

## Doing Intersectionality in Explored and Unexplored Places

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### 1. Introduction<sup>1</sup>

Since the introduction of the term in Kimberlé Crenshaw’s well-known essay *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Anti-*

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<sup>1</sup> The editorial is the result of a shared reflection. However, the drafting of the first introductory paragraph was done by all the editors, while that of the second paragraph is attributed to Laura Scudieri, that of the third paragraph to Pablo Moreno-Cruz, the fourth paragraph to Barbara Giovanna Bello, the fifth paragraph to Pablo Moreno-Cruz and Laura Scudieri, the sixth paragraph to Nina Lykke, and, finally, the last one by Barbara Giovanna Bello. We are very grateful to scholars allowing their graphic representations to be included in this Monographic Issue.

*discrimination Doctrine, Feminist Theory and Antiracist Politics* in 1989, intersectionality - as both a concept and an analytical tool - has sparked heated debate within a wide variety of disciplinary fields - also geographically conditioned - interested in highlighting, in their respective areas of studies, the complex interactions (Lykke 2010, 51, inspired by Karen Barad 2003, 815) across differing subjectivities, identities, processes of social structuration, systems and practices of discrimination, oppression and exclusion, as well as between subjectivities and identities on the one hand, and processes of social structuration and discriminatory, oppressive and exclusionary systems and practices, on the other hand.

From Black Feminism and the legal field, where it originated, intersectionality has travelled across disciplinary areas and spaces and also moved towards other intersections aside from gender-race, leading intersectionality in a short time to be considered as “the most important theoretical contribution that women’s studies [...] have made so far” (McCall 2005, 1771). However, the controversies arising within the feminist reflection on the attribution/appropriation of intersectionality (Davis 2019; Nash 2019; Lykke 2020) should not foreclose the possibility of interesting new theorizations or investigations of significant implications of “intersectional analytical practices”.

The variety of ways how this perspective can be understood and operationalized - across disciplines, time and space - clearly emerge from the contributions collected in the present Issue, which can be read as a “workshop” to explore bridges between past and current understandings of intersectionality and ways to operationalize it in different areas. The theoretical and practical trajectories of intersectionality prove that “the theory is never done, nor exhausted by its prior articulations or movements; it is always already an analysis-in-progress. Put another way, there is potentially always another set of concerns to which the theory can be directed, other places to which the theory might be moved, and other structures of power it can be deployed to examine” (Carbado et al. 2013, 304).

In the following, we present the collected contributions along four relevant axes to the intersectional debate: practices of intersectionality in institutional settings and social movements (para. 2); methodological, epistemological and political practices (para. 3); legal practices (para. 4) and practices of bodies (para. 5). The sixth paragraph will explore new approaches to the “how to do intersectionality” question, while the last will conclude by opening the flow of imagination about representing intersectionality. This systematization of the articles tries to emphasize the innovative contributions made by authors to a very lively debate. Still, their richness - in terms of theoretical reflections and methodologies adopted - will be appreciated at best by reading each and all of them.

## **2. Practices of intersectionality in institutional settings and social movements**

Even a cursory literature review reveals both the vast expansion of the use of the term ‘intersectionality’ and the sophisticated theoretical contributions that offer different ways of conceiving it - e.g., as a research paradigm (Hancock 2007a; 2007b; Walgenbach 2010) or a theory (Walby 2007).

Far from being received in polemical or, to some degree, oppositional terms, the wealth of “translations” of intersectionality can indeed be inscribed into the wide “field of intersectional studies” presented by Cho, McCall and Crenshaw herself in the essay *Toward a Field of Intersectionality Studies: Theory, Applications, and Praxis* of 2013. On this occasion, these scholars undertake a valuable work of systematization with respect to very different developments of intersectionality encompassing both “centrifugal studies” - influenced by their own disciplinary field - and “centripetal studies” - mainly oriented towards integrating methods belonging to different disciplines. It can be said that they can hold together a variety of ways of understanding and *doing intersectionality*.

Most of the contributions collected in this Issue belong to the former movement of intersectionality, where the methodologies of contributors' disciplinary fields shape how intersectionality is deployed. However, as Miriam Tola's article *Intersectionality and the Environmental Humanities: Notes on Elisions and Encounters* pointedly explains, there is a mutual nurturing between theoretical elaborations in specific fields (environmentalism) and intersectionality. For instance, integrating intersectionality into environmental studies can help detect still invisible inequalities and forms of marginalization and also enrich it by insights from this disciplinary field. This concept is telling, considering that environmentalism can be regarded as a new frontier of intersectionality (Thomas 2022). Tola's article turns to research that grasps the connections between gender, race, species and environmental violence. In this field, a growing body of work enacts intersectional environmental humanities that fruitfully mobilizes expansive notions of intersectionality to advance the analysis of the connections between intra-human inequalities and human/nonhuman hierarchies and, in turn, brings more-than-human constellations into intersectionality scholarship.

Relevant, in this sense, is Samuele Briatore's article, *Museums and Intersectionality. New cultural challenges and the Italian reflection of "District X: multiple views on Museums"*. It highlights the potential and limits of using an intersectional approach to the unexplored field of museology, and cultural institutions in general, through an innovative project - that owes much to social theatre and dramatherapy - that is a significant example of "action-research" in the field of social inclusion of varied subjectivities and of the co-construction of new collective narratives.

Always in this perspective, Claudia Di Matteo's essay, *The Institutionalization of Gender-Based Violence (GBV) and Migrant Women's Access to Social Protection System in Advanced Welfare Societies. A Systematic Qualitative Exploration of the Literature at the Cutting Edge of Gender, Migration, and Welfare*, is also very impressive. It is especially astounding because the author dwells on the review of

literature that explicitly adopts an intersectional approach based on a qualitative analysis of a final sample of 25 papers chosen from an initial sample of 2,734 (later reduced, based on eligibility criteria, to 289), relying on “the so-called Intersectionality-Based Policy Analysis (IBPA) framework (Hankivsky 2012; Hankivsky *et al.* 2014) as a baseline for [the] systematic literature review”. In brief, the author’s objective is to investigate how GBV against women is conceptualized in the examined literature, focusing on those having a precarious legal status, making migrant women more vulnerable to violence. In structuring her research, which can be read as a study on the political and epistemological effects of the use of expressions such as “gender-based violence”/“female immigration”/“precarious legal status”, the author herself adopts an intersectional perspective, especially useful when it comes to clarifying how the literature reconstructs the “s-object” of analysis, i.e. the migrant woman in a situation of legal precariousness. Di Matteo identifies three ways of reconstructing the subject and, further, tries to link back to the classic tripartition of the forms of intersectional complexity formulated by Leslie McCall.

If these positionings imply a conscious choice to investigate the intra-actions between categories and/or structures in the three above-mentioned ways, the widespread dissemination of the term in the scholarly and public literature and also public policies and research programs has nevertheless contributed to the proposition of other critical junctions.

Consider in this regard the often invoked depoliticization (Bilge 2012) or uncritical and “epistemologically ignorant” (Sullivan and Tuana 2007) uses of intersectionality that expose it to become the object of a blackboxing effect, which occurs when “concepts turn into rhetorical devices, something that people refer to without reflecting on implications and contexts” (Lykke 2011, 210). This last aspect deserves a closer look. In fact, detaching intersectionality from a substantial epistemologically critical and (self-)reflexive approach risks reducing it to a mere

“term in vogue”/buzzword (Davis 2008) or mainstream term, with the risk of endorsing one of the main criticisms raised against it. In the European Union’s (EU) context, this risk can be caused by the new EU Research Programme “Horizon Europe”, which requires universities to adopt Gender Equality Plans to access it. Being intersectionality an innovative aspect incentivized by the Programme, even unintentionally an unconscious use of this approach may happen in those contexts that are less acknowledged with the developments of this perspective. On the other hand, it has stimulated a debate on it and an awareness-raising process on different conceptualizations of this perspectives and ways to operationalize it.

All in all, the explicit use of the term ‘intersectionality’ implies a reference to micro- and/or macropolitical level intra-actions between subjectivities and processes of social structuration or a critique of the sameness/difference standard model. It is to be noted, at the same, that there are theoretical and empirical contributions that provide for such analysis without resorting explicitly to the term.

Bilge (2013) and other scholars see this expansion of the concept’s range of meanings as a diluting of its key components by arguing instead that it is rather “an anti-racist intervention by Black feminist scholars” than “the brainchild of feminism” (Davis 2020, 120). These scholars, therefore, call for a careful re-reading of Crenshaw’s writings. In this vein, Maëlle Noir’s contribution, *Intersectional Analysis as a Framework of Action for (White) Feminist Activist Praxis: The Case of #NousToutes, the French Movement Against Gender-Based Violence*, argues that the concept of intersectionality shall not be stripped of its Black liberation roots. By analyzing the French #NousToutes, the author shows that by acknowledging intersectionality as a concept emerging from American Black Liberation movements seeking to explain how the gender, race and class axes intersect to form a new discrimination, the feminist collective establishes strategies to expand the

scope of this concept to its predominantly White and upper-class activism while mitigating the phenomenon of appropriation.

Moreover, the undeniable circumstance of regrettably becoming a fashionable term is not the only criticism advanced against intersectionality. From an epistemological, methodological and political perspective, intersectionality has also called forward numerous criticisms from scholars and activists who are skeptical of both its innovative contribution to existing research as well as its potential to change oppressive living conditions. Among these, we shall at least mention those criticisms pointing out that intersectionality can be a potential instrument of political fracture, obscuring complexity due to its potential essentialism because it would inevitably lead to creating and reproducing “intersectional identities” which do not adequately account for intersubjective differences, while also risking amplifying oppression (for example, Nash 2008).

The analysis by Maria Caterina La Barbera, Paloma Caravantes, Julia Espinosa-Fajardo and Laura Cassain, *From Theory To Praxis: A Round Trip Towards the Institutionalization of Intersectionality*, deals with this very issue, providing some relevant clarifications that show the complexity of the use of the term ‘intersectionality’ in the legislation that regulates the configuration of public policies on equality in the Madrid City Council. The study starts from an assumption, confirmed by the empirical analysis, that “the introduction of new legal-political concepts does not operate in a *vacuum*. Rather, the staff of public institutions interprets and operationalizes the new concepts in relation to already established interpretative frameworks” and, therefore, “the explicit and implicit pre-understandings of administrative staff [end up being] decisive for the practice of intersectionality in public institutions”. The authors highlight several practical difficulties that could lead, *de facto*, to the aforementioned blackboxing effect and, in general, to institutionalised intersectionality not resulting in effective actions, by reducing it to an “empty signifier”.

Gerardo Contreras and Isabel Arellano's contribution, *Notes on the Lives of Intersectionality within Institutions*, delves into the process of institutionalization of intersectionality in Latin America, shedding light on the development of intersectionality in one area of the Global South through documentary. The authors highlight the relevance of feminist neo-institutionalism and, with it, a skeptical analysis to conceal between assimilation and incrementalistic views in the literature on intersectionality. The term has been adopted since the 2010s by institutions in Latin America in three ways: a way to describe an experience of historically marginalized groups; an analytical tool, which identifies specific needs in a particular case; and an identity label. The article also suggests future research on the institutionalization of intersectionality, such as whether a process of erosion of the term has begun and what consequences it brings about.

### **3. Methodology, epistemology and political practice**

In response to the critical approach adopted concerning the categories as having a potentially essentializing effect, it is important to note that McCall (2005) distinguishes the studies on complexity into "anti-categorical", "intra-categorical" and "inter-categorical" - all indeed characterized by an anti-essentialist matrix. The former (studies on "anti-categorical complexity") refers to scholars engaged in projects of deconstruction of master categories to deconstruct "inequality itself" (McCall 2005, 1777). However, it should be emphasized that the de-categorization process brings relevant "political consequences" (Matsuda 1990, 1776) that cannot be neglected, especially with regard to law as a system that operates primarily through categories that could hardly do without. The "intra-categorical complexity", on the other hand, concerns studies that complicate, interrogate and critically use categories, especially when they propose to investigate "minorities within minorities" (McCall 2005, 1780). Lastly, the inter-categorical complexity -



still known to a lesser extent if compared with the two previous ones and that McCall urges to explore - expresses the intent to place “the nature of the relationships among social groups and, importantly, how they are changing” at the center of the analysis (McCall 2005, 1785), rather than the marginalized subjects or subgroups.

A tripartition on intersectional complexity lies at the heart of Enzo Colombo and Paola Rebughini’s reflection in the contribution *The way it Goes: Epistemic and Methodological Encounters of Intersectionality*. The authors thus question the possibility of explaining how the social placement in intersections in the light of categorizations configure specific hierarchies and, therefore, forms of oppression and privilege. Alternatively, from an embedded view, it is possible to grasp that kind of “agency space”, allowing “analysis of the interpretation of, resistance to, and transformation of the processes of categorization” in the interaction and combination between different intersections. This epistemological claim implies complicating the methodological exercise that, as Colombo and Rebughini suggest, requires delving into Leslie McCall’s pioneering consideration of the various forms of complexity. Indeed, these authors suggest that a fourth type of intersectional studies - an “endocategorical” approach - should be considered that combines and deepens existing methodologies to achieve “analyses not only the social location produced, here and now, by the intersection of given different categorizations, and undergone by the subject, but also how the different combinations of intersections modify, through time and space, the strength and subjective experience of the different categorizations”.

This is an epistemological and methodological reflection of great interest insofar as it takes seriously an aspect that, while recalled in the literature on intersectionality, has not been widely explored in relation to the methodological requirements for accessing its knowledge. In short, the empirical analysis, conducted through an “endocategorical” approach of this “agency space”, can become a

space of resistance - transformation within the categorization process. Two other contributions refer to those exercises of resistance that lend themselves well to Colombo and Rebughini's proposal: Raffaella Ferrero Camoletto and Mara Pieri's essay (more in-depth, *infra*, para. 5) refers to the strategies of resistance acted out by the elderly or chronically ill in the field of sexual experience. Added to this article is the contribution by Daniela Cherubini, Giulia Garofalo Geymonat and Sabrina Marchetti, *Intersectionality as a Political Practice in the Movements of Domestic Workers*, which belongs to those writings that move from an intersectionally-situated perspective to construct their analyses on the basis of the visibility of the different articulations of the mechanisms of oppression and exclusion in the specific case of domestic workers. Consequently, the authors claim the intersectional approach as a mechanism of resistance and social transformation if adopted in the framework of the political exercise of social movements, namely the movements of domestic workers as spaces of political re-subjectivation endowed with transformative force. According to the authors, this transformative force also derives from the ability of the movements to adopt and shape the feminist theoretical apparatus and discourse to reinforce the justification of their own claims, especially in relation to care work and the ambiguous and prejudicial position that domestic workers typically occupy as both a "member" of the family and a paid "worker".

Furthermore, on the issue of confrontation in the field of feminist thought, the article, *The importance of Intersectionality for Gender Equality in the Labor Market Analysis*, edited by Luisa De Vita, adopts the intersectional lens to question the "market-, managerial-, faux-, transnational business-, post-feminism neoliberal" rhetoric - on free choice, individual merits, talents and efforts - that hinders the implementation of gender equality policies in the labor market. Particularly interesting and original is the article section focused on the use of intersectionality in the analysis of corporate culture, especially at the meso-organizational level

from the perspective to design policies (such as the institution of a minimum wage) that are more attentive to women's overlapping oppression experiences.

Despite the liveliness of the debate *on* intersectionality and the empirical investigations conducted *within* and *at the margins* of the intersectionality framework, it seems that one of the greatest challenges that scholars have to face still concerns “how to do intersectionality”. For example, *Intersectionality, yes but how?* was the title of a recent special issue of the Nordic feminist research journal NORA (Hvenegård Lassen and Staunæs 2020).

As seen so far in the collected articles, this question has not gone unheard, as we'll immediately see it has been taken up in relation to disciplines and methods explored to a lesser extent in the intersectionality debate.

For instance, Eugenia De Rosa's contribution, *Intersectionality and LGBT+ Discrimination: Paradigms, Concepts and Indicators*, seeks to investigate the impact of the intersectional approach for social research and whether or not it is configured as a new paradigm distinguishable from the feminist paradigm with respect to the epistemological, methodological and practical dimensions of research. According to the author, this paradigm is not yet possible “due to the absence of a consensus in the scientific community on a theoretical corpus and on rules, categories and instruments of investigation, as well as on a set of public and replicable procedures concerning a cognitive sphere definable as intersectional”. However, there is no doubt that the use of intersectionality conditions the very design of research. The author, analyzing an ISTAT-Unar research project on employment discrimination against LGBT+ people, shows the incidence, doubts and challenges related to adopting an intersectional approach in the project elaboration phase and the design of the survey instruments.

In the unexplored field of economy, the contribution by Nicolò Bellanca, Lucia Ferrone and Mauro Maltagliati, *A Measure of Compound Intersectional Inequality*, examines the case where women's intersectional inequality emerges from the

combination (or multiplication) of multiple factors. To try to measure this synergy, the authors select, in various countries and different years, the relevant factors with the corresponding indicators. They then form female and male clusters with respect to each factor, assuming that those in the same cluster are similar. Finally, they calculate for each country and year the distribution of women and men between the clusters, assuming that the more unequal women and men are, the more dissimilar this distribution is. This methodology allows them to measure intersectional inequality in terms of the distances between women and men in the various countries and years examined along the selected dimensions, as well as compare the distances in one dimension with those in the other dimensions.

Ultimately, the challenge is realizing Crenshaw's invitation to operationalize intersectionality by ensuring that it finally becomes and affirms itself as a living instrument. In fact, more or less well-founded perplexities persist about the effective capacity of intersectionality - however understood - to be translated into the concrete design and implementation of empirical research, capable of capturing, at micro- and/or macropolitical levels, the intra-actions between subjectivities and processes of social structuration.

A complex and necessary challenge, which this monographic issue has certainly not neglected: several contributions collected here are the product of the analysis of empirical research results, mainly qualitative survey, such as the above-mentioned articles written by Cherubini, Garofalo Geymonat and Marchetti (described in the present paragraph); Di Matteo as well as La Barbera, Caravantes, Espinosa-Fajardo and Cassain (*supra*, para 2); Pieri and Ferrero Camoletto as well as Claudia Mantovan (*infra*, para. 5).

All these empirical contributions show that intersectionality should be integrated from the initial design of the research, taking into consideration the different contexts of reference (the contribution of Cherubini, Garofalo Geymonat and Marchetti goes in this direction) and the incidents, in genealogical terms, of their

past (e.g., colonial past), up to the analysis of the results, often passing through the construction of indicators (as De Rosa's contribution does) until measuring discrimination (Bellanca, Ferrone and Maltagliati). With specific regard to legal reflection, the complicity of law in reproducing "intersectional inequalities" should be at the core of the research.

#### 4. From the legal field and back

Crenshaw's elaboration on intersectionality stems from the legal field, an area where one would expect a mature integration of this heuristic device into international, supranational and national legal culture. Her very purpose was to invite "thinking intersectionally" rather than "thinking about intersecting categories" (MacKinnon 2013, 1028). In fact, she aimed at taking a stance against the US courts' traditional reasoning that, being based on the logic of sameness/difference and a single-category approach, neglected or, even worse, systematically left Black women's rights without protection (Crenshaw 2010; MacKinnon 2016), rather than presenting 'intersectionality' as "some new, totalizing theory of identity" (Crenshaw 1991, 1244). In doing so, she suggests a method to interrogate hidden or blatant power relations and unveil rights invisibility reproduced by law and courts assessing discrimination or violence based on an "either/or" criterion. An example of this was taking the European case of forced sterilization of Roma women<sup>2</sup> by comparing the discriminatory practice they underwent either with either Roma men (based on gender) or non-Roma women (based on ethnic origin) separately does not allow their *specific* situation to surface. On the contrary, examining their situation becomes possible by considering the interaction between gender *and* ethnic origin.

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<sup>2</sup> *Ex multis*, European Court of Human Right, *V.C. v Slovakia*, Judgement 8 November 2011, n. 18968/07.

Despite the broad engagement of scholars and practitioners, the process of “doing” intersectionality in legal practice - including both law and case law - seems still challenging and non-linear, although some step forwards can be observed. Mentioning just a few of them doesn’t do justice to the efforts of many social actors who, either for their own scope or in coalition, fervently support an intersectional perspective to law and in courts. Some examples, though may help understand the trajectory of intersectionality and hopefully encourage fostering its application further.

A caveat on the lexicon is needed because, in this area more than in others, a careful read of the legal texts is crucial to assess the implementation of intersectionality: as a matter of fact, ‘intersectionality’ only recently started being explicitly mentioned in legislation and case law outside countries with a longer tradition of it in this field (e.g., United States, Canada). It often occurs that either “another name” (e.g, discrimination on multiple factors, multiple discrimination) is used instead, or it is addressed “implicitly” at the international, supranational and national levels. These latter approaches may even coexist with explicit referrals within the same legal order, leading to confusion on the state of the art.

The United Nations (UN) helps to exemplify this complexity. It is well-known that the United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance - held on 31 August 2001-8 September 2001, Durban (South Africa) was one of the first global awareness-raising events of intersectionality for international attendees from all over the world and a variety of institutions and NGOs (Bakan e Abu-Laban 2017, 222; Bilge 2019, 42; Collins e Bilge 2016; Falcón 2016). Meanwhile, the approach has been integrated explicitly by some UN Committees (e.g., Committee on the Elimination of Racial Discrimination-CERD<sup>3</sup> and Committee on the Elimination of Discrimination against Women-

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<sup>3</sup> See, on the integration of the “principle of intersectionality”: CERD, 2009. General Recommendation No. 32 on the Meaning and Scope of Special Measures in the International Convention on the Elimination of All Forms Racial Discrimination, (CERD/C/GC/32), 24 September 2009; CERD, 2013.

CEDAW<sup>4</sup>) and Special Rapporteurs, but the term does not appear in the United Nations Convention on the Rights of Persons with Disabilities (CRPD) adopted in 2006, which is the first UN Treaty to acknowledge “multiple discrimination” of women with disability (Art. 6(1)).

Similarly, the Council of Europe has integrated intersectionality into many activities, such as the youth sector, LGBTQI+ rights and Roma rights. At the same time, the European Court of Human Rights (ECtHR) has solved cases “by another name”, such as “specific vulnerability” (see, pointedly, La Barbera and Cruells López 2019). Further, it was only in 2017 that the Dissenting Opinion of Judges Pinto De Albuquerque and Vehabović in *Garib v. The Netherlands*<sup>5</sup> provided a thorough explanation of the difference acknowledging intersectional discrimination concerning the barriers to housing faced by a single mother of two who was relying on social benefits.

At the EU level, several soft law documents mention intersectionality explicitly. Still it was not until the European Parliament’s Resolution of 2022 that it was clearly stated what intersectional discrimination means and implies<sup>6</sup>: “intersectional discrimination differs from multiple discrimination, which occurs when each type of discrimination can be proved and treated independently; [...] in the case of intersectional discrimination, the grounds of discrimination are intertwined, which creates a unique type of discrimination; whereas intersectionality allows a perspective that accounts for intersecting grounds without prioritising one over the other; [...] an intersectional approach caters to the multidimensionality of people’s experiences and identities and entails a bottom-up approach; [...] using an

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General Recommendation No. 35 on Combating Racist Hate Speech, (CERD/C/GC/35), 26 September 2013.

<sup>4</sup> CEDAW, *Cecilia Kell v. Canada*, (CEDAW/C/51/D/19/2008).

<sup>5</sup> ECtHR, *Garib v. The Netherlands*, Judgement 6 November 2017, n. 43494/09.

<sup>6</sup> European Parliament, Resolution *Intersectional Discrimination in the EU: Socio-Economic Situation of Women of African, Middle-Eastern, Latin American and Asian Descent*, 6 July 2022 (P9\_TA(2022)0289).

intersectionality approach in analysis and policies requires thinking differently about identity, equality and power imbalances” (Whereas B).

“Thinking differently” of identity, (in)equality and asymmetric power relations catches the core issue of what intersectionality “does” also in legal settings. Namely, considering the person as “whole” instead as a fragmented subject and highlighting existing asymmetric power relations perpetuated through law, policy and practices. Moreover, the current Gender Equality Strategy 2020-2025<sup>7</sup> will be implemented, for the first time ever, “using intersectionality - the combination of gender with other personal characteristics or identities, and how these intersections contribute to unique experiences of discrimination - as a cross-cutting principle” (European Commission 2020, 2).

As for the binding law, the anti-discrimination Directives of 2000 - namely, Directive 2000/43/CE and 2000/78/CE<sup>8</sup>, covering discrimination respectively based on racial or ethnic origin in employment and beyond and on religion or belief, age, disability and sexual orientation in employment and occupation - mention that “women are often the victims of multiple discrimination” in their (non-binding) Preambles. In doing so, they do not coerce States to adapt their national legislation. However, they limit the sphere of protection to only gender *and* the grounds covered by either text.

This “soft” persuasion has been having some unpredictable effects. Hence, some States (including Italy) have gone beyond the minimum standards set by the Directives and include a hint of multiple discrimination or discrimination on more than one ground in national legislation. The small reference in the Preambles, though, has served as a catalyzer for scholars, practitioners and activists to raise

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<sup>7</sup> European Commission, Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “A Union of Equality: Gender Equality Strategy 2020-2025”, 5 March 2020 (COM/2020/152 final).

<sup>8</sup> Council Directive 2000/43/EC implementing the Principle of Equal Treatment Between Persons Irrespective of Racial or Ethnic Origin, 29 June 2000, and Council Directive 2000/78/EC establishing a General Framework for Equal Treatment in Employment and Occupation, 27 November 2000.



the urgency of an EU binding provision on intersectional discrimination, which has been in the making since 2008<sup>9</sup>. This year, a new Directive harmonizing the objective scope of Directive 2000/78/CE with those covered by the Directive 2000/43/CE was proposed by the European Commission. Several official Progress Reports on the Proposal show Member States' divergencies on whether to include and how to define discrimination on more than one ground, a provision that has been amended several times. The various consolidated versions are a good example of definitions that substantially grasp intersectional discrimination "by another name". The last available report (of November 2022) clarifies that discrimination includes that which is "based on a combination of the grounds of discrimination set out in Article 1 [religion or belief, age, sexual orientation and disability], as well as a combination of one or more of those grounds and any of the grounds of discrimination protected under Directive 2000/43/EC [racial or ethnic origin] and/or Directive 2004/113/EC [gender]"<sup>10</sup>. If compared to the consolidated version of 2019<sup>11</sup>, this new text explains just in the Preamble (rather than in the prospective binding part) that discrimination on multiple grounds occurs even when unequal treatment "on grounds *taken separately* would not give rise to discrimination" (12ab), which is the very point of intersectionality.

The case law of the European Court of Justice (ECJ) shows how important it would be to include this clarification in the binding part of this Proposal. In the

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<sup>9</sup> European Commission, Proposal for a Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Religion or Belief, Disability, Age or Sexual Orientation, {SEC(2008) 2180} {SEC(2008) 2181}, (COM(2008) 426 final - 2008/0140 (CNS)), 2 July 2008.

<sup>10</sup> Council of the European Union (Presidency), 2022. *Progress Report on Proposal for a Council Directive on Implementing the Principle of Equal Treatment Between Persons Irrespective of Religion or Belief, Disability, Age or Sexual Orientation*, 16 November 2022 (13070/22), Art. 3. On the developments of the Proposal of the Directive examined until the last Report of 2019, see Bello 2020, pp. 316-327.

<sup>11</sup> Council of the European Union 2022. *Progress Report on Proposal for a Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Religion or Belief, Disability, Age or Sexual Orientation*, (10740/19), 26 June 2019. On the developments of the Proposal of the Directive examined until the last Report of 2019, see Bello 2020, pp. 316-327.

case *Parris v. Trinity College Dublin and Others*<sup>12</sup>, the ECJ dismissed discrimination on age and sexual orientation because Directive 2000/78 “must be interpreted as meaning that a national rule such as that at issue in the main proceedings is not capable of creating discrimination as a result of the combined effect of sexual orientation and age, where that rule does not constitute discrimination *either on the ground of sexual orientation or on the ground of age taken in isolation* [my emphasis]” (para. 83(3), see Schiek 2018). The judgement is particularly disappointing because, for the first time, the Advocate General’s Opinion suggests the ECJ consider taking an intersectional approach.

The ECJ has proved reluctant to examine the five cases concerning Muslim women prevented from wearing the veil at the workplace by employers’ generalized policies of neutrality through the lens of religion and gender<sup>13</sup>. This happened even in the case *L.F. v S.C.R.L.*, ruled recently on October 13, 2022, where the Advocate General’s Opinion points out that Muslim women may not only experience “particular inconveniences” by employers’ internal neutrality rules but “a deep disadvantage to becoming employees”. This policy underlines that “double discrimination is a real possibility which can be legitimately addressed by Member States by enhancing the level of protection for religion and religious beliefs” (all quotations, para. 66).

The lack of binding law amounts to one of the challenges for the recognition of intersectional discrimination, but the ECJ may have chosen a purposive interpretation to adopt it. In the case *Galina Meister v. Speech Design Carrier Systems*

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<sup>12</sup> ECJ, *David L. Parris v. Trinity College Dublin and Others*, 24 November 2016, C-443/15 (EU:C:2016:897).

<sup>13</sup> ECJ, *Samira Achbita and Centrum voor gelijkheid van kansen en voor rac-ismebestrijding v. G4S Secure Solutions NV*, 14 March 2017, C-157/15 (EU:C:2017:203); ECJ, *Asma Bougnaoui e Association de défense des droits de l’homme (ADDH) v. Micropole SA*, 14 March 2017, C-188/15 (EU:C:2017:204); ECJ, *IX v WABE eV and MH Müller Handels GmbH v MJ*, 15 July 2021, C-804/18 (EU:C:2021:594); ECJ, *L.F. v S.C.R.L.*, 13 October 2022, C-344/20 (EU:C:2022:774).

*GmbH*<sup>14</sup>, the ECJ did not find problems in considering gender, age and ethnic origin together<sup>15</sup>.

Many unclear points need to be addressed that prohibit intersectionality. The term of comparison is one of the hardest, but national courts have adopted different solutions to overcome this obstacle (see Fredman 2016).

However, the main barrier seems to be the resistance by legal actors and, more broadly, legal culture to “think differently” about inequalities and violence. This aspect surfaces from the few contributions concerning law and case law collected in this Issue (see also the aforementioned article by La Barbera, Caravantes, Espinosa-Fajardo and Cassain).

Some of these challenges are examined in Sarah Schoentjes’s contribution *Doing Intersectionality through International Human Rights Law: Substantive International Human Rights Law as an Effective Avenue Towards Implementing Intersectionality to Counter Structural Oppression?* By analyzing several cases related to non-discrimination within international human rights law (IHRL), the author shows a number of practical obstacles to implementing intersectionality to counter structural oppression and achieve the substantive realization of intersectionally-marginalized persons’ human rights. At the same time, the author explains how IHRL is, in some ways, better suited to implement intersectionality to counter structural human rights issues than other legal fields. For instance, IHRL is based on an array of principles that have already been used to - implicitly - address intersectionality and should be expanded further in the future.

In her contribution *Reproducing the Intersections of Inclusion and Exclusion: Exploring Gender Recognition Laws, Reproductive Technology, and the Children’s*

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<sup>14</sup> ECJ, *Galina Meister v. Speech Design Carrier Systems GmbH*, 19 April 2012, C-415/10 (EU:C:2012:217).

<sup>15</sup> Opinion of Advocate General Mengozzi, 12 January 2012, *Galina Meister v. Speech Design Carrier System GmbH* (C- 415/10, EU:C:2012:8).

*Act in Denmark*, Stu Marvel analyzes Danish law and case law by adopting “an intersectional way of thinking” that implies interrogating “the problem of sameness and difference and its relation to power” (Cho *et al.* 2013, 795). The author examines a set of Danish trial and appellate court judgements, which involved a racialized transgender man, his white cisgender female partner and their mixed-race child conceived through third-party donor conception against the background of the national laws. While Denmark’s rights-based model of legislation is articulated around the recognition of individuals’ self-determination and autonomy, the author examines the cases through the lens of structural intersectionality, allowing concerns about racial biopolitics to emerge but were not explicitly raised by the court.

All in all, an intersectional approach allows us to see how the law - centered on the normative subject and disregarding differences - reproduces asymmetric power relations, exclusion and invisibility of all individuals who don’t fit, especially when their identity is defined by interacting categories. As Catharine MacKinnon puts it, when specific people are at the bottom of a group on the basis of interacting grounds and the law does not work for them, then “it doesn’t work” (MacKinnon 2013, 1028).

## 5. Deviant bodies

It is undeniable that there are still “places” being explored that stimulate political, theoretical, epistemological and methodological reflection from an intersectional perspective. Also emerging from this monographic issue, the body - not only metaphorical nor merely biological - undoubtedly still constitutes one of these unexplored territories in many ways (L. Stagi, ed. by, 2010): a space of tangible inscription of intersections - produced by “a power that seems all the less ‘corporal’ in that it is more subtly ‘physical’” (Foucault 1975, en. 177, it. 194). This contributes

to consolidating specific systems of oppression and exclusion, allowing at the same time to imagine and design possible forms of re-existence and perhaps unprecedented scenarios.

In fact, the body has long been the subject of interesting research that, in the essays collected here, has focused in particular on the reasons, effects and resistance (precisely) that the “divergence” between one's own body and the normative standards of corporeality arouses.

One can think, for example, of complex phenomena such as eating deviances, when so-called sexual minorities - homosexual, bisexual, transgender and “gender variant” men and women - suffer from them. Rosa Claudia Altieri's contribution, *Eating Disorders: An Intersectional Approach*, primarily analyzes the literature dealing with the peculiarities of “eating disorders” in these groups. According to the author, studies often succeed in capturing these peculiarities, especially when they highlight the complexity of the specific reasons that, in subgroups, explain dissatisfaction with one's own body. However, these peculiarities can sometimes be rendered invisible in existing studies due to how surveys are structured, even when practicing intersectionality. One of the most frequent causes of this aporia lies in adopting a dichotomous perspective (hetero/homosexual; male/female; cis-gender/transgender) when considering sexual orientation and gender identity as meaningful criteria of comparison. In this way, bisexuality - the category of the “more heterosexual sexual orientation” or “gender non-conforming” and, in general, the nuances of identity - inevitably escape the object of study, leaving a binary perspective to prevail, incapable of grasping complexities and relevant intersections that could help to interpret more adequately and accurately some of the risks arising from eating disorders involving certain populations and thus avoid a delayed, stereotyped and, therefore, prejudiced access to treatment services (see also Piroso 2021).

Furthermore, the tension between one's "reluctant" body and bodily ideals acquires intersectional relevance when the analysis is aimed at highlighting the non-homogeneous motives and effects of invisibilization, which derives from the discrepancy between (perceived as) deviant bodies with respect to normative bodily standards, governed, moreover, by a radicalized ableist perspective.

Raffaella Ferrero Camoletto and Mara Pieri's essay, *Doing Gender and Sexuality through Experiences of Illness and Aging: Between Dominant and Counter-Discourses*, explores this phenomenon based on the results of two qualitative empirical investigations, especially regarding the capacities and ways people suffering from chronic illnesses and people already categorized or close to being labelled as elderly exercise their sexuality. This is a contribution which, within the theoretical framework offered by *Crip Theory and Viagra Studies*, *Disability Studies*, *Gender Studies* and *Ageing studies*, formulates valuable reflections aimed at capturing information that allows us to both understand how these groups of people perceive, interpret and incorporate de-sexualizing discourse and shed light on how these groups react to these kinds of de-sexualizing narratives, sometimes activating practices of resistance.

Another area of study that arouses particular interest within the analyses that have the discrepancy between the body and normative bodily standards as their object relates to sport, which, moreover, undoubtedly constitutes a privileged social space for reflecting on certain basic structural inequalities starting from the experiment of the so-called privilege walk (Casalini 2022). In this sense, the sporting space configures a sort of laboratory, a "micro-cosmos" in which the mechanisms of oppression, discrimination and marginalization, often linked and interacting, that traverse the entire human universe are represented and continually reproduced - resulting at the same time more immediately interpretable but also modifiable. In this broad field of research, the contribution by Carla Maria Reale and Alessia Tuselli, *(Un)ruly Bodies: Sex, Gender, and Race Inter-Actions in the*

*Sport Field*, highlights that the failure to adopt a perspective capable of grasping the intra-actional matrix of discrimination, (re)produces sentences and policies - such as of “sex and gender testing” - with oppressive and even inhuman and degrading effects through the example of trans and intersex athletes. This failure is evident, in particular, in the analysis of the emblematic Caster Semenya (South African middle-distance runner and sprinter) case study, which recently landed at the ECtHR. The authors argue for the need to overcome gender binarism and to elaborate a new inclusive framework and set of rules compatible with the basic principle of fair play from the interesting experience of Paralympic sports.

Further, Claudia Mantovan’s essay, *Critical Romani Studies as a New Frontier of Intersectionality: Roma and Sinti Mothers in Alternative Measures to Imprisonment*, formulates reflections on the administration of criminal justice starting from the analysis of significant interviews with Roma and Sinti women and court files related to penal enforcement. The author highlights the radicalization in the legal and professional culture of those who work in the broad field of criminal justice administration of entrenched stereotypes around gender, race and social class that can only be deconstructed and fought against from a strong awareness for the intertwining axes of oppression affecting precise individuals and social groups. Critical Romani Studies is a relatively new frontier of intersectionality if compared with other critical studies. For example, Roma and Sinti mothers in alternative measures to imprisonment, which explores a subject rarely frequented by national literature and empirical investigations, even outside the intersectional framework and the external penal execution of Roma and Sinti women are certainly still suggestive with respect to the reflection on processes, always in progress, of colonization and decolonization of the body. In our opinion, this contribution well highlights how even within the legal culture, the (re-educational) “treatment” reserved for deviant bodies is guarded by questionable and stereotyped standards of adequacy, in particular concerning motherhood.

## **6. New approaches to the how-to-do-intersectionality question?**

Intersectionality has been framed in multiple ways over the last decades. Sometimes it has even been discussed under other denominations - such as “interlocking systems of oppression” (Combahee River Collective 1977; Collins [1990] 1991); “axes of power” (Nira Yuval-Davis 2006); “interferences” (Moser 2006; Geerts and Van der Tuin 2013); “co-synthesis” (Kwan 2000), and “interdependencies” (Hornscheidt 2007). The overwhelming interest in submitting contributions to this Issue strongly indicates that the rich, passionate debates and political tensions around the “how to do intersectionality” question will continue to prompt new takes and turns.

Therefore, let us end this editorial by outlining some approaches that are not foregrounded so much in the Special Issue at hand but which seem to hold promises for the future - namely, current efforts to make intersectionality enter into conversation with new feminist materialism and critical posthumanism. These approaches are promising in so far as they challenge how neoliberal tendencies to depoliticize intersectionality go hand in hand with falling back into methodological approaches that reduce categories to sociological variables that can be shifted in and out according to what serves limited system - confirming equality agendas, for example separating questions of gender and race. New feminist materialism and critical posthumanism are made up of heterogenous bodies of theories that nonetheless share a focus on agency and affectivity of bodies and bodily materiality, including trans-corporeal relations between human and non-human bodies. Along such lines, queer-feminist, US-based scholar Jasbir Puar (2007, 2011), has offered a critical entrance point to intersectionality and intersectional methodologies through the concept of assemblages of philosophers Gilles Deleuze and Felix Guattari (1988), and Brian Massumi (2002). Assemblages in these philosophies are understood as unstable gatherings of persons and things. The



concept is used to characterize the world as fundamentally processual, implying that the social is made up of materially - and affectively - founded but constantly fluctuating and interweaving relations between persons and things. Puar warns that even though the interweaving of power relations and identities is part of intersectional analysis, the latter can work as a stabilizing grid of categories, which congeals and fixes positions and identities rather than opening for change and new possibilities. With the new materialist assemblage concept, Puar argues for an intersectional analysis that is instead attentive to processes and affectively-intensive events, i.e. events, where, for example, sexism, racism, ethnocentrism and nationalism clash rather than materialize as grids. Puar offers this approach as an alternative to looking at intersecting positionalities with a point of departure in fixed categories such as gender, sexuality, ethnicity and national belonging. According to Puar, the assemblage approach allows for an undoing of fixed categories and opens the horizons towards the unexpected, posing questions about “what is prior to and beyond what gets established” (Puar 2011, 8).

Also in line with new materialist thought and critical posthumanism, Lykke (2010, 51) has suggested using feminist theorist Karen Barad’s concept of intra-action (2003, 815; forthcoming) to characterize what happens at intersectional crossroads. Within the framework developed by Barad, interaction defines an encounter where entities clash like billiard balls, i.e., in a way which does not imply mutual change and transformation. In contrast, intra-action refers to phenomena which, like paint, cannot avoid becoming entangled when encountering each other. Lykke’s suggestion to think intersectionality through Barad’s concept of intra-action resonates with Puar’s assemblage approach in so far as both move intersectional analysis into a study of processes rather than towards a tracing of fixed categorical grids that echo positivist sociology’s way of working with separable and substitutable variables. Using the Baradian distinction as a lens, variable analysis can be seen as inter-action, while intersectional analysis, at the

same time, can be foregrounded as an approach that must strive towards unfurling methodologies that can work with intra-action.

If intersectional analysis is going to keep up the radical political momentum and stay true to its genealogies in Black Feminism, it is important that it does not congeal into a variable analysis.

## 7. Making space to imagination

It may be affirmed that intersectionality has engaged scholars from a wide variety of disciplines to “think differently” of their subjects of study, challenge the *status quo* and look at contexts and methods with curiosity. Moreover, differently from other neologisms/approaches (e.g., super-diversity and interlegality), it has also fostered a creative way to represent intersectionality in the attempt to catch dynamic social and structural interactions and subject’s experiences. Approaching the conclusions of this Editorial, it is worth recalling some metaphors here, starting with the first and most known, i.e., the “crossroads”, elaborated by Crenshaw (1989, 149), where violent clashes and car accidents may happen. Defining herself as a “visual thinker” (Bello and Mancini 2016, 11), Crenshaw has stimulated many graphic representations of intersectionality, such as bronze (Solanke 2011), digestion (Ken 2008, 2010), the Rubik’s cube (Romero 2018), to mention just a few, as well as emergent ones like the basket of apples (Rodo de Zarate and Marta Jorba 2014) and the Mandala (Bello 2020), included below (section “Graphic representations”).

Bearing this in mind, intersectionality could stimulate scholars to open the flow to imagination when engaging with new or updated approaches to research, policy and law.

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## GRAPHIC REPRESENTATIONS

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Graphic representation by Cristina Zafra for the project "Multifaceted views of gender violence: Proposals for prevention at secondary schools from a holistic and intersectional perspective", funded by RecerCaixa REF: 2017ACUP00089, 2018-2022 and led by Gerard Coll-Planas (Universitat de Vic-UCC) and Maria Rodó-Zárate (Universitat de Barcelona). The metaphor of intersectionality as apple basket is thoroughly explained in: Rodó-Zárate, M. and Jorba, M. (2022), *Metaphors of Intersectionality: Reframing the Debate with a New Image*, in *European Journal of Women's Studies*, vol. 29, no. 1, pp. 23-38.





Barbara Giovanna Bello (Bello (University of Viterbo “Tuscia”, Italy). Graphic representation by Katia Zuanon. The metaphor of intersectionality as a Mandala is thoroughly explained in: Bello, B.G. (2020), *Intersezionalità. Teorie e pratiche tra diritto e società*. FrancoAngeli, Milano.

