



Gender and Structural Inequalities from a Socio-Legal Perspective

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Abstract

This chapter critically analyses different socio-legal phenomena through a feminist prism on gender. With an aim to promote gender equality, it addresses the problems of structural gender inequalities in both private and public social spheres. Outlining the political, economic and ideological connection between laws and specific social contexts, it uncovers (hidden) effects of social reproduction and construction of gender and sexuality. Deconstructing the gender binary system and provoking a heterosexual matrix, it shows how traditional, patriarchal gender roles determine and establish the social position in the structure of society. Dealing with the gender (in)sensitive education, production, and reinforcement of gender inequalities in the labour market, and media (re)presentation of gender and symbolic violence, it shows how widely accepted values and gender roles shape, and ultimately define, the access to social resources, professional positions and social status. Limiting research to only some areas of this broad socio-legal thematic, this chapter addresses some policies for overcoming structural inequalities based on gender.

4.1 Introduction

This chapter aims to address and contribute to the understanding of some key concepts and contexts, explaining the implications and causal factors of gender inequality. In this sense, this chapter hopes to contribute to a better understanding of the specific legal chapters that will be presented hereafter. It will discuss

institutionalised gender inequalities within the educational systems, labour market, politics, and media, among others. These main concepts and topics on gender and their implications in everyday life, will shed light on how gender inequalities operate. In turn, it will lead to a better comprehension of the structural gender determinants of law, and their application in the law disciplines throughout the subsequent chapters.

The key concepts and points that will be covered in this chapter are: social reproduction of gender and sexuality; gendered power relations in law and society; gender regimes of inequality; structural inequalities; gender socialization; gender segregation; gender representation; hegemonic masculinity; rape culture; structural violence, and global patriarchal legacies.

Learning Goals

- The first learning objective of this chapter is to address feminists' critical analysis of the gender binary system to convey how gender binary understanding, and the patriarchal nature of society and law affect gendered social relations and a variety of diverse genders and sexualities within social structures; family, education, labour market, media and the political sphere. Despite legal recognition, social norms tend to exclude social practices related to gender and sexuality. Thus, this chapter critically analyses how gender relations and sexual stereotypes, together with gender roles, determine and shape the fundamental constituent structures of society.
- The second learning objective of this chapter is to reflect on the poststructuralist way of understanding power; that power is widely dispersed and operates discursively. Feminists' approaches to socio-legal studies have been concerned to highlight and challenge the implications of gendered power relations in law and society. Hence, the chapter deals with structural inequalities embedded in private and public spaces. These result in lesser life opportunities for women, and other traditionally subordinated identities, at the micro, meso and macro levels of the fundamental constituent structures of society.
- The third objective of this chapter is to learn about the ways feminist sociolegal scholars have problematised the exercise of structural violence against women, and other subaltern identities, through an intersectional perspective within law and society. Structural inequalities within gender systems generate multiple forms of structural violence at different levels of society in various facets of their lives. Such inequalities ultimately shape people's lives in private and public spheres, online- and offline. This chapter discusses gender analysis of structural inequalities in organizations, focusing on legal and economic systems, health, labour market, media and political representation.

4.2 Feminist Socio-Legal Perspectives on Gender

This part of the chapter introduces feminist critical views on gender, and gender relations, from a socio-legal perspective. The section starts with explaining feminist understandings of sex and gender within the process of social reproduction. Then, it reflects on the construction of gender at interplay with law and society. Moreover, it problematises the heteronormative nature of the law and focuses on the constitution of laws in relation to gender and sexuality, drawing on same- sex relations and trans identity. The second section discusses the power and politics of gender through examining gender regimes and gender equality policies; emphasising the politics of recognition within law and society. The third section deals with an intersectional approach to legal protection that involves gender identity, sexual orientation, age, dis (ability) and poverty.

4.2.1 Social Reproduction and Construction of Gender and Sexuality

Social reproduction refers to a process by which a social system reproduces itself. It is a complex network of social processes and human relations that produce the conditions of existence for people under a capitalist society. Organisation of care, sexuality and gender roles are central to social reproduction which are affected by family, market, community, and the state. Critical to gender essentialism and natural attitude towards gender, feminist theories were developed in the mid twentieth century arguing that gender is a social construction as opposed to sex that is biology. However, influenced by poststructuralism in the 1990s, feminists deconstructed the distinction between sex and gender, arguing that gender is a produce of social discourse.¹ Thus, social gender differences are not caused only by bodily differences. Based on this notion, sexuality is not a direct expression of gender, as such a perspective ignores variations within female and male sexuality. The relationship between gender and sexuality is complex, dynamic and fluid. It is therefore specific to certain localities and historical periods.²

4.2.1.1 Gender Binary System of Law and Its Transformations

“Gender binary system” refers to a social system that assigns gender to people based on dichotomies of male and female sexes. “Law as a social system of society is based on the binary code of male and female, lawful/unlawful, and consists of “institutionalization of normative expectations”, which are in fact legal rules.”³ Gender social normativity laws have social preconditions which affect society. At the same time, interactions among socio-cultural practices within a legal system create what Eugen

¹Butler (1990).

²Richardson (2007), pp. 457–474.

³Rottleuthner (1989), p. 275.

Ehrlich calls 'living law'. This means that law is a product of society, including non-state actors, which can have authority if they are created to preserve social control.⁴

4.2.1.1.1 Family within Binary System and Its Transformation

The binary system has been primarily expressed in the nuclear family, established in modernity as the dominant form of family. Patriarchal social roles and relations have been reproduced through this dominant family pattern until 1970s. However, the nuclear family with father, mother and one or two children also represented at that same time the most vital form and the motor of changes within family life, towards modern values and ways of life. The nuclear family, the binary family model and related institution of marriage, have been legally affirmed in Family law and Constitutions of Western countries as the paradigmatic model.

As already implied, changes in family relations started happening in the last decades of the twentieth century with a rising resistance towards its patriarchal manifestations (mass rise of divorces was one of the consequences), on one hand, and under the impact of the human rights revolution in international and national legislations, on another.

Culturally, politically and from the point of everyday life, the mentioned changes in understanding justifiable family social roles and marriage, started happening in dominant trends. These trends could be summed up as putting into question the patriarchal character of a nuclear family; demonstrating the inter-relation of this patriarchal structure and mindset, with family violence and all forms of gender-based violence, striving for more just family relations. These changes began emerging due to the sudden, significant access of women to labour market. This provided women with autonomy they did not have previously. Still, the patriarchal family system continues to assign women all the care-related activities, including children and the elderly, together with home tasks. Changes in international and domestic law and human rights in general, progressively put a focus on women rights. This was reinforced by the increasing importance in the public domain of feminist movements (private is political) and multiculturalism (recognition of differences, including differences based on sex and gender). These changes can be linked to a significant rise of education, employment, participation in public life of women, as well as to changing cultural patterns in favour of more partnership, like relations among spouses, and affirmation of individual dignity and autonomous personality of both women and children. These changes in the system of values and awareness regarding the importance of gender equality, affected progressively, not only female but also male persons. It further influenced rising trends of democratic political culture and emerging more democratic pedagogic approaches in educational systems in the last decades of the twentieth century.

Struggle for the recognition of differences based on sex, gender and minority rights led in the context of the aforementioned human rights revolution, towards gradual

⁴Banakar (2008).

changes in Western legal systems and constitutions at the beginning of twenty-first century; in favour of recognizing different types of family and even marriage.

All these phenomena have resulted in gradual, though radical, changes in legal and political articulations of categories of family and marriage. Changes have been happening within the system of family and marriage towards their transforming into equitable gender relations and partially, moving away from the patriarchal model of these relations. Even more radical change has been on the legal and political agenda, in the case of extending categories of family and/or marriage towards same sex marriage and trans gender people.

However, consensus does not exist; many controversies and struggles *pro at contra* recognition of rights of gay, lesbian or transgender people have been articulated in the public space, as well as within individual and collective mindsets. What, however, is misused by the extreme right nowadays is that identifying the family with the traditional (nuclear) family, has been clearly refused by the proponents of gender equality. Partnership, like relations within the binary family system, have become the new trend in the cultural, political and legal pattern⁵ for the so-called advanced democracies (however not all of them). There is a significant difference between official law, social facts and everyday life (see e.g. Poland or Hungary governments today and their homophobic or anti-abortion positions).

4.2.1.2 Gender Non-Binary System

Different social and legal systems have recognized a variety of gender identities. Legal recognition of non-binary, trans and queer gender identities are clear proof of understanding gender as a social construct, and disproof of determining gender based on biology. Simply put, genders are not limited to women and men. Binary gender categories have been the dominant social construction throughout history and legal affirmation in the social/cultural construct as the paradigmatic one. However, there are also genders that do not fit into the binary distinction. A third gender or variations of gender identities exist by which people identify themselves. Gender is a social practice that is relational, plural and material with different historical trajectories.⁶ It is not the cultural norms that express bodily differences. It is rather the society that addresses bodies and deals with bodies differently. In other words, gender concerns the way human beings deal with bodies, and the consequences of that dealing in everyday life.⁷ When a person's gender is determined based on their genitalia, the cultural practices and social relations restrain and define their existence as to female and male. This leads normally to the primacy of heterosexual male in respect to power and privilege, and to the subalternity of women and any other sexual identity.

4.2.1.2.1 Same Sex Marriage

The law's heteronormative nature has been challenged by social practices of sexual orientation. Deconstructing the heterosexual matrix through social struggles has

⁵Vujanovic (2016).

⁶Connell (2005).

⁷Connell (2011).

been adopted to advocate for decriminalisation of same sex relations in laws. Based on equality and liberation discourse, such struggles started to become successful in some parts of the world in the 1950s. Legalisation of same sex relations has changed social attitudes towards non-heterosexual people. Nevertheless, despite some society's resistance around the world, same sex relationship is still considered illegal and subject to legal punishments. In multiple countries in South Asia, the Middle East and North and East Africa. As of today, twenty-eight jurisdictions around the world have legalised same sex marriage, whilst various others have recognized civil partnership.⁸ However, it should be noted that the cultural and legal dimensions of same sex cohabitation/marriage are closely intertwined. In a contradictory way in some societies, despite the legal recognition of same sex cohabitation/marriage, social norms might exclude social practices related to same sex relations. Due to religious ideologies and laws' rigid heteronormativity, the legal recognition of non-heterosexual reproduction, parenthood and kinship remain to be a social struggle in many countries.⁹

4.2.1.3 Gender Transition and Legal Recognition

Multiple configurations of social practices and relations result in gender embodiments; a social process through which a person embodies the gender they identify with, which transcends gender binarism. Trans people identify themselves differently from the gender assigned to them at birth by which they “disrupt and denaturalize psychosocial understanding of gender that is rooted in physical material of the body”.¹⁰ Hence, trans and gender transition is about crossing the boundaries and mobilizing categories. Trans people might or might not undergo gender reassignment.

The law's limited knowledge and understanding of trans amounts to misrecognition of trans people as full members of society. Legal recognition refers to “the official recognition of person's gender identity including gender marker and names in public registries”.¹¹ Feminist researchers have shown the struggle of trans people against state institutions for recognition of their subjectivities and experiences.¹² The process of gender transition happens through severe contradictions in personal and social life, and yet the law's denial and misrecognition make it harder for people.

⁸Hamilton and La Diega (2020).

⁹Lasio et al. (2019), pp. 501–512.

¹⁰Stryker and Whittle (2006).

¹¹European Commission, Legal gender recognition in the EU - The journeys of trans people towards full equality, https://ec.europa.eu/info/sites/default/files/legal_gender_recognition_in_the_eu_the_journeys_of_trans_people_towards_full_equality_sept_en.pdf.

¹²See Namaste (2000); Hines (2010), pp. 101–119.

4.2.2 Power and Gender Politics

Power as a dimension of gender has been central to feminists' concept of patriarchy; the idea of men as dominant sex, as in the analysis of rape manifesting men's assertion of power over women. Later feminist theorists realized that patriarchal power is not only due to men's direct control over women. It is rather the structure that is patriarchal. Therefore, the state, at the structural level, became the target of analysis through which the unequal power relations are reinforced. For example, court procedure in rape cases effectively place the complainant rather than the defendant on trial.¹³ Furthermore, the patriarchal structure of family resembles the authoritarian state order in controlling private and public domain. However, feminists, gay and trans theorists have gradually adopted the poststructuralist approach which understands power as being widely dispersed, and as something that is discursively embedded in society. Therefore, gender power relations are contested through engagement with a differentiated set of institutions which hold power. Thus, the state as a heterogeneous entity is not the sole and unitary power structure, but the state's agencies' discourses and practices is the product of patriarchal and political conjuncture.¹⁴ Law as an institution of power constitutes gender and gender identities, based on gender essentialism and gender fundamentalism as permeated by the society and social process. This is challenged by feminist legal scholars who focused mainly in women's inequality due to patriarchal justice system. Feminist approaches to socio-legal studies have been concerned to highlight and challenge the implications of gendered power relations in law and society, primarily affecting women opportunities.¹⁵

Social struggle for change in gender and gender relations is a simple definition of gender politics.¹⁶ For example, the struggle against gender-based violence is a central feature of gender politics. Feminism has been the most important part of gender politics through activism, research, and theories. However, gay liberation and trans movements in the EU and US have had their own politics. Men as smaller proportion of gender equality supporters have been part of gender politics around the world.

4.2.2.1 Gender Regimes of (in)Equality

Gender regimes are the ways through which gender relations are shaped in specific systems.

► **Definition** Gender regimes refer to “the continuing configuration of gender relations that structures the gender practices of its participants”.¹⁷

¹³MacKinnon (1983), pp. 635–658.

¹⁴Cooper (1993), p. 257.

¹⁵Fletcher (2002), pp. 135–154.

¹⁶Connell and Pears (2015).

¹⁷Connell (2006b), pp. 435–452.

Gender regimes manifest gender relations in gender occupational cultures, labour hierarchies, and gender division of labour.

► **Definition** Joan Acker defines inequality regimes as the “loosely interrelated practices, processes, actions, and meanings that result in and maintain class, gender, and racial inequalities within particular organizations”.¹⁸

Inequality regimes became a main performing feature of the organizations, institutions, political parties, trade unions, administration, NGOs, etc., that base their practices on the model of a white heterosexual man as the universal model of “human being”. This is further used as a universal pattern for bureaucracy. Many authors criticize the theoretical neutrality of bureaucracy based in this pattern, as will be seen below, in relation to the definition of hegemonic masculinity. This is one of the reasons for gender relations taking shape in different domains of economy, polity, violence, and civil society, that engender multiple forms of inequalities. Struggles over the forms of gender regimes are a very important part of feminist politics.

4.2.2.2 Socio-Legal Recognition of Citizenship Status

Recognition is a matter of accepting and promoting people’s social status rather than their belonging to an identity group. Citizenship status recognition in the classical Marshall’s concept, is related to political, social and economic rights. It means recognizing every citizen as full members of society, who have equal rights of participation in social life and enjoy redistribution of wealth and political presentation.¹⁹ The ultimate aim of recognition is ‘parity participation’. According to Nancy Fraser, misrecognition means ‘institutionalized relations of social subordination’.²⁰ Institutionalised misrecognition in the form of law, policies and professional practices results in rendering some members of society inferior to others, as historical and traditionally occurs with women, ethnic groups, lower class people or non-heteronormative identities. Therefore, it is necessary to overcome this subordination by providing full participation in society through the real recognition of their status and needs. Subordination results in their status being inferior in society, marginalises their being, and overlooks their social and legal needs; ultimately subjecting them to violence and discrimination.

4.2.2.3 Gender Equality Policy

We live in an era of gender change. Gender and gender relations are not fixed but in flux. Gender equality policies are an attempt to gender change.²¹ The main steering mechanism for gender equality policy is the state, state agencies and institutions

¹⁸Acker (2006), pp. 441–464.

¹⁹Fraser (2000), p. 107.

²⁰Fraser (2001), pp. 1–13.

²¹Connell (2011).

which not only regulate the lives of women representing the half of the society, but also men and other gender variant people. In this sense it is relevant to mention the gender mainstreaming in European Union equality policies introduced in the political agenda since the 1990s, to improve the equal opportunities between men and women. This is despite a lack of implementation in many countries. Equal opportunity in factual level reforms within law and policies have had an impact on the public sector: breaking down gendered roles; trying to disrupt gender hierarchies and gender division of labour, and restructuring private and public spheres (even if there is still a long way to gender equality). Furthermore, women's participation in politics has brought about social and political changes which have helped transformation of society; enabled by feminist struggle and progress in international and domestic law, education, family relations, cultural settings and boosted by feminist movements.

4.2.3 Intersectionality and Legal Protection

The analysis of intersectionality has often focused on the intersection of sets of social relations. Kimberlé Crenshaw's work in the realm of law showed how race and gender work together to create hybrid forms of bias that law does not recognize. Scholars of law started to write about this approach as intersectionality critique in the early 1990s.²² Intersectionality scholarship has since found a strong presence in academia, emphasizing the ways in which gender and class intersect with minorities and marginalized experiences. In turn these intersect with class, race, sexuality, nationality, ethnicity, religion, age and (dis)ability, which are often rendered invisible.²³ Legal protection should occur in the face of intersecting grounds of inequalities, such as race, class, ethnicity, age, disability, poverty, sexual identity, and other social subordinating categories producing inequalities. Moreover, legal protection should realize the significance of the relations of inequalities rather than reducing and conflating inequalities into one ground. For example, discrimination against immigrants should emphasize the sex, race, age and sexuality of immigrant people rather than merely immigrant subjects.

4.2.3.1 Gender Identity and Sexual Orientation

Gender is a social construction of sex, and gender and sexuality should not be examined distinctively; it is not possible to examine gender without sexuality as the two are inseparable. The grounds of inequalities based on gender and sexuality should realise the significance of other inequality grounds including class, age, and disability to name but a few. Over the past few decades, LGBTQIA+ legal rights have been addressed by scholars and activists across a variety of issues such as marriage, employment, medical care, military service and access to public places

²²See for example, Conaghan (2008).

²³Bartlett (2020).

such as bathrooms. Despite the improvement of legal protection from discrimination against LGBTQIA+ groups, it is still a challenge for many legal systems on how to respond to non-binary identities embracing different sexualities.

4.2.3.2 Age, Disability, and Poverty

Delving into categories of privilege or subordination in intersectionality analysis, poverty, age and disability, are the grounds on which structural inequalities intensify, together with gender inequalities. UN data affirms that 70% of people living in poverty in the world are women and little girls²⁴ (a higher number for risk of poverty and exclusion). It is important to note that having a disability and reaching an advanced age represent more physical and mental impairments, resulting in specific social inequalities and discriminations. The link between disability and poverty has received the attention of researchers in the recent decades. The gendered lens, however, needs more attention. For example, research has shown that women with disabilities are less likely to manage their lives in comparison with men;²⁵ “Disabled women particularly with intellectual impairment are victims of sexual crimes, but their offenders tend to be regarded in more lenient way when judgment is passed. Feminist research in many parts of the world have suggested that women with disabilities are more prone to experience social oppression and domestic violence because of their gender and disabled state”.²⁶ Moreover, the factor of low-income status or poverty contributes to gendered injustices within law and society.

Example

The case of *I.G. and Others v. Slovakia* filed in 2012 at the European Court of Human Rights²⁷ sought justice for three Roma women who had been sterilised without their consent during childbirth. This case of forced sterilisation is a clear example of structural violence against Roma women based on different underlying factors; their gender, race, ethnicity, religion and poverty.

Based on the European Convention, the court found Slovakia in violation of the right to freedom from torture and inhuman treatment (article 3) and also in violation of the right to private and family life (article 8). The court awarded compensations to the applicants. ◀

²⁴Chant (2015).

²⁵Moodley and Graham (2015), pp. 24–33.

²⁶Mays (2006), pp. 147–158.

²⁷European Court of Human Rights, *I.G. and Others v. Slovakia*, <https://www.refworld.org/cases,ECHR,50a289e22.html>.

4.3 Feminist Socio-Legal Perspectives on Structural Violence in Family and Private Life

This part of the chapter introduces structural violence, with a specific focus on laws and policies that shape people's lives in the private and public sphere. The first section focuses on structural violence through examining rape against women in forms of statutory rape, extending to marital rape and forced marriage. Thereafter, it examines the social and legal aspects of intimate partner violence, followed by an explanation of how economic violence interacts with the labour market and family household. The second section discusses structural inequalities within medical systems, examining the effects of laws in society and socio-cultural practices that amount to legal discrimination. Thus, it explains the existing inequalities within laws and social practices that forbid women or other subaltern identities from the rights to safe sex, reproductive health, women's rights to legal abortion and access to care.

4.3.1 Structural Inequalities and Structural Violence

Social systems create situations where people are being oppressed, suppressed or deprived of their basic needs. All this happens in various domains such as the family unit, the economy and health; creating what is called structural violence.

► **Definition** Structural inequalities refer to unequal relations, rights and opportunities that are systemically rooted in the normal operations of dominant social institutions such as law, economy, healthcare and media. Laws and policies construct structural forms of inequality based on sex, gender and sexuality, class, race, ethnicity, age and disability.

One of the most evident forms of direct violence exerted against women and children worldwide is defined in the United Nations' Declaration on the Elimination of Violence towards Women. This defines violence against women as "Any act of gender-based violence that results in or is likely to result in physical, sexual or psychological harm or suffering to women [or girls], including threats of such acts, coercion or arbitrary deprivation of liberty" (1993, Article 1).²⁸ In this sense, statistics of this kind of violence worldwide are overwhelming and relate to phenomena such as sexual violence; rape; intimate partner violence; prostitution and trafficking; forced marriage; honour based-crimes; sexual exploitation; genital mutilation; sexual harassment and stalking.²⁹

²⁸Declaration on the Elimination of Violence towards Women, UN General Assembly, 20 December 1993.

²⁹For UN data in Violence towards women and girls information, access <https://unstats.un.org/unsd/gender/vaw/>.

The structures that create unfair social and economic positions can themselves be seen as a systemic form of unequal power and domination, prevailing the model of men power over women and subordinated-considered collectives. Accordingly, structural inequalities within gender systems expose women and subordinated-considered collectives to multiple forms of structural violence at different levels of society, in various facets of life. Johan Galtung coined the term structural violence within peace research, that investigates the cause of violence with regards to war, to refer to the harm that is built into the structure as a result of inequality in power relations.³⁰ According to this notion of structural violence, everything that prevents people from developing their capabilities counts as violence.

Example

Some examples of structural inequalities, and structural violence, within laws and policies include: those that do not recognize sexual rape among men or rape in marriage; that permit marriage of woman or girls under the age of 18, and that mete out death sentences for juveniles. ◀

The following subsections will elaborate on various forms of structural inequalities within law and society.

4.3.1.1 Rape: Statutory Rape and Marital Rape and Child Marriage

Rape as gender-based sexual violence is pervasive and occurs against all genders and different sexualities. However, women and girls continue to represent the majority of rape victims while perpetrators are usually male.³¹ Sexual intercourse with a person who is below the age of consent, whether or not the sexual act is against the person's will, is defined as statutory rape. Marital rape or spousal rape occurs when the spouse does not consent to sexual intercourse. Child marriage entails both statutory rape and marital rape as it entails coerced sexual intercourse with an underage girl. Feminist scholars have stressed the social structures that underpin rape;³² feminist theories and activism have contributed a great deal to legal culture by expanding society's perception and legal recognition of what constitutes rape. This has been extended to encompass marital rape and forced marriage, along with the injuries perpetrated to the victims, historically these have demonstrated patriarchal control over women's bodies. Forced marriage is a way through which men use women as objects of transactions for their own benefits. Feminist discussions on forced marriage are linked to hegemonic masculinity and compulsory heterosexuality, especially in homophobic legal systems supported by conservative religious structures.³³

³⁰Galtung (1969), pp. 167–191.

³¹UN Women (2020).

³²Buchwald et al. (1993).

³³Rich (1980); Rich (2003), pp. 11–48.

4.3.1.2 Intimate Partner Violence

Intimate Partner Violence is defined as any pattern of assaultive and coercive behaviour, including physical, sexual, psychological and economic coercion, used by adults and adolescents against their intimate partners without their consent, and which results in shame, fear and helplessness³⁴ Apart from being known as a major public health problem, IPV is a clear example of structural violence. Feminist theories have challenged understanding of IPV over the years by arguing it is not a private or family matter. Rather, it is a deeply embedded social problem. Furthermore, patriarchal social structures, including unequal power relations, are the primary causes of IPV that occur in both heterosexual and homosexual relationships. Intimate partner violence is prevalent among gender and sexually diverse people and is usually perpetrated by men. As a result, feminists advocate for making changes, not only in the laws and policies of institutions, but also changes in gender practices imbued with unequal power relations to combat IPV.

Example

For example, socio-legal scholars have advocated for law reforms in the area of gender-based violence to recognize offences perpetrated by partners and ex-partners as a result of coercive control that have serious effects on the victim (see for example, section 7: Serious Crime Act 2015, the UK).³⁵ ◀

4.3.1.3 Economic Violence: Exploitation in Labour Market and Family Household

Economic violence is a form of structural inequality that includes any act or behaviour that causes economic harm, such as: restriction or limited access to financial resources (funds and credits); employment, and the labour market; economic decision making besides unpaid work, and discriminatory laws on inheritance. Economic violence results in growing poverty and undermines educational development for the victims. Due to patriarchal structure and capitalism, women and girls are the main victims of economic violence, in addition to physical violence, sexual exploitation and trafficking.³⁶ In this sense, structural economic violence is worldwide, assuming that 70% of the world's 1.3 billion poor are women.³⁷ Factors of race, class, nationality, sexuality, age, religion and disability exacerbate economic violence.

From a political point of view, family policies on balancing work and family life are usually addressed to women; increasing the labour gap in hours worked

³⁴Glossary of definitions of rape, femicide and intimate partner violence, EIGE, European Institute for Gender Equality (2017).

³⁵Walklate et al. (2018), pp. 115–131.

³⁶Fawole (2008), pp. 167–177.

³⁷ILO (2020).

(regarding part time jobs, for instance), or the majority of monoparental families are headed by women, particularly those families in risk of poverty.³⁸ Therefore, family and welfare policies are criticized for perpetuating women's economic vulnerability by contributing to the construction of women as dependent entities; often living on a thin aid from the state.³⁹ Therefore, gender equality policies should encourage the collective support of all family members, instead of falling predominantly on women (fostering man co-responsibility).

Economic violence is a common form of intimate partner violence, resulting in severe sexual, physical and psychological consequence for the victims. The attitudes, beliefs and practices that perpetuate economic violence are often deeply entrenched with cultural, social and legal norms of society on gender and power. In heterosexual households, men hold power in allocation of resources such as food, education, and health care. Moreover, economic violence is exercised by male members of households through coercive control, economic exploitative behaviour and employment sabotage.⁴⁰ Feminists and practitioners discuss economic violence as a major form of men's IPV against women, usually hidden. Economic abuse takes away women's independence and autonomy. Rendering them insecure, dependent, inferior, and oppressed.⁴¹

Under the framework of gender equality, legal reforms have taken shape to combat such gender-based violence by means of problematising gendered division of labour, women's unequal pay and employment discrimination as violation of women's integrity. These issues will be covered later in this chapter.

4.3.2 Structural Inequalities in Medical System

One of the major forms of structural inequalities occurs in the health care and medical system. "Structural domination arises when social processes put large groups of people under systemic threat of domination or deprivation of the means to develop and exercise their capacities while at the same time this process enables others to dominate and have more opportunities to exercises capacities available to them".⁴² In the medical system, women and women's bodies are often made inferior, subject to neglect, pathologisation and subordination. For example, menstruation, menopause or depressions are taken as a feminine disease linked to social stereotypes. Moreover, specific illnesses suffered mainly by women such as fibromyalgia, and endometriosis are often disregarded by the medical system. The

³⁸ *Ibidem*.

³⁹ Aguado (2018).

⁴⁰ Postmus et al. (2011), pp. 411–430.

⁴¹ Lindskog (2020).

⁴² Young (2011).

universal model for medical research and practice prioritizes men's health related issues over women's health and wellbeing.⁴³

4.3.2.1 Sexual and Reproductive Health

Physical, mental, and social well-being in all matters relating to the reproductive system are about sexual and reproductive health. This implies people have the ability and freedom to decide on a safe and healthy sex life.⁴⁴ In order to be healthy, both sexually and reproductively, women require access to accurate information and services that can help them to have appropriate means of health care. This includes information regarding safe sex, hygienic menstruation and safe pregnancy (vital also for trans people).⁴⁵ Traditionally, or in many countries with restrictive women's rights today, women have been denied such access. The obstacles to sexual and reproductive health rights are entrenched with factors such as class or poverty, race, ethnicity, (dis)ability, sexual identity, and age. This is the case of many poor, racialized, or disabled women sterilized en masse by some states or administrations (Roma women in Europe, native women in all America, etc.).⁴⁶ Together, the concept of obstetric violence involves the structural violence exerted by the medical system against women throughout pregnancy, birth and perinatal period. This resembles the violation of the right to body, abuse, and mistreatment.⁴⁷

4.3.2.2 Abortion

Providing public health benefits for abortion represents a significant component of supporting women's sexual and reproductive health rights. Abortion is a deliberate termination of pregnancy due to the process started spontaneously, or "deliberate termination of an unintended pregnancy that threatens the life or health of the pregnant woman including her social and mental well-being".⁴⁸ Unintended pregnancies occur as a result of forgetting to take the pills failing to use condom, or stealthing as a result of forced sexual intercourse. This applies to many poor pregnant women or girls forced to give birth around the world today; social and economic inequalities affect preventing unintended pregnancies. One of the main claims of feminism has been the legalisation of abortion based on women's free choice of family forming and bodily autonomy. Women's active participation in society is recognized through their choice of having children. The right to abortion is approached as a basic human right, protected under international human rights law. Nevertheless, there are still many countries that strictly penalise abortion for women

⁴³ Etienne (2019).

⁴⁴ United Nations Population Fund, Sexual & Reproductive Health. <https://www.unfpa.org/sexual-reproductive-health>.

⁴⁵ Glasier et al. (2006), pp. 1595–1607.

⁴⁶ United Nations Population Fund, Sexual & Reproductive Health, <https://www.unfpa.org/sexual-reproductive-health>.

⁴⁷ Please see chapter on Human Rights.

⁴⁸ European Institute for Gender, Abortion, <https://eige.europa.eu/thesaurus/terms/1040>.

with severe punishment in some parts of Europe, Central and South America and Asia. For example, the socio-political struggle to legalise abortion in Poland has focused on the rights of women to self-determination and the social construction of womanhood.⁴⁹ (See chapter on Family Law and Human Rights).

4.3.2.3 Access to Health Care

Since the 1970s, feminist legal scholars have argued that access to health care is a feminist issue; a matter of gender equality. The role of law as a tool to promote health care quality and patient safety is a dominant discourse. Independently, poverty is the main obstacle to access health care worldwide. However, the gender hierarchies and gendered practices between doctors and patients affect access to care. Women and other genders are denied access to health care under different legal systems because of their sexuality, age, economic situation and/or disability.

Example

Trans people are usually denied access to health care and medical treatment related to gender transition. This often involves hormonal therapy, surgical treatments and/or other medical procedures and treatments. ◀

Denial of, or severely limited access to, such medical care by refusal of coverage or lack of knowledge among health care professionals may have detrimental effects on well-being of trans people.

4.4 Gender (in)Sensitive Education: Differential Socialisation and Educational Systems

Educational systems are often a fundamental structure of society in terms of reproducing and perpetuating inequalities, especially gender inequalities. In examining the educational path, it will be analysed how gender inequalities are deeply imbricated, both in the structures of the professional educational system, and in the differential socialisation for boys and girls through the hidden curriculum and heteronormative gender models presented as valid throughout academic life. These models reproduce, and result in, weaker opportunities for women and those who do not conform to the patterns of the hegemonic masculinity characteristic of social organisations,⁵⁰ especially in the labour market.

⁴⁹Nowicka (2007), pp. 167–196.

⁵⁰Connell (2006a), pp. 837–849.

4.4.1 Gender (in)Sensitive Education: Gender Differential Socialisation, the Hidden Curriculum, and the Consequences for Life and the Labour Market

Socialisation is the process through which people adopt and integrate themselves into the community in which they are born. It is a process that goes beyond mere learning; it is the internalisation, assimilation, and apprehension of behavioural patterns, traits, norms, customs, and ways of thinking. This integration and assimilation is so intense and profound that it becomes part of our personal identity without our being aware of it.

Differential gender socialisation, or gendered socialisation, involves the assumption and internalisation by the members of a community of the roles, stereotypes, beliefs, customs, and norms for each sex that are considered appropriate by the community or the wider society. It thus becomes an adaptive process that will provide the person with the ability to live in and fully integrate into a society, identifying with the roles, gender expectations, rewards, and social valuations that the society reserves for his or her biological sex. The fundamental process begins with primary socialisation in the first years of life with the family, the school, and, to a lesser extent, a group of equals or peers. These influences act as fundamental and determining agents in this first stage. Thus, the educational system is a primordial element in the analysis of gender. Educational systems have two contradictory social functions; social continuity and social change. As a social institution, education is responsible for perpetuating patterns for the successful integration of individuals into society. Contemporaneously, it is a recipient and promoter of social change. Education and educational systems can innovate and open social mechanisms that promote gender equality through equal opportunities. However, despite institutional efforts at the European and global levels, numerous critical theories show the fundamental role educational systems play in the production and social reproduction of the symbolic order of gender and, therefore, the survival of power relations and the privilege of one sex over the other. In addition, educational systems function as a stratifying element from an intersectional perspective; perpetuating ethnicity, social class, sexual orientation or identity, and functional diversity, among other variables. This is reflected in theories of social reproduction, resistance, correspondence and the hidden curriculum.⁵¹ These theories are based on manifestations reproducing the privileges of one part of the population and the consequent disadvantages of others. The hidden curriculum is manifested in a series of values, codes, norms, ideas, assumptions, myths, discourses, concepts, beliefs, power relations, and roles. Gendered and sexist textual and symbolic resources are transmitted at school in the form of organisation, management, and control of the school system; in the work and routines of the classroom, and in educational and social practices and

⁵¹ As represented by Louis Althusser, Samuel Bowels and Herber Gintis; Pierre Bourdieu and Jean Claude Passeron; Henry Giroux; Apple and Lundgren.

interactions. Inevitably, this will lead to an exact reflection in the labour market, as will be examined below.

4.4.1.1 Primary Socialisation: Family, Day-Care, and Elementary School

Primary socialisation takes place in the first years of childhood. This process has the most significant impact on people. The fundamental agents responsible are mainly the family and the educational institutions in childhood: the day-care centre; nursery, and elementary school. The fundamental guidelines in this educational stage occur in an environment in which the child's emotional involvement with the adults in charge of education is indispensable. It is essential for the children to be enveloped within the group; a cheerful acceptance and stimulation of their actions and behaviours is required. Correspondingly, they will inhibit certain behaviours if the stimuli are negative. Learning and interaction occur through imitative patterns of behaviour perceived and evaluated as positive by the child, as these will mark their integration into the group. Family models of behaviour will be internalised, and primary references in terms of social gender roles will be assumed and understood; their personality is constructed without a distinction between external and innate constructed elements. This process will give rise to personal identity.

The phenomena that develop from this assimilation process from a micro-sociological perspective, and that determine gender identity, are marked by two fundamental social processes: (a) normalisation, or the tendency of people to remain within the limits of what their social group considers regular or habitual, assimilating their behaviour to others, especially those with whom they have to identify; and (b) social control, where the group rejects or penalises certain behaviours and attitudes that are outside the social expectations of each sex, reinforcing others that are habitual and seen as desirable by the group. Gender differentiation, therefore, occurs from the beginning of life with the expectations generated by a baby's sex, determining familial and environmental attitudes.⁵² At this stage, both socialisation and learning take place both through play, and in a playful environment. This is generally linked to an essential emotional and affective load on the part of the adults in charge who, are usually women at this stage of the educational system. The imprint of primary socialisation will mark the future development of the person throughout her or his life.

4.4.1.2 Secondary Socialisation: Secondary Education and its Consequences

In secondary socialisation, and especially during adolescence, peer groups exert the most significant influence on the individual. This is despite the importance of other agents of socialisation such as the educational system, the media, religion, and other

⁵²This phenomenon can be explained through a brief experiment (Girl toys vs. boy toys: The experiment - BBC Stories) on how adults, without knowing a baby's sex, but based on their clothing, unconsciously offer traditional toys sexually differentiated according to their belief that the child is a boy or a girl. The experiment can be viewed at <https://www.bbc.com/news/av/magazine-40942691>.

organisations. However, despite the need for a more in-depth analysis of peer relations, some characteristic elements of the gender gap in education must be briefly mentioned.

The fundamental axes of differential gender socialisation are constituted by general social trends. Boys are encouraged to learn the development of physical skills, mechanics, science, and technology. The fields are generally oriented toward an intellectual dimension, with considerations of employment and social success. Little importance is given to learning related to stereotypical female roles. In contrast, the social norm of learning for girls revolves around the development of the affective aspect and care for others. Less attention is paid to science and technology, with incursions into traditionally male roles being considered unsuitable. This binarism in social roles, which entails different social considerations and implies a lower valuation of the role associated with women, is one of the essential determinants of the presence and distribution of gender inequality in the labour market.

4.4.1.3 Educational Systems: Schools, Secondary Education, and Universities

The gender gap in education is evident. The distribution of students tends to be equal in European countries, in kindergarten and elementary school, but not at the global level. A brief analysis of the distribution of teachers confirms that more than 90% of teachers in early childhood education are women.⁵³ In most countries, the initial educational stages are less well paid and have a lower level of social consideration, with some exceptions such as the Nordic countries, especially Sweden or Finland. As primary education is socially identified with a more emotional teaching job, it is inevitably related to gender stereotypes and roles associated as a feminine task. However, by moving through the educational system it can be found that secondary education, in certain aspects, tends to be more egalitarian in terms of the teaching staff, even though there is still a female majority in the case of European countries. In vocational training, the gender bias tends to be very marked, even more so than at university.

Concerning universities, the enrolment statistics this chapter looked at in depth, both at the European and global level, show that women accumulate in branches of knowledge related to social studies, care, and administration-related professions. In this sense, the axes of gender socialisation bear fruit in women's choices of careers, commonly comprising nursing, teaching, social work, pedagogy, psychology, and administration. In contrast, it can be argued that men are primarily concentrated in engineering and technical careers, being more highly valued socially and better paid. Despite incorporating women into STEM careers (Science, Technology, Engineering and Mathematics), and some already at an equal split between men and women, there is no correspondence between the student body and the teaching staff, which is mainly male. Furthermore, female graduates have a lower level of labour market

⁵³ Eurostat (2019).

insertion in their sectors than their male counterparts. This is despite the fact that women tend to have a higher level of success throughout their academic life and, conversely, boys tend to have higher rates of school failure (European Commission 2018).

4.5 Labour Market: Reproduction and Reinforcement of Inequities

The analysis of the patterns of women's inclusion in the labour market provides a global approach to the position of women in society. The possibilities of entering the labour market and retaining a job determine life and family opportunities; defining class, position, and status in the social structure. This section will explore the conditions and characteristics of female employment and its inescapable relationship with gender roles and stereotypes, through the sexual division of labour. It will analyse the lack of labour policies for the reconciliation of family life, which continue to be oriented towards women, with little involvement of men. This is despite institutional efforts in most EU countries, and consequently, this lack determines women's employment. We will conclude by analysing the good practices and employment policies adopted by the so-called welfare states to reduce this evident gender gap.

4.5.1 Gender and Intersectionality in the Labour Market⁵⁴

As explained in the previous section, differential gender socialisation has direct consequences for people's life opportunities insofar as it determines the possibility of studying, the choice of academic itineraries, and, therefore, their subsequent life conditions marked by access to, and permanence in, the labour market. The labour market is not only biased in this sense by gender.⁵⁵

The socio-labour problems affecting women in the labour market are closely linked to the sexual division of labour, and gender stereotypes and roles. In the industrial and modern era, this division consolidates and spreads throughout the social body as other constituents of the economic system, identified as growth and progress. The capitalist organisation of industrial work, together with the development of patriarchal social relations in the nuclear family, reinforced by the state and by religion,⁵⁶ shape the public sphere and the private sphere. This can be identified

⁵⁴These explanations about the factors that produce and reinforce gender inequalities in the labour market, will help to understand and contextualize the chapter on Labour Law.

⁵⁵Although these are global phenomena, given the enormous variability among countries in the statistical data on employment and gender, as well as the limited length of this chapter, only general trends will be mentioned without going into quantitative details, with some exceptions that can be verified by the statistical resources and reports corresponding to the institutions and organizations referred to in the previous note (ILO, OECD, EIGE, UN, Eurostat, etc.).

⁵⁶Hartmann (1981), pp. 366–394.

with the labour market and the home, respectively, separate, and unconnected entities. This identification of work as productive work (visible, socially considered, in the market, and remunerated) has had, and continues to have, an evident gender bias. It essentially ignores the private sphere by ignoring the traditional space of women: reproductive work; the care of the home; the elderly, and minors (invisible, not socially considered, outside the market, and unpaid). This separation obviates the inescapable relationship between the two spheres; it renders invisible, and undervalues, the relevance of physical and symbolic reproductive work. Such work, in turn replenishes the labour force. This is a determining and essential factor in understanding the unequal social valuation of work related to traditional male and female roles. The direct incidence of the sexual division of labour, manifested in the assumption by women of traditional domestic and child-rearing tasks, generates a significant difference in life opportunities; fundamentally those related to women's access, promotion, and permanence in the labour market.

Although women have significantly joined the labour market in EU countries in the years since World War II, combined with a trend towards legal protection against discrimination based on sex, ethnicity, ability, social class, and other conditions, the reality is that we are far from achieving real equality despite the progress made in this area. Indirect discrimination, more subtle and less overt, is ultimately responsible for most of the gender gap in the labour market; "Discrimination occurring where an apparently neutral provision, criterion or practise would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means for achieving that aim are appropriate and necessary" (gender issue(s) | European Institute for Gender Equality s. f.). Even though the principle of equal pay for work of equal value has been enshrined in the European Treaties (Article 157 TFEU) since 1957, in many cases, depending on the country, women earn less than men for doing jobs of equal value. Despite improvement, progress is extremely slow in the European Union, with the gap only decreasing by 1% over the last 7 years.⁵⁷ Next, we move on to quote very briefly the gender characteristics of the labour market, defining the fundamental obstacles women face in access, permanence, and promotion at work.

4.5.1.1 Gender Pay Gap: Job Segregation, Wage Gap, Glass Ceiling, Sticky Floor, Undervaluation of Women's Work

Wage gap:

► **Definition** The *wage gap* is defined as 'the difference between female and male employees' average gross hourly earnings. (...) Gross earnings are wages or salaries paid directly to an employee before income tax and social security contributions are deducted'.⁵⁸

⁵⁷ Boll and Lagemann (2018).

⁵⁸ European Commission (2014), p. 3.

Wage gap in the EU typically refers to an unadjusted wage gap, as it does not consider all the factors that affect it; differences in education, type of work, experience in the labour market, and hours worked. Among the most critical determinants of the wage gap are occupational or horizontal segregation and part-time work, typically a female work feature. According to data from the European Employment Institute, the estimate for all countries is 16% among employees.⁵⁹

Occupational/horizontal segregation:

► **Definition** This is the accumulation of the same sex in professions and occupational sectors, usually related to stereotypical characteristics of traditional male or female roles and related to unequal social valuation to the detriment of women.

According to EU data, 30% of the wage gap is a consequence of the overrepresentation of women in relatively lower-paid sectors, such as education and the health sector (in their lowest positions) as well as care-related professions. Higher-paid sectors such as science, technology, engineering, and mathematics (STEM), are occupied mainly by men.

Vertical segregation: Glass ceilings and sticky floors.

The first metaphor alludes to an invisible barrier, or ceiling, that prevents upward mobility. As we move up the career ladder, we find fewer women in positions of power and decision-making.⁶⁰ Fewer than 10% of CEOs in large companies are women. The profession with the most notable differences in hourly wages in the EU are managers; women earn 23% less than men.⁶¹ This phenomenon is not only a fact of the labour market; in any organisation, it is hard to find an equal proportion of women and men in positions of power and decision-making areas, surprisingly even in feminised labour sectors. The other metaphor that defines women's employment is the sticky floor.

► **Definition** Women's employment is understood as the accumulation of women in labour positions corresponding to lower levels in the labour hierarchy; in subordinate positions corresponding to lower salaries and poor working conditions (cleaning, home assistance, etc.).

Both phenomena, the glass ceiling and the sticky floor, are directly related to the undervaluation of women's work and skills.

Undervaluation of female work and skills:

⁵⁹For deeper detail, consult the reports on gender pay in the UE Gender pay gap among employees in the EU (EIGE 2014) Gender pay gap in EU countries based on SES (2014) Christina Boll, Andreas Lagemann.

⁶⁰Acker (2009); Beghini et al. (2019); Billing (2011); EIGE (2014).

⁶¹EIGE (2014).

The undervaluation of female work comes hand in hand with the sexual division of labour previously explained; Joan Acker's concept of inequality regimes⁶² and Raewyn Connell's concept of hegemonic masculinity.⁶³ Their theories explain how the white heterosexual male model constitutes the ideal on which organisations are built. The educational system, companies and the state are imbued by this supposedly neutral model, assuming women's identity, and any other type of identity, to be subordinate.⁶⁴

Some of the causes of the undervaluation of female labour and occupational segregation are related to the social construction of the value of different occupations, professions and jobs.⁶⁵ The authors summarise the influences linked to the social construction of the value of work as visibility, valuation, vocation, added value and variance. *Visibility* refers to the difficulty of detecting women's capabilities due to the aggregation in large and undifferentiated salary tables. *Valuation* refers to the frequent male structure on which classification and salary structures are based. *Vocation* stands out, directly related to women's skills derived from the supposedly feminine essence, understood as mother and caregiver is usually treated as natural and directly linked to low wages. *Value-added* corresponds to the greater possibility of finding men in high value-added jobs or labour-intensive occupations than women. Finally, and of particular relevance, *variance* in the norm of work patterns and work itineraries differentiated between men and women, that lead to women's work occupying a sphere not comparable to that of men.

All these obstacles can be addressed in the specific labour market analyses found in statistics on employment and its characteristics, collected both by the national statistical institutes of each country, and national and international institutions at the global level.⁶⁶

4.5.2 Reconciliation of Work and Family Life

According to the literature and reports from European institutions, conclusions regarding the reconciliation of work and family life⁶⁷ are clear; women spend fewer hours in paid work than men on average, but more hours in unpaid work. Statistics on time use (UNSD, OECD, EU, ILO, among others) show how the structuring of time spent caring for the elderly and children is usually significantly

⁶² Acker (2006).

⁶³ Connell and Messerschmidt (2005).

⁶⁴ Acker (2006); Connell (2016).

⁶⁵ Bettio y Verashchagina (2009).

⁶⁶ Bettio and Verashchagina (2009); European Trade Union Confederation (2014); Kirton and Guillaume (2017); Mullins and Saldívar (2015); Rubery and Hebson (2018).

⁶⁷ EIGE (2014); Franzway and Fonow (2011); Mikucka (2008); Prieto and Pérez De Guzmán (2013); Rubery et al. (1998).

unbalanced; women are responsible for most of this care.⁶⁸ Overall, women work more hours per week than men.⁶⁹ One of the most significant obstacles women face in the labour market and in social participation is the double (family and work) or triple workload (if we talk about women trade unionists). Women trade unionists are further underrepresented in trade union organisations, reflecting their absence from positions of power and decision-making in the labour market. If trade union organisations are in charge of defending labour rights, and women are not represented and/or present in collective bargaining, they will hardly manage to defend their labour interests.⁷⁰

Policies encouraged by the EU try to foster co-responsibility for care through parental leave, appropriate provision of childcare services, and encouraging company policies regarding flexible work arrangements.⁷¹ However, because work-life balance policies have generally been oriented toward facilitating the development of women's work activity, they can reproduce these labour inequalities and generate effects that, although positive in the short term, provide extensive negative results in the long term, particularly when combined with the patriarchal culture of female care orientation.. The possibility of a leave of absence to care for dependents with job reservation, the reduction of the working day to care for minors and other reconciliation measures mean, in the short term, the maintenance of women in the active labour market, even though the attendant salary reduction may not guarantee economic sufficiency. This directly results in a greater risk of poverty for women; it implies the continuation of the employment relationship without economic remuneration.

The positive nature of these measures, in an immediate sense, contributes to the maintenance and reinforcement of a pattern of behaviour that has a double effect on retirement income.⁷² Throughout their working lives, women spend less time contributing through paid work than men and have more interruptions in the intermediate periods. In such periods they tend to receive fewer unemployment benefits and consequently their contributions are reduced. Therefore, women have more unstable employment trajectories (maternity leave, leave of absence for care-giving, part-time jobs, etc.) and lower contributions than men in general. Combined with the fact that women tend to be grouped in lower salary categories and in predominantly feminised occupations, where salaries are lower than those of their counterparts in masculinised professions, it is possible to conclude that the labour market generates a system of inequality for women's retirement, not just their current employment. This has special significance; it penalises women in the form of smaller pensions. In conjunction with less time contributed, this results in a widening of the

⁶⁸ EIGE (2014).

⁶⁹ Chatzitheochari (2012); Prieto and Pérez De Guzmán (2013).

⁷⁰ Bermúdez-Figueroa and Roca (2019); Kirton (2005, 2013).

⁷¹ Hubbard et al. (2008).

⁷² Cebrián López (2015).

gender gap and of the deterioration of women's conditions in a period of greater vulnerability, old age.

A demand from a large part of society is to encourage men to adopt conciliatory measures to facilitate a work-life balance. Despite their existence, men make very little use of such policies, as reflected in the statistics of international organisations such as the European Union Labour Force Survey.⁷³ In this scenario, using this type of measure to reconcile work and the need for family care, women's employment would not exclusively be penalised, rather it would be distributed more equitably. Likewise, this gender gap would cease to be a reason for rigidity and inefficiency in the labour market, which, if only from the simple perspective of human resources, is losing a large mass of trained workers with excellent work potential. The social and labour benefits they could contribute would undoubtedly lead to a fairer and more egalitarian society. This would minimise asymmetrical relations and their negative consequences for half of society, while involving men in family care, a public good. This is the basis on which measures to extend paternity leave in various European countries that have equalised maternity and paternity leave are based. This has created positive effects for women's employment, satisfaction at the level of men and women and primary reinforcement of the pro-natalist policies, necessary in most European countries to face the ageing of the population.

4.5.3 Unprotected Employment: Domestic Workers, Informal Care, Informal Employment

Domestic employment, whether formal or informal, is one of the most invisible labour sectors and enjoys minimal social protection, especially considering its role in the underground economy and the unreliability of the data on this employment at the official level. It is in many ways a feminised sector, and one that statistically reflects the care and household work done by a precarious workforce and subjected, in numerous cases, to abuses of all kinds enhanced by this invisibility. We must reflect on the outsourcing in households of paid domestic work, which is often informal work and not in the visible and legalised labour market. It implies that, in order to balance work and family life for higher income and/or higher class women, there is another lower class woman assuming their burden of care. Women with more impoverished lives and fewer social opportunities, in many cases migrants, carry out work that is essential for life and the functioning of the labour market. They do so without a contract, without social security contributions, they are paid well below minimum wage, undervalued, and often in abusive conditions. This workforce is mainly made up of women who migrate to other countries or continents to take on these reproductive activities in the global care chain. The discourse of critical international organisations related to migration, gender, and development have focused on the issue of transnational families and mothers as a problem and, to a

⁷³EPIC (2013).

much lesser extent, as a contribution. This has not been the case for transnational fathers. Migrant men have played a leading role in migrations research due to the traditional patterns of mobilities in general; they frequently leave their families in a higher proportion than women, depending on the countries involved. However, men are not examined in their fatherhood as women are and have been less frequently studied in the academic field. This illustrates the gender bias of the academy in the election of the subject on research.⁷⁴

4.6 Symbolic Representation of Gender

This part of the chapter deals with the role of mass media in creating, promoting and maintaining symbolic representation of gender. By using ideology-coloured language and promoting gender stereotypes in the public sphere, mass media are often seen as important actors in maintaining male dominance and sustaining traditional, patriarchal power relations in a society. In reporting on (sexual) violence against women, media commonly use gender (in)sensitive language, misogynistic and sexist phrases, and rely on hegemonic masculinity as a justifying strategy. This section also problematizes the concept of rape culture; underlying the connection between porn, sex and violence.

4.6.1 Presentation vs. Representation of Mass Media

Despite the traditional understanding that mass-communication is a linear process considering sender/message/receiver, contemporary (cultural) research rather outlines that a message goes through several phases including production, circulation, distribution, consumption, and reproduction. This “complex structure in dominance” implies that the message needs to be shaped according to the language rules that have distinctive, discursive forms in every part of this process.⁷⁵ In other words, the message “needs to be told”; it has to “become a ‘story’ before it can become a communicative event”.⁷⁶ This means messages are never neutral and objective, rather their form and content depend on the senders’ intentions, biases and the media literacy of the receiver. So, when the media claim they present reality impartially, they are actually re-presenting it; re-presenting an object/person to the public which is not a passive receiver of these messages.⁷⁷ The inclusion of dominant and positively represented social groups in the media has a strong benefit for them. In contrast, exclusion or misrepresentation of marginalized and subordinate groups further weakens their already fragile social position. Unfortunately, in

⁷⁴Yates (2011).

⁷⁵Hall (2001), p. 508.

⁷⁶Ibid.

⁷⁷Milivojević (2004), p. 12; Valić Nedeljković (2008), p. 447.

the case of powerful, multinational corporate mass media, dominant groups usually take part in the majority of the representing.⁷⁸

4.6.1.1 Representation of Gender Via Media: Ideology, Stereotype and Pornography

Media discourse is a public discourse that has enormous potential for the reproduction of social relations. In terms of gender dichotomies media still resort to new strategies that legitimize these divisions;⁷⁹ settings created in gender patriarchal ideologies made a strict boundary between the values of women and men, and their affiliation to public or private, natural or cultural, active or passive. In the informing process, some modern media tend to cultivate desirable notions of gender identities and roles, fixing stereotypes about female inferiority in the popular sphere and representing women differently; from symbolic exclusion to the “ghettoization” of women’s interests and experiences.⁸⁰ According to the report (2010) of the largest international study of gender in the news media (the Global Media Monitoring Project), women are extremely underrepresented in news coverage as opposed to men.⁸¹ Women make up only 24% of the people in the news (news subjects), usually as a part of the ‘ordinary’ people categories.⁸² Regarding the news content, 46% of stories reinforce gender stereotypes, while only 6% of stories challenge such stereotypes or highlight the problems of gender (in)equality.⁸³ The consequence of such social action is symbolic gender inequality, defined as “the representation of the principal through an agent to which a certain representative meaning is attributed”.⁸⁴

4.6.1.2 Mass Media and Images

Nowadays, contemporary media tend to reinforce stereotypical portraits of gender. This can be via images showing relationships where competent men save incompetent women, women are viewed as devoting and nurturing housewives, whilst men are providers, and women as sexual objects subject to men’s desire.⁸⁵ By promoting aspects that are not a quality of women’s personality, modern media (subtly) continue to reproduce and affirm the patriarchal and traditional roles of women, thereby limiting the professional and socially engaged activities of women.⁸⁶ One dimension of the traditional female role, presented as a desirable women’s role in a

⁷⁸ Kellner and Share (2005), p. 370.

⁷⁹ Radibratović (2020), p. 14.

⁸⁰ Milivojević (2004), pp. 11–12.

⁸¹ Who Makes the News - The Global Media Monitoring Project, http://www.e-alliance.ch/typo3/conf/ext/naw_securedl/secure0226.pdf?u=0&file=fileadmin/user_upload/docs/Advocacy_Capacity/2011/3.WACC_Who_Makes_the_News_HIGHLIGHTS.pdf&t=1433999043&hash=a864eea3ea60a0795464f14bf9eb972e, visited 21.04.2021.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Lombardo and Meier (2014), p. 4.

⁸⁵ Wood (1994), pp. 33–36.

⁸⁶ Filipović and Kuzmanović-Jovanović (2012), p. 19; Lubina and Klimpak (2014), p. 213.

private sphere is taking care of the home, as a devoted mother and loving wife. Through objectification and sexualisation in the public sphere, media promote the other cultural identity of women; a prostitute or concubine.⁸⁷ In the current global and local context of tabloidization of media, the real model of prostitution is replaced with different modalities, such as starlets, trendsetters, whose “attractive” physical appearance glorifies the public manifestation of sexuality. Media focus on these female roles is primarily oriented towards commercial purposes, but nothing less in favour of reproducing new modalities of patriarchy—so-called a “new patriarchy”.⁸⁸

Despite this pervasive tendency, media should practice a different way of reporting which eliminates, instead of contributing to, these prejudices. Media should report on all genders equally; as for women, they should be represented in all their diversity such as age, social class, ethnicity, level of education, and urban versus rural environment.⁸⁹ The media could offer portraits of women from the professional, academic and other spheres that emphasize their professional competence, instead of insisting on their (attractive) physical appearance or only to affirm the image of a happy woman in a traditional family environment.⁹⁰ By exploring internal relations of inequality, and structural violence in gender relations, the media should and could contribute to deconstructing stereotypes of the traditional family as the centre of love and harmony. Right-wing defence of the traditional family (as the only real “family” without which nation, state and reproduction/birth rates are put into danger) should be countered by presenting the benefits of alternative forms of families.⁹¹

4.6.2 Media Reporting on Violence Against Women

Violence against women persists in media through negative, non-ethical and irresponsible discriminatory reporting. This includes the use of stereotypes, relativization of perpetrators’ guilt or victim-blaming. This erodes the gravity of the criminal act; by disqualifying the victim by history or quasi-history of his/her private life; allowing explanations or justifications of the circumstances under which an act of violence has occurred, and by subsequent stigmatization of the victim.⁹²

► **Definition** Violence against women can occur both in the public or private sphere of life. Violence implies an act that results, or would result in, physical, psychological or sexual suffering to women. It can also refer to threats of such acts, coercion or arbitrary deprivation of liberty.⁹³

⁸⁷ Vujadinović (2016), p. 102.

⁸⁸ Vujadinović and Stanimirović (2016), pp. 195, 198, 200.

⁸⁹ Filipović and Kuzmanović-Jovanović (2012), pp. 31–32.

⁹⁰ Filipović and Kuzmanović-Jovanović (2012), pp. 31–32.

⁹¹ Vujadinović and Stanimirović (2016), p. 198.

⁹² Mršević (2017), pp. 5, 8; Babović et al. (2010), p. 30.

⁹³ UN Declaration on the Elimination of Violence against Women, Article 1, <https://undocs.org/en/A/RES/48/104>, visited 20.03.2021.

In this sense, we are used to witnessing in the media how women are exposed and publicly objectified, with scarce consequences for the media.

4.6.2.1 Gender (in)Sensitive Language

Gender sensitive language (GSL) is part of a non-discriminatory way of speaking and writing. It reflects the political correctness of the one who uses it, as well as the commitment to eliminate discrimination against sex and desire to achieve gender equality. Advocates of *traditional structural linguistics* outline language as a homogeneous, static and independent system that is completely separate from the social context in which it is used. *Modern sociolinguistics* are of the opinion that language is a product of social interactions; various political, economic and cultural factors can have hidden effects on the system of social relations.⁹⁴ One typical language areas where this disparity is most clearly reflected is the asymmetric relationship between members of the society. This refers to the established practice of using the masculine form for titles and professions performed not only by men, but also by women. By using the masculine form to denote the woman's occupation, instead of feminine form, women remain linguistically invisible in the public and political sphere, supporting the patriarchal role model of women in a society.⁹⁵ A *critical sociolinguistics* go a step further by claiming these language differences are determined by hegemony and dominance of one group of members of a society over another. Comparatively *theory of dominance* labels men as creators of these discriminatory language practices, which were made with the intention to keep women in a subordinate position.⁹⁶

4.6.2.2 Hegemonic Masculinity

This concept is commonly defined as the prevailing gender norm; the predominant gender construct that can be related to the dominant gender regime and the wider social environment or heteronormative model of gender relations, identities and roles.⁹⁷ These gender roles, which were accepted during the process of socialization, are treated as the most culturally desirable within a particular society; "imaginary social standard". These gender regimes lead to the underestimation, and consequently, discrimination of women and any other non-hegemonic identity in public spaces. In Connell's words, hegemonic masculinity "was distinguished from other masculinities, especially subordinated masculinities. Hegemonic masculinity was not assumed to be normal in the statistical sense; only a minority of men might enact it. But it was certainly normative. It embodied the currently most honoured way of being a man, it required all other men to position themselves in relation to it, and it ideologically legitimated the global subordination of women to men".⁹⁸ Contrastingly, it is also

⁹⁴ Filipović (2011), pp. 409–410.

⁹⁵ Begović (2015), p. 64; Savić (2004), p. 4; To see more on recommendation for conscientiously, sensitive and non-discriminatory use of language, Savić (2009), pp. 9–27.

⁹⁶ Stevanović (2019), pp. 65–69; Filipović (2011), pp. 410–411.

⁹⁷ Hughson (2017), pp. 39, 21; Andelković (2015), pp. 50–51.

⁹⁸ Connell and Messerschmidt (2005), p. 32.

defined a “negative standard” in which various subversive patterns of practices primarily reflect male dominance over women, as well as over LGBTQIA+ people. Some of these typical practices are homophobia (seeing homosexuality as counter-hegemony) and male heterosexuality as the only accepted means of expressing sexuality;; seeing women as potential sexual objects to provide sexual validation to heterosexual men.⁹⁹ Despite these inner ambivalences, a conventional, heterosexual masculinity is seen as “culturally idealized form of masculine character”.¹⁰⁰

In comparison to the aforementioned rigid conditions of “being a real man”, other forms of masculinities are perceived as subordinated, incomplete or marginalized.¹⁰¹ Being more socially accepted and desirable than homosexual masculinity, heterosexual masculinity “oppresses gayness” in different ways; in terms of gay identity, sexual and mental health.¹⁰² Notwithstanding the fact that the conventional notion of hegemonic masculinity in its essence undoubtedly denies various aspects of gay men lives, paradoxically hegemonic masculinity actually pervades (to a certain extent) different spheres of gay partnerships, such as clothing, public appearance, sexual intercourse, and social engagement.¹⁰³ In other words, empirical studies have shown that there is a significant percentage of the gay population that is attracted by strong, dominant, and powerful men, whose appearance could be compared with the dominant male partner in heterosexual relation.¹⁰⁴

As such, hegemonic masculinity has different forms of legitimation in media reporting. This is particularly evident in gender-based violence cases, where media often tend to somewhat “justify” these acts and excuse the behaviour of perpetrators. In particular, instead of loud and clear qualification of a murder, various headlines romantically refer to the “crime of passion”, the “destiny similar to the one of Romeo and Juliet”, or stipulate the crime was motivated by some sort of woman’s infidelity.¹⁰⁵ In this way, hegemonic masculinity continues to exist and grow; it tacitly overcomes even the gender-based violence cases that are driven by such a concept.¹⁰⁶

⁹⁹ Donaldson (1993), p. 644; Jarić (2006), pp. 175–176; Connell and Messerschmidt (2005), p. 832; More on the critics and suggestions for reformulation of hegemonic masculinity as a very much contested theoretical concept Connell and Messerschmidt (2005).

¹⁰⁰ Donaldson (1993), p. 646.

¹⁰¹ Connell (1992), p. 736.

¹⁰² Edwards (2018).

¹⁰³ Edwards (2018); Lanzieri and Hildebrandt (2011); Ravenhill (2018).

¹⁰⁴ Lanzieri and Hildebrandt (2011), p. 287.

¹⁰⁵ Mršević (2019), p. 105. Headlines are usually shaped like this—“A crime of passion”, “Killed a woman because he suspected she was cheating on him”, “They ended up as Romeo and Juliet”, “After he got fired, he killed his wife and kids” etc.

¹⁰⁶ A good example of consequences of hegemonic masculinity is “honour killing” or “customary killing”. This type of violence against women, typical for patriarchal sharia societies (Iran, Pakistan, Jordan, India etc.), where women are murdered by their male family members—fathers, brothers or other relatives, if they have acted in a way that such societies consider as dishonorable, sinful or inappropriate. In addition to strict norms of sharia law, these situations are equally grounded on notion of hegemonic masculinity on which women’s fathers and brothers were raised. Hadi (2020); Faqir (2001); Cohan (2010).

4.6.3 Rape Culture and Pornography

Ever since women raised their voices in order not to be seen as a property, the issue of rape became an inseparable part of the public feminist struggle for gender equality and justice. Contemporary feministic studies introduce a different perspective, saying that rape is “a part of a sexist ideology and thus helps to reinforce social and structural injustice”.¹⁰⁷ Rape culture refers to an environment in which women’s rape is tolerated, trivialised, normalized, eroticised and justified through different social, cultural and structural practices, behaviours and discourses.¹⁰⁸

4.6.3.1 Theoretical Ideas on Rape Culture and Pornography in Feminist Theory

Although some would say it is less visible than the other forms of violence, sexual violence¹⁰⁹ is more widespread than we think.¹¹⁰ One form of this sometimes “invisible” violence is rape; “physically forced or otherwise coerced penetration – even if slight – of the vulva or anus, using a penis, other body parts or an object”.¹¹¹ While rape is still a very contested theoretical concept,¹¹² ‘rape culture’ refers to social, cultural and structural discourses and practices that allow, and in different ways support, sexual violence. In rape culture, perpetrators are usually not held accountable for their acts and women victims are systematically disbelieved.¹¹³ Blaming victims for being raped is usually followed by doubts and mistrust in the occurrence of rape, often results in justifying the perpetrator or rationalizing rape as a big misunderstanding.¹¹⁴ Such an opinion is often grounded in the belief that rapists are a specific type of persons, are not someone known to the victim (although 90% of rapes were committed by someone the victim actually knew),¹¹⁵ or perceptions that rape could happen only to certain types of women.¹¹⁶ Such manifestation of rapists

¹⁰⁷ Hänel (2018), pp. 9–10, 24.

¹⁰⁸ Powell and Henry (2014), p. 2.

¹⁰⁹ Sexual violence is defined as “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work”. Kurg et al. (2002), p. 149.

¹¹⁰ Some public institutions worldwide, such as governments, organizations, health institutions, point out that sexual violence is an epidemic. Powell and Henry (2014), pp. 1–22.

¹¹¹ Kurg et al. (2002), p. 149.

¹¹² Rape has different definitions: legal definition—“a sex without consent”, clinical definition—“any form of forcible sexual assault”, or widely accepted definition—“sexual aggression that is not sexually motivated”, Savino and Turvey (2005), pp. 2, 7.

¹¹³ Buchwald et al. (1993).

¹¹⁴ Harding (2015), pp. 9, 23–24.

¹¹⁵ According to the World Health Organization (2002), overall 35% of women worldwide reported having experienced either physical or sexual violence by a partner, or sexual violence by a friend, family member, acquaintance or stranger, Powell and Henry (2014), p. 1.

¹¹⁶ Harding (2015), pp. 9, 23–24.

and rape victims do not happen in isolation but rather are part of broader gender inequality regimes. Law and institutions that perpetuate and support rape culture, in an active or passive way, contribute to making rape one form of structural violence.¹¹⁷

Regarding the connection between rape and pornography, opinions were polarized and heatedly debated between feminists. *Anti-pornography feminism* argue that pornography is one form of a sexual violence against women and a source, and product of, misogyny in a society.¹¹⁸ According to these academics (some would say radical ones), pornography reflects a patriarchal ideology that treats women as sexual objects, where their depersonalized body parts serve exclusively to please a men's sexual desire. By looking provocative into the camera, the pornographic model expresses a desire and willingness to satisfy the male consumer. In this way, we have an impression that women are helpless and submissive objects of a man's desire. In turn this creates and fosters relations of sexual supremacy and domination, in which increasing younger boys and girls are being socialised.¹¹⁹ Creating a distorted image of a women's body, sexuality and the sexual act itself, pornography fosters rape myths (especially the one that all women fantasize about being raped), erects sexual violence and tempts rape.¹²⁰ Outlining that most female models are in some way forced into pornography, the basic motto of these ideas is; "pornography is the theory, and rape is the practice".¹²¹ However, there is a significant gap between these ideas. *Pro-pornography feminists* (also called "pro-sex" or "sex-positive" feminists) lie on the other side of the debate and emphasize positive effects of the pornography such as: free expression of women's sexuality; a sexual stimulation; a kind of erotic art; a social space for women as producers as well as consumers of pornography, and a way of helping men to become a better lovers.¹²² So long as no coercion is used, or degrading, dehumanizing scenes are included, each individual can express his sexual right of self-determination through pornography. These ideas resulted in a minority of feminist pornography, as the industry is male-dominated professionally and so, are the consumer profile and sexual practices offered. Theoretically, it represents an alternative and different kind of pornography where actors

¹¹⁷ Buchwald et al. (1993).

¹¹⁸ Valić Nedeljković (2008), p. 449.

¹¹⁹ Ibid.

¹²⁰ Russell (1995), pp. 45–79.

¹²¹ Although this motto, created by Robin Morgan, one of the leaders of international feminist movement in 1960–1970s in USA, was very often quoted and notoriously accepted by other representatives of this movement, Berl Kutchinsky conducted an empirical research with an aim to find a causal link between pornography and rape. He investigated the development of rape and the number of attempted rape during the period 1964–1984 in U.S.A., Denmark, Sweden and West Germany. Seeing that in every country the number of rape didn't increase more than any other nonsexual violent crimes, Kutchinsky dismisses the hypothesis that pornography causes rape. Kutchinsky (1991), pp. 47–64.

¹²² Potter (2016) <https://www.dissentmagazine.org/article/not-safe-for-work-feminist-pornography-matters-sex-wars>, visited 31 October 2021.

give, and are in power to revoke, their consent in every moment. The workplace is safer, cleaner and female performers are allowed to engage more creatively on set. Protecting and respecting actors equally and showing sex in a safe and fun way, feminist pornography promotes “positive sexual role modelling”.¹²³

4.6.3.2 Strategies and Policies for Overcoming Rape Culture

At first glance, maybe the pervasiveness and frequency of rape looks discouraging, however “safety and security do not just happen: they are the result of collective consensus and public investment”.¹²⁴ Through united action of different social actors, fertile strategies against rape and sexism in general could be developed.¹²⁵ In order to transform a rape-supportive culture, as individuals, we should stop thinking about the victims as strangers, but rather as someone’s mother, spouse, sister, daughter or friend.¹²⁶ More importantly, as a society, we should focus on the social structures that underpin the various forms of sexual violence.¹²⁷ We have to combat the victim-blaming cultural pattern, which holds victims as responsible for the crime itself.¹²⁸ In that respect, we need to begin educating our educators and increase participation in, or awareness of, (non)institutionalized organizations devoted to ending violence.¹²⁹

Media (re)present (symbolically constructed) information. As a whistle blower, they may prevent, abolish or condemn gender-based violence in the public domain. Yet, certain media still maintain and reproduce culturally shaped stereotypes, ideologies, (rape) myths and prejudices. Nevertheless, media can be influenced by a public who are awake, critical and responsible, and able to deconstruct, and reconstruct, an offered reality. As selective and critical recipients of media content, we will be capable of: forming our own cultural meanings; analysing media code; criticizing stereotypes, dominant values and ideologies; recognizing implicit discriminatory or sexist messages, and interpreting the multiple meanings of media messages.¹³⁰ In this way, we need to actively change the *status quo*, despite how

¹²³ One of the pioneer of the feminist pornography is Candice Vadala, an ex-pornographic model, who started her own company with the words “these movies are sold based on the women, but our sexuality was completely ignored in them.” Potter (2016).

¹²⁴ Kurg et al. (2002), p. ix.

¹²⁵ Hänel (2018), p. 12.

¹²⁶ Savino and Turvey (2005), p. 21; Despite the fact that we, most likely, didn’t participate in the very act of rape, nor did we watch or relativize such an act, we should not be turning our head away; instead, we need to take rape accusations seriously, to be supportive to a person that have been raped etc. Harding (2015), p. 47.

¹²⁷ Powell and Henry (2014), p. 2.

¹²⁸ This attitude towards victims has its roots in gender lessons which have been internalized through growing up and has been maintained through the widely accepted beliefs, opinions and behaviors. As Adichie likes to point out, we “. . . have been raised to think of women as inherently guilty. And they have been raised to expect so little of men that the idea of men as savage beings with no self-control is somehow acceptable.” Adichie (2014).

¹²⁹ Harding (2015), p. 37.

¹³⁰ Filipović and Kuzmanović-Jovanović (2012), pp. 20–21, 28.

uncomfortable it may be. Widespread attention is required regarding gender-based violence, as one of the basic social mechanisms which maintain and reproduce historically unequal relations of social power between men and women, and other self-identities.

4.7 Gender Inequalities in Public Sphere: Politics, Political Institutions, Parties and Governments, Socio-Legal Perspective¹³¹

The analysis of the main institutions of contemporary political systems, especially democracies, has traditionally been a subject of study in social sciences in general and particularly political science. The crucial roles of the legislative, executive, and judicial powers in the processes of law-making, implementation, and interpretation have been highlighted. One of the most recent and promising lines of research in the study of these political institutions is related to the implementation of the gender perspective. *Gender perspective* in this sense means that institutions are not gender-neutral; rather, they reproduce prevailing norms and values, including those related to inequalities (roles, stereotypes and legal barriers). An aim of this section is to analyse and illustrate the processes by which the phenomenon of male domination is created, maintained, and reproduced in the spaces of political power. In other words, the goal is to show the formal and informal strategies, procedures, and modes of action through which the asymmetrical power relations between the sexes are perpetuated within the framework of political institutions.

4.7.1 Gender Differential Political Socialization and Political Culture

The concept of *political culture* refers to the set of attitudes, beliefs, values, and evaluations that predominate among citizens in relation to their country's political system, and therefore influence their political behaviour.¹³² Through the process of political socialisation, which begins in childhood, attitudes, values, and beliefs about political reality are acquired that allow us to understand the political participation and behaviour of individuals. The political socialization of gender begins mainly within the family, but also in the school.¹³³ This transmits differentiated political expectations associated with femininity and masculinity. Family is important for

¹³¹ This heading is linked to the Public Law chapter, where some of this matters will be discussed.

¹³² Almond and Verba (1963).

¹³³ As we have stated related to educational systems, traditionally, boys are more stimulated than girls to public acting in schools, expressing themselves and their opinion; they are more trained for decision-making and future accepting public roles. Teaching materials and learning outcomes affiliate public social roles to boys much more than to girls. This is one of the symptoms of the social (inequality) reproduction functions in education that pervades educational systems.

developing the type of personality of the child; either autonomous type of personality (crucial for democratic politics), or the heteronomous one (fitting into all forms of undemocratic political orders). A democratic family tends towards child respect and developing the child's autonomous personality. This is more likely to stimulate less traditional, and more equal, roles for both boys and girls.

This leads to women showing less interest in politics compared to men, less capacity to understand politics and to influence public affairs, as well as seeing themselves as less qualified than men to run for political office.¹³⁴

4.7.2 Gender Gap in Political Participation

Political participation is a key element in democratic systems. It consists of all those actions carried out by citizens; the ultimate aim being to influence the political process, whether in the election of political representatives or in the elaboration and implementation of public policies.

The specialized literature has differentiated between conventional and nonconventional political participation, called "politics in narrow sense" and "politics in wider sense".¹³⁵ The former includes actions such as voting, participating in electoral campaigns, joining political parties, and contacting public offices. The latter manifests itself in actions that go beyond the institutionalized channels established in democratic societies, generally expressed in the form of civil society actions of a different nature. This can include mass movements, civic protests, manifestations of civil disobedience, and grass-roots actions by collecting signatures, occupying buildings, boycotting events or blocking traffic. A noteworthy example would be the actions carried out by suffragette movements of the nineteenth century and feminist movements of 20th (and twenty-first century).

Studies analysing the explanatory factors of political participation have classified them into two main types. Internal types refer to individual resources, attitudinal orientations, and values. Factors of an external nature are related to institutional and contextual factors. In relation to internal factors, the position that the individual occupies in the social structure, defined fundamentally by his/her level of education and participation in the labour market, determines the availability of more or less free time to become involved in politics, as well as the greater, or lesser, cognitive ability to assimilate and process political information. Likewise, socialization provides the individual with information, resources and behavioural patterns that can lead to an interest in and participation in politics. In contrast, and in relation to internal resources, individual attitudes and values influence the degree of political involvement, and levels of satisfaction, with the political system.¹³⁶ In terms of factors external to the individual that may explain political participation, different

¹³⁴Fox, Lawless (2011), pp. 59–73.

¹³⁵Keane (2003).

¹³⁶Verba et al. (1997), pp. 1051–1072.

characteristics of the political context, related to electoral (in)stability, or the (non)-existence of civic organizations, have been identified as facilitating political participation.¹³⁷

Feminist literature has identified the existence of gender differences in political participation that can be explained by a deficit of resources that women suffer from as a social category. This is based on the unequal distribution of family responsibilities and domestic tasks, the availability of free time, and differentiated role socialization. These differences between men and women in political participation are also based on the prevailing gender culture and organizational practices in the very political and social organizations that are supposed to promote political participation, allocate responsibilities based on sexist stereotypes, or with the establishment of participation activities that are incompatible with care schedules.¹³⁸

4.7.3 Women and Men as Candidates for Political Institutions: The Role of Political Parties

The classical literature on political parties have focused on the study of different aspects related to political parties: the origin and evolution of parties; their main characteristics and functions; the models and sources of party financing; their internal structure and organization and the key role that political parties play in the processes of recruitment and selection of political elites.¹³⁹

Political parties are indispensable instruments in the organization of parliaments and governments. These political institutions are nurtured by leaders who have been selected within the parties and who come to power through elections. Parties not only intervene in the selection of candidates for different electoral contests, but they also intervene in the internal selection processes to define their governing bodies and the leaders of the political party itself.¹⁴⁰

Feminist literature has focused on the analysis of gender bias in political parties, conveying that women's presence decreases as one moves up the party hierarchy. Moreover, the percentage of women in party membership is significantly higher than the level of women's presence in party executive and central bodies. Several studies draw attention to a certain degree of opacity in the recruitment processes and internal functioning of parties.¹⁴¹ Feminist literature argues that it is precisely these mechanisms, more or less explicitly, that are behind the lesser presence of women in political parties compared to their male colleagues. This perpetuates a logic of male recruitment and functioning.¹⁴²

¹³⁷ Kriesi et al. (1992), pp. 219–244.

¹³⁸ Lovenduski (2005).

¹³⁹ Sartori (1976).

¹⁴⁰ Norris and Lovenduski (1995).

¹⁴¹ Verge and De la Fuente (2014), pp. 67–79.

¹⁴² Verge and Claveria (2017), pp. 91–114.

4.7.4 Gender and Three Dimensions of Political Representation: Descriptive, Symbolic, and Substantive

Feminist political theory has introduced explanations, ways of understanding and approaches to what political representation entails. Such theory questions and problematises some of the central tenets of the classical literature, showing the importance of power asymmetries between the sexes in the framework of political institutions. This is in relation not only to the differential numerical presence of men and women in parliaments and governments, but also to their symbolic impact and substantive political action. It thus implies the necessity of paying attention to gender and its political implications in the public sphere.¹⁴³

4.7.4.1 Women and Numeric Political Representation: The Relevance of Critical Mass Theory

The descriptive dimension of representation, also known as the demographic, social, or microcosmic approach to representation, focuses on the composition of institutions. This considers that they should be as accurate a reflection as possible of the gender of the population they represent, in order to achieve the best possible articulation of the citizens' interests.¹⁴⁴ *Being* in politics is justified for reasons of equity and fair distribution of social positions and resources. The presence of women is thus an indicator of democratic legitimacy. Within this framework of analysis, *'the theory of critical mass'* becomes particularly relevant. It points out that when traditionally under-represented groups, in this case women, in the political arena reach a critical mass, institutions and public policy will be feminized.¹⁴⁵

A large body of literature has identified the explanatory factors that determine the level of women's presence in institutions of political representation, especially in parliaments and governments; institutional,¹⁴⁶ socioeconomic,¹⁴⁷ and cultural or ideological factors.¹⁴⁸ Feminist literature has particularly highlighted that quotas are a key institutional mechanism for improving the descriptive dimension of political representation.¹⁴⁹ This, and other related issues, will be discussed in the chapter of Public Law.

Studies linked to women's participation in government show the progressive presence of women in government occupying spaces traditionally considered masculine.¹⁵⁰ However, their differential presence according to ministerial portfolios (greater in areas linked to family, health or education issues) and levels of

¹⁴³ Phillips (1995).

¹⁴⁴ Pitkin (1967).

¹⁴⁵ Dahlerup (1988), pp. 275–298.

¹⁴⁶ Caul (1999), pp. 79–98.

¹⁴⁷ Rosenbluth et al. (2006), pp. 165–192.

¹⁴⁸ Norris and Inglehart (2001), pp. 126–140.

¹⁴⁹ Lépinard and Rubio-Marín (2018).

¹⁵⁰ Bauer and Tremblay (2011).

government (higher rates of female presence in local governments than in regional or national governments) highlights the sexist impact of stereotypes and their cultural transfer to the public space.¹⁵¹ Despite the critical mass, if gender sensitivity among women politicians is absent, insofar as merely following the male political acting model, we would remain at the initial starting point. In this sense, there is a growing body of literature arguing for policy change when women are in power; developing differential skills, concerns and priorities.

4.7.4.2 Women as Political Symbols: Role Model Effect

The symbolic dimension of political representation is analysed on the basis of the feelings, beliefs, and attitudes that the representative awakens, or generates, in the represented. Representation is thus determined by the extent to which citizens recognize, accept, and believe in the symbol of the representative.¹⁵² Analysing the symbolic dimension of political representation from a gender perspective therefore involves showing the process of social construction of men and women as political symbols, and the differential impact that this gender construction can have on representatives and the represented.¹⁵³

It is worth noting here that the literature analysing the interrelations among gender, political representation, and mass media is in terms of the latter's capacity to (re)produce existing social prejudices about women's abilities as political elites.¹⁵⁴ On the other hand, mass media could play the opposite emancipatory role. Nevertheless, women to a greater extent than men, are (re)presented to the electorate on the basis of their physical appearance, age, family model, and lifestyle. This is to the detriment of their reliability as elites, confirming the mass media have the ability to trivialise and render women politicians invisible in symbolic terms. In short, the mass media, in their process of symbolic construction of gender, can reduce or even nullify the possibilities of broadening citizens' views of gender and politics, as well as their perceptions of the role of women in politics.¹⁵⁵

4.7.4.3 Women Who Are 'Doing' in Politics: A Feminist Agenda and Feminine Political Style

The third dimension of political representation focuses on what, in Pitkin's terms, is known as the 'substantive activity of representation'.¹⁵⁶ Namely, the represented is made present in a legislature by the representative's actions. From this perspective, the focus of attention is on the decisions that are taken in the parliamentary chambers, both in terms of the content of the political process and the form or style in which the representative exercises his or her task. Research has shown that

¹⁵¹ Claveria (2014), pp. 1156–1176.

¹⁵² Lombardo and Meier (2014).

¹⁵³ Childs (2008).

¹⁵⁴ García-Blanco and Wahl-Jorgensen (2013), pp. 422–41.

¹⁵⁵ Verge and Pastor (2018), pp. 26–50.

¹⁵⁶ Pitkin (1967).

women tend to have characteristic priorities and ways of acting, that are manifested in an agenda closer to women's issues and interests. This extends to establishing a different way of doing politics; one more focused on consensus and attention to civil society actors, as opposed to the confrontational and hierarchical style of men.¹⁵⁷ It is also necessary to mention that women in politics sometimes imitate/copy the traditional male role in politics, happening too often, particularly in more traditional societies and authoritarian political orders.

However, when the interrelationships among the three dimensions of political representation was studied in depth, the critical mass theory was progressively replaced by other arguments that showed the importance of *critical actors* who, because of their feminist attitudinal orientations,¹⁵⁸ their seniority as representatives,¹⁵⁹ or their positional power within parliamentary chambers,¹⁶⁰ have the capacity to carry out *critical acts* aimed to improve the female presence in the political life.

4.8 Conclusion

The interplay between social practices and law is studied through sociology of law. This strives to examine law not only as the product of state, but also as a social phenomenon. Moreover, gender as a social construct is regulated by law, itself a social product. Thus, gender and gender relations are very important keys in socio-legal studies.

This chapter gives an in-depth view of how gender stands as an important element of studying law and society, and how the lack of gender perspective in socio-legal research fails to grasp the essence of social relations upon which human lives are built. The chapter's key points are to (1) highlight feminists' critical analysis of gender and gender relations within law, (2) deconstruct power as discursively constructed and dispersed through social institutions, and (3) problematise structural inequalities and violence through feminist socio-legal research and activism.

This chapter elaborates on how gender socialization, and different values, attitudes, norms, behaviours, and expectations in society reinforces traditional gender roles determined by biological sex. Moreover, it reflects on how gender regimes of inequality are affected by intersections including race, class, gender identity, sexual orientation, poverty, disability, and age.

To this end, this chapter examines very important forms of gender structural violence due to gender structural inequalities. Thus, the chapter investigates feminist socio-legal perspectives on matters such as the social family transformation, rape (marital and statutory rape), child marriage, intimate partner violence, economic

¹⁵⁷ Mateo-Díaz (2005).

¹⁵⁸ Tremblay and Pelletier (2000), pp. 381–405.

¹⁵⁹ Beckwith (2007), pp. 27–49.

¹⁶⁰ Kathlene (1994), pp. 560–585.

violence, unequal access to health care and education, unequal labour market, sexual objectification of women, and lack of access to political participation.

Questions

1. **Understanding non-heteronormative and gender variant:** The objective of this activity is to learn what is gender and how gender relations are constituted.
Choose a few legislations from your home country or a country of choice and investigate how these legislations address, define and approach gender? What type of gender system do they reinforce and how? Write amendments to the legislations by presenting your arguments.
2. **Understanding the effects of structural inequalities:** The objective of this activity is to learn how structural inequalities affect people in public and private sphere.
Conduct desk research and examine which countries in Europe have legalised or criminalised abortion or forced sterilisation/forced infertility treatment against trans people, ethnical women groups and women with disabilities. Choose two different contexts and find out what have been the driving forces for and against legalising or criminalising such practices. Identify the intersections of power relations between the legal, medical, and social institutions in each context and reflect on how such issues are social problems in need of social solution.
3. **Understanding changes in institutions of family and marriage:** The objective of this activity is to learn about different family models and how policies based on different models of family affect people's experiences in society.
Share your experiences and discuss how would you problematise and introduce policy changes in the realm of family and marriage.
4. **The welfare state and good practices in attention to equality in the working family and conciliation:** The development of this section will be carried out through a practical exercise by the students. The basis for the analysis and sharing of good practices will be the information provided by, among other organisations, the European Institute for Gender Equality (EIGE), the International Labour Organization (ILO), and other sources of official organisations by country.
Objectives:
 1. Make visible and highlight successful experiences in certain countries on public policies facilitating the reconciliation of work and family life for men.
 2. Present and analyse employment policies in different countries that have effectively contributed to the reconciliation of work and family life,

(continued)

disaggregated by sex: those aimed at paternity and those aimed at maternity.

3. Determine the frequency with which these practices are used by men and women separately.

5. Understanding the difference between verbal and non-verbal consent:

This activity is to be performed interactively and in pairs. Each student must clearly show to his/her colleague when he/she feels uncomfortable because of such a colleague's behaviour. Student can express his/her uncomfortableness in three ways: 1. through body language with his/her eyes, 2. through body language with his/her hands and 3. verbally, i.e., by using words. The aim of the exercise is to see that sometimes it is quite difficult to say "no" and that (absence of) consent can be communicated in other ways, which is why we should respect the autonomy of others to understand that sexual acts need to be agreed and accepted by both partners equally.

6. Understanding the gender-insensitive language: Students will receive various copies of daily newspapers which reported on gender-based violence. Their task will be to find examples of (in)adequate reporting, i.e., the use of gender-insensitive language, the justification of violence through the practice of hegemonic masculinity, rape myths and forms of rape culture, etc. The goal of this exercise is to learn on the (in)adequate reporting, i.e., how to recognize, define and, finally, recommend more appropriate forms of reporting on gender-based violence.

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