, and education, which are all guaranteed by various international covenants and conventions. One of the most serious breaches and violations of human rights against women is the practice of coercive sterilisation. This practice has been carried out specifically on Roma women across Europe [4], representing one of the most violent examples of intersectional discrimination.

We sadly discovered a while ago that one of our participants suffered from a human rights violation. This particular participant was a Romanian Gypsy woman who asked us at the FSG to accompany her when she consulted reproductive health services, given her inability to express herself due to the language barrier. This woman wanted more children and had been trying for more babies for many years. She therefore wanted to know if she was suffering from a medical condition that prevented her from getting pregnant, and if that were the case, to begin treatment for it.

> One of the most violent examples of intersectional discrimination is coercive sterilization, a practice carried out specifically on Roma women across Europe

Following many deep medical examinations, it was found that she had been sterilised the last time that she gave birth in Romania. For her, this discovery was absolutely devastating.

When we delved deeper into this story with her, she told us that she remembered being asked a question that she did not understand very well at the time, but that these people had explained that they were going to operate on her for the good of her reproductive health, and that she gave her consent for the procedure to go ahead. At no point did they explain that they were going to carry out a sterilisation and that she would not be able to have more children in the future. She assured us that she would never have consented to this practice had she been aware of the consequences.

In this case, various vulnerability factors intersected once again: gender, ethnicity, social class and socio-educational status. This case represents a very serious act of discrimination exacerbated by the victim's lack of awareness of her rights and her highly vulnerable profile.

Conclusions: how institutions should approach intersectionality

As we discussed in the introduction, the approach towards intersectionality requires a multi-dimensional perspective, ensuring an effective response to the discrimination and inequities faced by Roma women due to their ethnic origin and gender, and as a result of other potential factors such as their socio-economic status, immigration status and health situation, among others. This institutional response should be based on the experiences of women and should follow the guidelines set out by international human rights organisations, with the CEDAW doubtlessly being the body that has most explored this issue.

In fact, in the words of this committee, "States parties must legally recognize such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them. They also need to adopt and pursue policies and programmes designed to eliminate such occurrences, including, where appropriate, temporary special measures" ensuring a positive impact (General Recommendation 28, par. 18).

Delving deeper into this issue, the CEDAW recently developed its opinion on State obligations regarding intersectional discrimination in a judgement issued against North Macedonia (S.N. i E.R. against North Macedonia, Decision of the CEDAW of 24 February 2020 [CEDAW/C/75/D/107/2016]). In a case involving the forced eviction of adolescent Roma women, who were pregnant and had no access to any form of health coverage, and the demolition of all the dwellings found in a particular settlement (without respecting any legal guarantee), the CEDAW condemned the North Macedonian State for intersectional discrimination based on the gender, ethnic origin, age and health condition of these young women. Despite these personal circumstances, the North Macedonian State, in this case, was deemed to have treated the young women equally to other residents of this settlement, claiming that the principle of non-discrimination "does not only involve treating people

equally when they find themselves in similar situations, but also involves treating them differently when they find themselves in different situations."

The authorities are ultimately obligated to adapt their policies and legislative measures to the specific circumstances of different people, adopting a multidimensional approach in the process, because if they treat different things equally, if they tackle different forms of discrimination and inequities separately, they will not properly guarantee access to rights. Policies promoting gender equality should not ignore the ethnic component, in the same way that anti-racist policies should not overlook gender. Both of these types of policies should also be pursued within the framework of the fight against poverty and the promotion of equal opportunities.

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The upcoming comprehensive equality of treatment law (*Ley integral de igualdad de trato* in Spanish), which we hope will soon be processed and approved, should therefore incorporate this intersectional approach in order to respond appropriately to specific forms of discrimination faced by Roma women. Moreover, all the political and regulatory initiatives related to discrimination and hate crimes should also take into account, with regard to redress for the harm caused by intersectional discrimination, the fact that the violation of rights usually has a greater impact when various factors coalesce (and all the aforementioned examples illustrate this point extremely well). It is only in this way that we will manage to have a real positive impact on the lives of Roma women.

REFERENCES

1 — Per a una definició conceptual més àmplia de la discriminació interseccional, vegeu Fundació Secretariat Gitano (2018), *Guía sobre Discriminación Interseccional. El caso de las Mujeres Gitanas* (redacció i coordinació de Tania Sordo Ruz, amb qui tant hem après sobre interseccionalitat). Disponible en línia.

2 — Existeix un ampli debat sobre quin terme és més apropiat: "discriminació interseccional", "discriminació múltiple" o, fins i tot en alguns textos de la Comissió Europea, "discriminació d'addició". Nosaltres preferim utilitzar el terme d'interseccionalitat perquè en tots els casos de discriminació en els quals hem vist que es dona aquest fenomen, en la nostra experiència d'assistència a víctimes, veiem clar que la situació es deu a la intersecció (que no suma) del gènere i de l'origen ètnic (o d'altres elements, com la classe social); per tant, si eliminéssim un d'aquests factors, la situació discriminatòria no es donaria o seria diferent. Ara bé: més que l'ús d'un o un altre concepte, li donem importància a la necessitat que les autoritats i tots els agents claus en la lluita contra el racisme, el masclisme, la pobresa i altres formes de desigualtat siguin capaços d'adaptar la seva resposta a les realitats que afecten les diferents persones, en els termes d'allò que expliquem en aquest article.

3 — Per a més detalls sobre els casos de discriminació i antigitanisme que atenem a la Fundació Secretariat Gitano (FSG), es poden consultar els nostres informes anuals de “Discriminació i Comunitat Gitana”, disponibles en línia.

4 — En efecte, aquestes pràctiques han continuat vigents fins fa pocs anys en països com Alemanya, Suècia, Suïssa, Noruega, Eslovàquia, República Txeca, Romania, Hongria o Bulgària. Per a més informació, consulteu l’article “Historia de las gitanas” de l’aula de joves de al web de l’*Skola Feminista Romani*. També resulta molt esclaridor aquest informe de l’*European Roma Rights Centre.*



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