



Deliverable Report

# **A Review of Concepts of Gendered Power Hierarchies and their Taxonomy**



Funded by  
the European Union

Document Data	
Report Title	A Review of Concepts of Gendered Power Hierarchies and their Taxonomy
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Work Package	WP 1 – Synchronisation: Transformative Theory & Methodology
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Due Date	30 September 2023
Delivery Date	30 September 2023
Type	R – Document, report
Dissemination Level	PU - Public
Keywords	Gendered power hierarchies, taxonomy of concepts, transformative equality, (intersectional) discrimination, power, stereotyping, discourse, ideology, representation, gender/sex, patriarchy, mainstreaming, allyship

## Table of contents

Table of contents .....	3
Executive summary .....	5
Document history .....	7
List of abbreviations.....	7
List of illustrations.....	8
Contributor statement .....	8
1. Introduction.....	9
2. RE-WIRING’s anchor and added value: the multidisciplinary and contextual Transformative Equality Approach (TEA) .....	12
3. Methodology .....	19
4. Cross-cutting concepts for capturing gendered power hierarchies: Power, Ideology, Discourse, Representation, Stereotyping, and Discrimination/(In)equality .....	21
a. Power .....	22
b. Ideology .....	24
c. Discourse as social practice .....	26
d. Representation.....	28
e. Stereotyping.....	31
f. Discrimination and Formal and Substantive (In)equality .....	38
i. Direct and indirect discrimination .....	39
ii. Unfair discrimination.....	44
iii. Structural, institutional, and systemic discrimination/(in)equality .....	46
5. Diverse Viewpoints on Sex, Gender and Feminism: A Cross-Continental Exploration .....	48

b.	<b>Gender essentialism.....</b>	<b>51</b>
c.	<b>Gender as hierarchy .....</b>	<b>52</b>
<b>6.</b>	<b>Understanding how gendered power hierarchies work: patriarchy as a system... 54</b>	
a.	<b>Patriarchy as a system.....</b>	<b>55</b>
b.	<b>Intersecting power hierarchies and ideologies within patriarchal systems.....</b>	<b>57</b>
c.	<b>Social dominance theory .....</b>	<b>58</b>
d.	<b>Ambivalent sexism theory .....</b>	<b>59</b>
e.	<b>System justification.....</b>	<b>60</b>
f.	<b>Hegemonic masculinity and precarious manhood .....</b>	<b>61</b>
<b>7.</b>	<b>Illustrations of the identified concepts: two manifestations of gendered power hierarchies.....</b>	<b>62</b>
a.	<b>Gender-based violence against women .....</b>	<b>62</b>
b.	<b>Economic Inequality.....</b>	<b>65</b>
	i. <b>Discrimination in the labour market .....</b>	<b>66</b>
<b>8.</b>	<b>Women’s Representation, Inclusion, and Empowerment: Building blocks for our Transformative Equality Approach and Concluding Remarks.....</b>	<b>71</b>
a.	<b>The concept of Transformative Equality .....</b>	<b>72</b>
	i. <b>Intersectional discrimination.....</b>	<b>75</b>
	ii. <b>Subordiscrimination.....</b>	<b>76</b>
b.	<b>Eradicating gender stereotyping: transformative equality strategies .....</b>	<b>77</b>
	i. <b>Gender-transformative law- and policy responses and gender mainstreaming .....</b>	<b>77</b>
	ii. <b>Gender-transformative adjudication .....</b>	<b>81</b>
	iii <b>Social-psychological strategies to mitigate gender stereotypes .....</b>	<b>83</b>
	iv. <b>Women’s economic empowerment.....</b>	<b>85</b>
	v. <b>Allyship.....</b>	<b>86</b>

## Executive summary

The Horizon Europe “Realising Girls’ and Women’s Inclusion, Representation and Empowerment” (RE-WIRING) Project re-thinks existing institutional approaches and systems and aims to contribute to effective change that can only be brought about by a re-design - re-wiring - of existing institutions including their formal and informal operating systems and legal, policy, and institutional approaches allowing for transformative equality in all domains of society. This working paper forms the theoretical foundation of the RE-WIRING Project, as it explores the perspectives and concepts in the literature from different disciplines concerning institutional, experiential, and symbolic dimensions of gendered power hierarchies. It forms part of the groundwork for developing the theoretical and methodological aspects of RE-WIRING’s Transformative Equality Approach (TEA) that can lead to sustainable gender transformation in private and public institutions starting in five countries, namely Belgium, the Netherlands, Poland, South Africa, Spain and the United Kingdom.

RE-WIRING’s anchoring elements form part of the criteria for the concepts included in this paper for developing RE-WIRING’s TEA including intersectionality, cross-culture, decolonialism, crises, co-creation, and human agency. Together, these elements engender our view that gender norms and stereotypes that are the root causes of gender gaps and inequality are historically, politically, socio-economically, culturally, and geographically constructed rather than inherent characteristics of an individual. They are thus not fixed but change over time and across different contexts. This defining position enables us to explore how national, regional, and global power dynamics uniquely shape the social positions of all individuals in particular spheres of life, i.e., family, education, and work. It also enables us to develop and validate concrete policy responses and practical tools targeted at particular cultural contexts, sectors, and intersectional realities that impact an individual’s position and experience. The goal of RE-WIRING’s TEA is thus to help build equality-oriented, equality-fostering and equality-promoting institutions.

The methodology for developing our taxonomy of concepts involved a collaborative process where over 20 researchers and experts from several disciplinary and cultural backgrounds worked together to develop concept maps; and discuss the validity of the concepts for capturing gender inequalities across several cultural contexts, backed by relevant literature; the impact of crises on these inequalities and/or the concepts’ transformative potential, in other words, it’s potential to contribute to a solutions-oriented framework for gender transformation positively. The concepts in this paper result from a cyclical process of collaborative writing, critical discussions and feedback, re-thinking and revising of the concepts and how they could be most productively applied to achieving RE-WIRING’s objectives.

Furthermore, this interdisciplinary taxonomy paper identifies key cross-cutting concepts that work together to capture gender power hierarchies including power, ideology, discourse,

representation, stereotypes, and different types of discrimination. Among these themes, representation has two sides. On the one hand, it refers to the political aspect of being represented, made present in institutions and other political and socio-cultural bodies, as well as in laws and policies. On the other hand, the 'what' of representation is intrinsically intertwined with the 'how'. It thus refers not only to girl's and women's voices, agency, and decision-making power in both the public and private spheres but also to the symbolical system of representation, i.e., the search for non-stereotypical language and images that adequately represent those who are being made present. The RE-WIRING approach implies an understanding and deployment of the concept of representation in this double sense. Institutions need to move towards transformative equality approaches to achieve such representation.

The working paper also explores diverse perspectives on sex, gender, and feminism from a cross-continental perspective. It begins by discussing the traditional understanding of sex as the biological differences between males and females and gender as the social and cultural constructs based on these differences. It then highlights the current broader understanding of gender, which includes a range of gender identities and expressions beyond the binary. It further advocates for open and respectful discussions between different factions of feminism and emphasises the need for collaboration to empower women and girls.

The concepts of agency and resistance within a patriarchal system are examined. We reject the dichotomy of victimisation and individualistic agency, highlighting how social forces and structures shape women's agency and resistance. Patriarchy is defined here as a system of social structures and practices in which men dominate, oppress, and exploit women. It prevents women from emerging as autonomous subjects, and stereotypes play a role in reinforcing this subordination. Overall, the taxonomy paper highlights the importance of understanding patriarchy as a system and the need for transformative solutions to combat gender inequality.

Furthermore, we illustrate how RE-WIRING's anchoring elements, our cross-cutting themes, and our view of patriarchy as a system that reproduces gender inequality lend themselves to a critical engagement with two pervasive manifestations of gender inequality: violence against women, and economic inequality. Violence against women defined broadly as all acts that violate women's physical, sexual, psychological, and economic rights, is a widespread issue that continues to hinder women's advancement. Economic inequality is seen as the uneven distribution of resources, access to productive resources, and rewards for labour within society. It includes both income inequality and wealth inequality. Economic inequality impacts access to basic rights and can result in lower trust, cooperation, and social cohesion. These illustrations concretise the theoretical discussions, highlighting the material impact of gender injustice and inequality in girls' and women's lived experiences.

In the final section, the taxonomy paper defines the building blocks of our integrated and interdisciplinary TEA to tackle the underlying causes and multiple dimensions of gender equality and to create lasting change through institutional transformation. We identify what we consider to be the most promising solutions-oriented concepts including intersectional discrimination, subordination, gender mainstreaming, gender sensitiveness of institutions, women's economic empowerment, and allyship. These concepts are foundational for developing and implementing innovative solutions for lasting change and societal transformation in terms of gender equality.

## Document history

See the Executive Summary and Section 3 of the document.

## List of abbreviations

BRICS+:	Brazil, Russia, India, China, South Africa, Saudi Arabia, Iran, Ethiopia, Egypt, Argentina, and the United Arab Emirates
CEDAW:	Convention on the Elimination of All Forms of Discrimination against Women
CEO:	Chief Executive Officer
CJEU:	Court of Justice of the European Union
CoE:	Council of Europe
DGs:	Directorates-General
EC:	European Commission
ECHR:	European Convention on Human Rights
ECtHR:	European Court of Human Rights
ECRI:	European Commission on Racism and Intolerance
EIGE:	European Institute for Gender Equality
EU:	European Union
GED:	Gender Equality Duty
GECT:	Gender Equality Continuum Tool
GR:	General Recommendations
IACtHR:	Inter American Court of Human Rights
IGWC:	Interagency Gender Working Group
LGBTQ+:	Lesbian, Gay, Bisexual, Transgender, Queer and many other identities
PEPUDA:	Promotion of Equality and Prevention of Unfair Discrimination Act
RE-WIRING:	Realising Girls' and Women's Inclusion, Representation and Empowerment
SA:	South Africa
SACC:	Constitutional Court of South Africa
SADC:	South African Development Community
TEA:	Transformative Equality Approach

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TFEU:	Treaty on the Functioning of the European Union
UK:	United Kingdom
UN:	United Nations
US:	United States of America
WEIRD:	Western, Educated, Industrialised, Rich and Democratic

## List of illustrations

Figure 1. RE-WIRING’s three dimensions and anchoring elements of its Transformative Equality Approach.....	17
Figure 2. RE-WIRING: Core dimensions, domains and institutions.....	18
Figure 3. Methodology for developing concept paper.....	19
Figure 4. Visual representation of the taxonomy of concepts.....	23
Figure 5. Mutually constitutive relationship between cross-cutting concepts.....	29
Figure 6. Understanding gender power hierarchies: Patriarchy as a system.....	57
Figure 7. Building blocks of RE-WIRING’s Transformative Equality Approach (TEA).....	74

## Contributor statement

See Section 3 of the document.



## 1. Introduction

The RE-WIRING project<sup>1</sup> builds on the understanding that the fundamental and structural problem of gender inequality is that *institutions* – even when formally gender-neutral – are in fact inherently gendered. Institutions refer to the well-established organisations that govern a society. They carry connotations of authority, governance, and the way society is organised. North<sup>2</sup> conceptualises institutions as the "rules of the game" within a society, or more precisely, as the artificial constraints that shape and regulate human interactions. In essence, institutions encompass a collection of behavioural norms that are humanly devised and that govern the interactions among individuals by enabling them to form expectations regarding the behaviour of others. These constraints may be formal in nature, such as constitutions, laws, property rights, charters and bylaws, or they may be informal, such as customs, taboos, traditions, codes of conduct and social sanctions. Unlike informal institutions, formal institutions are codified in written form and are enforceable.

Both formal and informal institutions act on behalf of or are still organised and steered largely by male-dominant standards. By contrast, women's interests and qualities are often not recognised or are (under)valued. Therefore, gender is present in the wiring of institutions; the rules, policies, processes, practices, images and ideologies, and the distributions of power they hold in the various sectors of social life,<sup>3</sup> political life,<sup>4</sup> corporate life,<sup>5</sup> and legal institutions.<sup>6</sup> As a result, men often hold privileged positions, which enable them to define the benchmarks of a successful career or qualities that may be required for certain – leadership – positions.<sup>7</sup> By diving into the intricate web of institutional gender biases and recognising their diverse impacts on individuals, RE-WIRING is developing a holistic approach to understanding and tackling the challenges of patriarchy and gender inequality.

According to the 2010 definition of the Committee for the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which we also largely employ in this project – "gender refers to socially constructed identities, attributes, and roles for women and men, and society's social and cultural meaning for these biological differences, resulting in hierarchical relationships between women and men and in the distribution of power and

<sup>1</sup> See <https://re-wiring.eu/>

<sup>2</sup> Douglass C North, 'Institutions' (1991) 5 *Journal of Economic Perspectives* 97.

<sup>3</sup> Joan Acker, 'From sex roles to gendered institutions' (1992) 21 *Contemporary Sociology* 565. On the gendered world, see also Mieke Verloo, 'Displacement and Empowerment: Reflections on the Concept and Practice of the Council of Europe Approach to Gender Mainstreaming and Gender Equality' (2005) 12 *Social Politics: International Studies in Gender, State and Society* 344.

<sup>4</sup> Vivien Lowndes, 'How are political institutions gendered?' (2020) 68 *Political Studies* 543.

<sup>5</sup> Catherine O'Sullivan, 'The gendered corporation: the role of masculinities in shaping corporate culture' in Beate Sjøfjell and Irene L Fannon (eds.), *Creating Corporate Sustainability: Gender as an Agent for Change* (Cambridge University Press 2018) 258.

<sup>6</sup> Sandra Fredman, *Human Rights Transformed: Positive Rights and Positive Duties* (Oxford University Press 2008).

<sup>7</sup> Diana Bilimoria, Deborah A O'Neil and Verena Murphy, 'Gender in the management education classroom: A collaborative learning journey' (2010) 34 *Journal of Management Education* 848.

rights favouring men and disadvantaging women”.<sup>8</sup> Today, gender is no longer considered a binary concept, but the main focus of the RE-WIRING project is specifically on girls' and women's inclusion, representation and empowerment (see discussion on diverse viewpoints on sex and gender and feminism, section 5).

Following this, we acknowledge that there is not a single "gender equality model" that applies to every state, institution, and in law- and policy-making at the national, and international levels. This is essential for combating patriarchy and fostering transformative approaches to gender equality, as patriarchy affects women and men (and other gender groups) in different ways and to varying degrees all over the world. In RE-WIRING, gendered power hierarchies are understood as a system resulting from the interactions of multiple factors – in particular, laws and policies, institutions, societal norms and behaviour, media, and art narratives – that impact people differently depending, *inter alia*, on their ethnic and cultural background, social class, age, health, and gender position.

To achieve gender equality and girls' and women's empowerment in all spheres, it is, therefore, necessary to shift the focus to ways of deconstructing the systemic processes through which power is abused and both subtle and explicit inequalities and discrimination are maintained across public and private institutions to bring about gender-sensitive and transformative institutions. The focus of the RE-WIRING project is thus on the fundamental rethinking and 're-wiring' of existing institutional approaches and systems. The project aims to contribute to effective change, considering that this can only be brought about by a re-design of existing legal, policy, and institutional approaches more widely, to secure intrinsic change and behaviour towards transformative equality in all domains of society. This regards not only equality laws and policies as such, but also the policies and actions of all societal stakeholders involved, including companies, banks, social partners, health institutions, schools and academia, the media, and - closer to home - families and other private social constellations, including, for instance, women's and men's (and non-binary) organisations and religious groups.

Crucially, the Transformative Equality Approach (TEA) the RE-WIRING project advocates, requires going beyond individual solutions or exceptions and 'fix the women' approaches that leave the existing institutional approaches unquestioned. It entails recognising and challenging the group-based and systemic dimensions of gendered power hierarchies and thus questioning the status quo. To achieve change, RE-WIRING investigates the main obstacles hampering girls' and women's inclusion, representation and empowerment in key domains and seeks the identification and crafting of possible solutions that can achieve long-term transformation. To this end, in RE-WIRING not only do we develop additions to

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<sup>8</sup> UN Committee on the Elimination of Discrimination Against Women (henceforth CEDAW Committee), *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, 16 December 2010, CEDAW/C/GC/28, available at: <https://www.refworld.org/docid/4d467ea72.html> [accessed 17 August 2023].

knowledge, and applications of knowledge, but even more importantly we aim to work actively with women and girls as well as other stakeholders such as media, policy makers and organisations in the co-creation of solutions for a more gender equal society. We take on the view that women and girls are fundamental actors in this work for change and allyship with other movements for equality and inclusion (such as the LGBTQ+) and dominant groups (such as men) is necessary for the transformation of institutions, norms, and cultural practices.<sup>9</sup>

In order to 're-wire' existing institutional approaches and systems and thereby contribute to effective change, it is first important that challenges and potential solutions towards transformative equality are identified. To this end, this paper focuses on the construction of a taxonomy that captures the various dimensions of gendered power hierarchies. It reviews the recent conceptual and theoretical literature relating to the institutional, experiential, and symbolical dimensions of gendered power hierarchies, considering different cultural contexts and dimensions of power that generate systematic and structural forms of discrimination, as well as social and economic inequalities, and gender-based violence. We acknowledge the entanglement of gendered power relations with other axes of oppression, such as race and social class, sexual orientation, and gender identity, which gives us insight into the complex web of intersecting systems that contribute to gender inequalities. The taxonomy will serve as a valuable tool to identify and analyse the indicators related to these gendered hierarchies, facilitating a nuanced understanding of their meaning, relevance and influence in different contexts.

Therewith, this paper lays the theoretical and conceptual groundwork for developing an operational concept of the Transformative Equality Approach (TEA) for the RE-WIRING project and a research methodology template in a follow-up working paper. Together these two papers will serve as the overarching conceptual and methodological framework for the research in all the RE-WIRING work packages.<sup>10</sup>

Against this background, the questions that underlie and guide the development of this new theoretical framework and a more evidence-based and integrated toolkit for gender-transformative institutions and policies, are the following:

1. What are key gendered and intersectional features of the current *division of labour/labour market, workplace interactions, cultural symbols, and the organisational logic and culture of institutions* that hamper girls and women's power, from an institutional, experiential, and symbolical perspective: what are obstructing and facilitating rules, procedures, practices, policies; what are people's experiences; what are institutional narratives on (fe)male leadership? What major constraints at these levels need to be overcome with a view to developing gender-transformative institutional approaches?

<sup>9</sup> Natasza Kosakowska-Berezecka, Tomasz Besta, Jennifer K Bosson and others, 'Country-level and individual-level predictors of men's support for gender equality in 42 countries' [2020] 50 Eur J Soc Psychol 1276.

<sup>10</sup> See the project website for details on the work packages: <https://re-wiring.eu/>

2. What *good/best practices* can be identified to overcome such constraints or to strengthen facilitators and allies of change, at the level of political decision-making, the law, policymaking, information, training, CSR, mentoring, HR policies, (financial) incentives or support systems, etc.?
3. What is the *role of the law* in this regard (prescriptive, enabling, hampering, or otherwise), to what extent is the law upheld in implementation, and to what extent are governments/public bodies leading by example? To what degree can individuals access justice? What is the impact of crises on legal and policy-making responses?
4. What relevance is there to different national/cultural contexts, and to what extent should *cross national and cultural differences* be considered in developing a gender Transformative Equality Approach, and how can this be done?
5. How can institutional ownership be enhanced and bottom-up transformed by forming alliances with *both dominant and non-dominant groups and individuals* such as men and the LGBTQ+ given that gender is relational?
6. How can *institutional ownership* be enhanced by combining insights from the answers to the above questions with insights drawn from institutional change theory, ethical cross-cultural/social and organisational psychology, behavioural change, and nudging theories?
7. Based on the findings of the previous questions, what are the pathways for bringing about *constructive and structural change*, and what key elements and steps would have to be integrated into the RE-WIRING Transformative Equality Approach template and in the toolkit with a view to its effective mainstreaming?

The paper has eight sections that are structured as follows. This introduction (section 1) is followed by a discussion which outlines the focus of RE-WIRING's TEA and what it adds to the state of the art of already existing approaches, in terms of the key defining elements that anchor the RE-WIRING project and the criteria through which we selected the concepts in this taxonomy (section 2) and our methodology (section 3). Next, we discuss the concepts that we included in our taxonomy of concepts (sections 4-7) and highlight solutions-oriented concepts for our TEA and how this paper informs the next step in the process which includes developing RE-WIRING's theoretical and methodological approach (section 8).

## 2. RE-WIRING's anchor and added value: the multidisciplinary and contextual Transformative Equality Approach (TEA)

The RE-WIRING Transformative Equality Approach lies at the basis of the methodological and analytical framework of the research in the project and, beyond that, it will enable the development and validation of concrete policy responses and practical tools targeted at particular cultural contexts, sectors and intersectional realities that impact an individual's experience. In recent years, there has been a shift towards the development of

transformative equality approaches to enhance gender equality and girls' and women's empowerment at the legal level (CEDAW) and in scientific research.<sup>11</sup> Transformative equality approaches go beyond formal and substantive equality approaches, seeking to overcome invisible gender biases and stereotypes and dominant institutional patterns and codes that obstruct girls' and women's equality, inclusion, representation and empowerment.<sup>12</sup> Such approaches are thus geared towards the transformation of gendered, gender-blind, gender-neutral or gender-exploitative<sup>13</sup> institutions and making them sensitive and responsive to the deeply entrenched and interlocking factors in such institutions that perpetuate gender inequalities and women's disadvantages.<sup>14</sup> Transformative approaches go a step further, by seeking to address the root causes of gender inequality, exclusion, examining and changing gender norms and stereotypes, and tackling cultural values and unequal power structures. As such, they can be said to be not only geared towards ensuring that policies and processes are responsive to gender equality concerns and needs, but also the products and services they provide. To date, these approaches are, however, still nascent and foremost mono-disciplinary when it comes to their theoretical and legal development as well as their policy design and practical, institutional implementation and delivery of the desired effects.

The RE-WIRING TEA therefore adds to the state of the art by conceptualising gendered power hierarchies in a broader and more combined way than existing approaches do, by taking a multidisciplinary approach. Such a much-needed holistic and integrated approach towards transformative equality is still lacking in current studies, policy approaches and the development of practical tools. The RE-WIRING TEA thus relies not only on a more sophisticated and robust theoretical and conceptual framework for bringing about transformative equality, but will also enable the development of new tools that can contribute to its progressive and more effective implementation in practice.

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<sup>11</sup> E.g. Sandra Fredman, Jaakko Kuosmanen and Meghan Campbell, 'Transformative equality: Making the sustainable development goals work for women' (2016) 30 *Ethics & International Affairs* 177; Elise Muir, 'The transformative function of EU equality law' (2013) 21 *European Review of Private Law* 1331. As well as in policy-making, see African Union (AU) (2019) *AU Strategy for Gender Equality and Women's Empowerment 2018-2028*. African Union. Available at: [https://au.int/sites/default/files/documents/36195-doc-au\\_strategy\\_for\\_gender\\_equality\\_womens\\_empowerment\\_2018-2028\\_report.pdf](https://au.int/sites/default/files/documents/36195-doc-au_strategy_for_gender_equality_womens_empowerment_2018-2028_report.pdf); European Institute for Gender Equality (EIGE) (2015) *Gender equality index report*. EIGE. <https://eige.europa.eu/sites/default/files/documents/Gender-Equality-Index-Report.pdf>; OECD (2021), *Policy Framework for Gender-Sensitive Public Governance 2021*. C/MIN(2021)21. OECD. <https://www.oecd.org/mcm/Policy-Framework-for-Gender-Sensitive-Public-Governance.pdf>, and the Gender Integration Continuum, developed by the Interagency Gender Working Group, 2019. Available at: <https://www.igwg.org/2022/09/igwg-gender-integration-continuum-graphic-now-available-in-french-portuguese-and-spanish/>

<sup>12</sup> See e.g. European Institute for Gender Equality (EIGE). (2015). *Gender equality index report*. EIGE. <https://eige.europa.eu/sites/default/files/documents/Gender-Equality-Index-Report.pdf>

<sup>13</sup> See the Gender Integration Continuum, mentioned in footnote 11.

<sup>14</sup> See Sandra Fredman, Jaakko Kuosmanen and Meghan Campbell, 'Transformative equality: Making the sustainable development goals work for women' (2016) 30 *Ethics & International Affairs* 177.

This approach is thus built on a three-dimensional framework targeting effective transformation at the institutional, experiential and symbolical levels:<sup>15</sup>

- **Institutional:** What are responses to inequality and exclusion on the institutional level, including laws and policies?
- **Experiential:** How do women and girls and (non)dominant group members experience the many forms of inequality, oppression and sexism in the context of social institutions such as the workplace, enterprises, educational settings, the family, etc. and how do they experience institutional measures aimed at correcting these inequalities?
- **Symbolical:** How are women, girls and (non)dominant groups and their societal roles represented in the linguistic, narrative and visual structures that shape society?

Our criteria for the conceptual framework, relying on an extensive interdisciplinary taxonomy of concepts, enable us to develop a gender transformative approach that goes beyond surface-level changes and addresses things closer to the root causes of persistent gender inequalities. The concepts presented in this paper are selected based on their alignment with the aims and guiding questions of the RE-WIRING project as outlined in the introduction and their potential to identify and elucidate problems and possible solutions thereto at different or all levels of our three-dimensional approach.

The concepts are further aligned with five other key anchoring and defining elements of the RE-WIRING TEA: cross-cultural relevance, knowledge co-creation, decoloniality, intersectionality, as well as notions of human agency.

A **cross-cultural** lens enables us to move beyond Western-centric and WEIRD (Western, Educated, Industrialised, Rich and Democratic) perspectives and to engage with diverse cultural contexts, practices and knowledge. The concepts presented in this paper were seen to be applicable to different cultural contexts. Considering the cultural nuances and specificities of different societies or communities, a culturally sensitive framework allows for the development of gender transformative strategies that are contextually relevant, respectful of diverse traditions, and inclusive of marginalised voices. In addition, a culturally sensitive conceptual framework builds a foundation for working collaboratively with people from affected societies to develop the most suitable strategies to combat the nature of gender inequalities in that specific cultural context.

This project also adopts a **co-creation approach** to bring about transformative change for gender empowerment. Our aim is not to *impose* a change in norms, but instead to develop

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<sup>15</sup> This three-dimensional approach stems from the interdisciplinary research conducted within the UU-IOS Platform on Gender, Diversity and Global Justice, see <https://www.uu.nl/en/research/institutions-for-open-societies/gender-and-diversity/about-gender-and-diversity>

context-specific tailored solutions together with stakeholders and key actors that can stimulate intrinsic change. Harmful gender norms and practices, such as domestic violence or sexual harassment, are more difficult to eradicate when more than one factor keeps these norms in place. This means that domestic violence is more difficult to change when, for example, religious, economic, and patriarchal norms all support this harmful practice. Therefore, joint action on different levels and by different actors is warranted for the co-creation of strategies and solutions with and for communities. Having project partners in several states, specifically in Belgium, the Netherlands, Poland, South Africa, Spain, and the UK, proves to be extremely significant in this particular context, since it gives us insight into various cultural and national settings and forces us to incorporate concepts that we believe will have relevance for the diverse cultural contexts we are working in.

**Decoloniality** challenges the colonial legacies deeply embedded in institutions, cultures, and knowledge production systems, recognising that the imposition of Western ideologies and power structures over centuries of colonial rule across the world has deeply entrenched the marginalisation and suppression of diverse voices and experiences. A decolonial lens informs our efforts towards unravelling the material, discursive, and multifaceted mechanisms through which the dominance of colonial ideologies across multiple sectors of human life impedes efforts towards social transformation and equality. Thus, the concepts presented here have been selected based on the concepts' capacities to foster critical engagement with the workings of colonial ideologies in shaping social life, social structures, and therefore social and structural inequalities at the experiential, institutional, and symbolical levels.

Furthermore, an **intersectional approach** allows us to acknowledge the unique experiences and challenges faced by individuals who navigate multiple social identities and positions of power. Recognising the interplay between different axes of oppression - such as race, gender, sexual orientation, and socioeconomic status - is crucial for understanding the complex ways in which gender inequalities manifest and are reinforced. As such, concepts that can be mobilised to uncover the ways in which various systems of dominance intersect to shape an individual's lived experiences are presented. These concepts were also selected based on their potential to be productive in terms of finding solutions to these intersecting problems.

The **crisis perspective** is also helpful in revealing forms and divisions of power, as well as their deficiencies in a demanding and high-pressure context. As there is no universal definition of crisis, we subscribe to the definition of Pauchant and Mitroff, who claim that 'crisis' is 'a disruption that physically affects a system as a whole and threatens its basic assumptions, its subjective sense of self, and its existential core'.<sup>16</sup> Although several

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<sup>16</sup> Thierry C Pauchant and Ian I Mitroff, *Transforming the Crisis-prone Organization: Preventing Individual, Organizational, and Environmental Tragedies* (Jossey-Bass 1992).

authors<sup>17</sup> emphasise that crises are disruptive to the point that traditional responses are insufficient to deal with them, this does not mean that prevailing power dynamics and norms are disrupted. Rather to the contrary, recent research has demonstrated that unequal power relations in societies are sustained and even exacerbated in times of crisis.<sup>18</sup> In that sense, crises can often act as a ‘magnifying glass’ of existing inequalities. While often framed as exceptional events, crises are in fact relatively frequent, manifesting themselves in various fields and forms (finance, health, environment, security etc). They often trigger emergency responses, but with long-term effects. By studying how crises highlight and exacerbate existing power inequalities, the RE-WIRING project will provide important insights that will be used to bring about meaningful change. We also consider crises as opportunities or sites for lasting transformation. Therefore, we also focus on the transformative power that crises may (potentially) have for enhancing girls’ and women’s power of definition, both at the crisis-leadership level and in crisis-response measures.

Lastly, RE-WIRING does not start from a deficiency perspective but from a **human agency** perspective, meaning that we do not approach girls and women from different backgrounds as being in a disadvantaged position because they lack something. We, thus, also do not approach them as ‘vulnerable’ or as (merely) ‘victims’ requiring protection. Instead, we start with the notion that all humans are vulnerable and (at times) lack power, but that all humans also have agency and power to bring about change.<sup>19</sup> In other words, we do not focus on vulnerability per se, but we look at how people become vulnerable, what fundamental inequality structures should be addressed, which processes keep people in privileged or vulnerabilising positions, and what avenues and (potential) strengths exist for change. Importantly, our analysis is thus not centred solely on the nondominant or underprivileged groups themselves, but we very much focus on the people, institutions, and processes that maintain existing power structures, who profit therefrom, and how this can be changed institutionally, experientially, and symbolically. So, instead of directing our analyses towards lack of power, we look at how the power of nondominant groups is neutralised or disabled, by which institutions, processes, and actors, as well as what conditions and actions allow (re-)empowerment to the benefit of those groups. Therefore, we take it that it is not the ‘women that need fixing’ but the institutions, and that transformative equality, change and women empowerment require allyship with and agency and emancipation by all humans alike, including men.

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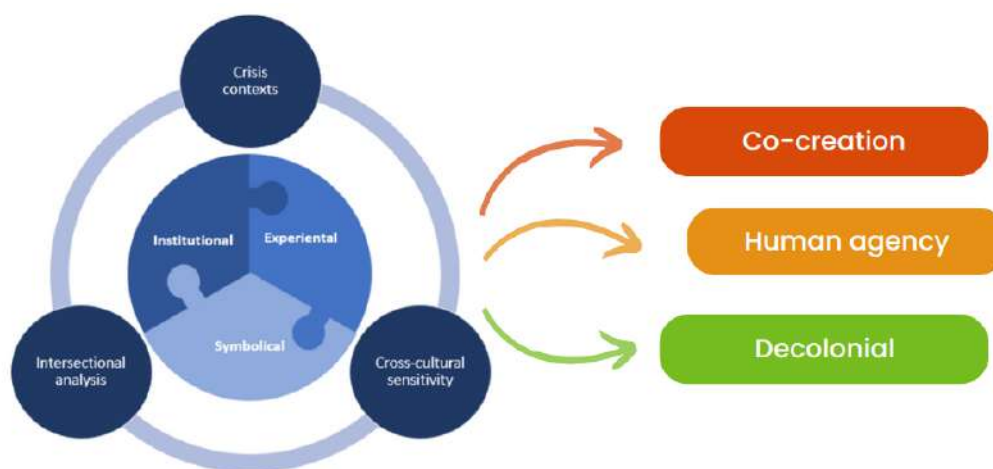
<sup>17</sup> Alison Booth (ed.), *Famous Last Words: Changes in Gender and Narrative Closure* (University of Virginia Press 1993); and Klinton W Alexander, ‘Ignoring the Lessons of the Past: The Crisis in Darfur and the Case for Humanitarian Intervention’ (2005) 15 *Journal of Transnational Law & Policy* 1.

<sup>18</sup> Christine Bell and Catherine O’Rourke, ‘Does feminism need a theory of transitional justice? An introductory essay’ (2007) 1 *The International Journal of Transitional Justice* 23; Tristan A Borer, ‘Gendered war and gendered peace: Truth commissions and postconflict gender violence: Lessons from South Africa’ (2009) 15 *Violence Against Women* 1169; and Rosemarie Buikema, *Revolts in Cultural Critique* (Rowman & Littlefield 2020).

<sup>19</sup> Martha A Fineman, ‘Vulnerability and Social Justice’ (2019) 53 *Val. U. L. Rev.* 341.



This combined multidisciplinary and contextual approach enables more in-depth identification of the root causes of gender-based and intersectional social inequalities in differing contexts and the gaps resulting from these in political, socio-economic and cultural domains. But it also works to structurally and intrinsically stimulate institutions to change their organisational gender-neutral logic, behaviour, and interactions, as well as cultural symbols and narratives, into gender-transformative ones and to eradicate harmful gender norms and systemic forms of discrimination and exclusion. Figure 1 below visually represents RE-WIRING’s three-dimensional approach (experiential, institutional and symbolical) and its anchoring elements.



**Figure 1.** RE-WIRING’s three dimensions and anchoring elements of its Transformative Equality Approach

In brief, the transformative potential of the concepts is assessed as follows:

- a. the validity of these concepts across differing cultural contexts (we will focus on theories and concepts that have been tested in more than 3 cultural contexts);
- b. the validity of these concepts to explain the impacts of various crises (financial, climate and health & future of work) on gender equality; and
- c. their transformative power and relevance to facilitate the development of institutional/regional/national policies and practical solutions for combating gendered power hierarchies.

The strength of this conceptual framework lies not in individual concepts, but in how our multidisciplinary and contextual collection of concepts provides a framework with which to understand the nuances of gender inequalities. Our taxonomy allows for an appreciation of the complexity of our problem, which we hope lays a solid foundation for the development of a sophisticated Transformative Equality Approach. With our multidisciplinary, decolonial,

intersectional, and cross-cultural lens, we can also arrive at holistic explanations for and understandings of the persisting backlash against gender equality.

As a result, the RE-WIRING TEA is geared towards enabling the development of robust, tangible, and actionable solutions at the experiential, institutional, and symbolical levels that challenge and transform the deeply ingrained structural and systemic inequalities and the discursive, symbolic, and material practices through which they are maintained in RE-WIRING’s core public and private domains, which include education, laws and policies, media, employment and enterprise, and informal institutions such as the family. Figure 2 below is a visual representation of RE-WIRING’s dimensions and domains.

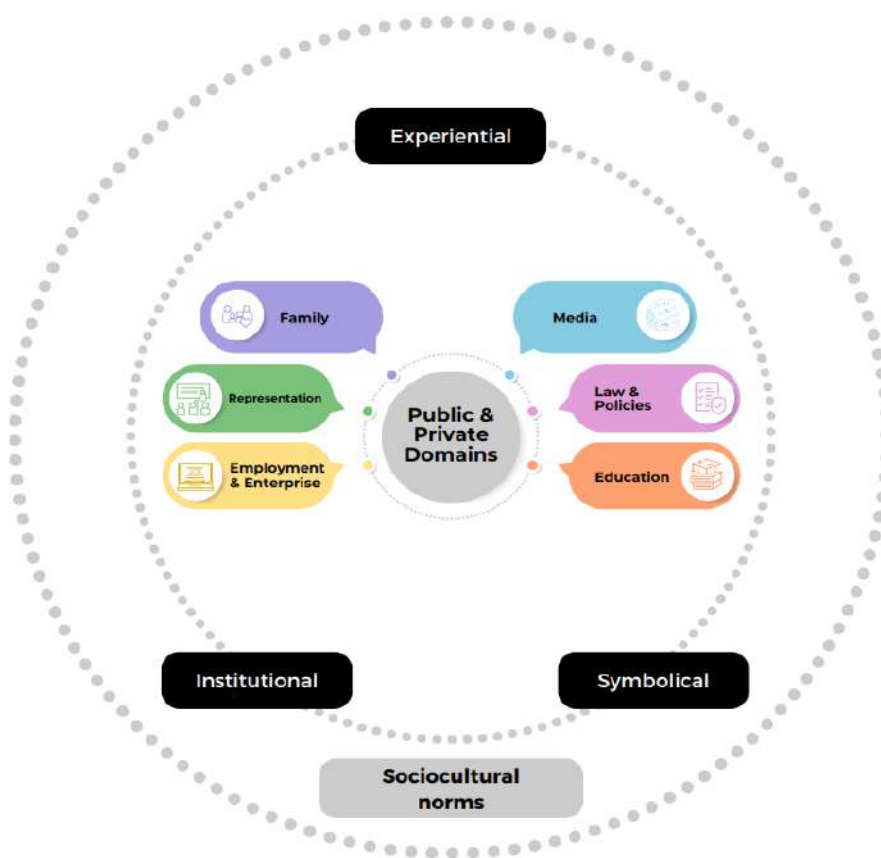
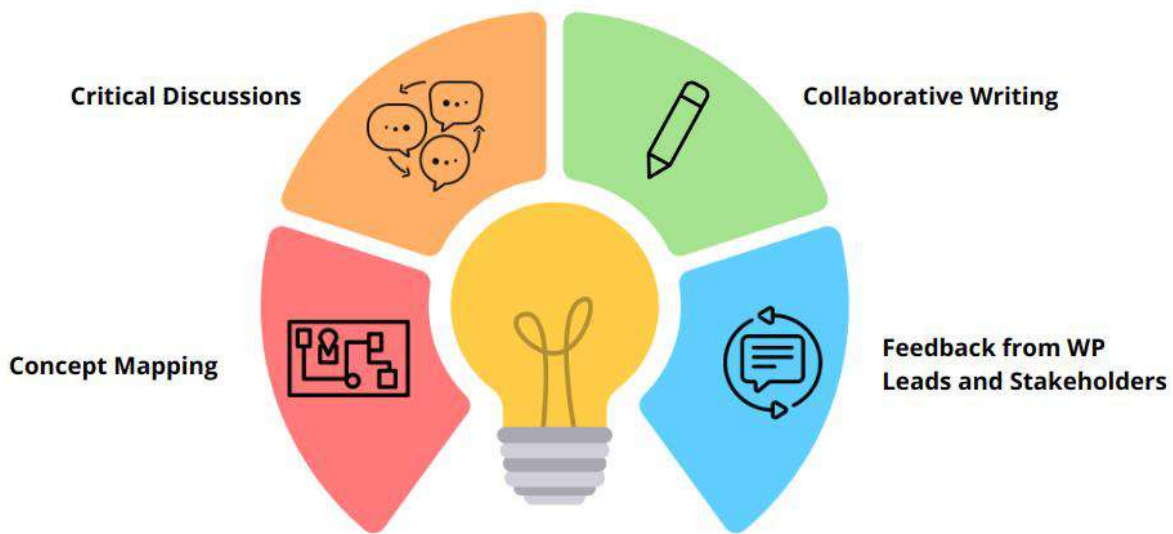


Figure 2. RE-WIRING: Core dimensions, domains and institutions

### 3. Methodology

Our methodology for developing the taxonomy of concepts in our Transformative Equality Approach involved a collaborative and interdisciplinary process. The team of six postdoctoral researchers began by reviewing the project documents to understand the research objectives and outcomes, as well as the concept map that was developed by contributors to RE-WIRING across work packages in our first Annual Consortium Meeting held in June 2023. Based on these resources, on each researcher’s disciplinary background in law and politics, media studies, sociolinguistics, cultural analysis, economics, and cross-cultural and social psychology and through extensive discussions and analysis, we refined the concepts and developed the comprehensive framework now presented in this paper.<sup>20</sup>

The concepts from the project proposal, concept map, and from the researcher’s disciplinary contexts were placed in a shared document in which the researchers provided short descriptions of the concepts as well as relevant literature so that each researcher could get a sense of what each concept entailed. Once this was complete, the pool of concepts was roughly divided into three clusters of related concepts: Quality and Discrimination; Intersectionality and Decolonial Perspective; and Patriarchy as a System.



**Figure 3.** Methodology for developing the taxonomy of concepts

<sup>20</sup> Please note that the full list of references of materials and data considered in the preparation of this paper will be stored in the YODA repository dedicated to the RE-WIRING project.

This division between the clusters was only meant to facilitate the task of developing the concepts, rather than to emphasise any firm boundaries between the groups of concepts. That is, there are overlaps between the clusters such that the issues around sex and gender are related to the discussions on the cross-cutting themes and concepts under patriarchy as a system. However, to coordinate the work of all team members and to accommodate our disciplinary strengths, we found this to be the best approach for us. In keeping with dividing the workload according to our disciplinary strengths, we then worked in smaller teams to develop each cluster, even though we all had access to all three cluster documents, so we could all contribute through questions, comments and co-writing. As our writing developed, we eventually reorganised the clusters, with the first consisting of the RE-WIRING anchoring ideas and cross-cutting themes; the second cluster consisted of patriarchy as a system, and related theories and concepts and concepts related to sex and gender definitions and debates; and the last cluster included concepts related to law, economic understandings of (non)discrimination and (in)equality. From here, the three clusters were merged into one document, although we still have copies on file of the individual cluster documents we worked on. Next, we worked on refining our concepts, and adding those that became relevant along the way.

In this final paper, the three big clusters were further broken down into five clusters, the first one includes the revised 'cross-cutting themes' and concepts that aim to better capture and understand systems of inequality and oppression generally and how this pertains specifically to gendered power hierarchies; the second cluster looks at the current contentious debates around what is 'sex and gender', it explores the different uses of these concepts, their usefulness to achieve transformation and an explicit statement of RE-WIRING's position within these debates; the third cluster explores the explanatory value of the concept of patriarchy as a system for understanding how gendered power hierarchies work. This section also explores the importance of grounding our analysis in existing theories that proved useful in understanding gender inequalities in all their different aspects and complexity within different contexts. While the whole paper engages with gendered power inequalities and hierarchies in different domains, in the fourth section we explore two specific and pervasive 'manifestations of gendered power hierarchies', namely, gender-based violence and economic inequality which affect women and girls across RE-WIRING's domains. Their discussion will demonstrate the relevance of the first, second and third clusters of concepts. Finally, the fifth cluster builds on the previous sections to present the most promising concepts with a view to providing solutions for tackling gendered power hierarchies. These five concept clusters, together with our introduction, anchoring elements and methodology make up the eight sections of this concept paper.

The writing process was supported by weekly meetings in which we engaged in critical dialogue and decision-making regarding our conceptual framework and the overall structuring of the paper. The collaborative platform we have worked on, specifically Teams and Google Docs, afforded us additional opportunities to be critical of the choices we were

making in relation to concepts, their theoretical foundations, their relevance to the goals of RE-WIRING and specifically the TEA, and the structure of the paper. In addition, input and feedback from the leaders of Work Package 1 were an important part of our process. The detailed and constructive contribution and feedback they offered throughout the writing process, supplemented by feedback from all WP leaders and some consortium team and Advisory Board members, helped to further refine our ideas and enhance the overall cohesion and coherence of the paper. RE-WIRING's objectives, the anchors and focus of TEA, as discussed in sections 1 and 2, as well as our methodology of developing the taxonomy of concepts as discussed hereabove, set the ground for six cross-cutting themes that are important to capture the functioning of gendered power hierarchies in different domains relevant for the RE-WIRING project and building a strong conceptual base for our Transformative Equality Approach. We now turn to their discussion in the next section.

## 4. Cross-cutting concepts for capturing gendered power hierarchies: Power, Ideology, Discourse, Representation, Stereotyping, and Discrimination/(In)equality

In this section, we look at *power, ideology, discourse as social practice, representation, stereotyping, and categories of discrimination*. Based on our previous concept mapping exercises as a team, and the subsequent discussions, we identified these six concepts as being cross-cutting themes that are important to capture the functioning of gendered power hierarchies across several social domains. They can be used collectively to illuminate gendered hierarchies and inequalities across media, education, policies, laws, and institutions, revealing how these interconnected elements perpetuate and shape unequal gender dynamics. These concepts offer a framework to analyse the multiple ways in which power structures, belief systems, communication patterns, representation, biases, and economic factors contribute to and reflect gender inequalities within these diverse spheres.

Understanding these concepts (and the way they relate to each other) is essential for gaining nuanced insights into the underlying causes of persisting gender inequalities, which are intricately woven into our cultural norms, individual and communal identities, attitudes, and beliefs, thereby enabling, or revealing opportunities for targeted interventions for systemic change. Below, we delve into each of these concepts, highlighting their potential for the development of a Transformative Equality Approach that will be useful for re-wiring institutions. Figure 4 below (pg. 23) is an attempt to visually capture the concepts in this working paper illustrating the interdependence between the concepts.

### a. Power

Discussions within some disciplinary contexts tend to prioritise one specific interpretation of the concept of power: the act of one actor exerting control over another to compel them to act in ways they would not have chosen otherwise.<sup>21</sup> While this is an important form of power, it overlooks the multiple ways in which power may manifest. We therefore define power as “the production, in and through social relations, of effects that shape the capacities of actors to determine their circumstances and fate”.<sup>22</sup> Two key analytical dimensions are highlighted within this general concept of power. The first dimension pertains to the kinds of social relations through which power operates. The authors distinguish between *social relations of interaction* (where power is attributed to specific actors and their interactions) and *social relations of constitution* (where power is a social process, that includes social practices, ideologies, discourses<sup>23</sup> and social norms that maintain asymmetrical power dynamics and shape actors' social identities and capacities to act).

The second dimension focuses on *the specificity of the social relations* through which power operates. It addresses the degree to which these relations are either socially specific (e.g., online or offline gender-based violence, a boss issuing a command to employees) or socially diffuse (such as processes embedded in institutions that establish rules and determine who can participate in certain situations and in what capacity). A practical example of power relations is gender-based violence, online and offline. This dimension emphasises how power can be exerted in immediate, localised instances or through more dispersed and systemic mechanisms that impact broader social contexts. These dimensions may also be seen as “power over” others and “power to” do things and should be understood as being dialectical as opposed to binary.<sup>24</sup> That is, having power over others (e.g., governments, media etc.) can increase one's power to do things (e.g., change policies, influence decisions, etc.) and vice versa.

In addition, Fairclough's Critical Discourse Analysis approach to understanding the relationship between power, discourse, and ideology emphasises that power is not solely based on domination but also operates through persuasion and consensus-building.<sup>25</sup>

He draws on the concepts of legitimate power and hegemony to explain how powerful groups persuade and maintain their position by shaping cultural, moral, and economic values that are seen as legitimate and natural. He argues that power, when legitimate and used for the benefit of society, can be a positive force. However, power becomes problematic and therefore open to critical analysis when it is illegitimate or leads to unjust harm to

<sup>21</sup> Mark E Warren, 'Max Weber's Nietzschean conception of power' (1992) 5 (3) *History of the Human Sciences* 19.

<sup>22</sup> Michael Barnett and Raymond Duvall, 'Power in international politics' (2005) 1 *International Organization* 59.

<sup>23</sup> Norman Fairclough, 'CDA as dialectical reasoning: critique, explanation and action' (2020) 4 *Policromias* 13.

<sup>24</sup> Norman Fairclough, 'A procedural approach to ethical critique in CDA' (2018) 15 *Critical Discourse Studies* 169.

<sup>25</sup> Norman Fairclough, *Critical Discourse Analysis: The Critical Study Of Language* (Longman 1995).



individuals or society, highlighting the importance of critiquing and examining power dynamics.

Within RE-WIRING, we consider the workings of power as they affect both the public and private spheres, profoundly shaping the journeys of girls and women through various life stages. Within education, the dynamics of power influence the design of curricula, thereby perpetuating certain entrenched norms and narratives that mould the perspectives of young minds. The realm of political decision-making reveals the stark reality of women's underrepresentation, a reflection of the systemic disparities in power that affect women's access to leadership roles and their capacity to challenge prevailing narratives. Within the domain of employment and entrepreneurship, the concept of power provides a lens through which we observe how these unequal power dynamics directly impact career advancement, while the struggles that women face in balancing work and personal life further reinforce the need for transformation. As such, for RE-WIRING's purposes, the concept of power is suitable for understanding the mechanisms through which gender inequalities are maintained across various domains of social life.

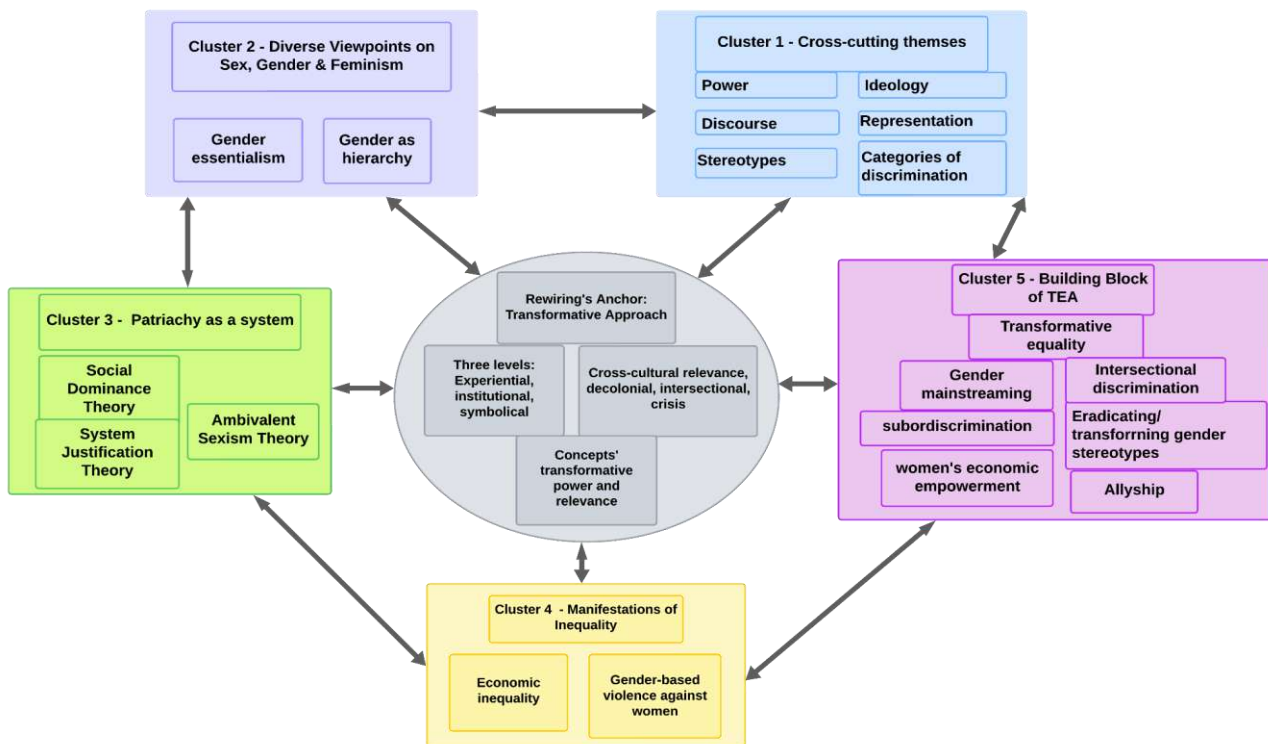


Figure 4. Visual representation of the taxonomy of concepts

## b. Ideology

There are two main conceptions of ideology: a neutral and a critical (pejorative) conception. The neutral conception defines ideology as a system of ideas and beliefs that shape and influence political and social action.<sup>26</sup> This is a value-neutral understanding, synonymous with a 'worldview'. Ideology in this sense is understood to be something any social group or individual possesses in line with the group's or individual's interests and social position. Ideology in this sense is an analytical concept: everybody - groups of people as well as individuals - has an ideology. However, this neutral view of ideology does not always take into account the role of power in determining which ideologies become dominant and even commonsensical (e.g., neoliberalism, patriarchy, etc.) and how this interaction of power and ideology may legitimise systemic inequalities.<sup>27</sup>

In their critique of social and economic structures, Marx and Engels adopt a more critical conception of ideology as representing systems of ideas that contain falsehoods and distortions that align with the motivations of those in power.<sup>28</sup> Fairclough drew inspiration from the Marxian definition in his understanding of ideology as a system of ideas, beliefs and values that reflect and reinforce the interests of dominant groups while disguising or naturalising social inequalities.<sup>29</sup> This definition has been adopted by scholars who are critical of social orders as it allows them to investigate and uncover hidden power dynamics and underlying biases behind ideological structures,<sup>30</sup> especially those ideologies that are so dominant that they are accepted as 'common-sense' (e.g., within certain cultures, the idea that women are or should be primary carers is 'common-sense' or just the way things ought to be).

There has been a range of criticism directed at the concepts of ideology and ideological analysis. One notable critique is one that most popular concepts face; the popularity of the concept, which usually arises because of its analytical potential, can ironically erode its analytical value as it is appropriated and interpreted in diverse ways. This criticism is constructive and should not deter us from its use but rather encourage rigorous and critical application of the concept in research, given that the conditions that led to its critical turn, such as socio-economic dominance and inequality, still plague us today.

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<sup>26</sup> Juan Christian Guerrero, *Antoine Louis Claude Destutt de Tracy's Elements of Ideology, Volume 1: Ideology Strictly Defined and 'On Love' from Elements of Ideology, Volume 5: On Morals English Translations with an Introduction* (MA Thesis, The American University of Paris 2010).

<sup>27</sup> Louis Althusser, *On the Reproduction of Capitalism Ideology and Ideological State Apparatuses* (Verso 2014)

<sup>28</sup> Karl Marx and Friedrich Engels. 'The communist manifesto' in Terence Ball, Richard Dagger and Daniel I. O'Neill (eds) *Ideals and Ideologies: A Reader* (11th edn Routledge 2019) 243.

<sup>29</sup> Norman Fairclough and Ronny Scholz, 'Critical discourse analysis as 'dialectical reasoning': from normative critique towards action, by way of explanation'. Interview with Norman Fairclough conducted by Ronny Scholz (2020) 122 Mots. *Les Langues du Politique* 113.

<sup>30</sup> Louis Althusser, *On the Reproduction of Capitalism Ideology and Ideological State Apparatuses* (Verso 2014).



The “dominant ideology thesis” suggests that social order primarily relies on the influence of dominant ideologies that work to secure the consent or compliance of the majority. For example, patriarchy is a dominant socio-cultural ideology that is sustained because of the (un)conscious participation of the majority of people within patriarchal societies. This view of ideology has been criticised as scholars<sup>31</sup> have questioned the existence of such a dominant singular ideology, asserting that people often possess the agency to resist and reject them. They also argue that diverse non-ideological factors, such as economic mechanisms, play a significant role in achieving social order in society.<sup>32</sup> Although there is merit to such criticisms of the notion of a dominant ideology, especially given that some critical scholars tend to exaggerate the role of ideology in shaping society, we should not fall into the danger of underestimating the power and influence of ideological structures in influencing how society operates.

From an intergroup perspective, the hierarchisation of groups according to the status they hold can be maintained by powerful or dominant groups (see social dominance theory on pg. 58). For example, sexist ideologies perpetuate an unequal system between men and women (see ambivalent sexism on pg. 59). Group differentiation is reinforced by stereotypes, which prescribe power relations between masculine and feminine values. These ideological structures permeate the culture of societies and prescribe behaviour, emotions, cognitions and roles linked to power, status and success for boys and men (see hegemonic masculinity on pg. 61). Thus, legitimising ideologies govern social norms and cultural practices.

Within RE-WIRING therefore, we adopt a critical view of ideology. We view it as something that is woven into the fabric of groups, including nations and supranational organisations. At the institutional and state levels, ideologies serve as guiding principles that shape policies and regulations that echo deeply ingrained institutional and national cultures. Ideology works in a similar fashion in multinational corporations and international formations such as the European Union (EU), the Southern African Development Community (SADC), or Brazil, Russia, India, China, South Africa, Saudi Arabia, Iran, Ethiopia, Egypt, Argentina, and the United Arab Emirates (BRICS+) as core ideologies harmonise the collective vision of member states built on shared values that extend beyond national boundaries. The political, cultural and economic ideologies that influence what happens at the (supra)national level (neo-liberalism, conservatism, socialism etc.) affect the rule of law, and institutional processes within the state (institutional level) and shape the experiences, perceptions, and beliefs of their citizens (experiential level). In other words, ideological structures underpin

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<sup>31</sup> Norman Fairclough and Isabela Fairclough, ‘A procedural approach to ethical critique in CDA’ (2018) 15 *Critical Discourse Studies* 169.

<sup>32</sup> Norman Fairclough and Ronny Scholz, ‘Critical discourse analysis as ‘dialectical reasoning’: from normative critique towards action, by way of explanation’. Interview with Norman Fairclough conducted by Ronny Scholz (2020) 122 *Mots. Les langues du politique* 113.

narratives upon which values, laws and principles are adopted and threaded through individual convictions, institutional frameworks and symbolic representations.

### c. Discourse as social practice

It is helpful to distinguish between *language*, *discourse*, and *Discourses* so as to understand discourse as a social practice. *Language* (in its most abstract sense) can be defined as a system of communication that consists of a set of symbols, words, and grammar rules used by a particular community or group of individuals to convey meaning (e.g., isiXhosa, Dutch English). Small 'd' *discourse* (always used in the singular form), refers to the use of language (both spoken and written texts) to achieve certain goals in specific social contexts<sup>33</sup> (e.g., use of language to persuade, inform, bully, tease, demean, threaten, compliment, force, etc). Given the fact that communication and meaning-making practices at the institutional level usually involve the use of other modes in addition to the linguistic or verbal mode (e.g. videos or images that use colour, movement, space, sound, words, etc. to persuade an audience), the term discourse within multimodal discourse analysis has been extended to include these nonverbal modes since they often work together with the linguistic mode to produce meaning.<sup>34</sup> (Social) *Discourses* refer to ways of using discourse that define and are defined by broader systems or frameworks of knowledge, power, and social practices. In other words, they are linguistic expressions of ideological positions or “ways of behaving, interacting, valuing, thinking, believing, speaking ... and writing” that express particular positions and roles<sup>35</sup> (e.g., economic, religious, political or racialised discourses).

In RE-WIRING, we adopt the view that language (as an aspect of discourse) is not simply a neutral and transparent tool for communication but is intricately intertwined with power and ideology in creating and maintaining (gender) inequalities. Discourse and the ideologies that shape it operate within both the public and private realms, establishing, maintaining, and transmitting (gender) norms and ideologies.<sup>36</sup> Thus, discourse or language in use is seen as a site where power and ideology are (simultaneously) enacted and reinforced.<sup>37</sup> For example, language gender marking shapes cognitive associations and mental representations related to gender. Languages vary in the extent to which they require speakers to linguistically acknowledge and denote gender. For instance, certain languages like Arabic incorporate gender distinctions in nearly every phrase, whereas grammatical

<sup>33</sup> Norman Fairclough, *Critical Discourse Analysis: The Critical Study of Language* (Longman 1995).

<sup>34</sup> Gunther Kress and Theo van Leeuwen, *Reading Images: The Grammar of Visual Design* (Routledge, 2006); Gunther Kress, *Multimodality: A Social Semiotic Approach to Contemporary Communication* (Routledge 2010).

<sup>35</sup> James P Gee, *Social Linguistics and Literacies* (3rd edn Routledge 1990) xix.

<sup>36</sup> Paul Berger and Thomas Luckmann, *The Social Construction of Reality* (Penguin Books 1966); Elizabeth Keating and Maria Egbert, 'Conversation as a cultural activity' in Alessandro Duranti (eds) *A Companion to Linguistic Anthropology* (Wiley Blackwell 2005) 169; and Yoshihisa Kashima, 'Meaning, grounding, and the construction of social reality' (2014) 17 *Asian Journal of Social Psychology*, 81.

<sup>37</sup> Norman Fairclough, *Critical Discourse Analysis: The Critical Study of Language* (Longman 1995).

gender plays no role in other languages like Swedish. In languages with gender distinctions, speakers continually need to contemplate and clearly differentiate between females and males, resulting in gender being a more prominent category for these speakers. When language consistently associates certain attributes or roles with specific genders, it can influence how individuals perceive and understand gender roles in society. This can contribute to the internalisation of gender norms and biases.<sup>38</sup> Higher gender marking in language has been, for instance, associated with lower women's financial inclusion.<sup>39</sup>

Let us consider an example from the work of Theo van Leeuwen.<sup>40</sup> A newspaper article advises mothers on how to prepare their children for the first day of school. Such an article gives advice or communicates meaning, but implicitly, it does more than that. The article simultaneously points to or *presupposes*<sup>41</sup> a world in which the advice makes sense. That is, it presupposes a world in which young children *are* or *should* be in school, where mothers are the ones who prepare or *ought* to prepare the children for school (discursively erasing the father as a participant in this practice) and a world in which the first day of school is usually challenging (even though there are tricks, especially the tips recommended in the article, to make it easier) for both mom and child etc. In other words, the piece of discourse (the article) about the first day of school, which was likely inspired by actual historical practices of parents preparing their children for school, ratifies this world to both the author and the audience. It also ratifies the author's *power* or *legitimacy* to give advice on such matters.

Discourse (the newspaper article), therefore, may also be seen as the *recontextualisation*<sup>42</sup> of the practices involved in getting ready for the first day of school, including the social norms, ideologies and actors (e.g., parents, children, teachers, etc.) involved in this process. Language, specifically language in use or discourse, functions as a carrier of meaning and a medium through which these meanings or discourses are encoded, negotiated and transmitted. Furthermore, the relationship between discourse and practice is *dialectical*. That is why social practices shape discourse, but they are also shaped by discourse. Using the same example above, the newspaper article is shaped by the practice of getting a child ready for their first day of school, but this very article or others like it could also influence how parents reading it might prepare their children for school.

The concepts of Language, discourse, and Discourses, though defined individually here, are mutually constitutive; discourse is language in use (e.g., news article written for a specific audience and goal), and as it is used, the ideological positions from which one is speaking

<sup>38</sup> Michael Silverstein, 'Language and the Culture of Gender: At the Intersection of Structure, Usage, and Ideology' in Elizabeth Mertz and Richard J Parmentier (1985) *Semiotic Mediation* (Academic Press 1985) 219.

<sup>39</sup> Francis Osei-Tutu and Laurent Weill, 'Sex, language and financial inclusion' (2021) 29 *Economics of Transition and Institutional Change*, 369.

<sup>40</sup> Theo van Leeuwen, *Discourse and Practice. New Tools for Critical Analysis* (Oxford University Press 2008).

<sup>41</sup> Norman Fairclough, *Critical discourse analysis: The Critical Study of Language* (Longman 1995).

<sup>42</sup> Theo van Leeuwen, *Discourse and Practice. New Tools for Critical Analysis* (Oxford University Press 2008).

(Discourses) are simultaneously revealed. In the news article example used above, a patriarchal/sexist ideology emerges: mothers are or should be the primary carers in a home based on the discourse choices made by the author. By understanding the intricate relationship between language, discourse, and Discourses, in other words, discourse as social practice, in the RE-WIRING project we can gain insight into how they discursively and symbolically contribute to the complex tapestry of gender power hierarchies and inequalities that persist in our society.

#### d. Representation

Within RE-WIRING, representation is understood in two ways. In one sense, representation is related to the representation of women and girls in the language and (multimodal) discourse practices in media and across other institutions and practices, and in another sense, it is related to social justice and the (under) representation of marginalised groups, such as women, within institutional and societal structures such as public representation bodies and private company boards.<sup>43</sup> As such, the concept of representation in RE-WIRING captures power dynamics and ideologies embedded in language and language-like systems of representation and representation in terms of material inclusion in particular institutions e.g. (under/mis) representation of particular groups of people in leadership.

The first understanding of the concept of representation captures the process through which language or discourse practices function as a bridge between our thoughts or mental concepts and meaning making. This process enables us to express complex ideas about the real (and imagined) world, people, objects, events, and concepts using a linguistic and semiotic format that can be understood by others. Representation in this sense involves two main systems. The first involves the conceptual mapping system, which links mental concepts to things, individuals, and events. Meaning depends on these networks of concepts and mental images that mirror the world, covering both concrete and abstract aspects and allowing us to understand and interpret the world around us. The second system, language as a medium, transforms these mental conceptual maps into a shared language that encompasses spoken and written words, visual representations, gestures, and various communication forms.<sup>44</sup> This translation of mental concepts using language as a shared system facilitates meaning making between interacting individuals. Within a shared societal framework, people typically have access to similar conceptual maps which facilitate communication. Even when two people have conflicting opinions about the same issues, they may still rely on the same conceptual maps to express these positions. For example, both feminists and sexists may draw from shared understandings of norms, practices and beliefs about gender to argue their position. Culture emerges from this shared understanding of reality, shaped by comparable conceptual viewpoints. As such, within this understanding

<sup>43</sup> Stuart Hall, 'The work of representation' in Tim Prentki and Nicola Abraham (eds) *The Applied Theatre Reader* (2nd edn Routledge 2020), 74.

<sup>44</sup> Gunther Kress and Theo van Leeuwen, *Reading Images: The Grammar of Visual Design* (Routledge, 2006).

of representation, we are interested in the ways in which women and girls are symbolically (under/mis) represented in various discursive practices, including media, which significantly influences societal perceptions and narratives. Understanding and analysing such representations is crucial for uncovering and challenging biased or stereotypical portrayals that perpetuate inequality mainly at the symbolical level.

The concept of representation in the second sense highlights the (under)representation of marginalised groups, such as women, within institutional and societal structures.<sup>45</sup> For instance, this can be seen in the limited number of women in positions of leadership within organisations, and in certain educational fields, employment sectors and jobs (including STEM). Understanding the reasons for this imbalance is vital for addressing systemic inequalities and advocating for equal opportunities and diverse voices in decision-making.

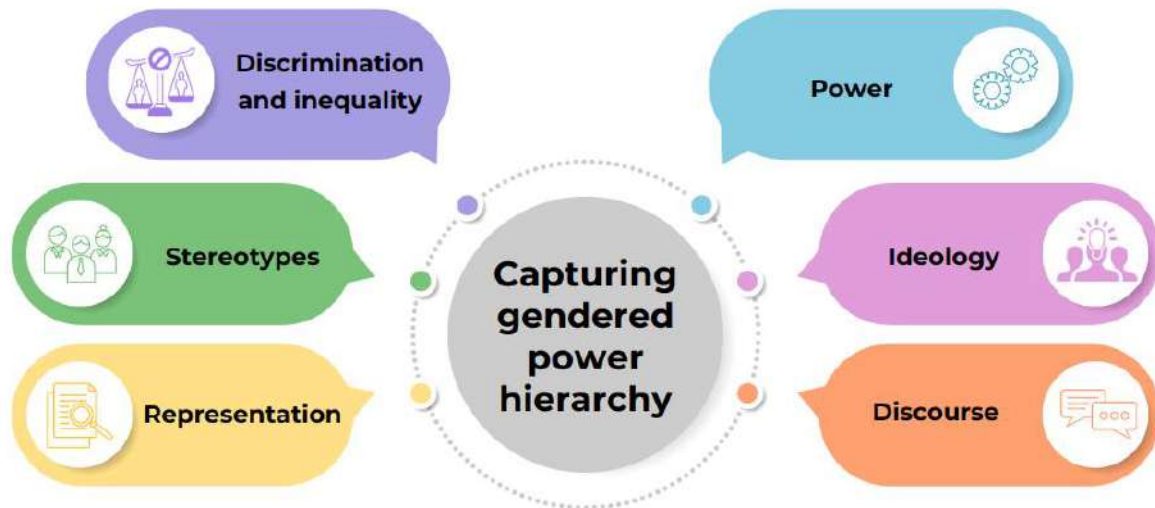
Following Pitkin's pioneering work on representation,<sup>46</sup> we can state that broader representation is inextricably linked with democratic processes. The underrepresentation of women in elected public offices, for instance, is a key manifestation of gender inequality on an institutional level and is the result of biases, stereotypes, and gendered power hierarchies that essentially hijack the democratic process. Furthermore, theories of representative bureaucracy investigate how demographics are reflected in bureaucratic organisations and their impact on policies. For example, sexual assault reports and arrests are positively correlated with the proportion of women police officers, as female officers are more likely to reflect the values, experiences, and vulnerabilities of female victims.<sup>47</sup>

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<sup>45</sup> Mona Krook and Sarah Childs (eds), *Women, Gender, and Politics: A Reader* (Oxford University Press 2010); Hanna F. Pitkin, *The Concept of Representation* (University of California Press 1967).

<sup>46</sup> Hanna F. Pitkin, *The Concept of Representation* (University of California Press 1967).

<sup>47</sup> Kenneth J Meier, and Jill Nicholson-Crotty, 'Gender, representative bureaucracy, and law enforcement: The case of sexual assault' (2006) 66 *Public Administration Review*, 850.



**Figure 5.** Mutually constitutive relationship between cross-cutting concepts discussed in Section 4.

These theories focus on *value congruence*, where bureaucrats prefer to convert values related to demographic origins into decisions benefiting individuals with shared experiences and values. To illustrate, in another study, the authors discuss the importance of active representation of women at both senior and street levels in hierarchically structured public organisations such as the police force, specifically how the arrest rate for domestic violence cases differs depending on the level of authority and discretion given to female police officers.<sup>48</sup> For value congruence to translate from passive to active, one needs a sphere of influence in a policy area or administrative structure where they feel free to behave in a way that represents their chosen values in order to produce policy results that reflect particular interests.<sup>49</sup> By exploring the multifaceted nature of representation, we can shed light on the complex dynamics that contribute to and perpetuate gender disparities and work towards societal change.

However, representation issues are not confined to ‘counting heads’. Stereotyped and pre-determined representations of women and girls are also an outcome of the patriarchal dynamics of heterodesignation, and of how power is crucially involved in who gets to

<sup>48</sup> Rhys Andrews and Karen Johnston Miller, ‘Representative bureaucracy, gender, and policing: The case of domestic violence arrests in England’ (2013) 91 *Public Administration*, 998.

<sup>49</sup> Kenneth J Meier and John Bohte, ‘Structure and discretion: Missing links in representative bureaucracy’ (2001) 11 *Journal of Public Administration Research and Theory* 455; Jessica E Sowa and Sally Coleman Selden, ‘Administrative discretion and active representation: An expansion of the theory of representative bureaucracy’ (2003) 63 *Public Administration Review* 700; Rhys Andrews and Karen Johnston Miller, ‘Representative bureaucracy, gender, and policing: The case of domestic violence arrests in England’ (2013) 91 *Public Administration* 998.

participate in building representations and who is passively represented by the dominant group. Thus, RE-WIRING's transformative approach, will move beyond passive representation, and look beyond the numbers, to advance our understanding of the active representation of girls and women institutionally, experientially, and symbolically.

### e. Stereotyping

*Stereotypes* are shared and agreed-upon beliefs about a group.<sup>50</sup> While they can help reduce complexity and thus facilitate social interactions,<sup>51</sup> they often lead to over-generalisations.<sup>52</sup> We view gender norms and stereotypes as the root causes of gender inequality and note that gender norms and stereotypes are historically, politically, socio-economically, culturally, and geographically constructed rather than inherent characteristics of an individual.<sup>53</sup> Stereotypes are cross-cutting elements embedded in laws and policies in different domains (work and employment, education, media representation, and gender-based violence), in cultural representations, and in social practices at different institutional levels (public and private).

Stereotypes obscure the complexity of social reality, reduce an individual's or group's characteristics into rigid categories and, most importantly, build a hierarchy between groups and the roles and traits assigned to them.<sup>54</sup> A closely related attitudinal concept is *prejudice*, which is often defined as unfavourable evaluations and negative affect towards members of a group.<sup>55</sup> As such, prejudice is often assumed to develop from unfavourable group stereotypes to predict discriminatory behaviour towards group members.

Using a social psychological lens, gender stereotypes can be understood as shared beliefs and expectations about men and women that contain causal explanations that legitimise and rationalise the status quo.<sup>56</sup> Stereotypes portray men and women as opposites but at

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<sup>50</sup> Robert Gardner, 'Stereotypes as consensual beliefs' in Mark P Zanna and James M. Olson (eds), *The Psychology of Prejudice, the Ontario Symposium on Personality and Social Psychology* (Library of Congress Cataloguing-in-Publication Data, 1994).

<sup>51</sup> Alexander Haslam, John C Turner, Penelope J Oakes, Katherine J Reynolds and Bertjan Doosje, 'From personal pictures in the head to collective tools in the world: How shared stereotypes allow groups to represent and change social reality' in Craig McGarty, Vincent Y Yzerbyt and Russell Spears (eds), *Stereotypes as Explanation: The formation of Meaningful Beliefs about Social Groups* (CUP, 2002).

<sup>52</sup> Bettina Spencer, 'Stereotyping and political decision making' in David P Redlawsk (eds) *The Oxford Research Encyclopedia of Politics* (OUP 2019).

<sup>53</sup> Alice H Eagly and Wendy Wood, 'Social role theory' in Paul AM Van Lange, Arie W Kruglanski and E. Tory Higgins (Eds), *The Handbook of theories of social psychology* (Sage Publications 2011).

<sup>54</sup> John T. Jost, Yifat Kivetz, Monica Rubini and others, 'System-justifying functions of complementary regional and ethnic stereotypes: Cross-national evidence' [2005] *Social Justice Research*, 305.

<sup>55</sup> Robert Gardner, 'Stereotypes as consensual beliefs' in Mark P. Zanna, James M. Olson (eds), *The Psychology of Prejudice, the Ontario Symposium on Personality and Social Psychology* (Library of Congress Cataloguing-in-Publication Data, 1994).

<sup>56</sup> John T Jost and Mahzarin R Banaji, 'The role of stereotyping in system-justification and the production of false consciousness' [1994] *British Journal of Social Psychology* 1; Jim Sidanius and Felicia Pratto, *Social Dominance: An*

the same time as complementary due to heterosexual interdependence.<sup>57</sup> Even so, men and women share more similarities than differences,<sup>58</sup> so stereotypes do not reflect reality. Furthermore, stereotypes not only describe the differences between men and women but also prescribe (and proscribe) how men and women should (and should not) behave in spaces such as educational contexts (e.g., STEM fields) or at work (e.g., balancing work and family life, aspiring to leadership positions). Therefore, we differentiate between stereotypes classified as descriptive - referring to the attributes seen to be associated with men and women, and prescriptive-proscriptive - referring to the characteristics that society believes women and men should or should not possess.

In line with this, legal doctrine understands stereotypes as generalisations about the roles and characteristics that members of a social group *have* or *should* have.<sup>59</sup> Yet, generalisations are a present fundamental mechanism in law, for this reason, academics have focused on strategies to determine when such generalisations are stereotypical and discriminatory. From one side, it is argued that descriptive stereotypes can be assessed to determine if they are wrongful and discriminatory based on the accuracy of their content. Therefore, if a stereotype does not accurately reflect an individual's situation and characteristics, an exception should be introduced and the stereotype should not apply.<sup>60</sup> Instead, if the stereotype does not reflect the group, it should be abandoned as such. However, the problem remains for those stereotypes that are in part accurate (or statistically sound) but still reflect and originate from historical group oppression.

According to social role theory,<sup>61</sup> gender stereotypes derive from a division of labour and power based on sex assigned at birth, which is influenced by gender socialisation processes. Gender segregation in the workplace and in positions of power is reinforced by the socialisation of boys and girls through the adoption of specific roles. Girls are socialised to be more communal, as they often take on caring responsibilities, while boys are socialised to be more agentic. The concepts of agency and communion form the basis of gender stereotypes and represent dimensions within social perception.<sup>62</sup> Agency encompasses goal-oriented behaviour, task focus, feelings of superiority and dominance, and competence

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*Intergroup Theory of Social Hierarchy and Oppression* (Cambridge University Press 1999). Naomi Ellemers, 'Gender Stereotypes' [2018] *Annual Review of Psychology*, 275.

<sup>57</sup> Laurie A. Rudman and Peter Glick, *The Social Psychology of Gender: How Power and Intimacy Shape Gender Relations* (Guilford Press 2010).

<sup>58</sup> Janet S. Hyde, 'Gender similarities and differences' [1994] *Annual Review of Psychology* 373; Cornelia Fine, *Testosterone Rex. Myths of Sex, Science, and Society* (Norton 2017).

<sup>59</sup> Rebecca Cook and Simone Cusack, *Gender stereotyping: transnational legal perspectives* (University of Pennsylvania Press 2010).

<sup>60</sup> Arena, Federico 'Algunos criterios metodológicos para evaluar la relevancia jurídica de los estereotipos' (2019) 2 *Derecho y Control*, 11.

<sup>61</sup> Alice H. Eagly and Valerie J. Steffen, 'Gender stereotypes stem from the distribution of women and men into social roles' [1984] *Journal of Personality and Social Psychology*, 735.

<sup>62</sup> Andrea E. Abele, Naomi Ellemers, Susan T. Fiske, Alex Koch, Vincent Yzerbyt, 'Navigating the social world: Toward an integrated framework for evaluating self, individuals, and groups (2021) 128(2) *Psychological Review*, 290 .



(effectiveness or intelligence). Communion, on the other hand, involves maintaining relationships, being oriented towards others, and emphasising warmth (affection, empathy), as well as morality. In various cultures, men are typically perceived as more agentic than communal, while women are generally seen as more communal than agentic. As agency is more strongly linked with status and power than communality, men-agentic vs. women-communal associations determine who is perceived as more suitable to occupy a position of power.

These dimensions have the benefit of not being explicitly linked to gender.<sup>63</sup> Although the dimensions of agency and communion are pivotal in the study of gender stereotypes,<sup>64</sup> other dimensions of stereotypes have been considered in the examination of individual and group perceptions, encompassing stereotypes related to social class, gender, leadership, as well as ethnicity, nationality, or age.<sup>65</sup> For example, the agentic and communal aspects of social class stereotypes have been used primarily to examine the competence and quality/sociability dimensions proposed by the stereotype content model.<sup>66</sup> In some contexts/cultures, upper-class individuals are perceived as hard-working, intelligent and powerful (i.e., agentic). Moreover, these stereotypes present certain ambivalences, as cross-cultural studies have revealed that higher-status groups are perceived as competent but lacking warmth. In contrast, low-status groups are seen as low in competence but warm.<sup>67</sup> In the case of men's and women's attributes have changed since the mid-20th century. While there is an increase in the perception of women as communal compared to men, women also increased in perceived competence compared to men, but not in perceived agency.<sup>68</sup>

In addition to these theoretical models, other authors have emphasised various dimensions of social perception (e.g., morality, sociability and competence<sup>69</sup>, sociability and competence;<sup>70</sup> socio-economic agency/success, conservative/progressive beliefs and

<sup>63</sup> Andrea E. Abele and Bogdan Wojciszke, 'Communal and agentic content in social cognition: A dual perspective model'. In J. M. Olson & M. P. Zanna (eds.), *Advances in Experimental Social Psychology* (Academic Press 2014).

<sup>64</sup> Sabine Sczesny, Christa Nater and Alice Eagly, 'Agency and communion: Their implications for gender stereotypes and gender identities' in Andrea Abele and Bogdan Wojciszke (eds.) *Agency and Communion in Social Psychology* (Routledge 2019).

<sup>65</sup> Susan T. Fiske, 'Managing ambivalent prejudice: Smart-but-cold and warm-but-dumb stereotypes' [2012] *The ANNALS of the American Academy of Political and Social Science*, 33.

<sup>66</sup> Susan T. Fiske, Amy J. C. Cuddy, Peter Glick, and Jun Xu 'A model of (often mixed) stereotype content: Competence and warmth respectively follow from perceived status and competition' [2002] *Journal of Personality and Social Psychology*, 878.

<sup>67</sup> Federica Durante, Courtney Bearns Tablante and Susan T. Fiske, 'Poor but warm, rich but cold (and competent): Social classes in the stereotype content model' [2017] *Journal of Social Issues*, 157; Federica Durante, Susan T. Fiske, Nicolas Kervyn and others 'Nations' income inequality predicts ambivalence in stereotype content: How societies mind the gap [2013] *British Journal of Social Psychology*, 726.

<sup>68</sup> Alice H. Eagly, Christa Nater, David I. Miller, Michele Kaufmann and Sabine Sczesny 'Gender stereotypes have changed: A cross-temporal meta-analysis of U.S. Public Opinion Polls From 1946 to 2018', (2020) 75(3) *Am Psychol*, 300.

<sup>69</sup> Naomi Ellemers, *Morality and the Regulation of Social Behavior: Groups as Moral Anchors* (Routledge 2017).

<sup>70</sup> Vincent Yzerbyt, Intergroup stereotyping (2016) 11 *Current Opinion in Psychology*, 90.

communal orientation.<sup>71</sup> All these approaches have been integrated into a unified theoretical framework.<sup>72</sup> According to this theoretical framework of social evaluation, two main evaluation dimensions are identified. The vertical dimension refers to the agency, competence and assertiveness of a group (e.g., men), reflecting its ability to achieve a higher status within society. On the other hand, the horizontal dimension refers to a group's communion, friendliness and morality, which encompass its prosocial tendencies to foster and maintain relationships (e.g., women).

Research has highlighted this gendered differentiation of social roles and positions of power—men are prescribed the agentic roles of economic providers, and women as housekeepers and caregivers. The content of gender stereotypes sheds light on why, across countries, women are underrepresented in high-status positions of power and men are underrepresented in childcare and housework (see discussion on non-binary perspectives, pg. 47).<sup>73</sup> Due to the segregation of social roles, there are observable differences in occupational choices and care responsibilities between men and women, which often leads to the lower status position of women compared to men. Stereotypes promote the attribution of the lack of women in leadership positions or in *STEM* fields (science, technology, engineering, and mathematics) to the inherent lack of skills and traits necessary for success, without considering situational factors.<sup>74</sup>

Gender is considered a primary feature in person perception, meaning it is a category that is quick to detect, salient, automatic, and polarised.<sup>75</sup> We perceive and tend to seek clues to identify someone's gender identity, even when this categorisation is not useful for the context or has no informational benefit. People may not frequently openly express stereotypical statements about men and women. However, even though the overt expression of stereotypes may be discouraged due to social norms (in some societies), implicit and subtle stereotyped views of men and women still exist.<sup>76</sup> Implicit views refer to those that cannot be consciously processed. For example, people tend to associate women's names and faces with family-related issues quickly and effortlessly.<sup>77</sup> This leads

<sup>71</sup> Alex Koch, Roland Imhoff, Ron Dotsch, Christian Unkelbach and Hans Alves, 'The ABC of stereotypes about groups: Agency/socioeconomic success, conservative–progressive beliefs, and communion' [2016] *Journal of Personality and Social Psychology*, 675.

<sup>72</sup> Andrea E. Abele, Naomi Ellemers, Susan T. Fiske and others, 'Navigating the social world: Toward an integrated framework for evaluating self, individuals, and groups' [2021] *Psychological Review*, 290.

<sup>73</sup> Naomi Ellemers 'Gender Stereotypes' [2018] *Annual Review of Psychology*, 275.

<sup>74</sup> Jessica L. Cundiff and Theresa K. Vescio, 'Gender stereotypes influence how people explain gender disparities in the workplace' [2016] *Sex Roles: A Journal Research*, 126.

<sup>75</sup> Naomi Ellemers 'Gender Stereotypes' [2018] *Annual Review of Psychology*, 275.

<sup>76</sup> Manuela Barreto and Naomi Ellemers, 'Detecting and experiencing prejudice: new answers to old questions', [2015] *Adv Exp Soc Psychol*, 139.

<sup>77</sup> Anthony G. Greenwald and Mahzarin R. Banaji, 'Implicit social cognition: Attitudes, self-esteem, and stereotypes' [1995] *Psychological Review*, 4.

us to interpret reality with a gender bias, relying on cognitive shortcuts to save (mental) resources, which can also result in errors regarding reality.

At the intrapersonal level, stereotypes lead people to seek information that confirms the stereotype, interpret ambiguous information in a way that supports the stereotype, and/or explain away situations that contradict stereotypical expectations. At an interpersonal level, stereotypes generate expectations that guide our interactions and cause behaviours that confirm them, penalising those who do not fit the stereotype or who are counter stereotypical. For example, women who exhibit stereotypically masculine characteristics are often looked down upon, perceived as socially inappropriate, and less likely to be hired (e.g., backlash against counter stereotypical behaviour in women).<sup>78</sup> Accordingly, people do not often claim that women are less competent, but they may harbour implicit beliefs that women are sensitive and need protection. Subtle and implicit gender stereotypes can also influence violence against women<sup>79</sup> and limit women's rights to regulate pregnancy.<sup>80</sup> Furthermore, benevolent and implicit references, instead of hostile and explicit ones, can lead women to downplay their achievements and ambitions and to emphasise their warmth and interpersonal skills.<sup>81</sup>

In various domains, gender stereotypes implicitly influence our expectations regarding the qualities, priorities, and needs of individual men and women, as well as the standards by which we judge them. For instance, women are often judged based on their appearance, attractiveness, or familial roles rather than on their skills.<sup>82</sup> On the other hand, parenthood/motherhood also leads us to perceive men and women differently. We tend to assume that when women become mothers, their priority shifts to caring for their children, potentially neglecting their ambitions and employment. A survey of over 40,000 employees in 36 countries revealed that men and women reported similar issues with balancing work and family roles.<sup>83</sup> However, managers tend to view these issues as more problematic for women than men. For example, in a study where job applications were evaluated, mothers were approximately two times less likely to be recommended for the job than women without children, despite having identical stated qualifications.<sup>84</sup> This perceived lower competence

<sup>78</sup> Laurie A. Rudman and Peter Glick, 'Prescriptive gender stereotypes and backlash toward agentic woman' [2001] *Journal of Social Issues*, 743.

<sup>79</sup> Peter Glick and Susan T. Fiske, 'An ambivalent alliance: Hostile and benevolent sexism as complementary justifications for gender inequality' [2001] *Am Psychol*, 109.

<sup>80</sup> Yanshu Huang, Paul G. Davies, Chris G. Sibley and Danny Osborne, 'Benevolent sexism, attitudes toward motherhood, and reproductive rights: A multi-study longitudinal examination of abortion attitudes' [2016] *Personality and Social Psychology Bulletin*, 970.

<sup>81</sup> Manuela Barreto, Naomi Ellemers, Laura Piebinga and Miguel Moya, 'How nice of us how dumb of me: the effect of exposure to benevolent sexism on women's task and relational self-descriptions' [2010] *Sex Roles*, 532.

<sup>82</sup> Barbara L. Fredrickson and Tomi-Ann Roberts, 'Objectification Theory: Toward understanding women's lived experiences and mental health' [1997] *Psychology of Women Quarterly*, 173.

<sup>83</sup> Karen S. Lyness and Michael K. Judiesch, 'Gender egalitarianism and work-life balance for managers: Multisource perspectives in 36 countries' [2014] *Applied Psychology: An international Review*, 96.

<sup>84</sup> Shelley J. Correl, Stephen Benard and In Paik, 'Getting a Job: is there a motherhood penalty?' [2007] *American Journal of Sociology*, 1.

of mothers results in them being considered less suitable for promotions at work.<sup>85</sup> For all these reasons, motherhood is a potential source of gender bias that affects employment decisions.

While psychological studies tend to focus on stereotypes as affecting individual and group identity and perception, stereotypes can also be approached in their material dimensions, looking at the power structures they stem from and simultaneously contribute to reinforce. This approach is particularly useful in policy-making and legal research. Moreover, framing stereotypes as mechanisms of inequality brings the analysis closer to its systemic dimension (see Patriarchy below).

Gender stereotypes also lead to bias and injustice in the legal and political spheres. Even though laws are in place to guarantee gender equality, gender bias is still present in courts.<sup>86</sup> Gender stereotypes can become a key component of trials, especially if a female defendant does not behave in a typically feminine manner. In a similar vein, defence arguments that are in line with gender stereotypes tend to result in lower charges and reduced sentences.<sup>87</sup> Gender stereotypes also lead to gender inequality, bias and prejudice in political decision-making on many levels such as candidate strategy, news coverage, and vote choices.<sup>88</sup> Stereotypes might be entrenched by legislative, executive and judicial power. The judiciary might “perpetuate gender stereotypes about the roles of women and men with it being accepted for the latter to have extramarital affairs”, if it fails to address gender aspects.<sup>89</sup> The executive power can also reinforce gender-role divisions between men and women. This was the case in the *Hugo* case before the South African Constitutional Court<sup>90</sup>. President Mandela remitted the sentences of certain categories of prisoners, including mothers convicted of nonviolent offences who had children younger than twelve. Mr Hugo challenged the pardon, alleging he was discriminated against based on sex, as the sole male caregiver for his son. This case illustrates the way in which gender stereotypes (e.g., that women are or should be primary caregivers) can influence processes at the legislative, judicial and executive levels. Within the European judicial context, not only in judgments of the ECtHR but also the CJEU, there is a growing tendency towards embracing an anti-

<sup>85</sup> Madeline E. Heilman and Tyler G. Okimoto, ‘Motherhood: A potential source of bias in employment decisions’ [2008] *Journal of Applied Psychology*, 189.

<sup>86</sup> Tannvi Tannvi and Sharmila Narayana, ‘The challenge of gender stereotyping in Indian courts’ [2022] *Cogent Social Sciences*, 1.

<sup>87</sup> Pamela Jenkins and Barbara Davidson, ‘Battered women in the criminal justice system: An analysis of gender stereotypes’ [1990] *Behavioral Sciences & the Law*, 161.

<sup>88</sup> Nichole M. Bauer, ‘Gender Stereotyping in Political Decision Making’ [2019] (*Oxford Research Encyclopedia of Politics*, 2019) 9) <<https://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-772>> accessed 21 July 2023.

<sup>89</sup> CEDAW Committee, *R.K.B. v Turkey*, UN Doc. CEDAW/C/51/D/28/2010 (13 April 2012), para 8.8.

<sup>90</sup> *President of the Republic of South Africa and Another v Hugo* (CCT11/96) [1997] ZACC 4.

stereotyping approach when reviewing policies or practices and their interpretations in terms of tackling structural gender equality.<sup>91</sup>

On an international legal front the bedrock framework for confronting gender stereotypes has resided within CEDAW, which has been the core legal framework for decades to address gender stereotypes internationally, with its monitoring body working to develop the obligations through its general recommendations, comments and individual communications.<sup>92</sup> In particular, stereotypes are addressed in Article 5, which, read in conjunction with Article 2(f) is interpreted to impose an obligation on States Parties to “modify and transform gender stereotypes and eliminate wrongful gender stereotyping, a root cause and consequence of discrimination against women”.<sup>93</sup> State parties are also called to modify or abolish laws, regulations, customs and practices that discriminate against women on the basis of gender stereotypes.

The cross-cutting relevance of stereotypes and their prejudicial impact on substantive equality (see discussions on pg. 30 and 38) in different domains is well reflected in other CEDAW provisions like Article 10, which explicitly requires us to eliminate “any stereotyped concept of the roles of men and women at all levels and in all forms of education”. The CEDAW Committee (the body monitoring the implementation of the rights enshrined in the Convention) has then interpreted the Convention as implying further obligations to address stereotypes in the domains of political life (Articles 7-8), employment (Article 11), family relations,<sup>94</sup> and gender-based violence,<sup>95</sup> as Cusack summarised.<sup>96</sup>

The presented approach to gender stereotypes, adopted by the RE-WIRING project, contends that stereotypes are always harmful because they stem and reproduce inequality systems (e.g., patriarchy), even if they appear to be positive (see below, ambivalent sexism pg. 59), as their function is the reproduction of inequality itself.<sup>97</sup> The ambivalence of stereotypes is well represented in law by Carol Smart’s description of the woman of legal discourse: it represents “a dualism, as well as being one side of a prior binary distinction”:

<sup>91</sup> On an anti-stereotyping approach as an interpretation method particularly in the context of the ECtHR see Alexandra Timmer, ‘Toward an Anti-Stereotyping Approach for the European Court of Human Rights’ (2011) 11 Human Rights Law Review 707.

<sup>92</sup> Simone Cusack, ‘The CEDAW as a legal framework for transnational discourses on gender stereotyping’ in Hellum, A., & Aasen, H. S. (eds.). *Women’s Human Rights : CEDAW in International, Regional and National Law* (CUP 2013).

<sup>93</sup> CEDAW Committee, *R.K.B. v. Turkey*, UN Doc. CEDAW/C/51/D/28/2010 (13 April 2012), para. 8.8.

<sup>94</sup> CEDAW Committee, *General Recommendation No. 21 on Equality in Marriage and Family relations*, UN Doc. A/49/38 at 1 (1994), paras. 11-12, 42-44, and CEDAW Committee, *General Recommendation No. 29 on Article 16*, UN Doc. CEDAW/C/GC/29 (2013).

<sup>95</sup> CEDAW Committee, *General Recommendation No. 35 on Gender-Based Violence Against Women, Updating General Recommendation No. 19*, CEDAW/C/GC/35 (2017); CEDAW Committee, *Karen Tayag Vertido v. Philippines*, CEDAW/C/46/D/18/2008 (16 July 2010).

<sup>96</sup> Simone Cusack, *Gender Stereotyping as a Human Rights Violation* (Office of the High Commissioner for Human Rights 2013).

<sup>97</sup> Elena Ghidoni and Dolores Morondo Taramundi, ‘El papel de los estereotipos en las formas de la desigualdad compleja: algunos apuntes desde la teoría feminista del derecho antidiscriminatorio’ [2022] *Discusiones*, 37.

she is “both kind and killing, active and aggressive, virtuous and evil, cherishable and abominable, not either virtuous or evil”.<sup>98</sup> Smart powerfully captures the way stereotyped narratives are characterised by binary constructions (e.g. male/female; rationality/emotions). It is important to stress that beyond creating these artificial distinctions, stereotypes also organise the binary pair (men/women in this case) in hierarchical terms, in that one side of the binary holds a lower value than the other.

Against this background, introducing individual exceptions - when an individual does not fit the narrative - without challenging the group-based representation provided by stereotypes (and the power hierarchy embedded in them) fails to grasp the core of inequality: that gender stereotypes are hetero-designations imposed by patriarchy (see the definition of hetero-designation under Patriarchy). Addressing stereotypes as products of power systems also allows an analysis that takes into account their intersectional dimension, and how intersecting power systems are reflected in stereotypes (see below pg. 57).

#### f. Discrimination and Formal and Substantive (In)equality

There is not a clear and consistent approach to the **difference between discrimination and inequality**. In sociology, inequality is frequently defined as unequal access to scarce and valued resources in society, which results in a lack of life opportunities and systematic disadvantages across social domains.<sup>99</sup> The definition of discrimination in this field is contested, but it generally focuses on actions and behaviours. Similarly, in legal language, discrimination refers to treatments, whereas inequality captures the broad realm of situations and status that remain largely unseen by antidiscrimination law. In Barrère’s words, discrimination is “inequality in action”.<sup>100</sup>

Laws, policies, and specific institutions (both public and private) have been established in the EU and South Africa to enhance gender equality and girls’ and women’s inclusion, representation and empowerment. Yet statistics across the globe reveal that gender equality projects, laws, and policies have not done enough to bring about real change in practice and appear to be ‘deactivated’ by structural elements. One of these elements is the dominant individual ‘fight for your rights’ approach engrained in legal anti-discrimination approaches.<sup>101</sup>

In order to ‘re-wire’ institutions and foster effective change, the RE-WIRING Transformative Equality Approach needs to engage with existing legal, policy and institutional approaches, understand why they are deactivated, and to re-design them. To this end, this section

<sup>98</sup> Carol Smart, ‘The Woman of Legal Discourse’ [1992] *Social and Legal Studies*, 36.

<sup>99</sup> Prudence L. Carter, and Sean F. Reardon, *Inequality Matters* (Stanford University, September 2014).

<sup>100</sup> María Á. Barrère Unzueta, ‘La interseccionalidad como desafío al mainstreaming de género en las políticas públicas’ (2010) 87-88 *Revista Vasca de Administración Pública*, 228.

<sup>101</sup> Cf e.g., Nicola Lacey, ‘Feminist Legal Theory and the Rights of Women’, in Karen Knop (ed.), *Gender and Human Rights*, (Oxford University Press, 2004).

provides an overview of relevant concepts in EU law and South African law related to equality and categories of discrimination. Reference to international human rights bodies and courts (CJEU, ECtHR, IACTHR, CEDAW Committee) is also included when relevant. The review represents the starting point for developing and implementing our TEA. While the focus here is on existing concepts and their limitations, section 8 presents the solution-oriented concepts that form the building blocks of our transformative equality approach towards addressing gendered power hierarchies.

Engaging with EU law concepts is key, as this is the framework that determines the national legal frameworks, due to its supremacy and direct effect in the Member States' jurisdictions. However, the scope of EU law is limited to issues falling within the competences of the EU. As a result, gender equality issues are highly regulated in the fields of occupation and employment and access to goods and services, whereas regulation in other areas is limited (e.g., gender-based violence, education). While gender issues are the object of a variety of laws and policies, EU law does not provide definitions of 'sex' and 'gender', and its conceptualisation of what gender equality entails reveals many inconsistencies. The legal framework for gender equality is rather fragmented and refers to different notions (equal treatment, substantive equality, equal opportunities, etc.) without drawing clear definitions. Moreover, EU Member States enjoy some discretion when it comes to determining what sex/gender is, leaving space to accommodate national and cross-cultural differences. The RE-WIRING Project, however, is not limited to EU law alone; it will also concentrate on law outside of the European setting to bring a cross-cultural perspective into account.

In the field of antidiscrimination law, different terms are used to define discrimination in countries following the civil law tradition and that of the common law. Namely, what is considered direct and indirect discrimination in EU law corresponds roughly to the concepts of disparate treatment and disparate impact in common law jurisdictions (e.g., US, Canada, etc.). Similarly, in European countries, we refer to positive action or positive measures, whereas in the US and other common law countries, these policies are referred to as affirmative action. Contrary to other terms, the concept of unfair discrimination is unique to the South African jurisdiction.

With these considerations in mind, this section will focus on the concepts of *direct and indirect discrimination, unfair discrimination, structural, systemic, and institutional discrimination*.

#### i. Direct and indirect discrimination

Current anti-discrimination law frameworks in the EU adopt two main concepts to categorise discrimination: direct and indirect discrimination (disparate treatment and disparate impact in the US, Canada). The concepts of harassment (which includes harassment because of sex and sexual harassment), and victimisation complete the picture with the types of

prohibited conduct. It should be noted that contrary to antidiscrimination law in the US, EU anti-discrimination law never requires proving the intent to discriminate, neither in direct nor indirect discrimination cases.<sup>102</sup> The same principle applies in the UK Equality Act (2010), and in the European Convention on Human Rights (ECHR).<sup>103</sup> As to objective justifications, direct discrimination in EU law generally allows only justifications provided for by written law.<sup>104</sup> This is not the case in the ECHR, as both direct and indirect discrimination are subject to objective justification, although very weighty reasons are needed to justify certain types of discrimination, including gender discrimination.<sup>105</sup> Before delving into these two categories that are the main instruments to address discrimination, their underlying equality framework should be outlined, namely the notions of formal and substantive equality.

Formal equality is a conception of equality usually associated with the Aristotelian formula of 'likes should be treated alike'. Under this conception, equality is understood as a principle of neutrality or consistency, prohibiting arbitrary treatment and enshrining a right not to be discriminated against on grounds of a personal characteristic. Formal equality often fails to recognise pre-existing social inequalities, leading to overlaps between distinction and discrimination, resulting in the oppression of certain social groups. As a result of this failure, positive action is framed as an exception to equal treatment<sup>106</sup> and 'levelling-down' is a permissible solution to inequalities as 'levelling up'. Examples include differences in pensionable ages,<sup>107</sup> and pay,<sup>108</sup> but also family reunification rules (ECtHR, *Abdulaziz*, the Court considered that levelling-down the situation of those who were well off and treating all equally badly could be a solution to gender inequality). Similar shortcomings are found in the case *S v Jordan*, where the SACC (South Africa Constitutional Court) held that a provision criminalising sex work did not breach the right to gender equality because all sex workers were affected, whether they were women or men (and both were equally badly treated).

<sup>102</sup> Case C-177/88, *Elisabeth Johanna Pacifica Dekker v Stichting Vormingscentrum voor Jong Volwassenen (VJV-Centrum) Plus*, 8 November 1990, ECLI:EU:C:1989:424, para 24.

<sup>103</sup> Case "relating to certain aspects of the laws on the use of languages in education in Belgium" v Belgium (1968) Series A no 6.

<sup>104</sup> Unfavourable treatment cannot be justified unless a specific written exception applies, Article 14(2) Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) [2006] OJ L 204/23. In the case of access to and supply of goods and services, unwritten objective justifications seem to be allowed also in the case of direct discrimination (Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services [2004] OJ L 373/37).

<sup>105</sup> See *Konstantin Markin v. Russia* (GC), App. no. 30078/06 (ECtHR 22 March 2012), § 127.

<sup>106</sup> Case C-450/93, *Eckhard Kalanke v Freie Hansestadt Bremen*, 17 October 1995, ECLI:EU:C:1995:322; Case C-409/95, *Hellmut Marschall v Land Nordrhein-Westfalen*, 11 November 1997, ECLI:EU:C:1997:533; Case C-158/97, *Georg Badeck and Others, interveners: Hessische Ministerpräsident and Landesanwalt beim Staatsgerichtshof des Landes Hessen*, 28 March 2000, ECLI:EU:C:2000:163; Case C-407/98, *Katarina Abrahamsson and Leif Anderson v Elisabet Fogelqvist*, 6 July 2000, ECLI:EU:C:2000:367.

<sup>107</sup> Case C-408/92 *Constance Christina Ellen Smith and others v Avdel Systems Ltd* [1994] ECR I-04435.

<sup>108</sup> Case C-171/18 *Safeway Ltd contra Andrew Richard Newton y Safeway Pension Trustees Ltd*, 7 October 2019, ECLI:EU:C:2019:839.



The rationale for formal equality is reflected in the concept of *direct discrimination*. In EU law, direct sex discrimination occurs “where one person is treated less favourably on grounds of sex than another is, has been, or would be treated in a comparable situation”.<sup>109</sup> This category prohibits unfavourable treatment, which cannot be justified, unless a specific written exception applies (e.g., genuine and determining occupational requirement, Article 14(2)<sup>110</sup>). Not all differential treatment amounts to discrimination, as EU law requires: 1) that the treatment targets an individual or group “on grounds” of a protected characteristic among those identified in the Directives; 2) a comparable situation between the claimant and a comparator, who might also be hypothetical; and 3) a causal link between the protected ground and the less favourable treatment. Discrimination without a specific victim (e.g., public discriminatory statements) is also forbidden.<sup>111</sup> Unfavourable treatment is also prohibited in relation to non-comparable situations (e.g., pregnancy).

As a category, direct discrimination is limited by the underlying principle of *formal equality*, in that it allows levelling-down solutions - as mentioned above -, it relies on a comparator and is symmetrical; it also prohibits unequal treatment that redresses historical disadvantage.<sup>112</sup> The limitations posed by the use (and selection) of the relevant comparator can be observed in the case of pregnancy, where sick male workers were originally selected as relevant comparators. Eventually, pregnancy discrimination has been framed as direct discrimination to avoid issues with the comparator. In the context of education, symmetry can be observed in how school segregation of male and female pupils was found to be a breach of individual pupils' right to socialise, based on sex (both male and female), rather than a reflection and reinforcement of power imbalances.<sup>113</sup> The comparator is also a major obstacle to proving intersectional discrimination (see pg. 74). Another example of the symmetrical effect of direct discrimination is the restrictive approach to positive action (see pg. 39).

Both the comparator and the definition of “grounds” have been criticised in feminist literature for representing a “male norm”:<sup>114</sup> equality is established in comparison with a male standard, and the categories (or grounds) of discrimination are designed to redress unfair treatment of those in a position of relative privilege (sex discrimination affects white women; race discrimination affects racialised men).

<sup>109</sup> Article 2(1)a, Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 [2006] OJ L 204/23.

<sup>110</sup> Ibid, Article 14(2).

<sup>111</sup> Case C-54/07 *Centrum voor gelijkheid van kansen en voor racismebestrijding v Firma Feryn NV*, 10 July 2008, ECLI:EU:C:2008:397; Case C-81/12 *Asociația Accept v Consiliul Național pentru Combaterea Discriminării*, 25 April 2013, ECLI:EU:C:2013:275.

<sup>112</sup> Sandra Fredman, *Discrimination law* (3rd edn, Clarendon 2022) 251.

<sup>113</sup> UK Court of Appeal, R (Interim Executive Board of Al-Hijrah School) v HM Chief Inspector of Education, 2017; Sandra Fredman, *Discrimination Law* (3rd edn, Clarendon 2022) 254.

<sup>114</sup> Catharine Mackinnon, *Feminism Unmodified. Discourses on Life and Law* (Harvard University Press 1987).

What solutions have been developed to overcome these limitations? The Court of Justice of the European Union (CJEU) has expanded/interpreted direct discrimination in a way as to overcome its limits, for example, in the case of pregnancy, determining that direct discrimination also covers unfavourable treatment of a woman related to pregnancy or maternity, without the need to establish a comparison.<sup>115</sup> The Supreme Court of Canada also got rid of the comparator in the *Withler case*, and used instead a contextual approach, looking at how the law perpetuated disadvantage or stereotypes.<sup>116</sup>

At times, new concepts have been developed judicially to force the boundaries/expand the scope of the concept of discrimination, such as the concept of “discrimination by association”<sup>117</sup> and the concept of “discrimination by indifferenciation”.<sup>118</sup> However, these are not consistently used, but rather emerged in one of few cases and did not change the whole understanding of discrimination. This is symptomatic of the fact that these isolated attempts at forcing the boundaries of legal categories still miss the aim and cannot correctly diagnose power systems.<sup>119</sup>

Usually understood as opposed to or a step further than formal equality is the notion of *substantive equality*. Contrary to the former, substantive equality recognises that there are unequal power relationships among social groups that should be overcome and mandates States to take actions to change the structures and practices that reproduce such inequality. Understood in this way, equality is a counter-hegemonic principle that aims to change the conditions of subordinated groups in society. The adoption of the concept of *indirect discrimination* in the Equality Directives was expected to respond to substantive equality and capture those cases of discrimination that were not visible through the concept of direct discrimination.<sup>120</sup>

<sup>115</sup> Case C-177/88 *Dekker*, 8 November 1990, ECLI:EU:C:1990:383, Recital 23.

<sup>116</sup> *Withler v. Canada (Attorney General)*, 2011 SCC 12, [2011] 1 S.C.R. 396.

<sup>117</sup> In the *Coleman case*, the CJEU recognised there was differential treatment on the grounds of someone else’s protected characteristic, whereas the applicant has a meaningful link to them (e.g. mother of a child with disability who is discriminated against because of her child’s disability) Case C-303/06 *S. Coleman v Attridge Law and Steve Law*, ECLI:EU:C:2008:415. Significantly, in the *Coleman judgment*, the fact that the applicant was a caregiver and was discriminated against based on the division of labour, was overlooked.

<sup>118</sup> In the *Thlimmenos case*, the ECtHR argued that the prohibition of discrimination (Article 14 ECHR) includes discrimination by indifferenciation, which occurs when States fail to treat differently persons whose situations are significantly different. See *Thlimmenos v Greece*, App. no 34369/97 (ECtHR 6 April 2000). This obligation is recognised by the CJEU as well in the Case C-279/93 *Finanzamt Köln-Altstadt v Schumacker*, 14 February 1995, ECLI:EU:C:1995:31, [30]. However, it is highly debatable whether the recognition of an (equality) obligation to treat differently persons in different situations is an expression of formal equality or a shift towards a more substantive understanding of equality.

<sup>119</sup> Dolores Morondo Taramundi, ‘Desigualdad compleja e interseccionalidad: “reventando las costuras” del derecho antidiscriminatorio’ in D. Morondo, C. de la Cruz, and E. La Spina (eds.), *Desigualdades Complejas e Interseccionalidad. Una Revisión Crítica* (Dykinson 2022).

<sup>120</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJ L 180/22, and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (covering the grounds of religion or belief, disability, age or sexual orientation) [2000] OJ L 303/6. Protection from indirect discrimination was established with

There is not a unanimous interpretation of substantive equality, and in fact it has been translated into different meanings, such as equality of results, equality of opportunity, and dignity.<sup>121</sup> Each of these principles poses difficulties in its application<sup>122</sup> and in general, they do not transform the structures that perpetuate discrimination. In EU law, substantive equality and equality of opportunities are used in legal texts but their definition is unclear. Substantive equality is generally operationalised through positive actions, reasonable accommodation, and indirect discrimination.

In EU law, *indirect discrimination* occurs “where an apparently neutral provision, criterion, or practice 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 of achieving that aim are appropriate and necessary”.<sup>123</sup> This category focuses on and captures the discriminatory effects or impact of measures that appear neutral, but which have a disproportionately disadvantageous effect on particular persons sharing a protected characteristic. As a concept, it is recognised also by the ECtHR (*D.H. v Czech Republic*, recognising educational segregation of Roma children as a form of indirect discrimination),<sup>124</sup> and by the SACC (*Walker* case).<sup>125</sup> An example of indirect sex discrimination is the unequal treatment of part-time workers,<sup>126</sup> the exclusion of domestic workers from statutory unemployment benefits,<sup>127</sup> and from the occupational injury compensation scheme.<sup>128</sup>

Key to the notion of indirect discrimination is the concept of ‘particular disadvantage’ that can be proved through statistical evidence, when available (although statistics are not required by law) or through common sense (judicial notice or obvious facts). Yet disadvantage remains a symmetrical concept that might affect both men and women.<sup>129</sup>

As opposed to direct discrimination, indirect discrimination allows possibilities for objective justifications, provided that the aim is legitimate and the means of achieving that aim are appropriate and necessary (Article 2(1)b Gender Recast Directive). The objective justification test is to be interpreted strictly, as the CJEU has repeatedly ruled.

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the original Equal Treatment Directive (Art. 2, Council Directive 76/207/EEC [1976] OJ L 39/40), and further developed in the CJEU case law, see Case 170/84 *Bilka-Kaufhaus*, 13 May 1986, ECLI:EU:C:1986:204.

<sup>121</sup> Sandra Fredman, ‘Substantive equality revisited’ (2016) 14 *International Journal of Constitutional Law*, 712.

<sup>122</sup> Sandra Fredman, ‘Substantive equality revisited’ (2016) 14 *International Journal of Constitutional Law*, 712.

<sup>123</sup> Article 2(1)b, Gender Recast Directive 2006/54/EC [2006] OJ L 204/23.

<sup>124</sup> *D.H. and Others v. the Czech Republic* [GC] – App 57325/00 (ECtHR 13 November 2007).

<sup>125</sup> *City Council of Pretoria v Walker* (CCT8/97) [1998] ZACC 1; 1998 (2) SA 363; (South African Constitutional Court).

<sup>126</sup> E.g. Case C-96/80 *Jenkins v Kingsgate*, 31 March 1981, ECLI:EU:C:1981:80; Case C-170/84 *Bilka - Kaufhaus GmbH v Karin Weber von Hartz*, 31 May 1986, ECLI:EU:C:1986:204; Case C-161/18 *Violeta Villar Laiz v Instituto Nacional de la Seguridad Social (INSS) and Tesorería General de la Seguridad Social (TGSS)*, 8 May 2019, ECLI:EU:C:2019:382.

<sup>127</sup> Case C-389/20 *CJ v TGSS*, 24 February 2022, ECLI:EU:C:2022:120.

<sup>128</sup> *Mahlangu and Another v Minister of Labour and Others* (CCT306/19) [2020] ZACC 24; 2021 (1) BCLR 1 (CC); [2021] 2 BLLR 123 (CC); (2021) 42 ILJ 269 (CC); 2021 (2) SA 54 (CC) (19 November 2020).

<sup>129</sup> Case C-161/18 *Villar Laiz*, 8 May 2019, ECLI:EU:C:2019:382, para 46.

While this concept has allowed us to capture phenomena that direct discrimination could not see, it still falls short of identifying the structures that reproduce inequality between men and women, like the public/private division that builds care and work as mutually exclusive. An exemplary case is *Gruber*, which excluded indirect discrimination against a working mother who was denied full termination payment because the reason for her termination was connected to caring duties (and the absence of nurseries available in her district).<sup>130</sup> The Court reached this conclusion by comparing Ms. Gruber with an employee who resigns for 'important reasons' related to work. The argument reaffirms the public/private division and the standards that consider workers male.<sup>131</sup>

Moreover, indirect discrimination remains anchored to the idea of merit, equal treatment, and competition for scarce resources: once the identified disadvantage is removed, what is left of inequality would be the responsibility of individuals. Beyond the limits of direct and indirect discrimination and the underlying concepts of equality, an important critical approach points out that the very dichotomic construction of formal vs substantive is misleading. The call to substantive equality usually rests on the assumption that formal and substantive equality pursue different objectives and that formal equality is not enough or is an unprincipled concept. The dichotomy of formal/substantive reproduces a distinction between law/policy, legal/empirical, and rule/exception. Letizia Gianformaggio,<sup>132</sup> for example, has criticised this dichotomy, as it brings us to understand that legal equality is only the formal one, whereas the substantive one is an empirical fact, hence, extra-legal.<sup>133</sup> Accordingly, addressing substantive equality - and removing the obstacles to equality - would amount to an exception to the formal one. Yet, legal equality cannot have as its objective something different from the achievement of equality in reality, unless it accepts that leaving social reality unequal as it is does not amount to discrimination.

## ii. Unfair discrimination

South African law does not define direct and indirect discrimination, neither in the Constitution nor in statutory legislation, but the South African Constitution of 1996 contains a general equality guarantee, as well as a specific anti-discrimination provision, and express authorisation for positive action. It also introduces the idea of *unfair discrimination*, which is then also contained at the statutory level in legislation on equality in employment and non-

<sup>130</sup> Case C-249/97 *Gabriele Gruber v Silhouette International Schmied GmbH & Co. KG*, 14 September 1999, ECLI:EU:C:1999:405.

<sup>131</sup> Maria Á. Barrère Unzueta and Dolores Morondo Taramundi, 'La difícil adaptación de la igualdad de oportunidades a la discriminación institucional: el asunto Gruber del TJCE' in Maria. Ángeles Barrère Unzueta and Arantza R. Campos and (eds.), *Igualdad de oportunidades e igualdad de género: una relación a debate* (Dykinson 2005) 143.

<sup>132</sup> Letizia Gianformaggio, *Eguaglianza, Donne, Diritto* (Il Mulino 2005).

<sup>133</sup> Dolores Morondo Taramundi, '« ... che finalmente si consideri violazione del principio giuridico dell'eguaglianza ... l'oppressione anziché la discriminazione». Sul contributo di Letizia Gianformaggio alla critica del diritto antidiscriminatorio: due tasselli e un indirizzo, in Orsetta Giolo, and Baldassare Pastore, *Diritto, potere e ragione nel pensiero di Letizia Gianformaggio* (Jovene 2016).

employment related issues.<sup>134</sup> Direct and indirect discrimination are not explicitly defined, but in the *Walker* case, the South African Constitutional Court argued that “the inclusion of both direct and indirect discrimination within the ambit of the prohibition imposed by [the constitutional equality guarantee] evinces a concern for the consequences rather than the form of conduct. It recognises that conduct that may appear to be neutral and non-discriminatory may nonetheless result in discrimination”.<sup>135</sup> The Court did not define these two categories but held that both give rise to a presumption of unfair discrimination.

Similarly, South African statutory provisions also focus on the concept of unfair discrimination as ‘any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly (a) imposes burdens, obligations, or disadvantage on; or (b) withholds benefits, opportunities or advantages from, any person on one or more of the prohibited grounds’ (PEPUDA).<sup>136</sup> As in the Constitution, the onus is on the respondent to prove fairness. The statute then specifies the factors that should determine fairness, which include, for example, whether discrimination impairs human dignity, the impact on the complainant, and whether the complainant suffers from patterns of disadvantage or belongs to a group that does.<sup>137</sup> Proportionality is another factor in assessing fairness.<sup>138</sup> Similarly, in the Employment Equity Act of 1998, it is stated that no person may unfairly discriminate, directly or indirectly, against any employee on one of the prohibited grounds.<sup>139</sup> The Employment Equity Act then defines harassment under s. 6(3) as a form of unfair discrimination, which is prohibited on one or a combination of grounds listed.

The SACC approach to positive actions is remarkable and one of the examples of the substantive equality approach, in that measures redressing inequality are not framed as exceptions to the equal protection clause (Section 9), but as complementary to it. Read as a whole, the Equal protection clause (Section 9) “embraces for good reason, a substantive conception of equality inclusive of measures to redress existing inequality... Such measures are not in themselves a deviation from, or invasive of, the right to equality guaranteed by the Constitution. They are not ‘reverse discrimination’, or ‘positive discrimination’ as argued by the claimant in this case. They are integral to the reach of our equality protection. In other words, the provisions of section 9(1) and section 9(2) are complementary; both contribute to the constitutional goal of achieving equality to ensure ‘full and equal enjoyment of all

<sup>134</sup> The Employment Equity Act of 1998 provides protection against discrimination in the workplace while the Promotion of Equality and Prevention of Unfair Discrimination Act 2000 (PEPUDA) provides comprehensive protection against unfair discrimination in the public and private spheres, except where the EEA is applicable.

<sup>135</sup> *City Council of Pretoria v Walker (CCT8/97)* [1998] ZACC 1; 1998 (2) SA 363; (South African Constitutional Court), para 31.

<sup>136</sup> Promotion of Equality and Prevention of Unfair Discrimination Act 2000 (PEPUDA), Section 1.

<sup>137</sup> Sandra Fredman, ‘Comparative study of anti-discrimination and equality laws of the US, Canada, South Africa and India’ (European Commission 2012).

<sup>138</sup> Namely, whether the discrimination has a legitimate purpose, whether it achieves its purpose, whether there are less restrictive and disadvantageous means to achieve the purpose and whether and to what extent the respondent has taken reasonable steps to address the disadvantage or accommodate diversity, Equality Act, section 14.

<sup>139</sup> Employment Equity Act 1998, ss. 5 and 6.

rights”.<sup>140</sup> However, as Fredman noted, measures to foster a gender balance in representation may include numerical goals but exclude quotas, and employers are not required to take any decision “that would establish an absolute barrier to the prospective or continued employment or advancement of people who are not from designated groups”.<sup>141</sup>

iii. Structural, institutional, and systemic discrimination/(in)equality

*Structural, institutional, and systemic discrimination* are opaque concepts, often used interchangeably. These are attempts at taking one step further towards the legal recognition of power systems and social hierarchies, as complex phenomena. The opaqueness of these concepts in law reflects law’s trouble translating/managing power in its categories.

There are some references in EU policies, and in international monitoring bodies, but no legal definition has been adopted so far, and the legal doctrine is also struggling to bring more conceptual clarity. Barrère offers an overview but does not delve into definitions either; she argues that inequality stems from power systems (relations of power or structures of power).<sup>142</sup> These systems are based on certain grounds or categories (sex-gender, race, social class etc.), and are reproduced by a series of interconnected elements (ideologies, myths, stereotypes, representations etc.). These elements manifest through treatments (unequal treatment in EU law, as described above), but have a structural reach (they are embedded in the functioning of society); they are institutionalised (they permeate all social institutions: family, school, Church, politics, labour market, media), and derive from intergroup relations.<sup>143</sup> Against this background, structure denotes the social arrangements (going beyond the emphasis on acts, as in EU law), whereas institutional indicates collective actors (the state, the church, the family). Systemic discrimination would point to the existence of power systems like patriarchy (see pg. 54) or the sex-gender system, which signify the treatments. However, confronted with increased confusion and interchangeability among these terms, Barrère preferred to use the term ‘subdiscrimination’ explained below (see pg. 75).

At the policy level, structural discrimination is an increasingly used concept, but lacks definitional clarity. It appears mostly in policy papers related to racism (structural racism). For example, the European Commission points to structural racism as the ‘underlying problem’ in its EU Anti-Racism Action Plan 2020-2025.<sup>144</sup> Structural racism is understood in three dimensions: historical, societal, and institutional. The historical dimension explores the

<sup>140</sup> *Minister of Justice v Van Heerden* 2004 (6) SA 121 (CC); 2004 (11) BCLR 1125 (South African Constitutional Court). Moseneke J, Para 30.

<sup>141</sup> Employment Equity Act s. 15(1).

<sup>142</sup> María Ángeles Barrère Unzueta, *El Derecho Antidiscriminatorio y sus Límites* (Grijley 2014).

<sup>143</sup> María Ángeles Barrère Unzueta, *El Derecho Antidiscriminatorio y sus Límites* (Grijley 2014) 20.

<sup>144</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and The Committee of The Regions A Union of equality: EU anti-racism action plan 2020-2025, COM(2020) 565 final.

untold or inadequately analysed history of slavery, colonialism and exploitation, with its ongoing consequences unrecognised and unaddressed. The societal dimension is concerned with the culture, values, norms, and discourses dominant at societal level that are imbued with notions of superiority and inferiority. While the institutional dimension looks at the policies, procedures, practices and perceptions within organisations that serve, often inadvertently, to exclude, hamper or disadvantage Black and minority ethnic groups, including Roma and Travellers.<sup>145</sup>

The secretariat of the European Commission on Racism and Intolerance (ECRI) defines structural discrimination as referring to rules, norms, routines, patterns of attitudes and behaviour in institutions and other societal structures that, consciously or unconsciously, present obstacles to groups or individuals in accessing the same rights and opportunities as others and that contribute to less favourable outcomes for them than for the majority of the population”.<sup>146</sup>

Structural discrimination (inequality in this case) has a markedly more relevant role in the jurisprudence of the Inter American Court of Human Rights (IACtHR). In the *Cotton Field* case, the Court refers to gender-based violence in a context of structural discrimination against women and mentions gender stereotypes as manifestations and causes of discrimination.<sup>147</sup> Yet, generally, in South American legal scholarship, structural (in)equality is understood in similar terms as substantive equality, in that it consists in considering pre-existing phenomena of oppression (e.g., patriarchy).<sup>148</sup>

As mentioned earlier, inequality is usually used in relation to unequal access to rights, resources, and opportunities while discrimination typically involves treatments and behaviours. Structural and systemic are often adjectives referring to inequalities rather than discrimination. In this sense, the term inequality better reflects the rationale behind the dimensions of structural and systemic injustices, as they do not necessarily involve individual treatment but situations or group status, created by social and cultural practices, institutional arrangements, etc. What Young referred to as the “everyday practices of a well-intentioned liberal society”.<sup>149</sup>

In this section, we focused on how inequality is captured and addressed through different legal categories in different contexts. As shown, it is difficult for legal tools to translate the workings of gendered power hierarchies, which in turn leads to some limitations of these

<sup>145</sup> Niall Crowley, ‘To name and address the underlying problem: Structural discrimination on the ground of racial or ethnic origin’ Report for the European Equality Law Network (European Commission 2022).

<sup>146</sup> ECRI General Policy Recommendation N°2 revised on Equality Bodies to combat racism and intolerance at national level - adopted on 13 June 1997 and revised on 7 December 2017 § 20.

<sup>147</sup> González (‘Cotton Field’) Case IACtHR Ser C No 205 (16 November 2009). Clérico, Laura ‘Hacia un análisis integral de estereotipos: desafiando la garantía estándar de imparcialidad’ (2018) 41 *Revista Derecho Del Estado* 67.

<sup>148</sup> Roberto Saba, “(Des)igualdad estructural” (2005) 11 *Revista Derecho y Humanidades*.

<sup>149</sup> Iris, M. Young, *Justice and the Politics of Difference* (Princeton University Press 1990) 41.

instruments. The assumption of neutrality and objectivity that characterises legal positivism explains law's inner resistance to change. There are nonetheless useful categories and concepts that challenge neutrality and foster institutional transformation, which will be discussed in Section 8 (pg. 71).

The cross-cutting concepts of ideology, power, discourse, representational stereotypes and discrimination discussed above are necessary for capturing the ways in which discrimination and inequalities are produced and maintained. Before going further with the discussion of concepts that can help us understand and disrupt gender hierarchies, it is important to highlight current debates on what sex and gender mean and how this is conceptualised with the notion of patriarchy as a system.

## 5. Diverse Viewpoints on Sex, Gender and Feminism: A Cross-Continental Exploration

### a. Sex and gender

At the beginning of the millennium, *sex* and *gender* were still considered overlapping topics. In the traditional understanding, *sex* is described as the biological structure or differences that distinguish between male and female, usually assigned at birth<sup>150</sup> and which “provides a basic building block from which social processes act to mould socio-economic and other differences between women and men”.<sup>151</sup> *Gender* is described as the way various cultures perceive biological sex, a construction based on power and sociocultural norms about women and men, how gender norms are learned and internalised through the constant ongoing social construction of what is considered ‘feminine’ and ‘masculine’ (doing gender).<sup>152</sup>

Gender as a category in social sciences strongly relates to “inequality processes and relations that create, sustain and change systems of social organisation”<sup>153</sup> and it includes gendered norms embedded in a given cultural context. Researchers within this view argue that biological and socio-cultural factors are often intertwined and difficult to separate,<sup>154</sup> that gender roles derive from sex, and the stereotypes are created and maintained by cultures and societies. Likewise, Loutfi puts forward that gender constitutes the main reason for the

<sup>150</sup> Janet S. Hyde, Rebecca S. Bigler, Daphna Joel, Charlotte Chucky Tate and Sari M. van Anders, ‘The future of sex and gender in psychology: Five challenges to the gender binary’ [2019] *Am. Psychol.* 171.

<sup>151</sup> Mary Daly, *The Gender Division of Welfare - The Impact of the British and German Welfare States* (Cambridge University Press, 2000) 7.

<sup>152</sup> Gunila Risberg, Eva E. Johansson and Katarina A. Hamberg, ‘Theoretical Model for Analysing Gender Bias in Medicine’ (2009) 8 *Int J Equity Health* 28.

<sup>153</sup> Cynthia D. Anderson, ‘Understanding the Inequality Problematic: from Scholarly Rhetoric to Theoretical Reconstruction’ (1996) 10 *Gender and Society* 6, 733.

<sup>154</sup> Sari M. van Anders, ‘Beyond sexual orientation: Integrating gender/ sex and diverse sexualities via sexual configurations theory’ [2015] *Archives of Sexual Behavior*, 1177.



differences between women and men and which can be measured and redressed.<sup>155</sup> Hence, gender has traditionally been conceptualised as binary and as a direct consequence of biological sex (female vs. male).

Today's understanding of *gender*, however, is broader in comparison to what it was considered as recently as a decade ago. It incorporates a wide range of gendered manifestations – and it acknowledges psychological processes maintaining and performing gender related to negotiating and changing gender identity. Gender also includes concepts like femininity or masculinity, conformity or nonconformity to gender norms, binary or nonbinary understanding of gender, and many other important themes depicting how and through what gender is perceived, judged, developed, maintained, performed.<sup>156</sup>

In the RE-WIRING project, we are acknowledging different debates on biological sex and gender categorisations. Our approach is inclusive but when discussing gender and gender identities in feminisms we emphasise that it is important to include biological sex in conversations on gender,<sup>157</sup> so as not to lose focus on girls' and women's human rights in all parts of the World. This is because, from a global perspective (considering mores and traditions in different cultural contexts of the world), it is not possible to disregard the serious repercussions that women and girls experience as a result of being *born female*, such as child marriage, female genital mutilation, breast ironing, human trafficking, period poverty, forced veiling, sexual violence, sex trafficking, child criminal/sexual exploitation, acid attacks, domestic violence, corrective rape, less/no access to education, no access to agency, selective abortion, and other kinds of violent acts.<sup>158</sup> That said, we are *also* interested in other gender manifestations and acknowledge the need for and usefulness of a gender non-binary lens. We also take into account the robust research on the consequences of binary representation of sex/gender pinpointing that the binary conceptualisation of gender helps perpetuate existing gender inequalities. Yet, attempts to change the gender binary may provoke systemic reactions that reinforce it, given that systems tend to be adaptive (see discussion on gender essentialism<sup>159</sup>(pg. 51) and because of benevolent sexism (pg. 59).

In addition, we recognise that women and girls are not homogenous categories. For example, many women and girls suffer discrimination because they are not heterosexual in

<sup>155</sup> Martha Fetherolf Loutfi (ed), *Women, Gender and Work: What is Equality and How do We Get There?* (ILO Office 2000) 4.

<sup>156</sup> Thekla Morgenroth and Michelle K. Ryan, 'The effects of gender trouble: An integrative theoretical framework of the perpetuation and disruption of the gender/sex binary' [2021] *Perspectives on Psychological Science*, 1113.

<sup>157</sup> Holly Lawford-Smith, *Gender-critical Feminism* (Oxford University Press 2022).

<sup>158</sup> United Nations Special Rapporteur on violence against women and girls, 'Mandate of the Special Rapporteur on violence against women and girls, its causes and consequences' (29 Nov 2022) <<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=27681>> accessed 12 July 2023.

<sup>159</sup> Victoria L. Brescoll, Eric Luis Uhlmann and George E. Newman, 'The effects of system-justifying motives on endorsement of essentialist explanations for gender differences' [2013] *Journal of Personality and Social Psychology*, 891.

orientation. As such, movements that advocate for equal rights and non-discrimination such as the LGBTQ+ movement, which fights for the rights of those who do not conform to binary notions of male and female or heterosexuality are considered necessary collaborators towards the task of empowering all women and girls.

It is important to continue these debates, yet we are mindful that contradictory discourses on sex and gender identities have already had negative impacts<sup>160</sup> such as termination of job contracts,<sup>161</sup> academic censorship,<sup>162</sup> and funding cuts for NGOs and shelters that want to maintain a female-only environment.<sup>163</sup> Individuals and women's organisations that express such views are targeted as transphobic. The most recent example is the campaigns against Reem Alsalem - the UN Special Rapporteur on violence against women.<sup>164</sup> Such conditions are not conducive to promoting open, critical dialogues. Yet, these circumstances encourage the RE-WIRING project to explore methods to establish safe spaces for both sides to have open, respectful discussions - even if it results in healthy disagreements.

The rich history of work available on sexual orientations and gender identities, including that of women and girls, points us to the different explicit, implicit, and often violent forms that discrimination can take (e.g., offensive jokes, bullying at school, hate crimes, discrimination in the job market, and, in some countries, criminal charges even punishable by death).<sup>165</sup> They also provide a vocabulary to capture the nuances in how these forms of discrimination affect people of different sexualities and gender identities and the hate that drives violent reactions. The work on the rights of those who fall outside traditional gender norms reinforces the idea that occurrences of discrimination and violence are often deeply rooted in stereotypes and prejudices and supported by a hostile social and political climate, just as we observed in relation to the dynamics between men and women. They further concretise the notion of intersectionality forcing us to examine how systems of oppression reinforce

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<sup>160</sup> Holly Lawford-Smith, *Gender-critical feminism* (Oxford University Press, 2022) 139; Callie H. Burt 'Feminist Lesbians as Anti-Trans Villains: A Comment on Worthen and Elaboration' (2023) 27 *Sexuality & Culture*, 161.

<sup>161</sup> *Forstater v CGD Europe and Others* [2021] United Kingdom Employment Appeal Tribunal UKEAT/0105/20/JOJ.

<sup>162</sup> Judith Suissa, and Alice Sullivan, 'The Gender Wars, Academic Freedom and Education' (2021) 55 *Journal of Philosophy of Education* 1; Callie H. Burt, 'Discounting Females, Denying Sex, and Disregarding Dangers from Self-ID: A Reply and a Defense of Open Debate' (2022) 2 *Journal of Controversial Ideas*, 1.

<sup>163</sup> Flora Renz, 'Gender-Based Violence Without a Legal Gender: Imagining Single-Sex Services in Conditions of Decertification' [2023] *Feminist Legal Studies* 31; and *Vancouver Rape Relief Society v. Nixon* [2003] Supreme Court of British Columbia (BCSC) 1936; and [2005] Court of Appeal for British Columbia (BCCA) 601.

<sup>164</sup> See Association for Women's Rights in Development (AWID), 'There Is No Place for Anti-Trans Agendas in the UN' (18 May 2023) <<https://www.awid.org/news-and-analysis/there-no-place-anti-trans-agendas-un>> accessed 12 July 2023; and see for the counter argument: Vancouver Rape Relief, 'Let the UN Special Rapporteur on VAWG Deliver her Mandate: An Open Letter' (20 June 2023), <<https://rapereliefshelter.bc.ca/an-open-letter-let-the-un-special-rapporteur-on-vawg-deliver-her-mandate/>> accessed 12 July 2023.

<sup>165</sup> Anca-Ruxandra Pandeia, Dariusz Grzemny and Ellie Keen, 'Themes related to gender and gender-based violence' in Rui Gomes (ed), *Gender matters: A Manual on Addressing Gender-based Violence Affecting Young People* (Council of Europe, 2019).

each other, creating different lived experiences for members of the same group of individuals such as women and girls.

As a result, drawing on non-binary conceptualisations of gender and collaboration with other movements for equality and inclusion, that look at issues that intersect with gender, such as class, age, sexuality, and race, can only deepen our understanding of stereotypes and inequalities and therefore increase our chances of developing actionable solutions that do not perpetuate discrimination or cause the kinds of regressive systemic reactions. An intersectional and collaborative effort across movements pursuing gender justice is therefore critical to re-shaping institutions.

Additionally, we believe that what is happening to girls and women is a result of larger systems that affect everyone and are interwoven across different opinions, including those of other minorities and men. The important area of effective gender equality alliances with other groups, including dominant ones, will also be discussed later in this review (see pg. 86). Consequently, we adopt a pluralistic approach to feminism that is open to promoting new strategies to encourage open and respectful discussions between the polarised factions of feminism regarding women's rights and gender identities tailored for specific sociocultural contexts with the goal of transforming or 're-wiring' gender norms at the experiential, institutional, and symbolical levels of society. Given that these feminist debates about sex and gender are ongoing, any TEA would have to take account of these contestations in its conceptual framework.

We shall now look at different ways gender has been conceptualised: in a way that justifies gender inequalities, namely *gender essentialism*, and towards challenging power structures, through the concept of *gender as a hierarchy*.

## b. Gender essentialism

Essentialism involves the belief that certain categories, including those based on race, gender, or ethnicity, are objective and natural.<sup>166</sup> These indicate the similarities within the group and the differences between groups, promoting causal essences that are not observable. *Gender essentialism* refers to the way perceived differences between men and women are attributed to a fixed essence that is considered universal. Due to their biological differences, men and women have distinct "essences" and are therefore predisposed to differ mentally and behaviourally. For example, believing that gender is innate and not learned can lead to thinking that biological differences in men and women extend to all spheres of personhood including personalities and abilities. At the core of this explanation

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<sup>166</sup> Nick Haslam and Jennifer Whelan, 'Human natures: Psychological essentialism in thinking about differences between people', [2008] *Social and Personality Psychology Compass*, 1297; Steven O. Roberts, Arnold K. Ho, Marjorie Rhodes and Susan A. Gelman, 'Making boundaries great again: Essentialism and support for boundary-enhancing initiatives' [2017] *Personality and Social Psychology Bulletin*, 1643.

are genetic and hormonal differences between women and men as determinants of masculinity and femininity (e.g., the biological essentialist explanation).<sup>167</sup> Gender essentialism is linked to discriminatory practices in various countries,<sup>168</sup> greater perceived fairness of gender inequality<sup>169</sup> and is more prevalent among male participants than female participants.<sup>170</sup> Essentialism treats the boundaries between categories as dichotomous and immutable rather than continuous or flexible. This can lead to the acceptance of stereotypes about women.<sup>171</sup> For the purposes of the project and of this working paper in particular, it is important to emphasise that gender essentialism is one of the beliefs underlying the construction of gender roles, and thus maintaining gender stereotypes.

Furthermore, it is associated with stronger support for group-based hierarchies (social dominance orientation) and higher prejudice towards transgender individuals.<sup>172</sup> It is thus important to acknowledge the role of gender essentialism and be aware of the fact that support for initiatives strengthening categorical gendered boundaries can promote disadvantage for groups that are already disadvantaged.<sup>173</sup> At the same time, gender essentialism is also referred to in feminist debates over the subject of feminism and intersectionality. Anti-essentialism is a position that problematizes the concept of gender, women, and their use as unifying categories of analysis that risk overshadowing the diverse realities of women's experiences and struggles, particularly marginalised sub-groups of women. Black feminists, for example, warn that mainstream Western feminism theorising about an 'essential woman' as an abstract subject obscures nonprivileged women and potentially diverts the attention from their hardships.<sup>174</sup>

### c. Gender as hierarchy

The emphasis on gender as a social hierarchy is important, as often gender is associated only with a division, distinction or difference, without explaining that binary divisions are essentially hierarchical: the terms in a binary relation do not hold the same power, theirs is

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<sup>167</sup> Tamar Saguy, Michal Reifen-Tagarydafna, and Daphna Joel 'The gender-binary cycle: the perpetual relations between a biological-essentialist view of gender, gender ideology, and gender-labelling and sorting' [2021] *Philosophical Transactions of the Royal Society* 1.

<sup>168</sup> Lea Skewes and Cordelia Fine, 'Beyond Mars and Venus: The role of gender essentialism in support for gender inequality and backlash' [2018] *Plos One* 1.

<sup>169</sup> Ibid.

<sup>170</sup> Andrew P. Smiler and Susan A. Gelman, 'Determinants of gender essentialism in college students' [2008] *Sex Roles: A Journal of Research* 864.

<sup>171</sup> Jill M. Coleman and Ying-Yi Hong, 'Beyond nature and nurture: The influence of lay gender theories and self-stereotyping' [2007] *Self and Identity* 1.

<sup>172</sup> Boby Ho-Hong Ching, Jason Teng Xu, Tiffany Ting Chen and Kenneth Hong Cheng Kong 'Gender essentialism, authoritarianism, social dominance orientation, and filial piety as predictors for transprejudice in Chinese people [2020] *Sex roles: A journal research* 426.

<sup>173</sup> Robert H. Outten, Timothy Lee and Marcella E. Lawrence, 'Heterosexual women's support for trans-inclusive bathroom legislation depends on the degree to which they perceive trans women as a threat' [2019] *Group Processes & Intergroup Relations* 1.

<sup>174</sup> Elizabeth V. Spelman, *Inessential Woman: Problems of Exclusion in Feminist Thought* (Beacon Press 1988) 165.

a hierarchical relationship. This understanding of gender as a hierarchy is strictly connected to a widely explored topic in feminist legal theory, which has taken various names over the years. In legal studies, it is referred to as the equality/difference dichotomy<sup>175</sup> or the dilemma of difference.<sup>176</sup> Both point to the conundrum created by focusing on difference as opposed to equality. As Minow observed, whether we are blind to difference or focus on it to accommodate it, both strategies do not remove the disadvantage stemming from difference and risk reinforcing the stigma attached to the group. Minow points out that by focusing on difference, we treat it as something intrinsic to the subject, rather than a product of a power hierarchy. In other words, we overlook the source of inequality. When difference is opposed to equality (rather than inequality being opposed to equality), we miss the fact that difference is a marker of inferiority, of a diminished social position, assigned through power relations, and that it involves a comparison with a standard that is male. In different terms, Gianformaggio and MacKinnon point out that difference and equality are just descriptions of a relationship between distinct subjects. What happens in laws and debates is that we treat them as absolute concepts, instead of relational ones. Accordingly, claiming difference, when difference is defined by dominance, means affirming the “qualities and characteristics of powerlessness”.<sup>177</sup>

Hierarchy constitutes social groups in unequal relationships, which do not exist prior to hierarchisation but are created by it. Gender makes men and women unequal in a hierarchy among each other, and this gender hierarchy is a transnational social system.<sup>178</sup> According to MacKinnon, this is the core principle that should guide the understanding of substantive equality and non-discrimination (see discussion of these concepts on pg. 42 and pg. 71). Male supremacy and female subordination - it is this hierarchy of power that “constructs social perception and social reality”, and produces “categorical distinctions, differences”.<sup>179</sup> In a similar vein, Delphy, using a sociological approach, has argued that gender comes prior to sex, and is composed of two elements: division and hierarchy.<sup>180</sup> Hierarchy produces an unequal division of labour, and this division is what we call ‘gender’. If gender was not there, what we call ‘sex’ would be deprived of any meaning and be just a physical difference among others.<sup>181</sup> It would therefore be beneficial to factor in the implicit and explicit mechanisms of gender hierarchy across all work packages in terms of the way it reinforces and is reinforced by gender inequalities.

<sup>175</sup> Catharine MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (Harvard University Press 1987); Letizia Gianformaggio, *Eguaglianza, donne, diritto* (Il Mulino 2005).

<sup>176</sup> Martha Minow, ‘Learning to live with the dilemma of difference: bilingual and special Education’ (1985) 48 *Law and Contemporary Problems* 157; Joan W. Scott, ‘Deconstructing equality-versus-difference: or, the uses of poststructuralist theory for feminism’ [1988] *Feminist Studies*, 33; and Dolores Morondo Taramundi, ‘*Il Dilemma della Differenza Nella Teoria Femminista del Diritto*’ (ES@ 2004).

<sup>177</sup> Catharine MacKinnon, ‘Reflections on sex equality under Law’ [1991] *Yale Law Journal* 1294.

<sup>178</sup> Catharine MacKinnon, ‘Substantive equality: A perspective’ (2011) 96 *Minnesota Law Review* 1, 12.

<sup>179</sup> Catharine MacKinnon, *Feminism Unmodified. Discourses on Life and Law* (Harvard University Press 1987) 40.

<sup>180</sup> Christine Delphy, *L’ennemi Principal. Tome II Penser le Genre* (Editions Syllepse 2009).

<sup>181</sup> *Ibid* 26.

The debates outlined in this section on sex and gender and other related concepts challenge us to factor in the implicit and explicit assumptions that entrench gender inequalities and hinder our actions towards the transformation of gender norms. Although our focus is on women and girls, we acknowledge that these are not homogenous categories. Thus, even though RE-WIRING takes biological sex as a starting point for our analysis, a non-binary lens, which is further supported by our intersectional and cross-cultural anchors, would be indispensable in uncovering the underlying causes of gender inequality.

## 6. Understanding how gendered power hierarchies work: patriarchy as a system

Inequality between women and men persists worldwide to varying degrees, as women are still discriminated against politically, socially, legally, culturally and economically. Moreover, the last decade has witnessed the rise of de-democratisation (democratic backsliding) across Europe and the Americas, with opposition to gender equality having accompanied this development, thus threatening the previous achievements of gender equality policies.<sup>182</sup> This is so much so, that hostility towards gender equality has seen the rise of so-called anti-gender movements and triggered backlashes in politics, policymaking, governance, workforce and family life.<sup>183</sup> Nevertheless, the presence of anti-gender movements is not a prerequisite for contesting gender equality and women's rights. Due to the existence of patriarchy in many countries, western or not, we still witness laws and policies that are gendered, gender-blind, or gender-neutral because they rely predominantly on a male perception of the world and men's exercise of power in sexual and reproductive health and rights, education and the workplace. Thus, combating violations of women's human rights and persistent gender inequalities continues to be part of the agenda of feminist movements all around the world in their push for women's advancement.

In this section, we introduce the concept of 'patriarchy as a system' as a useful conceptual framework to understand and explain the functioning of gendered power hierarchies. We will bring together insights from law, economics, sociology and social psychology that further elucidate the potential of patriarchy from different angles, each shedding light on different dimensions that concur in sustaining gender inequality.

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<sup>182</sup> Borbála Juhász and Enikő Pap, 'Backlash in Gender Equality and Women's and Girls' Rights' (European Parliament: Policy Department for Citizens' Rights and Constitutional Affairs 2018) <[https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604955/IPOL\\_STU\(2018\)604955\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604955/IPOL_STU(2018)604955_EN.pdf)> accessed 29 September 2023; Conny Roggeband and Andrea Krizsán, 'Democratic Backsliding and the Backlash against Women's Rights: Understanding the Current Challenges for Feminist Politics' (UN WOMEN Discussion Paper Series 2020) <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/discussion-paper-democratic-backsliding-and-the-backlash-against-womens-rights-en.pdf?la=en&vs=3604> accessed 29 September 2023

<sup>183</sup> Hande Eslen-Ziya, 'Right-wing populism in new Turkey: Leading to all new grounds for troll science in gender theory' [2020] 76(3) HTS Theologiese Studies/ Theological Studies 1.

## a. Patriarchy as a system

In the RE-WIRING project, we see patriarchy as a system. Patriarchy is one of the most used (and useful) conceptual accounts of how gendered power hierarchies work to date. It crucially connects with the cross-cutting themes and concepts of power, discourse, hegemony, ideology and stereotypes. Patriarchy constitutes the overarching framework to understand and link together gender-based violence, job segregation, pay and pension gaps, care gaps, the feminisation of poverty, women's underrepresentation in the political sphere, etc. as manifestations of a same phenomenon, deeply interconnected and interdependent. Patriarchy also allows understanding these gender issues as group-based and systemic, rather than individual or exceptional, thus requiring transformative solutions that re-wire institutions across different domains.

Within feminist literature, patriarchy is defined as the “system of social structures and practices in which men dominate, oppress and exploit women”,<sup>184</sup> both in the public as well as in the private realm, in a way that is independent from other power systems (e.g., capitalism, racism), but at the same time allows capturing their interconnectedness and the need of intersectional analyses. As Millett puts it, patriarchy is so embedded in social structures that “it is not readily associated with the use of force or violence”.<sup>185</sup> Though analyses of patriarchy differ in the source ascribed to it (be it sexual violence, sexuality, reproduction, domestic work, etc.), patriarchy is a useful concept that allows the capturing of the “depth, pervasiveness and interconnectedness of different aspects of women's subordination”.<sup>186</sup> Moreover, it allows considering variations of inequality over time, social class, and ethnic group into an organising framework.

Patriarchy is a concept that builds on the interrelationship between oppression and agency/resistance,<sup>187</sup> instead of viewing them in dichotomous terms as mutually exclusive (either pure victim or pure agent). When adopting the systemic notion of patriarchy, we avoid both victimisation discourse and individualistic agency discourse. Women are not atomised individuals whose actions are unconstrained. Their agency and resistance are shaped by social forces, social structures, norms and values. In other words, within a patriarchal system, agency and oppression are “mutually compatible, co-existing and complementary”.<sup>188</sup> Giving an example of the transformation of patriarchy in Britain from a private to a public form, Walby emphasised the role that the women's movement played,

<sup>184</sup> Sylvia Walby, *Theorising Patriarchy* (Blackwell 1990) 20.

<sup>185</sup> Kate Millett, *Sexual Politics* (Doubleday 1970) 43

<sup>186</sup> Sylvia Walby, *Theorising Patriarchy* (Blackwell 1990)

<sup>187</sup> Elizabeth Schneider, 'Feminism and the False Dichotomy of Victimization and Agency' (1993) 38 N.Y.L. Sch. Rev. 387, 397

<sup>188</sup> Sylvia Walby, 'Key Concepts in Feminist Theory. Department of History, International and Social Studies, Aalborg University. FREIA's tekstserie No. 33 [1996] <<https://doi.org/10.5278/freia.14136354>> accessed 29 September 2023

and how their struggles influenced changes in the transformations that patriarchy undertook as a response to this collective resistance.

Patriarchy is a system of oppressive norms embedded in everyday practices in liberal societies, affecting both the sexes and their spaces. One of its main aspects is the power to name and attribute spaces to sexes and organise gender in a hierarchy of value.<sup>189</sup> Hence, patriarchy instrumentalises groups of dominators and oppressed groups in order to assign meanings and symbols. Another feature of patriarchy is that the space assigned to women serialises them (serialisation), that is, it prevents them from emerging as autonomous subjects. As a serial collective, women are part of a group of identical, interchangeable and not identifiable one from the other. Without individualisation, women cannot access the category of subjects and, as a result, they are excluded from enjoying both autonomy and equality.<sup>190</sup> Women as series are a passive unity brought together “through the material organisation of social relations”.<sup>191</sup> Both hetero-designation and serialisation are also attributes of stereotypes, conceived as mechanisms of patriarchy<sup>192</sup> (see pg. 30).

Four elements help us to better understand power relations between men and women: physical force (including its utilisation or the mere threat of its use), control over resources (both material and economic), ideologies (which justify inequality and perpetuate the status quo) and social obligations (such as caregiving or domestic tasks based on gender roles).<sup>193</sup> Gender inequality arises from the power asymmetry established within each of these factors and is perpetuated through the dynamic interplay between them. For example, men possess greater control over resources. Women hold only 14% of executive positions and 4.5% of CEO positions in companies (data collected across 91 countries).<sup>194</sup> In addition, gender-based violence perpetrated by men results from the unrestricted use of physical force. Finally, ideologies such as for example gender essentialism described earlier justify gender hierarchy, normalise inequality, and legitimise men as dominant group interests. Below we will present other concepts and theories relevant to understanding how gendered power hierarchies are maintained within a patriarchal system, but also how they can be combated. These concepts further examine the various ways in which the concept of patriarchy can be helpful in explaining gendered power hierarchies. We will focus on intersecting power hierarchies, social dominance theory, ambivalent sexism, system justification, hegemonic

<sup>189</sup> Ibid

<sup>190</sup> Dolores Morondo Taramundi, 'Una Sonda en el Post-Patriarcado: El Debate sobre Emancipación y Libertá Femminile en el Feminismo Italo-Español' [2015] 2 *Gênero & Direito* 14 32.

<sup>191</sup> Iris M. Young, 'Gender as Seriality: Thinking about Women as a Social Collective' [1994] *Signs* 733.

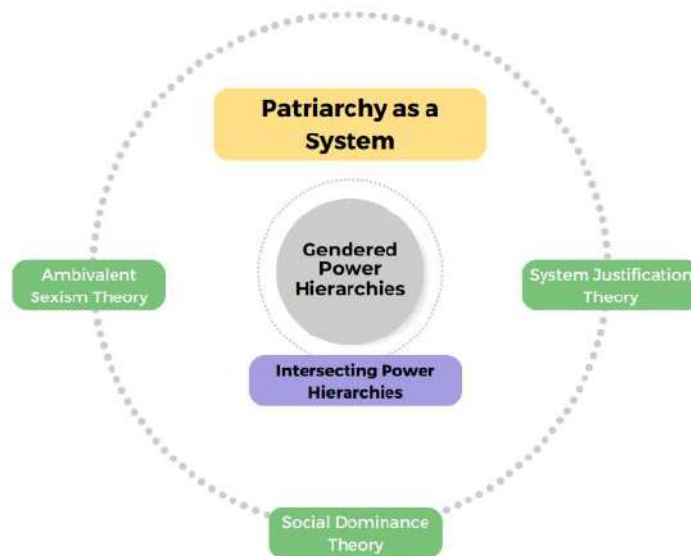
<sup>192</sup> Elena Ghidoni, and Dolores Morondo Taramundi, 'El papel de los estereotipos en las formas de la desigualdad compleja: algunos apuntes desde la teoría feminista del derecho antidiscriminatorio' [2022] *Discusiones* 37.

<sup>193</sup> Felicia Pratto and Angela Walker, 'The Bases of Gendered Power' in Alice H. Eagly, Anne E. Beall and Robert J. Sternberg (eds), *The Psychology of Gender* (The Guilford Press 2004).

<sup>194</sup> Marcus Noland, Tyler Moran, and Barbara Kotschwar, 'Is gender diversity profitable? Evidence from a global survey' [2016] Peterson Institute for International Economics Working Paper No. 16-3.



masculinity and allyship of dominant groups such as men. Figure 6 below captures the theories that help us understand some of the systemic mechanisms of patriarchy.



**Figure 6.** Understanding gendered power hierarchies: Patriarchy as a system.

### b. Intersecting power hierarchies and ideologies within patriarchal systems

For the RE-WIRING project, we selected patriarchy as the conceptual tool to explain gendered power hierarchies also because it enables the adoption of an intersectional approach. The very idea of gender power hierarchies (in plural) underlines the complexity of such systems, where patriarchy (sex/gender system) retains an analytical specificity, while simultaneously being constructed and influenced itself by other power hierarchies or systems (e.g., capitalism, racism, ableism, etc). On the political level, this interconnectedness also makes a compelling case for the need to foster alliances among different oppressed groups. When a hierarchy of power is perceived as difficult to change, even people belonging to the least powerful or disadvantaged groups may justify it.<sup>195</sup> Even so, if gender inequality, while unchanging, is perceived as illegitimate or unjust, women and other disadvantaged minorities (e.g., LGBTQ+, ethnic minorities or working classes) may form inter-group alliances to join forces and prevent abuses of power. Moreover, this can also attract the attention of power-holding groups, in this case men, who can act in solidarity. When the questioning of authority extends beyond the minority to include those who are not directly (negatively) affected by the status quo, social change becomes possible. The

<sup>195</sup> John T. Jost, and Mahzarin R. Banaji, 'The role of stereotyping in system-justification and the production of false consciousness [1994] 33 British Journal of Social Psychology 1.

process of “political solidarity” is when those with power (i.e., men) not only sympathise with women and their cause, but are also willing to actively change gender inequality in solidarity with it.<sup>196</sup>

At the theoretical level, Walby has explained the intersection between power hierarchies, and how they mutually constitute and modify each other, by adopting a new concept of social system. In order to do so, she identifies as systems both the institutionalised domains (economy, policy, violence, civil society) and the different sets of social relations (based on gender, social class, ethnicity, etc.). Following this approach, she argues that gender, for example, is not only rooted in culture, like social class is not only rooted in the economy, but both are also constituted through and in each domain.<sup>197</sup> This understanding allows capturing the complex interrelationships between gender and other power hierarchies and their embeddedness in different domains.

Since RE-WIRING explores gender inequalities across different domains, such conceptual approaches are important as they allow explaining how such inequalities are embedded in employment, education, politics and representation.

### c. Social dominance theory

Social dominance theory posits that societies are organised in a hierarchical manner, with some social groups holding higher status and power than others.<sup>198</sup> The theory suggests that this group-based social hierarchy is not simply a result of individual differences or economic factors but is deeply rooted in social systems, institutions, and ideologies. Sexist ideologies endorse and perpetuate gender-based discrimination and unequal treatment between men and women. These ideologies are seen as legitimising hierarchical myths that justify the establishment of inequality between men and women.<sup>199</sup> This power asymmetry thus encompasses at least two groups based on power: those who are disadvantaged (here women), and those who are privileged and therefore have an advantage (here men).<sup>200</sup>

Social dominance theory articulates individuals' inclinations toward either maintaining or reducing hierarchical structures and inequalities among different groups.<sup>201</sup> This theory

<sup>196</sup> Emina Subašić, Katherine J. Rynolds, and John C. Turner, 'The Political solidarity model of social change: Dynamics of self-categorization in intergroup power relations' [2008] *Personality and Social Psychology Review* 330.

<sup>197</sup> Walby, Sylvia 'Complexity Theory, Systems Theory, and Multiple Intersecting Social Inequalities' [2007] 37 *Philosophy of the Social Sciences* 449.

<sup>198</sup> Jim Sidanius, and Felicia Pratto, *Social Dominance: An Intergroup Theory of Social Hierarchy and Oppression* (New York, Cambridge University Press 1999).

<sup>199</sup> Ibid 271; and Janet K. Swim and Lauri L. Hyers, 'Sexism' in Todd D. Nelson (eds), *Handbook of prejudice, Stereotyping and Discrimination* (Psychology Press 2009).

<sup>200</sup> Brenda Major, 'From social inequality to personal entitlement: The role of social comparisons, legitimacy appraisals, and group members' in Mark P. Zanna (ed), *Advances in Experimental Social Psychology* (Academic Press 1994).

<sup>201</sup> Jim Sidanius, Felicia Pratto and Lisa M. Stallworth, 'Consensual racism and career track: Some implications of social dominance theory' [1991] *Political Psychology* 691.

serves as a valuable framework for comprehending socio-political ideologies, prejudice, and intergroup dynamics within the fields of social psychology and sociology. For example, individuals with a higher inclination towards social dominance tend to exhibit increased levels of prejudice towards marginalised groups who face power imbalances. As a result, men (as members of the dominant group) tend to more strongly endorse social dominance orientations that legitimise power over women.

#### d. Ambivalent sexism theory

Ambivalent sexism theory conceptualises sexism as a form of ambivalent prejudice that allows women to be both denigrated and admired.<sup>202</sup> According to this theory, the coexistence of male structural power and female dyadic power gives rise to ambivalent sexist ideologies. Social power refers to the greater access of men (versus women) to resources and status within a culture, which is justified by ideologies that normalise male dominance and heterosexual interdependence. Rather, dyadic power differences define intimate relationships, and in heterosexual relationships, women tend to have more dyadic power than social power given heterosexual interdependencies (e.g., reproductive, and parenting roles).

Gender differences in social power and dyadic power promote ambivalent sexism or conflicting valence attitudes towards women. These ideologies encompass two forms of sexism: hostile sexism, which justifies male power and traditional gender roles by demeaning women, and benevolent sexism, which provides gentler justifications for male dominance and prescribed gender roles.<sup>203</sup> Hostile sexism includes beliefs that view gender relations in combative terms: seeing women as attempting to usurp power from men, through their sexuality, by claiming discrimination or through feminist activism (e.g., “Many women are actually seeking special favours, such as hiring policies that favour them over men, under the guise of asking for equality”; “Women seek to gain power by getting control over men”, exemplary items depicting hostile sexism from Ambivalent Sexism Inventory). Benevolent sexism recognises men’s dependence on women (referred to as women’s dyadic power), promotes a romanticised perspective of heterosexual relationships with women, but also portrays women as weak and in need of male protection (e.g., “Many women have a quality of purity that few men possess”, “Women should be cherished and protected by men”, exemplary items depicting benevolent sexism from Ambivalent Sexism Inventory). Both hostile sexism and benevolent sexism co-exist and are strongly correlated with each other.

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<sup>202</sup> Peter Glick and Susan T. Fiske, ‘The ambivalent sexism inventory: Differentiating hostile and benevolent sexism’ [1996] 70 *Journal of Personality and Social Psychology* 491.

<sup>203</sup> Ibid.

The existence of both forms of sexism, along with their positive association with one another, has been evidenced across various cultural contexts.<sup>204</sup> Furthermore, hostile and benevolent sexism reinforce the societal expectation that women should adopt traditional roles such as homemakers, wives or mothers. Conversely, those who challenge established power dynamics, such as feminists, women in work or leadership positions, or lesbians, often face hostility and punishment.<sup>205</sup> These complementary forms of sexism support the subordination of women and reinforce the status quo.

Beyond these findings, research has found—with a sample of 57 societies—an association between sexism (at the societal level) and higher levels of systemic gender inequality.<sup>206</sup> Thus, sexist ideologies appear to be associated with gender inequality within society, not only by legitimising the status quo, but also by increasing gender hierarchical distance. This may be because adherence to sexist ideologies leads to women being lower paid and being less likely to acquire social status and resources.<sup>207</sup>

#### e. System justification

System justification theory suggests that individuals have the motivation to justify and rationalise the existing social, economic and political systems, especially systems that favour their personal and group interests, and even if it involves unequal social arrangements.<sup>208</sup> System justification is closely related to other legitimising ideologies such as social dominance orientation, meritocratic ideology, and opposition to equality.<sup>209</sup> Collectively, these ideologies contribute to sustaining power inequality between men and women by providing cognitive and ideological support for the prevailing gender order. They justify and legitimise unequal gender roles, hierarchies and power dynamics, making it more

<sup>204</sup> Peter Glick, Susan T. Fiske, Antonio Mladinic and others., 'Beyond Prejudice as Simple Antipathy: Hostile and Benevolent Sexism Across Cultures' [2000] 79 *Journal of Personality and Social Psychology* 763; Peter Glick, Maria Lameiras, Susan T. Fiske and others., 'Bad but Bold: Ambivalent Attitudes Toward Men Predict Gender Inequality in 16 Nations' [2004] 86 *Journal of Personality and Social Psychology* 713.

<sup>205</sup> Peter Glick and Susan T. Fiske, 'An Ambivalent Alliance: Hostile and Benevolent Sexism as Complementary Justifications for Gender Inequality' [2001] 56 *American Psychologist* 109.

<sup>206</sup> Mark J. Brandt, 'Sexism and Gender Inequality Across 57 societies' [2011] 22 *Psychological Science*, 1413.

<sup>207</sup> Brenda Major 'From Social Inequality to Personal Entitlement: The Role of Social Comparisons, Legitimacy Appraisals, and Group Membership' [1994] 26 *Advances in Experimental Social Psychology* 293.

<sup>208</sup> John T. Jost, and Mahzarin R. Banaji, 'The role of stereotyping in system-justification and the production of false consciousness [1994] 33 *British Journal of Social Psychology* 1414; and John T. Jost, Mahzarin R. Banaji, and Brian A. Nosek, 'A Decade of system justification theory: Accumulated evidence of conscious and unconscious bolstering of the status quo [2004] 25 *Political Psychology* 881.

<sup>209</sup> John T. Jost, Mahzarin R. Banaji, and Brian A. Nosek, 'A Decade of system justification theory: Accumulated evidence of conscious and unconscious bolstering of the status quo [2004] 25 *Political Psychology* 881.

challenging to address gender inequalities. We can see manifestations in the tendency to blame a female victim of rape<sup>210</sup> and in the so-called justifications for gender pay gap.<sup>211</sup>

#### f. Hegemonic masculinity and precarious manhood

From a cultural perspective, hegemonic masculinity has been utilised to elucidate, validate, legitimise and reinforce the authority of men over women, serving as the prominent and idealised representation of masculinity within a particular culture.<sup>212</sup> This form of masculinity stands superior to other alternative masculinities and femininities, and it prescribes-proscribes the behaviour, emotions, cognition and roles that are linked to power, status, and success for boys and men. Specifically, a man is expected to possess power and status, exhibit mental, physical, and emotional strength, and reject anything perceived as feminine, homosexual or unmanly.<sup>213</sup> Consequently, deviations from this prescribed masculinity face severe consequences. Drawing from studies in cultural psychology, masculinity has been construed as a precarious social identity (e.g., precarious manhood, as the notion that men's gender status is seen as elusive, tenuous and needing to be repeatedly demonstrated through public action),<sup>214</sup> and its threat or risk of violation leads to acts of dominance and aggression directed towards women in order to reinstate dominance. Cultures centred around notions of honour tend to exhibit this type of masculinity more prominently. A key feature of such cultures involves safeguarding one's reputation, prompting individuals to take all possible measures to preserve and defend their reputation against threats. More specifically, men in honour-oriented cultures are more likely to strive to establish and maintain a reputation for strength, courage and intolerance for disrespect.<sup>215</sup> Women in honour cultures are more likely to endeavour to build and safeguard a reputation for loyalty and sexual purity.<sup>216</sup> Understanding the notion of hegemonic masculinity and its connection to cultural norms and social identities is valuable for identifying and challenging deeply ingrained perceptions of masculinity (and femininity) that hinder the realisation of gender equality.

<sup>210</sup> Tomas Ståhl, Daniel Eek and Ali Kazemi, 'Rape victim blaming as system justification: The role of gender and activation of complementary stereotypes' [2010] *Social Justice Research* 239.

<sup>211</sup> Laurie T. O'Brien, Brenda N. Major and Patricia N. Gilbert, 'Gender differences in entitlement: The role of system justifying beliefs' [2012] *Basic and Applied Social Psychology* 136.

<sup>212</sup> Raewyn W. Connell, *Masculinities* (Berkeley, University of California Press, 1995).

<sup>213</sup> Cheri J. Pascoe, *Dude, You're a Fag: Masculinity and Sexuality in High School* (Berkeley: University of California Press, 2007).

<sup>214</sup> Joseph A. Vandello, Jennifer K. Bosson, Dov Cohen, Rochelle M. Burnaford and Jonathan R. Weaver, 'Precarious manhood' [2008] *Journal of Personality and Social Psychology* 1325.

<sup>215</sup> Dov Cohen and Richard E. Nisbett 'Self-protection and the culture of honour: Explaining southern violence' [1994] *Personality and Social Psychology Bulletin* 551.

<sup>216</sup> Joseph A. Vandello and Dov Cohen 'When Believing is seeing: Sustaining norms of violence in cultures of honour' in M. Schaller and C. S. Crandall (eds) *The Psychological Foundations of Culture* (Lawrence Erlbaum Associates Publishers 2004).

In this section, we have demonstrated how the concept of patriarchy and its related concepts and theories provide a useful framework for understanding the complex phenomena of gendered power hierarchies within the RE-WIRING project. Our taxonomy now delves into two specific manifestations of inequality.

## 7. Illustrations of the identified concepts: two manifestations of gendered power hierarchies

A previously mentioned, inequality is frequently defined as unequal access to scarce and valued resources in society, which results in a lack of life opportunities and systematic disadvantages across social domains. There are several manifestations of inequality stemming from gendered power hierarchies that we touched upon in this taxonomy, for example, inequality in media representations and inequalities as understood in law and education. In this section, we look specifically at two manifestations of inequality: gender-based violence and economic inequality. We consider them to be manifestations that expose the ways in which intersecting power hierarchies can affect the lived realities of women and girls. They also represent the embeddedness of gender inequality in different domains (family, education, politics, economy, etc.) and the need to develop an integrated response to tackle the several dimensions where unequal power relations are reproduced. The goal of this section is to illustrate the ways in which the concepts that have been presented in this concept paper so far may be applied in making sense of various manifestations of inequality in different social domains.

### a. Gender-based violence against women

Violence against women has played a decisive role in the exploitation of women and the obstruction of their advancement all over the world.<sup>217</sup>

That violence against women is a *form of discrimination* is now widely acknowledged by several international instruments.<sup>218</sup> Already in 1992, the CEDAW Committee clarified that there is a link between discrimination and violence against women, which is defined as “violence that is directed against a woman because she is a woman or that affects women disproportionately”, through acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty”.<sup>219</sup> Similarly, the Istanbul Convention defined violence against women as a form of discrimination and a violation of

<sup>217</sup> UN General Assembly, ‘Declaration on the Elimination of Violence against Women’ (A/RES/48/104 ed., 1993).

<sup>218</sup> Several international conventions have addressed the issue of gender-based violence in different cultural settings, such as in European (Istanbul Convention), African (Maputo Protocol), and American (Belem do Pará Convention) contexts.

<sup>219</sup> CEDAW Committee. *General Recommendation No. 19: Violence Against Women*, U.N. Doc. CEDAW/C/1992/L.1/Add.15, (Eleventh Session, 1992) para 6.

women's human rights, which takes place both in the private and public spheres.<sup>220</sup> In the proposal for a EU Directive on violence against women and domestic violence,<sup>221</sup> it is further emphasised that this type of violence is a “persisting manifestation of structural discrimination against women, resulting from historically unequal power relations between women and men” and “rooted in the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men”.<sup>222</sup> Not only violence against women stems from historically unequal power relations between women and men, but it is also one of the social mechanisms by which women are maintained in a subordinate position.<sup>223</sup>

It is recognised that violence against women occurs both in the public and the private sphere, therefore deconstructing the ideological division between these two spheres, which prevented those violations of human rights from being addressed. Increasing attention is devoted to violence perpetrated online, including cyberharassment, cyberstalking, and the non-consensual dissemination of intimate/private/sexual images).<sup>224</sup>

Violence may be further exacerbated or used as a weapon in the context of different types of crises (e.g., conflict, humanitarian crisis, genocide, climate crisis, health crisis, etc.).<sup>225</sup> The Maputo Protocol contains an explicit reference to the fact that violence against women may occur both in peacetime and during situations of armed conflicts or of war.<sup>226</sup>

Violence against women is also deeply linked to patriarchal culture, norms, and traditions that are sustained and diffused through media, (formal and informal) education, inequality in the workplace, politics, the family, and socio-political-cultural institutions and norms. According to the CEDAW Committee, the belief that women are inferior to men is fundamentally linked to violence against women. Therefore, to eradicate violence against women, it is crucial to “modify social and cultural patterns of conduct of men and women” to

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<sup>220</sup> Council of Europe, Convention on preventing and combating violence against women and domestic violence (CETS No. 210) (Istanbul Convention). Article 3(a) defines violence against women as “a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”. Article 3(d) defines gender-based violence against women is violence perpetrated against a woman because she is a woman or that affects women disproportionately.

<sup>221</sup> Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence, COM/2022/105 final.

<sup>222</sup> Ibid, para 7.

<sup>223</sup> Council of Europe, Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), Preamble.

<sup>224</sup> Sara De Vido, and Lorena Sosa, Criminalisation of gender-based violence against women in European States, including ICT-facilitated violence (Luxembourg: Publications Office of the European Union, 2021). See also the Protection from Harassment Act (No. 17 of 2011) of the South African legislation, which provides protection and remedies for victims of harassment, including cyber harassment, stalking, and intimidation.

<sup>225</sup> Miguel Lorente Acosta, 'Gender-based violence during the pandemic and lockdown' [2020] 46 Spanish Journal of Legal Medicine 139.

<sup>226</sup> Article 1, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (adopted 13 September, entered into force 25 November 2005) CAB/LEG/66.6 (Maputo Protocol).

eliminate “prejudices and customary and all other practices that are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles for women and men”.<sup>227</sup>

Acknowledging that violence against women is a *manifestation of patriarchal oppression, and it is deeply rooted at different societal levels*. The international legal instruments mentioned in this section set up integrated strategies and obligations to eradicate violence. These include not only legislative measures, but also social and economic measures, such as adequate budgetary resources, public education, and awareness raising.<sup>228</sup> Specialised police units, courts, and training for relevant actors, as well as increased access to support services for survivors of gender-based violence are also key parts of an integrated strategy that aims at transforming unequal power relations.<sup>229</sup> The Istanbul Convention sets out an integrated approach to prevent, protect, prosecute, and design coordinated policies to eradicate violence against women. Efforts in this direction include taking steps to promote equality, non-stereotyped roles, and non-violent communication in education, and implement adequate policies in the media sector.<sup>230</sup> It is important that these measures are also supported by an adequate budget to ensure their feasibility.

As a concept, gender-based violence is key to understanding such complex phenomena, its embeddedness in society and culture, and its connection with other forms of inequality (e.g., economic inequality). Moreover, it is important to emphasise the intersectional dimension of violence towards particular groups of women.<sup>231</sup> Violence against women is a manifestation of patriarchy and unequal power relations and a mechanism to maintain women in subordinate positions.

RE-WIRING’s focus is on the empowerment of women and girls, but as we have highlighted previously, we take the view that a non-binary understanding of gender is beneficial to getting to the underlying causes of gender inequality. As such, we look at violence broadly as it affects women and girls as well as how this intersects with violence experienced by groups across the gender spectrum. As stated early on in this paper, *allyship* with other

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<sup>227</sup> Article 5, Convention on the Elimination of All Forms of Discrimination Against Women (1979). See also Article 12(1) of the Istanbul Convention, which asks State parties to “promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions, and all other practices that are based on the idea of the inferiority of women or on stereotyped roles for women and men”; and the Maputo Protocol, Article 2(2).

<sup>228</sup> The Maputo protocol foresees these different actions.

<sup>229</sup> As an example, the National Strategic Plan on Gender-Based Violence and Femicide (2020-2030) adopted in South Africa is a comprehensive framework aimed at addressing and eradicating gender-based violence through prevention, response, support, and strengthening the criminal justice system. The plan incorporates various interventions, from educational campaigns to the establishment of specialised police units and increased access to support services for survivors.

<sup>230</sup> Articles 14 and 17, Istanbul Convention.

<sup>231</sup> CEDAW Committee, *General Recommendation No. 35 on Gender-Based Violence Against Women, Updating General Recommendation No. 19*, CEDAW/C/GC/35 (2017) para 12.



disadvantaged groups as well as the dominant groups in society is crucial to finding solutions to gender inequalities.

### **b. Economic Inequality**

Like gender-based violence, economic inequalities have a direct impact on access to and enjoyment of basic rights to health, education, and housing, which usually has a negative impact on trust, cooperation and social cohesion. As such, we deal with economic inequality as a phenomenon that shows the workings of intersecting power hierarchies and inequalities across different domains of interest to RE-WIRING.

Economic inequality is often used interchangeably with income inequality and wealth inequality, although they capture different aspects of the same phenomenon. However, some scholars argue that economic inequality should also consider equality of opportunity, acknowledging individual variations in capabilities, needs, and preferences.<sup>232</sup> This broader perspective includes examining related inequalities in consumption, education, health, social status, and political freedom.

Building upon previous research that has focused primarily on the monetary aspects of inequality and the recognised need for a broader conceptualisation, Bapuji<sup>233</sup> proposes a definition of economic inequality as the uneven distribution of resources, access to productive resources, and rewards for labour within a social collective, which hinders the fulfilment of human functions. This definition encompasses three main dimensions of inequality.

Firstly, it encompasses the uneven dispersion of resource endowments, which can include both financial resources (such as wealth) and non-financial resources (such as social status). These resources play a significant role in the production process and are distributed unequally in every society.

Secondly, economic inequality is reflected in unequal access to productive resources, such as education, health, and nutrition. While resource endowments may be unevenly distributed, equal access to productive resources enables individuals without significant initial resources to achieve social mobility and capitalise on productive opportunities.

Thirdly, the definition encompasses the unevenness of rewards for labour. It goes beyond the simple notion of unequal rewards for similar types of labour. Instead, it acknowledges that even when skills are heterogeneous and vary in their perceived value to the production process, the labour provided by different individuals should be adequately rewarded. This is essential for individuals to fulfil their human functions, which encompass both basic needs (such as good health and shelter) and social needs (such as achievement, self-respect, and

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<sup>232</sup> Kathryn M. Neckerman and Florencia Torche. 'Inequality: Causes and consequences' (2007) 33 *Annu. Rev. Sociol.* 335.

<sup>233</sup> Hari Bapuji, 'Individuals, interactions and institutions: How economic inequality affects organizations' (2015) 68(7) *Human Relations* 1059.

dignity<sup>234</sup>). In essence, this definition recognises that assigning disproportionate value to certain skills while undervaluing others constitutes economic inequality.

Importantly, this definition does not confine inequality to a single analytical level, such as the household, community, or country. It allows for understanding the cross-level effects of economic inequality within any social collective on individuals, as well as the organisations in which they work and the societies in which they live. In other words, individuals carry the effects of inequality experienced within one social collective to all other collectives to which they belong.

In relation to the gender pay gap between men and women, the World Economic Forum<sup>235</sup> has shown that women have lower labour force participation, lower economic participation, and fewer opportunities. In fact, women have only reached 58% of the economic power that men possess. What kinds of gender biases and stereotypes can contribute to explaining economic gender inequality? Women are perceived as having positive qualities related to warmth but are not associated with qualities such as competence, competitiveness, or independence. Conversely, men are seen as less warm but more competent.<sup>236</sup> In a broader economic context, economic inequality affects how people stereotypically perceive men and women. For example, men are perceived as more agency-oriented than community-oriented when there is greater economic disparity in society.<sup>237</sup> These evaluations can result in salary disparities based on performance comparisons, particularly in male-dominated domains. Furthermore, when women are portrayed as being agentic, they are evaluated less favourably due to deviating from societal norms of femininity. Therefore, it is important to emphasise that the salience of the gender category, social norms that are shaped by *patriarchy as a system*, and socioeconomic status are closely related and can be both the cause and the consequence of the perpetuation of gender economic inequality.<sup>238</sup>

#### i. Discrimination in the labour market

As part of economic inequality, discrimination in the labour market refers to the differential and unfair treatment of individuals based on gender within the realm of employment and

<sup>234</sup> Amartya Sen, 'The political economy of targeting'. Washington, DC: World Bank [1992].

<sup>235</sup> World Economic Forum 'The global gender gap report, 2017' <[http://www3.weforum.org/docs/WEF\\_GGGR\\_2017.pdf%0Ahttp://www3.weforum.org/docs/WEF\\_GGGR\\_2017.pdf%0Ahttp://www3.weforum.org/docs/WEF\\_GGGR\\_2017.pdf%0Ahttps://www.weforum.org/reports/the-global-gender-gap-report-2017](http://www3.weforum.org/docs/WEF_GGGR_2017.pdf%0Ahttp://www3.weforum.org/docs/WEF_GGGR_2017.pdf%0Ahttp://www3.weforum.org/docs/WEF_GGGR_2017.pdf%0Ahttps://www.weforum.org/reports/the-global-gender-gap-report-2017)> accessed 29 September 2023.

<sup>236</sup> Susan T. Fiske, Amy J. C. Cuddy, Peter Glick and Jun Xun, 'A model of (often mixed) stereotype content: Competence and warmth respectively follow from perceived status and competition' (2002) *Journal of Personality and Social Psychology* 878

<sup>237</sup> Eva Moreno-Bella, Guillermo B. Willis, Angélica Quiroga-Garza and Miguel Molla, 'Economic inequality shapes the agency-communion content of gender stereotypes' (2022) *Group Processes & Intergroup Relations* 1.

<sup>238</sup> Clara Kulich and Marion Chipeaux, 'Gender Inequality in Economic Resources' in Kim Peters and Jolanda Jetten (eds) *The social Psychology of Inequality* (Springer 2019).

work-related matters. It encompasses practices, policies, and biases that result in disadvantages, limitations, or unequal opportunities for individuals based on their gender.

It is also crucial for the RE-WIRING Project's goals to adopt a critical stance towards theories that explain inequality based on individual attitudes or preferences. Instead, RE-WIRING aims to shed light on structures of inequality (e.g., the sexual division of labour). For example, Hakim's Preference Theory suggests that women can be categorised into three distinct groups: work-centred women who may choose to remain childless, home-centred women who prioritise family and have children, and ambivalent women who strive to balance paid work and child-rearing. By doing so, it emphasises understanding individual preferences for social behaviour, and claims recognising diverse preferences can lead to more equality and fairness in society. However, the core argument removes individual choices from the structural constraints that determine them, since it is (often discriminatory) institutional and societal processes that determine female labour market participation rather than solely women's unfettered choice (see Section 6).

Preference theory is both reflective of post-feminism and generative of its values and practices.<sup>239</sup> Moreover, in seeking to explain and predict women's choices regarding investment in productive and/or reproductive work, such theory constitutes the conditions of possibility for female employment through the creation of a new postfeminist subjectivity based on an agentic and 'choosing' femininity. This new postfeminist subject is required to *perform well simultaneously* in both the work and domestic domains.

Behaviour predictions based on preferences have produced variable results, influenced by the socioeconomic context. Bohnet, a behavioural economist, emphasises the importance of implementing practical strategies and redesigning systems to promote gender equality.<sup>240</sup> According to Bohnet, only by understanding and addressing unconscious biases, redesigning systems, promoting diversity and inclusion, and utilising nudges (subtle changes in the decision-making environment that can influence behaviour in a positive direction) to reduce gender biases, ensuring transparency and accountability, and relying on evidence-based approaches, individuals and organisations can work towards achieving greater gender equality.<sup>241</sup>

Furthermore, the lines separating work and non-work realms in the modern world are becoming increasingly hazy, as was seen during the Coronavirus outbreak. In Johnston et al., the authors investigate how unbounded work affects work-life balance in academic

<sup>239</sup> Patricia Lewis and Ruth Simpson, 'Hakim revisited: Preference, choice and the postfeminist gender regime' [2017] 24 *Gender, Work & Organization* 2, 115.

<sup>240</sup> Iris Bohnet. *What Works* (Harvard University Press 2016).

<sup>241</sup> *Ibid.*

settings while taking into account gender, job flexibility, and organisational support.<sup>242</sup> *Work–life balance* is a concept that is defined as “the individual perception that work and non-work activities are compatible and promote growth in accordance with an individual’s current life priorities”.<sup>243</sup> Johnston et al. find that flexibility and organisational support mitigate the negative effect of unbounded work on work-life balance but they do not eliminate it entirely.<sup>244</sup>

These discussions on preference theory and work-life balance underscore the necessity of adopting an *anti-stereotyping approach* when developing gender equality policies and organisational interventions. One example of an anti-stereotyping approach is the ‘use it or lose it’ parental leave divided between fathers and mothers. This parental leave policy encourages fathers to take an active role in childcare, challenging traditional gender roles and promoting a more equal distribution of caregiving responsibilities. This approach not only benefits fathers by allowing them to bond with their children but also helps break down stereotypes surrounding gender and parenting. Compulsory and non-transferable leave for both parents, of the kind of “birth-related leave” introduced in Spain,<sup>245</sup> sends a strong message to the companies pushing them to change their organisational practices. Therefore, they are important to tackle the structural dimension of inequality. Another example is the newly passed EU Work-Life Balance Directive which aims to promote gender equality by introducing measures such as flexible working arrangements and improved access to childcare, enabling both men and women to better balance their work and private lives.<sup>246</sup>

Furthermore, boundary and border theories are also important in the literature in terms of women’s labour market participation. They are rooted in *role theory* and focus on the division of life into different domains, such as physical and psychological boundaries.<sup>247</sup> Desrochers and Sargent add that future blending may occur where people are daily border-crossers

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<sup>242</sup> Karen Johnston, Jagriti Tanwar, Susana Pasamar, Darren Van Laar, and Annali Bamber Jones, ‘Blurring boundaries: work-life balance and unbounded work in academia. The role of flexibility, organisational support and gender’ [2022] 32 *Labour and Industry* 2.

<sup>243</sup> Thomas Kalliath, and Paula Brough, ‘Work–life balance: A review of the meaning of the balance construct’ [2008] 14 *Journal of management & organization* 3, 323, 326.

<sup>244</sup> Karen Johnston, Jagriti Tanwar, Susana Pasamar, Darren Van Laar, and Annali Bamber Jones, ‘Blurring boundaries: work-life balance and unbounded work in academia. The role of flexibility, organisational support and gender’ [2022] 32 *Labour and Industry* 2.

<sup>245</sup> Royal Decree 6/2019, of 01 March 2019, of urgent measures to guarantee equality of treatment and opportunities between women and men in employment and occupation. It combines features of paternity leave and parental leave as defined and regulated in Articles 3 to 5 of Directive 2019/1158. In the case of the father/other parent, the birth-related leave is intended for the provision of care to the child, and it consists of a period of 16 weeks, the first 6 of which are compulsory and must be used immediately after the birth of the child, full-time and without interruption. Dolores Morondo Taramundi, ‘Country report on gender equality in Spain’ (European Commission 2022).

<sup>246</sup> Council Directive 2019/1158 of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU [2019] OJ L 188/79.

<sup>247</sup> Christena E. Nippert-Eng, *Home and Work: Negotiating Boundaries Through Everyday Life* (Chicago: University of Chicago Press 1996).

between the different domains.<sup>248</sup> The blurring of boundaries between the work and non-work domains increased during the Covid-19 lockdowns where women were working from home, often home-schooling children and continuing to carry the burden of household chores or domestic labour.<sup>249</sup>

In general, in addition to high ratios of part-time working women, low payments and *gender-segregated labour markets* are other indisputable problems that women confront in labour markets all over the world. Segregation in the labour market emerges at two levels: Horizontal and vertical. *Horizontal segregation* refers to a higher concentration of women or men in certain occupations or economic sectors. Typically, men are overrepresented in industrial sectors and financial business services, where higher-paying job opportunities are often available. Anker stresses that horizontal segregation is a practically ubiquitous feature of contemporary socio-economic systems,<sup>250</sup> whereas Rubery points out the tendency of states to employ women in public sector services.<sup>251</sup> To illustrate, women tend to be more prevalent in vulnerable employment, such as in the services, agriculture, textile, or low-end manufacturing sectors. In turn, this makes women more susceptible to the negative impacts of economic downturns. *Vertical segregation*, on the other hand, is the absence of women's representation in decision-making, top roles within industries or occupations. This phenomenon is associated with gender inequality and reflects the barriers and biases that can prevent women from advancing to the highest levels of their chosen fields. It can be attributed to various factors, including traditional gender roles and stereotypes, lack of mentorship and sponsorship opportunities, limited access to networks, and biases in hiring and promotion processes.

Another concept related to women's work is the '*glass ceiling*'. It is used to describe the challenges and obstacles that prevent women from holding leadership and executive roles in organisations. Vertical segregation and glass ceiling are concepts nowadays harmonised with a third concept of '*sticky floor*' which describes the tendency to keep women at the lowest levels of employment; a metaphor to explain the difficulties women face when they try to advance in their careers. In other words, sticky floors function in accordance with masculine organisational cultures; preventing women from advancing in their careers and attaining executive positions whilst promoting and favouring men who are of comparable status in rank to women. The results are often '*leaky pipelines*' and the '*vanish box*.' The '*leaky pipeline*' concept, which places an emphasis on linear development through a number of staged jobs in academia, predicts a loss of female talent at each significant turning point.

<sup>248</sup> Stephen Desrochers, and Leisa D. Sargent, 'Boundary/border Theory and Work family Integration' [2004] 1 Organization Management Journal 1.

<sup>249</sup> Stephen Corbett, Karen Johnston, and Adele Bezuidenhout, 'Further education workforce wellbeing: Did Covid actually change anything?' [2023] Educational Management Administration & Leadership.

<sup>250</sup> Richard Anker, *Gender and Jobs: Sex Segregation of Occupations in the World* (Geneva: International Labour Office 1998).

<sup>251</sup> Rubery Jill, Smith Mark, and Fagan Collette, *Women's Employment in Europe: Trends and Prospects* (London: Routledge 1999).

According to Etzkowitz and Ranga, the ‘pipeline model’ implicitly presupposes that the institutional spheres of academia and business are divided by rigid walls that uphold a static social structure of science and technology.<sup>252</sup> However, the authors go beyond the leaky pipeline concept and demonstrate that there are new occupations emerging for women scientists at the intersection, which they call the ‘vanish box phenomenon’, e.g., technology transfer. The vanish box concerns women scientists who leave academia for more favourable work conditions. The vanish box phenomenon provides a suitable metaphor for the transition, according to the authors, as it refers to the recouping of women scientists, rather than their sheer loss, through their reinsertion into an alternative context in which their value may be realised and potentially capitalised upon to an even greater extent than in the original academic context.

Understanding the effects on women's lives and opportunities depends on how states regulate women's participation in the labour market. It is an undeniable fact that women are confronted with numerous obstacles and compromises as they take on employment, owing to contrasting state policies, national welfare programs, societal mores, and cultural frameworks that perpetuate gender roles and stereotypes. This is further exacerbated by the pre-existing disparities arising from social class and racial divisions in societies. Waring, in her ground-breaking work, “If Women Counted”, challenged traditional economics and demonstrated the flaws in conventional economic systems that fail to acknowledge the unpaid work performed by women such as housework, childcare, community activities, farming, and so on.<sup>253</sup> Since conventional economic indicators like GDP, prioritise production and profit over social well-being, disregarding the importance of women's work in sustaining societies, they reinforce gender-based disparities.<sup>254</sup> According to Waring, it is necessary to recognise and value women's unpaid work to inform policy-making, budget allocation, and resource distribution more accurately in order to create a more inclusive and equitable economic system.<sup>255</sup> In other words, she advocates for a more inclusive approach to economics, where women's unpaid work is recognised, valued, and integrated into national accounting systems, offering a more accurate understanding of economic productivity and well-being. Gender-based economic inequality often results in women having limited access to education, leadership, and economic opportunities. Reducing this inequality ensures that all individuals have an equal chance to succeed and reach their full potential. These observations support the RE-WIRING Project's exploration transformative policies to encourage and foster women's access to economic opportunities.

Addressing gender-based violence and economic inequalities is a necessary task to develop an effective transformative equality approach. Gender-based violence is fundamentally

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<sup>252</sup> Henry Etzkowitz and Marina, ‘Gender dynamics in science and technology: From the “leaky pipeline” to the “vanish box”’ [2011] 54 *Brussels Economic Review* 2/3.

<sup>253</sup> Marilyn Waring, *If Women Counted: A New Feminist Economist* (San Francisco:Harper Collins Publishers 1988).

<sup>254</sup> *Ibid.*

<sup>255</sup> *Ibid.*

linked to discrimination against women and the violation of their human rights. Ending violence requires deep societal transformations in education, culture, policy-making, employment, and media.

## 8. Women's Representation, Inclusion, and Empowerment: Building blocks for our Transformative Equality Approach and Concluding Remarks

The RE-WIRING project's transformative equality approach is envisioned to be a comprehensive strategy that aims to target the institutional, experiential, and symbolical aspects of inequality. In this last section, we look out for existing methods, concepts, and approaches that, combined with the concepts we have discussed above, show potential to bring transformation in cross-cultural contexts.

We take as a starting point for this the institutional change theory as developed by Scott, who posits that to bring about real organisational change three pillars that underpin institutions need to be addressed; "institutions comprise regulative, normative and cultural-cognitive elements that, together with associated activities and resources, provide stability and meaning to social life".<sup>256</sup> As such, these pillars connect very well to RE-WIRING's three-dimensional multidisciplinary approach. To explain, in an instrumental sense, the regulative pillar of institutions constrains and regularises behaviour and refers to rule-setting, monitoring and enforcement/sanctioning activities and mechanisms. The normative pillar underscores that there is not only a logic of 'instrumentality' that underpins institutions, but also a logic of 'appropriateness' that rests on certain values and norms. These introduce a prescriptive, evaluative and obligatory dimension into social life. So, the emphasis is here on how institutions should be and behave from a value perspective. This links very much with the institutional level of inquiry of the RE-WIRING project, which focuses foremost on the legal and policy responses and therewith on the regulative, as well as normative dimensions of the required institutional change. The cultural-cognitive pillar refers to "the shared conceptions that constitute the nature of social reality and create the frames through which meaning is made."<sup>257</sup> Every human institution is seen as a kind of sedimentation or crystallisation of meanings and its interpretive, internal processes are shaped by external cultural frameworks. Beyond that, there is also a recognition that symbolic processes work to construct social reality, including the definition of the nature and properties of social actors and

<sup>256</sup> W. Richard Scott, *Institutions and Organizations. Ideas, Interests and Identities* (Sage Publications, 2013, p. 56).

<sup>257</sup> *Ibid*, p. 67.

of social actions.<sup>258</sup> The experiential level of analysis ties in very much with both the normative and cultural-cognitive pillars for bringing about institutional change. The symbolical level in our approach clearly ties in with both the cultural-cognitive and symbolic pillars that are underscored in institutional change theory and that need addressing for changing the "software of the mind".<sup>259</sup>

Against this background, this section sets out to explore how transformative equality has been understood so far and how it could be further enriched. It then defines several concepts that are useful for appreciating the complexity of inequality (intersectional discrimination), to make the most of the legal tools and categories to fight discrimination and promote equality (subordination, eradicating stereotypes), to foster institutional transformation (mainstreaming gender), and to modify social beliefs about men and women. Subsequently, the section explores how economic empowerment may be employed to address inequality, and it concludes by stressing the importance of building allyships with other oppressed and dominant groups in order to achieve societal transformation.

All of these concepts are indispensable for realising RE-WIRING's transformative approach to equality, as the project aims to address the underlying causes of inequality and create lasting change through institutional transformation. We hope to bring successful methods together in the project's best practice maps and toolkits. This section further serves as our final reflections, constituting an open-ended reflection on a way forward highlighting promising avenues for transformation. The threads we begin to weave together here will be picked up in subsequent tasks and deliverables of the RE-WIRING project. This is therefore not a conclusion as such, but an invitation to further explore what tools we already have to our disposal and which gives us the opportunity to identify areas where innovative ideas can still be developed.

### a. The concept of Transformative Equality

Transformative equality is developed in the context of doctrinal legal scholarship to go beyond the limits of formal/substantive equality (or also a synonym of substantive equality), and particularly to the individualistic understanding of equality as equal treatment. It points to the need to transform the root-causes of inequality.

Transformative equality is not a one-way formula but is usually understood as encompassing different strategies. CEDAW's understanding of the principle of non-discrimination is considered an example of transformative equality,<sup>260</sup> as it obliges States to fight direct and

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<sup>258</sup> Ibid, p. 68.

<sup>259</sup> Ibid, p. 67.

<sup>260</sup> Sandra Fredman, 'Beyond the Dichotomy of Formal and Substantive Equality: Towards a New Definition of Equal Rights', in Ineke Boerefijn, Fons Coomans, Jenny E. Goldschmidt, and others (eds.) *Temporary Special Measures:*



indirect discrimination, adopt measures to ensure *de facto* equality, and address harmful stereotypes that lay at the root of social and cultural patterns that privilege some groups over others.<sup>261</sup> Beyond its multi-faceted approach, CEDAW is considered to implement transformative equality in that it imposes on states to take actions that transform the root causes of inequality, e.g. through dismantling stereotypes.

Fredman's approach is illustrative of this complex understanding, as she developed a four-dimensional approach to equality that suggests that the right to equality should: redress disadvantage, address stigma, stereotyping, prejudice, and violence; enhance voice and participation; accommodate difference; and achieve structural change.<sup>262</sup> This approach stems from the principle that the right to equality should be located in a social context. Fredman considers it an analytic framework, rather than a definition of substantive equality. By using this four-dimensional approach, we can concentrate on how they interact and work together rather than trying to establish a lexical priority. For example, in the study Fergus conducted, the multidimensional framework for substantive equality is proposed as the most fitting model for employee representation in the context of collective bargaining under the Labour Relations Act 66 of 1995 in South Africa.<sup>263</sup>

Fredman's approach had wide success but also met with some criticism as it does not include the idea of social hierarchy and power, which should be the core of substantive equality and would be key in establishing most of the dimensions that the approach addresses, e.g., determining disadvantage, stigma, and stereotyping.<sup>264</sup> Disadvantage and participation are not inherently substantive and could be interpreted symmetrically, if not anchored in the idea of pre-existing social hierarchies. Similarly, accommodation and positive action, if not granted in the hierarchy, risk being framed as special treatments, therefore enhancing the group's stigmatisation. According to MacKinnon, "inequality, substantively speaking, is always a social relation of rank ordering, typically on a group or categorical basis—higher and lower".<sup>265</sup> It is the social hierarchy that determines what amounts to inequality. Social hierarchy and power are dimensions embedded in the notion

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*Accelerating De Facto Equality of Women under Article 4(1) UN Convention on the Elimination of All Forms of Discrimination Against Women* (Intersentia 2003).

<sup>261</sup> CEDAW Committee, *General Recommendation No. 25 on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures* [2004] <[https://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](https://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf)> (accessed 29 September 2023).

<sup>262</sup> Sandra Fredman, 'Substantive Equality Revisited' [2016] 14 *International Journal of Constitutional Law* 712.

<sup>263</sup> Emma Fergus, 'Reimagining employee representation in the context of collective bargaining under the Labour Relations Act 66 of 1995: The imperative of substantive equality and decent work' [2021] 37 *South African Journal on Human Rights* 313.

<sup>264</sup> Catharine MacKinnon, 'Substantive equality revisited: A reply to Sandra Fredman' [2016] 14 *International Journal of Constitutional Law* 739, 744.

<sup>265</sup> Catharine MacKinnon, 'Substantive Equality: A Perspective' [2011] 96 *Minnesota Law Review* 11.

of patriarchy (see section 6, pg. 53), and in the understanding of gender as hierarchy (see section 5b, pg. 52).

Another example of transformative equality is the concept of unfair discrimination contained in the South African Constitution,<sup>266</sup> which focuses on the impact of discrimination (see section 4f, pg. 44). Moreover, the Constitution includes socio-economic rights (e.g., access to adequate housing, health care services, sufficient food and water, and social security), and thus has the potential to enable social and economic change.<sup>267</sup> This potential has been referred to as “transformative constitutionalism”. The equality debate in South Africa is focused less on formal and more on different ideas of substantive equality, that can be described as ‘inclusionary’ vs. ‘transformatory’ approaches: a liberal egalitarian/social democratic one (the one endorsed by the jurisprudence of the SACC), and a more transformative/democratic socialist approach, aimed at greater material equality and reduction of economic hierarchies, which is embedded in the Constitution but not yet translated into laws and policies.<sup>268</sup> The liberal egalitarian/social democratic understanding defines “substantive equality as sufficiency within a limited welfare state”, and it is not able to address the foundations of inequality, as it does not address the issue of power, according to Albertyn.<sup>269</sup> The transformative/radical social democratic understanding, instead, aims at changing the conditions of inequality and removing barriers to freedom, while also creating the conditions of equality. Another example of substantive/transformative equality is the Canadian Supreme Court jurisprudence.<sup>270</sup>

Hereafter, we discuss the concepts that are needed to develop our TEA and that show the potential to foster institutional and social transformation. Some of these concepts still face obstacles (cultural, political, etc.) for their effective implementation or need further theoretical development to be operationalised. Nonetheless, they are, to date, the most essential elements to build upon to develop a transformative equality approach. This is not an exhaustive list of what is needed for a TEA, and we leave space for new insights to be integrated into the subsequent steps of the research. Figure 7 below is a visual representation of the building blocks of RE-WIRING’s TEA.

<sup>266</sup> Constitution of the Republic of South Africa, 1996, Section 9. See also the case *Prinsloo v Van der Linde* 1997 (6) BCLR 759 (CC) (South African Constitutional Court); Sandra Fredman ‘Comparative study of anti-discrimination and equality laws of the US, Canada, South Africa and India’ (European Commission 2012).

<sup>267</sup> Cathy Albertyn, ‘(In)equality and the South African Constitution’ [2019] 36 Development Southern Africa 751.

<sup>268</sup> Cathy Albertyn, ‘Contested substantive equality in the South African Constitution: beyond social inclusion towards systemic justice’ [2018] 34 South African Journal on Human Rights 441.

<sup>269</sup> Cathy Albertyn, ‘(In)equality and the South African Constitution’ [2019] 36 Development Southern Africa 751, 758.

<sup>270</sup> See the cases *Andrews v Law Society of British Columbia*, [1989] 1 SCR 143 (Supreme Court of Canada); *R v Kapp* 2008 SCC 41 (Supreme Court of Canada), and in particular the development of the substantive test of historical disadvantage.

i. Intersectional discrimination

In her seminal work on intersectionality and law, Crenshaw explores the limitations of anti-discrimination law with regard to intersectional forms of discrimination, namely those which stem from the intersection of different inequality systems.<sup>271</sup> She sets out the critique of the foundation of anti-discrimination law, in particular its single-axis approach (understanding sex and race discrimination as mutually exclusive categories), the use of the comparator, and the meaning of ‘grounds’ of discrimination; who is the woman sex discrimination law protects, are the experiences of racialised women included; and who is the man race discrimination protects, in particular, is this category actionable by racialised women? Her work further exposed the limitations of anti-discrimination law, by illustrating how it is unable to address forms of discrimination that go beyond the experiences of either white women or black men. The *DeGraffenreid v General Motor* case is paradigmatic in showing these limitations.<sup>272</sup> Black women were disproportionately affected by a seniority-based layoff policy adopted by the company. A group of black women affected by the policy argued that it discriminated against them because of the intersection of gender and race, but the Court rejected this argument, stating a “third” category should have been created to address the harm they suffered.

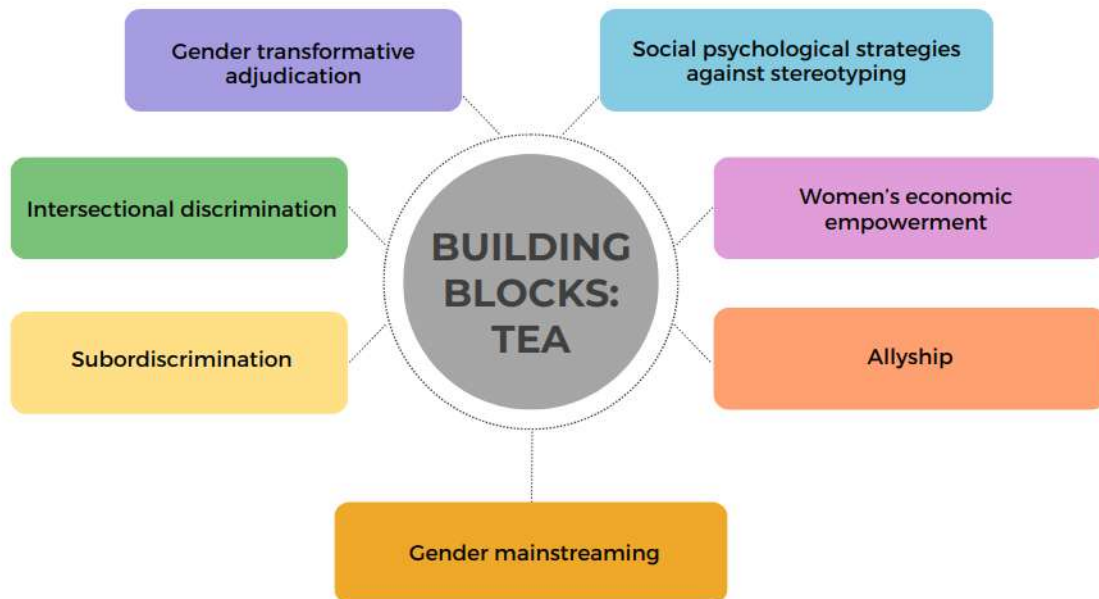


Figure 7. Building blocks of RE-WIRING’s Transformative Equality Approach (TEA)

<sup>271</sup> Kimberlé Crenshaw, ‘Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics’ [1989] The University of Chicago Legal Forum 139.

<sup>272</sup> *DeGraffenreid v General Motors* 413 F. Supp. 142 (1976) (United States District Court, District of Missouri).

There are different understandings of intersectionality in legal scholarship (and beyond): it is understood as a theory of intersecting identities or as an analytical lens to explore the limits of anti-discrimination law in grasping group oppression. While the first understanding might be useful to design policy responses, it reinforces the idea that differences are intrinsic to individuals and, ultimately, would lead anti-discrimination law to expand its list of protected categories, determining that each suffers a unique and qualitatively different form of inequality. Moreover, this leads to raising the standard of proof in the case of intersectional discrimination. This is the case of the Spanish integral law 15/2022 for equal treatment and non-discrimination, where Article 6, 3(c) requires intersectional discrimination to be proved for each of the grounds.

Intersectionality is not defined in EU law, nor has it been adopted by the CJEU. In fact, the Court has excluded the possibility of arguing an intersectional case on the basis of the Equality Directives.<sup>273</sup> Other cases of missed intersectionality are related to face veil bans.<sup>274</sup> The ECtHR has also refrained from using this concept and preferred others, like vulnerability.<sup>275</sup> If not accompanied by a pre-recognition of power systems, intersectionality can also open the space for regressive applications, as in the example of a sentencing reform in Canada, which was aimed at reducing the over-incarceration of Aboriginal people but resulted in worsening the situation for Aboriginal women. Contextualising their offences through their intersectional identities resulted in the reinforcement of stereotypes about their tendency to lawbreaking, thus making them more likely to be targeted by the criminal system.<sup>276</sup>

## ii. Subordiscrimination

An alternative concept that goes beyond the individualistic notion of equal treatment, is that of subordiscrimination, coined by Barrère.<sup>277</sup> 'Subor' stands for subordination, and it reintroduces into the concept of discrimination the issue of 'power over' certain groups. Subordiscrimination is a set of unequal treatments that, obtaining their meaning in one or various power systems, diminish the social status of certain social groups, reproduce the diminished status, and prevent it from changing. It is understood as *an umbrella term* to refer to the social phenomenon of inequality and distinguish it from the legal/technical term of discrimination, which is limited to the breach of (individual) equal treatment as sameness. Barrère coined the term subordiscrimination due to the fact that other concepts such as

<sup>273</sup> Case C-443/15, *David L. Parris v Trinity College Dublin and Others*. ECLI:EU:C:2016:897.

<sup>274</sup> Case C-157/15 *Samira Achbita and Centrum voor gelijkheid van kansen en voor racismebestrijding v G4S Secure Solutions NV* ECLI:EU:C:2017:203; Case C-188/15 *Asma Bougnaoui and ADDH v Micropole SA*, EU:C:2017:204.

<sup>275</sup> *B. S. v Spain*, App. 47159/08 (ECHR 24 July 2012) ECLI:CE:ECHR:2012:0724JUD004715908.

<sup>276</sup> Toni Williams, 'Intersectionality analysis in the sentencing of Aboriginal women in Canada: What difference does it make?' In Emily Grabham, Davina Cooper, Jane Krishnadas, Didi Herman (eds.), *Intersectionality and Beyond: Law, Power and the Politics of Location* (Routledge-Cavendish 2008).

<sup>277</sup> María Ángeles Barrère Unzueta, *El Derecho Antidiscriminatorio y sus límites. Especial Referencia a la Perspectiva lusfeminista* (Grijley 2014).

institutional, structural, and systemic discrimination are too interchangeable and lose their specific meanings, none of them explicitly referring to ‘power’, whereas subordination intentionally seeks to re-politicise the concept of discrimination.

Re-connecting the concept of discrimination to oppression and structural inequality, subordination demonstrates that what the law sees in individual litigation are individual manifestations of a broader system of oppression.<sup>278</sup> The term would allow us to capture what is behind individual cases (where they stem from) - which is the systemic, structural, and group-based dimension of inequality. Also, it expands the notion of discrimination to include violence against women, job segregation, care gaps, etc. that are also covered in various work packages of the RE-WIRING Project. We include all of these discrimination concepts in RE-WIRING, since each of them emphasises a different aspect of discrimination at a given point, but we can use subordination when we want to refer to them all.

## **b. Eradicating gender stereotyping: transformative equality strategies**

### **i. Gender-transformative law- and policy responses and gender mainstreaming**

Acknowledging that gendered power hierarchies operate both in the public and the private domains and that they are reinforced during different crises, the RE-WIRING project aims at developing tools to address inequalities in all its dimensions. In this sense, the project refuses gender-blind solutions and seeks to go beyond gender-sensitive approaches and concepts to embrace truly transformative solutions. According to EIGE, gender blindness consists of “the failure to recognise that the roles and responsibilities of women/girls and men/boys are ascribed to, or imposed upon, them in specific social, cultural, economic and political contexts”, whereas gender-sensitive policies and programmes are those that “take into account the particularities pertaining to the lives of both women and men, while aiming to eliminate inequalities and promote gender equality, including an equal distribution of resources, therefore addressing and taking into account the gender dimension”.<sup>279</sup> The Gender Equality Continuum Tool (GECT) established by the Interagency Gender Working Group (IGWG) is a valuable instrument to identify whether an intervention is gender blind, gender-aware, and to what extent it leads to social and institutional transformation.<sup>280</sup>

Gender mainstreaming was established internationally as a global strategy for gender equality at the United Nations Fourth World Conference on Women in Beijing in 1995. It became the official policy approach in the European Union and its Member States in the Amsterdam Treaty (1997), and the legal basis was strengthened in Article 8 TFEU, which commits both to eliminating inequalities and promoting the principle of equality between

<sup>278</sup> Ibid 128.

<sup>279</sup> EIGE, ‘Gender Equality Glossary & Thesaurus’, <<https://eige.europa.eu/publications-resources/thesaurus/overview>> accessed 29 September 2023.

<sup>280</sup> The Gender Equality Continuum Tool <<https://www.igwg.org/2022/09/igwg-gender-integration-continuum-graphic-now-available-in-french-portuguese-and-spanish/>> (accessed 29 September 2023).

women and men in all their actions. Gender mainstreaming consists of incorporating a gender approach across all sectors and policy areas, and adopting specific positive action measures to eliminate, prevent or remedy inequalities that affect women. This approach was first set out in the EC Communication on incorporating equal opportunities for women and men in all community policies and activities, adopted in 1996.<sup>281</sup> As defined in that Communication, gender mainstreaming requires going beyond “specific measures to help women”, and “mobilise all general policies and measures specifically for the purpose of achieving equality”.

Article 8 TFEU provides that the EU’s own actions will be based on the aim of eliminating inequalities and promoting equality between men and women.<sup>282</sup> From an intersectional perspective, it is important to also recall Article 10 TFEU, which provides that the EU shall combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation.

The obligation of gender mainstreaming extends to all Member States, which shall actively take into account the objective of equality when formulating and implementing laws, regulations, administrative provisions, policies, and activities.<sup>283</sup> As a result, in addition to the EU directives adopted in the field of gender equality,<sup>284</sup> there have been special EU pacts and programmes to realise equality between women and men, such as the European

<sup>281</sup> European Commission, ‘Incorporating equal opportunities for women and men into all Community policies and activities’ (Communication) COM(96) 67 final, 2.

<sup>282</sup> Treaty on the Functioning of the European Union [2016] OJ C 202/53. Sacha Prechal, and Susanne Burri, ‘EU rules on gender equality: How are they transposed into national law?’ [2009] *European Community Programme for Employment and Social Solidarity* 3 <[http://ec.europa.eu/justice/gender-equality/files/your\\_rights/eurulesongenderequalitytranspositionfinal2009\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/your_rights/eurulesongenderequalitytranspositionfinal2009_en.pdf)> accessed 29 September 2023.

<sup>283</sup> Susanne Burri and Sacha Prechal, ‘Comparative approaches to gender equality and non-discrimination within Europe’ in Dagmar Schiek and Victoria Chege (eds), *European Union Non-Discrimination Law* (Routledge-Cavendish 2009).

<sup>284</sup> Key EU directives in gender equality and non-discrimination: Council Directive 75/117/EEC on Equal Pay for Men and Women [1975] OJ L 45/19; Council Directive 76/207/EEC on Equal Treatment for Men and Women in Employment & Working Conditions [1976] OJ L 39/40; Council Directive 79/7/EEC Equal Treatment for Men and Women in Social Security [1979] OJ L 6/24; Council Directive 86/378/EEC Equal Treatment in Social Security Schemes [1986] OJ L 225/40; Council Directive 86/613/EEC Self-employment incl. Agriculture [1986] OJ L 359/56; Council Directive 92/85/EEC Protection of Pregnant Workers [1992] OJ L 348/1; Council Directive 96/34/EC Parental Leave by UNICE, CEEP and the ETUC [1996] OJ L 145/4; Council Directive 97/80/EC the Burden of Proof in cases of Discrimination based on Sex [1997] OJ L 14/6; Council Directive 97/81/EC Part-time Work [1998] OJ L 14/9; Council Directive 2000/43/EC Racial Equality [2000] OJ L 180/22; Council Directive 2000/78/EC Employment Equality [2000] OJ L 303/16; Council Directive 2004/113/EC Equal Treatment in the Access to and Supply of Goods and Services [2004] OJ L 373/37; Council Directive 2010/18/EU Parental Leave [2010] OJ L 68/13; Directive 2011/36/EU preventing and combating trafficking in human beings [2011] OJ L 101/1; Directive 2012/29/EU minimum standards on the rights, support and protection of victims of crime [2012] OJ L 315/57; Directive 2019/1158/EU Work-life Balance [2019] OJ L 188/79; Directive 2022/2381/EU Improving the Gender Balance among Directors of Listed Companies and Related Measures [2022] OJ L 315/44; Directive 2023/970 to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms [2023] OJ L 132/21.

Commission Gender Equality Strategy 2020-2025,<sup>285</sup> or Employment NOW (New Opportunities for Women).<sup>286</sup> Internal structures that take up the related responsibilities are the Gender Equality Unit in DG Justice to coordinate the Commission's work, the Inter-Service Group for Gender Equality, with members from all Commission DGs and services, and the High Level Group on gender mainstreaming. Importantly, the European Institute for Gender Equality (EIGE) has developed several toolkits on how to implement gender mainstreaming, which include diverse tools to integrate gender at the different stages of the policymaking process (defining, planning, implementing and checking): gender statistics, gender analysis, gender impact assessment, gender stakeholders consultation; gender budgeting, gender procurement, gender indicators; gender equality training, gender-sensitive institutional transformation, gender awareness-raising, gender monitoring, and gender evaluation.<sup>287</sup>

For example, *gender budgeting* is the application of gender mainstreaming in the budgetary process, and requires incorporating a gender perspective at all levels of the budgetary process and restructuring revenues and expenditures to promote gender equality.<sup>288</sup> It consists of (1) gender-based assessment, to make the impacts visible as a starting point; (2) working towards changes to promote gender equality based on the results of the analysis and potentially identified gender gaps and shortcomings; and (3) organising gender budgeting work through a combination of governmental and non-governmental actors.<sup>289</sup> By revealing the different impacts of spending and revenue decisions on women and men, gender budgeting can lead to reviewing public finance decisions to ensure inequalities are not perpetuated but challenged.

Although gender mainstreaming has been welcomed as transformative,<sup>290</sup> it took decades to see practical results in terms of law- and policy-making in the EU. According to Miller, the problem with gender mainstreaming is the lack of representation: it is the lack of women in

<sup>285</sup> European Commission, 'A Union of Equality: Gender Equality Strategy 2020-2025' (Communication) COM (2020) 152 final.

<sup>286</sup> The main goals of the programme were to: (a) reduce unemployment amongst women, (b) improve the position of those already in the workplace, (c) develop innovative strategies in response to changes in the organisation of work and job requirements, with a view to reconciling employment and family life. In: Verena Schmidt, *Gender Mainstreaming - an Innovation in Europe? The Institutionalisation of Gender Mainstreaming in the European Commission* (Barbara Budrich Publishers 2005).

<sup>287</sup> EIGE, 'Gender mainstreaming', <<https://eige.europa.eu/gender-mainstreaming>> accessed 29 September 2023; and Council of Europe, 'Gender mainstreaming. Conceptual framework, methodology and presentation of good practices' [2004] Directorate of Human Rights, Strasbourg.

<sup>288</sup> This is the definition given by the CDEG's informal group of experts on gender budgeting, see Council of Europe, 'Final report of the Group of Specialists on Gender Budgeting' [2005] (EG-S-GB), EG-S-GB (2004) RAP FIN; Equality Division, Directorate General of Human Rights, 10.

<sup>289</sup> EIGE, 'Gender Budgeting: Mainstreaming gender into the EU budget and macroeconomic policy framework' [2019] <[https://eige.europa.eu/sites/default/files/documents/mh0118419enn\\_002.pdf](https://eige.europa.eu/sites/default/files/documents/mh0118419enn_002.pdf)> accessed 29 September 2023.

<sup>290</sup> Rachel Minto, and Lut Mergaert, 'Gender mainstreaming and evaluation in the EU: comparative perspectives from feminist institutionalism' [2018] 20 *International Feminist Journal of Politics* 204; and Emanuela Lombardo, and Petra Meier, 'Gender Mainstreaming in the EU: Incorporating a Feminist Reading?' [2006] 13 *European Journal of Women's Studies* 151.

senior positions within the civil service that hinders gender mainstreaming in policy formulation, in addition to a lack of commitment, limited resources, and expertise among policymakers.<sup>291</sup> In other words, without dealing with the disproportionate representation of men in senior positions, the implementation of gender equality policies will continue to be challenging. Nevertheless, Miller discusses two approaches to gender mainstreaming that can be helpful: *integrationist and agenda-setting/participatory*. The *integrationist* approach involves gender experts in mainstreaming gender equality, while the *participatory approach* involves mobilising interest groups in decision-making. The *participatory approach* is seen as more transformative, but the integrationist approach is more appealing to policy technocrats and gender mainstreaming experts. For example, in the UK, the government introduced a Gender Equality Duty (GED) in the Equality Act (2006), and mandated public sector organisations to promote gender equality in policy and service delivery. However, its success was limited due to the under-representation of women in senior civil service positions and gender discrimination and segregation in organisations and professions. The vertical and horizontal occupational gender segregation in public policy limits the success of mainstreaming gender equality.<sup>292</sup> The GED's success depends on gender equality being mainstreamed into policy formulation, but women are also underrepresented in this area.

There are some explanations as to the mechanisms that prevent gender mainstreaming from being fully implemented. Minto and Mergaert suggested that bureaucratic neutrality and the practice of “institutional layering” (adding new rules on top of old ones, without modifying the latter) are among these mechanisms.<sup>293</sup> Such obstacles are important to take into account in developing our TEA and subsequent policy recommendations in order to foster effective institutional transformation.

It is especially in times of crises where gender-transformative solutions are most needed but very often neglected. As an example, during the COVID-19 crisis, the lack of women's participation in decision-making<sup>294</sup> and the gender-blindness of policy measures led to exacerbate further existing inequality,<sup>295</sup> demonstrating the relevance of the crisis perspective in designing transformative solutions.

<sup>291</sup> Karen Miller, 'Public policy dilemma—gender equality mainstreaming in UK policy formulation' [2009] 29 Public Money & Management 1, 43.

<sup>292</sup> Karen Johnston, 'Women in public policy and public administration?' [2019] 39 Public Money & Management 3, 155.

<sup>293</sup> Rachel Minto, and Lut Mergaert, 'Gender mainstreaming and evaluation in the EU: comparative perspectives from feminist institutionalism' [2018] 20 International Feminist Journal of Politics 204.

<sup>294</sup> Birte Böök, Franka van Hoof, Linda Senden and Alexandra Timmer, 'Gendering the COVID-19 crisis: a mapping of its impact and call for action in light of EU gender equality law and policy' [2020] 2 European Equality Law Review 22.

<sup>295</sup> Roberto Cibir, Tereza Stöckelová, and Marcela Linková, 'RESISTIRE D2. 1-Summary Report mapping cycle 1' [2021], <<https://doi.org/10.5281/zenodo.6325633>> accessed 29 September 2023; and Rosamund Shreeves 'Covid-19: The need for a gendered response' [2021] European Parliamentary Research Service <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689348/EPRS\\_BRI\(2021\)689348\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689348/EPRS_BRI(2021)689348_EN.pdf)> accessed 29 September 2023.



## ii. Gender-transformative adjudication

Beyond gender mainstreaming, and pre- and post-evaluation of policy impact on gender equality, laws and policies across the EU and Member States should also be applied and interpreted from a gender perspective. Both during the legislative process and in legal proceedings, a gender transformative approach and an anti-stereotyping approach should be adopted to refrain from gender stereotyping, challenge its use, and transform the laws, policies, and practices, that reinforce stereotyped views about the inferiority of women and the superiority of men.

Against this background, interest in gender-sensitive adjudication has increased, and anti-stereotyping approaches to judicial reasoning. Stereotypes are still mostly addressed in soft law both within the EU and CoE (Gender Equality Strategies mention them in relation to Education, Media, and Gender-based violence), and through awareness-raising campaigns and programmes (see the campaign launched by the European Commission “End Gender Stereotypes”).<sup>296</sup> No legal definition has been adopted so far.

At the international level, the CEDAW is the core legal framework for combating harmful stereotypes, through the interpretation of articles 2(f) (other limbs are also invoked) and 5(a). States’ obligations to eliminate all forms of discrimination include eliminating wrongful stereotypes in the public and private sphere, and by all branches of the State,<sup>297</sup> by modifying laws and practices, and by transforming cultural patterns of behaviour. In its General Recommendation no. 33 on access to justice, the CEDAW Committee warned about the negative impact of stereotyping on the evaluation of evidence, particularly in criminal cases of violence against women, and called on states to modify laws and practices that lead to diminishing women’s voices at trial and adopt rigid standards about the behaviour of victims of gender-based violence.<sup>298</sup>

Under EU law, stereotypes are not explicitly defined or addressed. However, the CJEU has at times hinted at the eradication of gender stereotypes, and, thus, at transformative equality, and addressed stereotypes through positive action. This was the case in the *Marschall* judgment,<sup>299</sup> relating to gender stereotypes of women in the workplace. The impugned provision established that ‘women are to be given priority for promotion in the event of equal suitability’, ‘unless reasons specific to an individual [male] candidate tilt the balance in his

<sup>296</sup> ‘Rethinking our perspectives: let’s discuss gender stereotypes’ <[https://end-gender-stereotypes.campaign.europa.eu/index\\_en](https://end-gender-stereotypes.campaign.europa.eu/index_en)> (accessed 29 September 2023).

<sup>297</sup> CEDAW Committee, *General Recommendation No. 25 on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures* [2004] <[https://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](https://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf)> (accessed 29 September 2023).

<sup>298</sup> CEDAW Committee, *General Recommendation No. 33 on Women’s Access to Justice*, CEDAW/C/GC/33, [2015] <<https://digitallibrary.un.org/record/807253?ln=en>> (accessed 29 September 2023).

<sup>299</sup> Case C-409/95 *Hellmut Marschall contra Land Nordrhein-Westfalen*, 11 November 1997, ECLI:EU:C:1997:533.

favour.’ The rule was challenged by a male worker as discriminatory based on sex. As the Court pointed out,

“even where male and female candidates are equally qualified, male candidates tend to be promoted in preference to female candidates particularly because of prejudices and stereotypes concerning the role and capacities of women in working life and the fear, for example, that women will interrupt their careers more frequently, that owing to household and family duties they will be less flexible in their working hours, or that they will be absent from work more frequently because of pregnancy, childbirth and breastfeeding” (para 29).

The CJEU has addressed gender stereotypes in the *Roca Álvarez* case and *Maistrellis* case, although not in an explicit manner. In the *Roca Álvarez* case, for example, the Court established that working parents (male and female) are in a comparable situation regarding the need to reduce working hours to look after their child. Holding that only working mothers are entitled to breastfeeding leave, it is liable to “perpetuate a traditional distribution of the roles of men and women by keeping men in a subsidiary role to that of women in relation to the exercise of their parental duties” the Court argued.<sup>300</sup> Interestingly, the Spanish Government mobilised a substantive equality argument to justify the difference in treatment, namely that the rule is aimed at compensating young mothers for the disadvantages they suffer in their working life.<sup>301</sup> In fact, Member States have sometimes referred to positive action as an argument to justify policies that made a differential treatment ostensibly more favourable to women, when in reality they perpetuated gender stereotypes.<sup>302</sup>

While the CJEU has sometimes adopted an implicit anti-stereotyping approach in its jurisprudence, the ECtHR has been more explicit, by establishing that stereotypes based on gender and other protected grounds cannot justify differential treatment.<sup>303</sup> The ECtHR also refers to different, though related, concepts like *stigma and prejudice*, but no definition of those is provided.

Beyond the judicial realm, efforts to challenge gender stereotypes and the public/private division can be seen in some policies adopted by EU Member States that seek to promote

<sup>300</sup> Case C-104/09 *Pedro Manuel Roca Álvarez contra Sesa Start España ETT SA*, 30 September 2010, ECR I-08661, ECLI:EU:C:2010:561, para 36. See also Case C-222/14 *Konstantinos Maistrellis v Ypourgos Dikaiosynis, Diafaneias kai Anthropinon Dikaiomaton*, 16 July 2015, ECLI:EU:C:2015:473, para 50.

<sup>301</sup> Alexandra Timmer, ‘Gender Stereotyping in the case law of the EU Court of Justice’ [2016] 1 European Equality Law Review 37.

<sup>302</sup> See also *Konstantin Markin v Russia* [GC] App no 30078/06 (ECtHR, 22 March 2012).

<sup>303</sup> *Konstantin Markin v Russia* [GC] App no 30078/06 (ECtHR, 22 March 2012), *Gruba and others v Russia* App nos. 66180/09, 30771/11, 50089/11 and 22165/12 (ECtHR, 6 July 2021), *Carvalho Pinto da Sousa Morais v Portugal* App no 17484/15 (ECtHR, 25 July 2017).

equal share of care responsibilities between mothers and fathers, through equal parental leave, non-transferable and remunerated (e.g., the Spanish Royal Decree 6/2019).

In international human rights scholarship, anti-stereotyping has been understood as an *interpretive test* that consists of identifying, naming, and contesting stereotypes that emerge during proceedings.<sup>304</sup> This test requires an individual assessment based on a contextual analysis. However, there is not a clear definition of what contextual analysis means and what it should entail in practice. The development of the TEA is to take into consideration this judicial and interpretative dimension.

### iii Social-psychological strategies to mitigate gender stereotypes

While the previous concepts are mostly geared towards the public level, social-psychological strategies would regard both the public and the private dimensions.

The reduction of gender stereotypes is considered a meaningful tool to reduce gender inequality.<sup>305</sup> Longitudinal research has shown that stereotype change is possible and occurring to a certain extent but that there is still a long way to go to reducing gender stereotypes.<sup>306</sup> From a social psychological perspective, there are several promising routes to reduce stereotypes or their influence. These potential solutions include both individual-focused approaches and system (institution-)focused approaches. It is important to highlight that before focusing on women individually, strategies should focus on adjusting rules, procedures, and practices in organisations that prevent or at least reduce the ubiquitous power of gender stereotypes and challenges they mount for women's careers.

First, organisations can do more to create awareness of how sometimes very subtle identity threats occur in work contexts and in daily interactions through underrepresentation, stereotypes, and an emphasis on domains associated with the dominant group.<sup>307</sup>

This also includes an awareness of which supportive contextual factors can reduce threat, and the potential hidden costs of regulating negative stereotypes, prejudice, and discrimination. Such awareness is particularly important among employees who function as

<sup>304</sup> Rebecca Cook, and Simone Cusack, *Gender Stereotyping: Transnational Legal Perspective* (University of Pennsylvania Press 2010); Alexandra Timmer, 'Towards an anti-stereotyping principle' [2011] 11 HRLR 707; and Alexandra Timmer, 'Judging Stereotypes: What the European Court of Human Rights Can Borrow from American and Canadian Equal Protection Law' [2015] 63 The American Journal of Comparative Law 239.

<sup>305</sup> Federica Durante and Susan Fiske 'How social-class stereotypes maintain inequality' [2017] *Current Opinion in Psychology* 43.

<sup>306</sup> Charlesworth Tessa, and Banaji R. Mahzarin, 'Patterns of Implicit and Explicit Stereotypes III: Long-Term Change in Gender Stereotypes.' [2021] *Social Psychological and Personality Science* 14; Alice H. Eagly, and others, 'Gender stereotypes have changed: A cross-temporal meta-analysis of US public opinion polls from 1946 to 2018' [2020] 75 *American psychologist* 3, 301; and Nazli Bhatia and Sudeep Bhatia, 'Changes in Gender Stereotypes Over Time: A Computational Analysis' [2020] *Psychology of Women Quarterly* 106.

<sup>307</sup> Colette Van Laar, and others, 'Coping with stigma in the workplace: Understanding the role of threat regulation, supportive factors, and potential hidden costs' [2019] *Frontiers in Psychology* 10.

gatekeepers in evaluation, selection, and promotion functions and committees, and among people in leadership positions who strongly impact organisational norms, climates, and policies. Additionally, for programs to be effective, it is important that they provide insight into how potential threats often manifest themselves in subtle ways in daily workplace interactions. Such institution focused approaches also involve a development of transparent structures and procedures that tackle potential gender biases by offering fair, stereotype-free outcomes of recruitment, selection, evaluation, and promotion procedures in organisations. An important “duty” of such a transparent system is monitoring for representation of stigmatized groups at different levels of the organizational hierarchy. The critical mass (often around 30% in the case of gender) is related to workplace satisfaction and higher performance.<sup>308</sup>

Turning to more individual-focused approaches, building upon social role theory, one possibility is to change stereotypes by changing role models.<sup>309</sup> This can, for instance, be achieved by increasing the number of women in counter-stereotypical positions such as leadership positions.<sup>310</sup> Another possibility for stereotype reduction lies in changing social norms<sup>311</sup> as well as changing conventions around language that enhance gender stereotypes. The use of masculine generics is common in many languages and results in male-dominated mental representations of power-related positions.<sup>312</sup> Linguistic choices, even in attempts to change gender stereotypes, are not just influenced by gender stereotypes but also enhance them.<sup>313</sup> Language also plays a crucial role in the way gender inequality progress<sup>314</sup> and gender-based violence<sup>315</sup> are described, perceived and judged

<sup>308</sup> Michael Inzlicht and Talia Ben-Zeev, 'A threatening intellectual environment: Why females are susceptible to experiencing problem-solving deficits in the presence of males' [2000] 11 *Psychological Science*, 371; and Michael Inzlicht and Talia Ben-Zeev, 'Do High-Achieving Female Students Underperform in Private? The Implications of Threatening Environments on Intellectual Processing' [2003] 95 *Journal of Educational Psychology*, 796, and Denise Sekaquaptewa and Mischa Thompson, 'The differential effects of solo status on members of high- and low-status groups' [2002] 28 *Personality and Social Psychology Bulletin*, 694, and Denise Sekaquaptewa and Mischa Thompson, 'Solo status, stereotype threat, and performance expectancies: Their effects on women's performance' [2003] 39 *Journal of Experimental Social Psychology*, 68.

<sup>309</sup> Anne M. Koenig and Alice Eagly, 'Evidence for the social role theory of stereotype content: Observations of groups' roles shape stereotypes' [2014] *Journal of Personality and Social Psychology* 371.

<sup>310</sup> M. Asher Lawson, Ashley E. Martin, Imrul Huda and Sandra C. Matz, 'Hiring women into senior leadership positions is associated with a reduction in gender stereotypes in organisational language' [2020] *Proceedings of the National Academy of Sciences of the United States of America* 1; and Nilajana Dasgupta and Shaki Asgari, 'Seeing is believing: Exposure to counterstereotypic women leaders and its effect on the malleability of automatic gender stereotyping' [2004] *Journal of Experimental Social Psychology* 642.

<sup>311</sup> Joshua Jackson, and others 'Ecological and cultural factors underlying the global distribution of prejudice' [2019] *PLOS ONE* 1.

<sup>312</sup> Friederike Braun, Sabine Sczesny, and Dagmar Stahlberg, 'Cognitive Effects of Masculine Generics in German: An Overview of Empirical Findings' [2005] *Communications* 30.

<sup>313</sup> Chestnut, Eleanor K., Marianna Y. Zhang, and Ellen M. Markman, "'Just as good": Learning gender stereotypes from attempts to counteract them' [2021] *Developmental Psychology* 57, 114.

<sup>314</sup> Sora Jun, and others, 'Chronic frames of social inequality: How mainstream media frame race, gender, and wealth inequality' [2022] 119 *Proceedings of the National Academy of Sciences* 21.

<sup>315</sup> Julia Schnepf and Ursula Christmann, '“Domestic Drama,” “Love Killing,” or “Murder”: Does the Framing of Femicides Affect Readers' Emotional and Cognitive Responses to the Crime?' [2023] *Violence Against Women* 1.

and thus decisions about how to communicate knowledge about them have to be made carefully to not further strengthen gender stereotypes and inequality. This is because language can either perpetuate or challenge societal norms and beliefs. By using inclusive and non-discriminatory language, we can contribute to dismantling gender stereotypes and promoting gender equality. Additionally, promoting awareness and education about the power of language can help foster a more respectful and equitable society for all.

While perspective-taking interventions and engagement with negative stereotype-related experiences<sup>316</sup> have proven to be helpful tools to reduce stereotypes, it is also crucial to prevent the transmission of gender stereotypes from an early age on. Children's books are one important source of gender stereotypes<sup>317</sup> that can be addressed, for instance, by increasing the number of female protagonists.<sup>318</sup>

Beyond changes in the symbolic dimensions, transformative equality requires actions that change the material conditions of women, and particularly the intersection of gender and social class inequality that prevents women from fully enjoying their human rights and participating in social life. The next subsection deals with these issues through the concept of economic empowerment.

#### iv. Women's economic empowerment

Women's economic empowerment is not only a matter of social justice but also a strategic imperative for achieving social, economic, and sustainable development goals at both the individual and societal levels. It is about recognising and harnessing the full potential of half of the world's population for the betterment of all. Kaber presents a fundamental definition of women's economic empowerment that distinguishes three interconnected dimensions: resources, agency, and achievements.<sup>319</sup> Her work emphasises viewing women's economic empowerment as a dynamic process or theory of change. In order to enhance a woman's economic empowerment, it is crucial for her to have access to resources, the ability to make choices, and for these to result in tangible achievements.

Given that women's economic empowerment is intended to capture a multifaceted process with various dimensions and pathways, measuring it becomes inherently challenging. Drawing from Kaber's framework, several instruments have been proposed and implemented in surveys to measure women's economic empowerment across diverse

<sup>316</sup> Kevin Beltran, and others, 'Using a Virtual Workplace Environment to Reduce Implicit Gender Bias' [2021] 39 International Journal of Human-Computer Interaction 3.

<sup>317</sup> Molly Lewis and others, 'What Might Books Be Teaching Young Children About Gender?' [2023] 33 Psychological Science 1.

<sup>318</sup> Kennedy Casey, Kylee Novick and Stella F. Lourenco 'Sixty years of gender representation in children's books: Conditions associated with overrepresentation of male versus female protagonists' [2021] 16 PLOS ONE 12.

<sup>319</sup> Naila Kaber, *The Conditions and Consequences of Choice: Reflections on the Measurement of Women's Empowerment* Vol. 108. (Geneva: UNRISD 1999).

settings. For instance, the Demographic and Health Survey incorporates questions on decision-making autonomy in different domains, while the Women's Empowerment in Agriculture Index developed by the International Food Policy Research Institute offers insights into women's economic empowerment within the agricultural sector. Although these measures are valuable for understanding women's economic empowerment in many contexts, their applicability may vary in other situations. The existing empirical literature on the determinants and effects of women's economic empowerment reflects a wide range of proxy indicators, encompassing measures of agency (such as financial decision-making autonomy for instance) as well as outcomes of the women's economic empowerment process (parity in labour market participation for instance).

While consensual measures have not been set yet, the goal of women's economic empowerment is to dismantle barriers and create an environment where women can fully participate in economic activities, make decisions, and contribute to societal progress. Framing women's economic empowerment as a women's issue fails to highlight the importance of gender equality for economic and social progress. Women comprise half of the total population and therefore half of humankind's economic potential.

#### v. Allyship

In working towards social transformation, it is crucial to implement solutions that target inequalities and injustice at multiple levels of the social order. A key component of any attempt to uproot gender inequalities must necessarily include allies with other people in struggle as well as members of dominant groups. An ally is a figure usually belonging to an advantaged or more powerful and privileged group, i.e., men, who decides to join in causes to end the oppression of power-disadvantaged groups<sup>320</sup>. In section 5 of this working paper, we discussed viewpoints on sex and gender, the ways in which the fight for women and girls' rights can be complemented by other movements, such as the LGBTQ+, are highlighted. Working with other marginalised groups and dominant groups to co-create and execute solutions therefore forms a core part of our solutions-oriented framework.

In addition to allyship with other communities in struggle, we also believe that having men as allies can be instrumental, if not indispensable, in working towards gender inequality. From the perspective of allyship, therefore, male allies will be those who engage in action to challenge gender inequality.<sup>321</sup> The inclusion of members of advantaged groups can be beneficial for social movements because it facilitates the identification and internalisation of

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<sup>320</sup> Helena R. M. Radke, Maja Kutlaca, Birte Siem, Stephen C. Wright and Julia C. Becker, 'Beyond allyship: motivations for advantaged group members to engage in action for disadvantaged groups' [2020] 24 *Personality and Social Psychology Review* 291.

<sup>321</sup> Emina Subašić, Stephanie Hardacre, Benjamin Elton, Nyla R. Branscombe, Michelle K. Ryan, and Katherine J. Reynolds, 'We for she: Mobilising men and women to act in solidarity for gender equality' [2018] 21 *Group Processes & Intergroup Relations* 707.

the social movement (e.g., the feminist movement), encouraging more women to support gender equality.<sup>322</sup>

Although gender inequality affects women and girls, men are also subject to restrictive norms, stereotypes, and masculinity roles.<sup>323</sup> So, gender inequality is not just a women's problem. Different studies have examined the reasons for and benefits of men mobilising and acting in solidarity to achieve gender equality. First, some research suggests that men (compared to women) may be more effective at confronting sexism because they are taken more seriously, are less likely to experience social costs, and their confrontation is more persuasive and convincing.<sup>324</sup> If men feel that they are agents of change, that the problem concerns both men and women, they increase their willingness to change. For this to happen, identification with the feminist movement is a key predictor of supporting collective actions combating gender inequalities. This must happen in terms of both men and women coming to understand the unfairness of gender inequality and sharing the identification with the feminist movement.<sup>325</sup> So, in the context of gender equality, identifying as feminist signals the emergence of a broader identity that is defined by a shared agenda for change towards equality, that is, a common cause. Indeed, men who identify as feminists are more willing to confront sexism and support social change towards gender equality. This implication is more positive if the motivations that lead men to confront sexism or take collective action are driven by egalitarian and equity values, versus paternalistic reasons,<sup>326</sup> so it is important to emphasise that motivations for support should be driven by a concern for status differences, based on identification and solidarity, or by moral motivations that prioritise the needs of the disadvantaged group.<sup>327</sup>

There are some difficulties to consider here. Feminist men may be seen as feminine, less masculine, or as homosexual men, due to the feminist label that is strongly associated with women.<sup>328</sup> Of course, this is not a negative, but it is for men who embrace hegemonic masculinity, which could hinder collective action. Against this backdrop, it is important to

<sup>322</sup> Emina Subašić, Katherine J. Reynolds and John C. Turner, 'The Political solidarity model of social change: Dynamics of self-categorization in intergroup power relations' [2008] 12 *Personality and Social Psychology Review* 330.

<sup>323</sup> Anne M. Kowning, 'Comparing prescriptive and descriptive gender stereotypes about children, adults and the elderly' [2018] *Frontiers in Psychology* 1.

<sup>324</sup> Benjamin J. Drury and Cheryl R. Kayser, 'Allies against sexism: The role of men in confronting sexism' [2014] 70 *Journal of Social Issues*, 637.

<sup>325</sup> Emina Subašić, Stephanie Hardacre, Benjamin Elton, Nyla R. Branscombe, Michelle K. Ryan, and Katherine J. Reynolds, 'We for she: Mobilising men and women to act in solidarity for gender equality' [2018] 21 *Group Processes & Intergroup Relations*, 707.

<sup>326</sup> Lucía Estevan-Reina, Soledad de Lemus, and Jesús L. Megías, 'Feminist or paternalistic: Understanding men's motivations to confront sexism' [2020] *Frontiers in Psychology*, 1.

<sup>327</sup> Helena R. M. Radke, and others, 'Beyond allyship: motivations for advantaged group members to engage in action for disadvantaged groups' [2020] 24 *Personality and Social Psychology Review* 291.

<sup>328</sup> Veanne N. Anderson, 'What's in a label? Judgments of feminist men and feminist women' [2009] 33 *Psychology of Women Quarterly* 206.

build a positive image of feminist men.<sup>329</sup> Some ways to get men's attention, but also women's attention, are to show that other men are involved in the fight for equality. For example, showing that people from advantaged groups (e.g., men) are involved in a protest for disadvantaged group causes (e.g., women, ethnic minorities) increases the identification with social movements by the disadvantaged group which is driven by the perception that solidarity is normative behaviour and expectations that the protest will be perceived as more peaceful.<sup>330</sup>

These strategies, together with the concepts and debates presented in the earlier sections of this paper among others that will be developed further in RE-WIRING's TEA and in the respective work packages, should provide a sound and well-rounded theoretical and methodological foundation, favourably positioning us for the realisation of RE-WIRING's objectives to contribute to gender equality and transformation in the EU and South Africa.

The presented taxonomy paper defines the building blocks of our integrated and interdisciplinary TEA to tackle the underlying causes and multiple dimensions of gender equality and to create lasting change through institutional transformation. The concepts presented are not exhaustive but they have been carefully selected as foundational for developing and implementing innovative solutions for lasting change and societal transformation in terms of gender equality.

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<sup>329</sup> Shaun Wiley, and others, 'Positive portrayals of feminist men increase men's solidarity with feminists and collective action intentions' [2012] 37 *Psychology of Women Quarterly* 1.

<sup>330</sup> Maja Kutlaca, Helena Radke and Julia C. Becker, 'The impact of including advantaged groups in collective action against social inequality on politicised identification of observers from disadvantaged and advantaged groups' [2022] 43 *Political Psychology* 2.