

THEORETICAL-METHODOLOGICAL PREMISES OF THE
FEMINIST PERSPECTIVE

*PREMISAS TEÓRICO-METODOLÓGICAS DE LA PERSPECTIVA
FEMINISTA*

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ABSTRACT: Outlining the theoretical-methodological premises of the feminist perspective is important for reaching an optimal level of complexity and comprehensiveness when applying the gender equality approach.

The feminist perspective will be explained from the standpoint of the dialectic of patriarchy and emancipation, and this dialectic will be elaborated from an concrete-historical intersectional perspective while taking into consideration the diversity of power relations embedded in numerous forms of gender-based discrimination, whether binary or non-binary.

Relevant terms within the feminist discourse will be explored in the introduction. The main points of the feminist theoretical-methodological approach will be elaborated in the first chapter. This first chapter also contains two sub-chapters providing brief analyses of, firstly, how different crises have generally fostered patriarchal tendencies while diminishing emancipatory ones, and, secondly, how the dominant neoliberal development strategy has had mostly negative (with some positive) implications for the current state of gender (in)equality. The point of these two sub-chapters is to accentuate that the feminist theoretical-methodological approach has to take into consideration the mentioned factors of influence within contemporary concrete, contextualized, intersectional manifestations of the dialectic of patriarchy and emancipation. The application of the feminist approach in the sphere of political and legal theories will be explored in the third chapter. The fourth chapter will demonstrate the relevance of the feminist approach in some fields of legal education, taken as examples, as well as in legal practice. A summary of the thoughts regarding the meaning, application, and implications of the outlined feminist perspective is provided in the conclusion.

KEY WORDS: Feminist perspective; theoretical-methodological premises; patriarchy; gender equality; intersectionality.

RESUMEN: Esbozar las premisas teórico-metodológicas de la perspectiva feminista es importante para alcanzar un nivel óptimo de complejidad y exhaustividad a la hora de aplicar el enfoque de igualdad de género.

La perspectiva feminista se explicará desde el punto de vista de la dialéctica del patriarcado y la emancipación, y esta dialéctica se elaborará desde una perspectiva interseccional histórico-concreta, teniendo en cuenta al mismo tiempo la diversidad de relaciones de poder incrustadas en numerosas formas de discriminación basadas en el género, ya sean binarias o no binarias.

En la introducción se explorarán términos relevantes dentro del discurso feminista. En el primer apartado se desarrollarán los puntos principales del enfoque teórico-metodológico feminista. Este primer apartado también contiene dos subapartados en los que se analizan brevemente, en primer lugar, cómo las diferentes crisis han fomentado en general las tendencias patriarcales al tiempo que han disminuido las emancipadoras y, en segundo lugar, cómo la estrategia de desarrollo neoliberal dominante ha tenido implicaciones mayoritariamente negativas (con algunas positivas) para el estado actual de la (in)igualdad de género. El objetivo de estos dos subapartados es acentuar que el enfoque teórico-metodológico feminista tiene que tener en cuenta los factores de influencia mencionados dentro de las manifestaciones contemporáneas concretas, contextualizadas e interseccionales de la dialéctica del patriarcado y la emancipación. La aplicación del enfoque feminista en el ámbito de las teorías políticas y jurídicas se explorará en el tercer capítulo. El cuarto apartado demostrará la relevancia del enfoque feminista en algunos campos de la educación jurídica, tomados como ejemplo, así como en la práctica jurídica. En la conclusión se ofrece un resumen de las reflexiones sobre el significado, la aplicación y las implicaciones de la perspectiva feminista esbozada.

PALABRAS CLAVE: Perspectiva feminista; premisas teórico-metodológicas; patriarcado; igualdad de género; interseccionalidad.

SUMMARY.- I. INTRODUCTION.- II. THEORETICAL-METHODOLOGICAL PREMISES.- 1. Dialectic of patriarchy and emancipation.- 2. Intersectionality and diversity.- 3. Importance of story-telling/situated knowledge, listening to the victim's experiences.- 4. Crises and gender (in)equality.- 5. Neoliberal globalization – The “old” and “new” patriarchy versus emancipatory trends.- III. FEMINIST PERSPECTIVE IN CONTEMPORARY POLITICAL AND LEGAL THEORIES.- 1. The lack of a gender-sensitive approach in contemporary mainstream political theories.- 2. “Old” and “new” political concepts in feminist political theories.- 3. New meanings of “old” political concepts.- 4. Critical feminist legal thought.- IV. FEMINIST PERSPECTIVE IN LEGAL KNOWLEDGE AND PRACTICE.- 1. Legal practice.- 2. Feminist judgements. V. CONCLUSION.

I. INTRODUCTION.

The feminist perspective means theoretical and practical attempts toward understanding, promoting and implementing gender equality. “Gender lenses” is a metaphor with a synonymous meaning.

Gender equality approach means considering existing gender-based imbalances and discriminatory states of affairs when analyzing human relations in everyday life, politics, economics, culture, etc., as well as when articulating theories, producing knowledge, creating laws, institutional designs, and policies, with the intention of overcoming these inequalities. Gender-based inequalities are related to women and men, but also to multiple non-binary and transgender affiliations.

The feminist perspective is by definition plural; there are considerable differences in gender equality approach/es. However, essential common features as well as “areas of agreement” and convergent elements “that must form the basis for any feminist political theory in the 1990s and beyond”¹ have been or can be crystallized. It may be added that these convergent features of feminist perspectives ought to be applied not only in political theories, but also in all possible gender-sensitive analyses – though always accorded to concrete contexts and contents – within law, economics, culture, and other spheres of public life as well as every day and private life, taken either globally, at the national level, or certain local and particular level.

Gender awareness means an ability to reconsider the traditional binary gendered roles and how they affect people's relations, needs, and opportunities. Gender-sensitive approach means translating this awareness into action in the design of critical theories, policies, programs, and budgets, which results in a well-

1 BRYSON, V.: *Feminist Political Theory - An Introduction*, MacMillan, 1992, p. 262.

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designed/elaborated gender-competent point of view. Gender sensitive approach is a phrase that indicates an openness to the issue, readiness to reconsider theories and practices, and the creation/interpretation/implementation of law from a gender equality perspective. Gender-competent knowledge is a phrase that means a systemic, comprehensive, persuasive approach to producing knowledge based on solid arguments, empirical data, and scientific elaboration from the point of gender equality.

A gender-sensitive mindset emerges from gender awareness-raising and implies a value system based on anti-discrimination, gender equality, human rights, and equal women's rights. This sensitivity for gender equality and combatting all forms of discrimination always has an activist component of attempts to implement it in everyday life, in the family, in education, in policymaking, in law creation, interpretation, and implementation, in the judiciary, as well as in culture, media, politics, economics, taxation, and so on.

A feminist approach is, by definition, an activist approach, a combination of insights, intentions, and practical activities. Striving for gender equality cannot only be an ethical, theoretical, or declarative stance; it has always been a practical striving as well.

The Global Gender Gap Report of the World Economic Forum from July 2022 announced that "at the current rate of progress, it will take 132 years to reach full parity."² Fostering and fastening gender equality is necessary to boost the process, which must have multiple modalities, be multi-layered, ongoing, and systematic in order to gradually diminish all patriarchal elements and replace them with different and comprehensive elements of emancipation/gender equality. Critical steps in accelerating these changes are related to raising gender awareness in the family, child upbringing, education, the media, the public sphere, institutions of work, economy, politics, law, and the judiciary, as well as implementing a gender equality approach in policymaking and restructuring all mentioned spheres of social life, including legal education and legal and political theories and practices.

The importance of elaborating and implementing the feminist perspective in all spheres of social life as well as in theory, knowledge, and education stems from, normatively speaking, civilizational requirements for overcoming patriarchy in its "old" and "new" forms, as something directly linked to affirming the centrality of human rights, rule of law, and democracy, and their accompanying civilizational benefits.

2 <https://www.weforum.org/reports/global-gender-gap-report-2022/>

Civilizational benefits from overcoming patriarchal social roles and relations stem from the fact that power relations generate discrimination, subordination, authoritarianism, and violence. Feminism speaks about the “patriarchal dividend” related to keeping male privileges within the patriarchal code. However, there are also crucial benefits for male individuals from overcoming patriarchy, as patriarchal burdens place a lot of pressure on men, preventing them from enjoying a life free of power relations and being intrinsic sources of anxiety and violence. The abolition of the patriarchy brings benefits such as a new quality of everyday and social life, benefits for partner relations and family life, benefits for the political order, and a reduction in violence.

It is important to remember that the feminist perspective is not a unified theoretical-methodological approach, but can rather be spoken about in the plural, as feminist perspectives. However, the goal of this elaboration is to summarize the most relevant theoretical-methodological principles that have been used in present-day feminist analysis in a more or less converging manner.

II. THEORETICAL-METHODOLOGICAL PREMISES.

I. Dialectic of Patriarchy and Emancipation.

Postmodern feminism draws from postmodern political theories to reject the metanarratives of “grand” political theories and their attempts toward universalizing political categories, i.e. presenting them as abstract and universally valid (neutral), without an awareness of their male-dominated context and consequences.³

However, unlike postmodernist critics who merely dismiss metanarratives, feminist scholars keep the metanarrative of patriarchy because “many injustices are experienced by women as women, whatever the differences among them and whatever other injustices they also suffer from.”⁴ This means that despite differences in gender inequality of women of different races, classes, religions, and ethnicities, and the different manifestations of gender inequality of different groups of women in different historical periods, patriarchal power relations represent a common axis of gender inequality.⁵

On the other hand, feminist scholars maintain the line of postmodernist critics and challenge the metanarrative of patriarchy in a contextual, genealogical,

3 LORBER J.: *Gender Inequality: Feminist Theories and Politics*, Oxford University Press, p. 13; O'BRIEN M.: *The Politics of Reproduction*, Routledge & Kegan Paul, 1991. See also: MOLLER OKIN, S.: *Justice, Gender, and the Family*, Basic Books 1989.

4 MOLLER OKIN, S.: *Justice, Gender, and the Family*, Basic Books 1989, pp. 6-7.

5 VUJADINOVIĆ, D.: “Feminist Reconsideration of Political Theories” in *Feminist Approaches to Law – Theoretical and Historical Insights* (edited by D. Vujadinović, A. Alvarez del Cuvillo, S. Strand), Springer 2023, pp. 1-30.

and comparative framework.⁶ The main premise of this chapter is that the “metanarrative” of patriarchy versus emancipation has to be taken into consideration and challenged in a contextual, genealogical, and comparative framework.

Patriarchy was throughout all pre-modern societies the dominant model of social relations in all domains of private and public life – the domains of housework, paid work, sexuality, violence, culture, and state.⁷ It was the dominant value system, characterized by hierarchy, power relations, and the subordination of women in all mentioned domains of private and public life. Patriarchy and sexism - perceived as the biased and devaluating treatment of women, have had a long history of being the primary axis of gender-based power relations in pre-modern history, and continue to persist in modern and contemporary times within the dialectic of patriarchy and emancipation.

Modernity introduced the ideas of political emancipation (the process of establishing universal rights) and opened horizons of equality for women, influenced by political revolutions, the industrial revolution of the 18th and 19th centuries, and other factors (such as the two world wars, mass education, development of the international law of human rights, etc.).⁸

Horizons of women's equality were then opened in principle, but not in practice, necessitating the long struggle for women's rights. Women's rights were invisible in the US Declaration of Independence and it took a long time, from 1776 up to 1920, before women were granted an equal right to vote in the United States (with Afro-Americans achieving this right only in 1965⁹). The same is true for the French Declaration of the Rights of Man and the Citizen, as it also took France a long time to recognize women's right to vote, from 1789 until 1944.¹⁰

Modernity and contemporaneity have been marked by the mutually opposing values of patriarchy and emancipation. These periods have not eliminated the patriarchal legacy, but they did result in a crucial change: patriarchy lost its previous dominance and exclusivity. Contemporary times are witnessing a contradictory crossing of patriarchy and emancipation from patriarchy, or the so-called dialectic of patriarchy and anti-patriarchy within all spheres of life – from the individual person's everyday life and family life to all domains of public life, social groups, and institutions, as well as all spheres of knowledge and political and legal thought.¹¹

6 LORBER J.: *Gender Inequality*, cit.

7 WALBY, S.: “Theorising Patriarchy,” *JSTOR, Sociology*, Vol. 23, No. 2, pp. 213-234.

8 See VUJADINOVIC, D.: “Feminist Reconsideration,” cit. pp. 1-30.

9 Voting Rights Act, <https://www.loc.gov/right-to-vote>

10 VUJADINOVIC, D.: “Feminist Reconsideration,” cit. pp. 1-30.

11 See WALBY, S.: “Theorising Patriarchy,” cit. pp. 213-234.

The dialectic of patriarchy and emancipation must be the main analytical framework for study, always applied in a concrete-historical manner to modern and contemporary times. The point is that neither patriarchy nor emancipation from patriarchy has *per se* designed the contemporary world; rather, it is the result of their mutual crossing and struggle, existent in every society and every individual around the globe. Namely, if the focus is only on highlighting the elements of patriarchy existent in concrete contemporary social relations and events, then we miss out on the whole story. The same thing happens if the accent is primarily on emancipatory elements.

“Gender lenses” must understand/encompass, diagnose, and demonstrate manifestations of both tendencies, explain power relations embedded in the patriarchal tendency, and the seeds of overcoming power relations through the opposite tendency. The dynamic of this struggle and the strength of the social bearers of both tendencies must be acknowledged, and the feminist perspective must point out all available mechanisms and tools for combatting patriarchy and discrimination and affirming gender equality and emancipation from patriarchy.

In my opinion, feminist theories generally do not pay enough attention to the context of the dialectic of patriarchy and emancipation in contemporary times but rather speak about reconstructing the context of race, class, social position, age, and sexual orientation in order to analyze patriarchal roots of gender inequalities.

It is my belief that contextual analyses always demand redressing the workings of the aforementioned dialectic in each concrete case, i.e. the contradictory tendencies, because there is more than just the patriarchal background of discrimination and oppression of women based on gender, as well as age, sexual orientation, race, class, nation, ethnicity, cultural, and religious specificity in contemporary societies across the world. There are also elements of emancipation in each local, national, and global context, and considering the dialectic in a contextual manner (in terms of time and space) is critical for gaining a more complete picture of the state of affairs of contemporary gender-based oppression and articulating gender justice and understanding its absence in contemporary theories of justice and political theories.

This theoretical-methodological approach based on the common dialectic of patriarchy and emancipation must account for the differences in its concrete-historical expressions. The “metanarrative” of patriarchy *versus* emancipation must always be considered (as must the “metanarrative” of patriarchy) in a contextual, genealogical, and comparative framework.

2. Intersectionality and Diversity.

The mentioned differences in geography, history, cultures, religions, political orders, and economic circumstances, must be complemented with issues of diversity and intersectionality. Diversity means that gender-based discrimination must be considered as inter-crossed with other bases of discrimination, designating a mutual crossing of complex sorts of discrimination, i.e. systemic oppression based on gender as well as class, race, culture, or sexual orientation. This multiple discrimination or systemic oppression based on gender and simultaneously based on race, class, and sexual orientation is also known as intersectional discrimination.¹²

Diversity also refers to extending the theoretical-methodological framework to non-binary people, which means that it is of essential importance to consider non-binary and trans-gender modalities of gender identities and gender relations as well. In other words, the concept of gender must be fundamentally liberated from its binary understanding.¹³

The intersectional and contextual approach calls for awareness about the diversity of women's and non-binary persons' needs and modalities of oppression, as well as the fact that there is no single, unitary, all-encompassing solutions, because some groups of women or non-binary people might share the same interest and same enemies while having different or even conflicting interests and needs with some other groups of women or LGBTQ+ persons.

The intersectional approach deals with the complex expression of power relations related to the different sources of discrimination, which overlap, cross, and sometimes even enter into conflict, and which must be understood within the contextualized framework of the dialectic of patriarchy and emancipation. It implies that multiple discrimination does not eliminate elements of emancipation, such as overcoming some of the power relations inherent in the intersectional context.

12 As I assumed in one of my previous articles, "the merit of the civilizational advancement of gender equality has differed a lot within the global contemporary real-life context. There are huge differences in the scope of women's emancipation, depending on where they were born and in which conditions their private and public life have been conducted. In other words, an intensity of gender (in)equality depends on more or less advanced economic development, on a more democratic or more authoritarian political order, on whether historical heredity and cultural setups have been more or less rigidly designed, on the quality and scope of education, religious affiliation, sexual orientation, race, class, nation, personal educational and economic statuses, etc. However, germs and elements of patriarchy could be found even in the most developed countries, and among most educated and economically independent women within their individual system of values, habits, familial relations, as well as concerning manifestations of discrimination within societal structures in which their public life has been conducted." VUJADINOVIC, D.: "The Widening Gap Between Proclaimed Gender Equality and Real State of Affairs In Times of Covid-19 Pandemic," *The Annals of the Faculty of Law in Belgrade*, Issue 4, Volume 70, pp. 1017-1047; see also: BRYSON, V.: *Feminist Political*, cit. p. 262.

13 VUJADINOVIC, D.: "Theoretical Framework for Considering Intersectional Discrimination of Women and Girls with Disabilities," in *Intersectional Discrimination of Women and Girls with Disabilities and Means of Their Empowerment* (edited by Lj. Kovačević et al.), Belgrade 2023, pp. 12-13.

The mentioned contextualized intersectional and dialectical approach can be summarized as follows: It locates the position of women within the global pyramid of inequalities, combining women's class and social status in the given pyramid hierarchical structure with both patriarchal subordination and elements of emancipation from patriarchy. It considers discrimination of lower-class and non-white women in concrete contexts as always combined with the subordination of all non-white women to non-white men, and of all women to men in general, but also tries to recognize elements of emancipation that counter pose the mentioned general trends. It points to the fact that the oppression of women is always multi-layered and complex and that their oppression demonstrates mutual crossing of power relations based on gender and sexual orientation, class, race, and culture, but it also tries to recognize elements of overcoming certain power imbalances within the given state of multiple discrimination. It also points to the fact that the oppression of LGBTQ+ persons, all those who do not fit into the heteronormative binary structures of gender relations, must also be considered in the concrete-historical context of the dialectic of patriarchy and emancipation, but with a special focus on their specific circumstances of intersectional discrimination, particularly that based on their sexual orientation.

It is critical to remember that intersectionality should not be confined to a methodological demand to consider all relevant features of the concrete person, because doing so wrongly reduces it to identity politics. Instead, intersectionality must be understood as the deconstruction of power relations grounded in patriarchy, racism, the logic of capital, traditionalist habits, clerical norms, and so on, which define the various forms of gender-based discrimination.¹⁴

The intersectional approach must detect power relations within all layers of discrimination against women and girls, as well as non-binary persons. This approach necessitates sensitivity to all vulnerable individuals and groups, including vulnerable male persons, as well as a constant sensitivity toward non-binary persons.

The intersectional approach, however, must also detect the seeds of emancipation in certain aspects of overcoming discrimination and power relations, as well as conflicting expressions of power relations based on different features. For example, if a woman of color is subordinated to her partner of color and faces cultural norms' pressure and oppression, but manages to achieve a high level of education, economic success, and financial independence, her personal life is marked by the civilizational struggle between the opposing tendencies of reproducing and overthrowing patriarchy. In other words, a conflict of power relations based on sex, class, and race arises as a result of her educational

¹⁴ *Ibidem*, p. 13.

achievements, which opens doors to opportunities that are not normally available to female and colored persons, and which clashes with the power intentions of both male white and non-white/colored persons.

3. Importance of Story-telling/Situated Knowledge, Listening to the Victim's Experiences.

It is important, as Benhabib highlights, that gender relations and inherited inequalities be reconsidered from the position of those who have been subordinated, and that their personal experiences be listened to and heard: "The traditional view of gender differences is the discourse of those who have won out and who have codified history of ideas as we know it. But what would the history of ideas look like from the standpoint of the victims?"¹⁵

Storytelling of the victims' experiences is important, or more specifically, taking the position of the victims and understanding their embedded fear, and suffering caused by the vulnerability and powerlessness in facing power bearers and their dominance. Understanding the position of those powerless is of utmost importance for understanding the existing power imbalances and the nature, scope, and limits of the power of those who dominate.

More generally, the feminist approach seeks to transcend the categorical discourse based on the binary opposition of male/female, private/public, which is typical of the Western logocentric tradition that celebrates reason and the Enlightenment. However, as Sheila Benhabib remarks, instead of throwing aside these categories altogether, "we can ask what these categories have meant for the actual lives of women in certain historical periods".¹⁶

In order to produce "situated" knowledge, each feminist research should encompass gender-sensitive data collection, including not only gender-sensitive statistics but also story-telling results and analysis in which the personal experience of subordination and/or "victim" plays an active role in knowledge production.

The victim should have an active role in the "situated" knowledge, in the sense that recognizing the different basis/intersectional frames of discrimination of the concrete "victim" cannot be fully understood without listening to or taking seriously into consideration their concrete experiences of oppression. This approach also implies an active political and ethical stance, in the sense that taking the "victim" seriously could lead toward their empowering and overcoming her position of a victim.

15 BENHABIB, S.: "On Hegel, Women and Irony," in *Feminist Interpretations and Political Theory* (edited by Lyndon Shanley M. and Pateman C.), The Pennsylvania State University Press, 1991, p. 130.

16 *Ibidem*.

Clarifying the relations of subordination and gender inequality within the feminist perspective has had, as already mentioned, an inherent pro-active dimension of actively contributing to overcoming these imbalances. Theoretical-methodological premises of the feminist perspective (feminist knowledge production) always result in overcoming the gender-blind scientific approach and generating theoretical insights and practical opportunities for overcoming gender inequalities. As Saeidzadeh states: "Consequently, feminist research methodologies move from the mainstream scientific methods, from only collecting data for objective purpose, towards gender sensitive data collection and analysis. Feminist methodologies aim to produce knowledge through ethical and political perspectives, which focus on the critique and overcoming of gender blind scientific approach, in addition to the articulation of gender equality contents, conceptions, aims, objectives and outcomes. Feminist methodologies also aim at producing a so-called situated knowledge, which encompasses active role of the subject of creating the knowledge in the process of knowledge production."¹⁷

As Saeidzadeh further elaborates, a comparative concrete-historical, intersectional approach is applied within "qualitative" research methodologies as follows: "There is a diversity of experiences in different positions: white, black, heterosexual, lesbian, poor, privileged, colonized... Qualitative research method is thought to be the most appropriate to investigate the complex socio-historical, political, relational, structural and material existence of gender... Qualitative methods of analysis including thematic analysis, document analysis and discourse analysis in conducting socio-legal research are also included."¹⁸

Feminist approaches have also to take into consideration the impacts of different crises, as well as of the current neoliberal strategy of global development on gender (in)equalities.

4. Crises and Gender (In)equality¹⁹.

Each crisis creates space for regressive processes that strengthen patriarchal tendencies and intersectional discrimination against women and girls while weakening the already achieved emancipatory tendencies (concerning rights, value orientations, and genuine gender equality).²⁰

17 SAEIDZADEH, Z.: "Gender Research and Feminist Methodologies" in *Gender Competent Legal Education* (edited by D. Vujadinovic, M. Froehlich, Th. Giegerich), Springer 2023, pp. 184-185.

18 Ibidem.

19 See: VUJADINOVIC, D. "The Widening Gap" cit., pp. 1017-1047.

20 As I wrote in the mentioned article: "Times of crisis have been disadvantageous for the position of women all over the world. Every crisis – whether local or global, whether caused by the natural catastrophes or wars or widespread disease – does return women to a certain extent to the patriarchal matrix of domestic work and caring for the children and the family. Emancipatory processes do falter and retreat toward traditional female roles in each situation of crisis. Every crisis, namely, strengthens the focus on survival and on the search for security and support among the immediate family members and within what is familiar

Emancipation processes have been fragile, barely achieved, and easily lost in the real life and even in the normative-legal framework.

Each crisis pushes women back to survival activities (reproductive and care roles). These survival requirements and negative effects on the position of women in general, particularly women in poorer, more traditional, and more authoritarian political and cultural environments, lead to re-traditionalization (return of masses of women into the private sphere of domestic unpaid work and traditional care roles), re-patriarhization (the rise of right-wing ideologies of the sanctity of traditional family and attempts to denigrate feminist approaches in theory and practice by reducing them to artificial imposing of the so-called “gender ideology” from above or from outside), and clericalization (rising conservative influences of religions and religious institutions’ nomenclatures toward controlling women and reducing their private and public roles to social roles as molded within various traditionalist and patriarchal frameworks).

5. Neoliberal Globalization – The “Old” and “New” Patriarchy Versus Emancipatory Trends.

Both the negative and positive effects on gender (in)equality are linked to the dominance of the so-called neoliberal strategy of development in the last few decades. The negative impacts are related to the emergence of a “new” patriarchy which in combination with reproducing the “old” patriarchy, as well as the rising trends of female precarious work, violence, impoverishment, etc., result in increased gender inequality for hundreds of millions of women and girls – the “losers” of globalization, and result, as Beatrix Campbell states, in the “end of equality.”²¹ The positive impacts, on the other side, refer to the proportionally much smaller percentage of women – the so-called “winners of globalization” – who managed to achieve top positions in the public sphere of politics, business, media, and culture.

and known. In other words, the focus is on the family and maintaining the given state of affairs or even reverting to tradition and inherited habits. Survival implies an emphasis on the care for the closest family members and material subsistence, i.e., for the elementary up keeping of the family, domestic economy, and providing food and lodging for children. The states of crises impose a reduction of amenities and models of behavior in the struggle for a mere survival and/or stability. The traditional female roles have been extremely advantageous/accommodable for such circumstances and resorting to them happens as a rule. Women accept the mentioned recurrence either voluntary or by the imposed context. The key point of this seemingly simplified statement has been that the processes of females entering the public sphere in modern and contemporary times, both globally and locally, have had in their background the heredity of millennia of identifying women with their roles of mothers and wives in the private sphere. The processes of emancipation from the deeply rooted patriarchal heredity have been of a short historical duration and have therefore been very fragile. They have been unstoppable in principle, while the civilizational flywheel in their favor has been launched; however, on the other hand, deadlocks and steps backwards have always been possible and do happen.” Ibidem, p. 1030. See also, Moller Okin, S. *Justice*, cit., pp. 3-5.

21 CAMPBELL B.: *End of Equality*, Seagull Books, 2013.

Neoliberalism brought extreme social inequalities in the form of the global pyramid/"Empire," in which a small percentage of the very rich from all countries belongs to the top of the pyramid while a huge percentage of the poor from all countries belong to the lowest and widest part of the pyramid.²²

Women and girls, as well as non-binary persons, from all layers of the global pyramid experience gender-based and intersectional discrimination; however, poorer, less educated persons within vulnerable non-white race groups from impoverished countries, more traditional societies, more authoritarian regimes, more clerical state governance, do suffer proportionally more than women and non-binary persons from more democratic and richer countries and less traditionalist societies.

The process of globalization has not been followed only by the reproduction of the inherited "old" patriarchy, but also by the appearance of "new" patriarchy,²³ which may also be called, as suggested by Campbell, "neoliberal neo-patriarchy."²⁴

Rapid globalization and a culture of hyper-individualism have resulted in even more oppressive forms of precarious work across the globe, namely, brutal working weekday conditions for working women that are institutionalized in the interests of men, owing to the fact that women have primarily been encumbered by duties of care. Besides, women have been exposed to precarious and part-time jobs much more than men, as well as to easier and more massive lay-offs and more difficult re-employment. The cruel competition and individualization along with a lack of solidarity lead to the weakening of the labor force, particularly female workers as both individuals and a group.²⁵

Furthermore, gender-based violence has been on the rise, while sex trafficking has become one of the most profitable trades globally. "Neoliberalism not only generates inequality but also radiates violence... Millions of women live in societies where violence or deaths is the penalty for answering back, loving another man, loving a woman, giving birth, going to school."²⁶ Neoliberalism brought about a proliferation of armed conflicts. It generated, intensified, and multiplied "modern warfare," a priority of militarism. As Campbell states, through quoting Mary Kaldor²⁷, "(t)he product is terror, rape, plunder and predatory 'trade' and smuggling.

22 HARDT M. and NEGRI, A. *Empire*, Harvard University Press, 2000, pp. 7-31.

23 CAMPBELL, *End*, cit., p. 4

24 *Ibidem*.

25 See: KOVAČEVIĆ Lj.: "Gender Perspective of Development of Labour Law" in *Gender Perspectives in Private Law* (edited by G. Carapezza Figlia, Lj. Kovačević, E. Kristofferson), Springer 2023, pp. 105-128.

26 KAMPBELL, *End*, p. 7.

27 KALDOR, M.: "Beyond Militarism, Arms Races and Arms Control," essay prepared for the Nobel Peace Prize Centennial Symposium, Oslo 6-8 December 2021. Available at <http://essays.ssrc.org/sept11/essays/kaldor.htm>, last accessed on 2 July 2013.

Violation of human rights are not side effects but a decisive methodology²⁸ in the neoliberal state of affairs.

Campbell concludes sharply about inter-connection of neoliberalism and the general rise of violence as well as gender-based violence: "Crime and proliferating armed conflicts can be seen as a neoliberal paradigm: free trade unfettered by social responsibility, organized by unaccountable fraternities of police, militias and mafia. The most violent regions of the world are associated with the privatization of the public sector, policing and security. They become not so much no-man's lands as man's lands where impunity prevails. Militarism, crime and violence are contexts for doing or making masculinity. Unsafe cities and war zones multiply the arenas for rape and repudiation of women. Violence is not a sign of primitive masculinity or the collapse of civilization; it is its hardened heart."²⁹

Furthermore, media tabloidization and sensationalism tendencies, social media trends of relativizing basic values such as dignity and respect, and consumerism all contribute to the emergence of "new" forms of patriarchy.³⁰

28 Ibidem, pp. 58-59. Campbell mentions India as an example of the worsening subordination of female persons, with a high level of extreme forms of violence, such as mass rapes and femicide, as well as female infanticide. (pp. 38-48) She also mentions China, in which state sponsored equality had been considered since the 1949 revolution as an index of modernity, but in which after 30 years of neoliberal capitalism women's participation in labor market, in pensions, as well access to public child care have gone down. (pp. 48-53) She remarks also that the so-called humanitarian imperialism "left Afghanistan the worst place in the world for a woman." (p. 59) Campbell also mentions Iraq as the country in which during "humanitarian" emancipation two thirds of the dead were civilians, and in which the constitution reinstated the power of clerics and "wider permissive brutalizing of women's lives". (p. 60) Taliban rule from 1990 to 2000, and from 2020 again, represents an extreme example of how the most authoritarian and extreme right wing clerical, fundamentalist political order can be devastating for women: to mention a few examples, an introduced ban on primary and secondary education (restricted to one year), then the ban on higher education from December 2022. In November 2022, women were banned from parks, gyms, and public baths in the capital Kabul. The Taliban had just three months ago – in September 2023 – allowed thousands of girls and women to sit university entrance exams in most provinces across the country. But there were restrictions on the subjects they could apply for, with engineering, economics, veterinary science, and agriculture blocked and journalism severely restricted. In addition, prior to the December announcement, universities had already been operating under discriminatory rules for women since the Taliban takeover in 2021. There were gender segregated entrances and classrooms, and female students could only be taught by women professors or old men. In the period between two Taliban rules, from 2001 to 2018, the rate of female attendance in higher education had increased 20 times. The mentioned bans and imposing on women a return to the private sphere and closing them between "four walls" of their home represent a tremendous and devastating regression, especially in urban areas where women had already achieved certain levels of emancipation. It is a severe backwarding of emancipatory trends concerning female life conditions in Afghanistan, but also generally speaking (because each concrete retreat in terms of gender equality does affect negatively the general emancipatory trends and contributes to a rise of regressive trends of "old" and "new" patriarchy). See: <https://www.theguardian.com/world/2022/dec/20/taliban-ban-afghan-women-university-education>

29 CAMPBELL, *End*, cit., p. 61.

30 VUJADINOVIĆ, D.: "Theoretical-Methodological Framework for Understanding the Gender Issue," in *Legal Capacities of Serbia for European Integration* (edited by S. Lilić), Univerzitet u Beogradu -Pravni fakultet u Beogradu, Beograd 2016, 99-111.
VUJADINOVIĆ, D. and STANIMIROVIĆ, V.: "Gender Relations in Serbia in Transitional Period – Between Retraditionalization and Emancipation," in *Democratic Transition of Serbia - (Re)capitulation of first 20 Years* (edited by G. Dajević and B. Vrančić), Univerzitet u Beogradu - Pravni fakultet, Beograd 2016, 189-215.

It should not be forgotten that neoliberalism brought emancipatory trends for a small percentage of women, the “winners of globalization,” who belong – as a mere minority of citizens from various countries – to the highly educated, publicly affirmed female politicians, academics, and entrepreneurs at the top of the pyramid. It should also be noted that neoliberalism promoted in economics the so-called “managerial mindset” of rigid neoliberal competitiveness, individualization, privatization, and financial speculative trading with negative impacts on the global crisis in 2008 and the rise in global inequalities; however, it did not prevent the rise of the so-called “constitutional mindset³¹ in the political and legal realms, namely, the further development of the international law that prioritizes human rights, which has also progressively affirmed the centrality of gender equality and establishment of international norms and conventions, as strategies for further improving gender equality. On the other hand, the universalistic human rights discourse ignores diversity and differences of social structures in the world and fits unintentionally in that respect well with the neoliberal system’s animosity toward gender equality. In addition, neoliberalism has diminished women’s social rights, especially with the austerity measures that emerged as a means of solving the crisis, i.e. the neoliberal reaction to the neoliberal global economic crisis in 2008.³²

Neoliberalism has not prevented the formal improvement of international law and strategies for advancing gender equality, and it did not prevent the small percentage of the most successful women from entering public spheres of politics, economics, media, higher education, judiciary, and business, although the barriers that these women face when attempting to get top positions in all mentioned domains have been persistently high. However, the neoliberal strategy of global development has significantly contributed to regressive trends in human and female social and labor rights, as well as the general deterioration of the quality of life for hundreds of millions of women across the globe.³³

31 See: OFFE C.: “Europe Entrapped: Does the European Union Have the Political Capacity to Overcome Its Current Crisis?” in *Identity, Political and Human Rights Culture as Prerequisites of Constitutional Democracy* (edited by M. Jovanovic & D. Vujadinovic), Eleven International Publishing 2013, pp. 17-37.

See also: BRUNKHORST H.: “Beheading the Legislator: The European Crisis – Paradoxes of Constitutionalizing Democratic Capitalism” in *Identity, Political and Human Rights Culture as Prerequisites of Constitutional Democracy* (edited by M. Jovanovic & D. Vujadinovic), Eleven International Publishing 2013, pp. 37-55.

32 See: VUJADINOVIĆ, D. and STANIMIROVIĆ, V.: “Gender,” cit., pp. 151-179.

33 Campbell puts critically the mentioned positive trends into the same box with the mentioned negative consequences of the dominant global neoliberal strategy of development, in the sense that they also support the “end of equality” diagnosis. However, she also points to the unsustainability of the mentioned trend of ending already achieved levels of gender equality, and implies the need and necessity of new revolutionary attempts toward women’s liberation: “Global institutions no longer endorse men’s power as *men*, but the world is being governed by a neopatriarchal and neoliberal matrix that assails – and provokes – feminism’s renaissance. This is a new form of articulation of men’s dominance – from sexual violence, to human rights protocols and equality laws, budgets, time, money and care. A new sexual settlement is being made. But it is unsustainable.” This neopatriarchal and neoliberal matrix demands an alternative to the current sexist dominion of social spaces and the obvious decline of democracies. This author outlines the main features of the revolutionary reviving of gender equality attempts: “Imagine men without violence. Imagine sex without violence. Imagine the men stop stealing our staff – our time, our money and our bodies; imagine societies that share the costs of care, that share the costs of everything; that make cities fit

III. FEMINIST PERSPECTIVE IN CONTEMPORARY POLITICAL AND LEGAL THEORIES.³⁴

The feminist perspective reconsiders the legacy of the mainstream political and legal thought through the prism of the dialectic of patriarchy and emancipation, as well as its intersectional understanding, to articulate in a gender-sensitive and gender-competent manner the most relevant political and legal concepts.

Over the last 60 years, feminist streams of critical thought have aimed at deconstructing so-called universal categories of political thought, highlighting that these allegedly universal categories have been hiding/ reproducing power relations and male dominance (of male white, upper-class property owners).

Second-wave feminism made a certain contribution to this deep deconstruction process, but likely smaller than that of third-wave feminism. There were sound attempts of the second wave, done by Carol Pateman, for example, who pointed out what he termed the “sexual contract” (“the contractual character of modern patriarchy”) within the family as the basis of the “social contract” in public life.³⁵ Additionally, so-called radical feminists³⁶ of the 1960s and 1970s focused on deconstructing patriarchal power relations between women and men. However, these attempts did not extend beyond the critical approach of Western feminists to patriarchy and gender inequality issues as expressed in the framework of developed Western liberal-democratic societies. These West-centric approaches did pretend to be universally valid but were obviously limited in their scope and comprehension.

Third-wave feminists were inspired by postmodern political theories, critical race theories, and critical legal studies. Since the 1980s, this new wave of feminism has been focused on overcoming West-centric feminist approaches (of white, middle, and upper-class feminist authors as well as subjects framed by Western experiences and articulations). Namely, post-modern feminists require the inclusion of different gender perspectives and issues in political and legal discourse, specifically those related to women of color/different races, different social classes, and different sexualities.³⁷

for children; that renew rather than wreck and waste. This is women’s liberation. It is do-able, reasonable and revolutionary.” Ibidem, pp. 91-92.

34 See: VUJADINOVIĆ, D.: “Feminist Reconsideration,” cit., pp. 1-30.

35 PATEMAN, C. *The Sexual Contract*, Polity Press, Cambridge 1988.

36 See: Bryson, *Feminist*, cit., pp. 194-231.

37 See: WING, A.: “Critical Race Feminism,” in *Feminist Approaches to Law – Theoretical and Historical Insights* (edited by D. Vujadinović et. al.), Springer 2023, pp. 53-72; See also: BANOVIĆ, D.: “Queer Legal Theory” in *Feminist Approaches to Law*, cit., pp. 73-92.

Third-wave feminism strives – in line with postmodern criticism of mainstream political theories – to overcome the universalism of abstract concepts within mainstream political theories while still focusing on the paradigm of patriarchy. The difference in comparison with mainstream political theories but also second-wave feminist theories stems from viewing patriarchy never as something granted, given, or universally valid, but as a contextualized phenomenon of hierarchical social and power relations, or, as said above, as a phenomenon and type of social relations that should always be considered in a concrete-historical, genealogical, and comparative framework of the dialectic of patriarchy vs. emancipation.³⁸

Feminist scholars point critically to the lack of a gender-sensitive approach not only in the case of contemporary conservative, populist, and neoliberal streams of thought, but also in the case of contemporary theories of democracy, human rights, and constitutionalism.

I. The Lack of a Gender-Sensitive Approach in Contemporary Mainstream Political Theories.

Contemporary conservative, extreme right-wing, populist, and even neoliberal political theories openly or tacitly endorse patriarchy (a patriarchal system of values, traditional family roles with the subordination of women, with a strict division of the private and public sphere upon the patriarchal axis). It comes as a logical consequence of their political character (in the case of conservatism and populism, authoritarian collectivist ideas prevail; in the case of neoliberalism, individualist and competition-oriented ideas and practices result in the emergence of the so-called “new patriarchy”). This does not mean, of course, that certain elements of political emancipation have not been or cannot be incorporated into these theories as well.

However, the patriarchal element of the dominant dialectic of patriarchy and emancipation also affects contemporary political and legal theories of human rights, constitutional democracy, international law of human rights, theories of justice, egalitarian liberalism, and social-democratic theories.

Contemporary theories of human rights most often forget, ignore, or neglect women's rights and gender equality issues. Furthermore, contemporary theories of justice (Rawls, Dworkin, MacIntyre, Ackerman, Unger)³⁹, most often keep

38 HIRSCHMANN, N. and DI STEFANO C. *Revising the Political*, Westview Press 1986, p. 3; see also: Bryson, *Feminist*, cit., pp. 261-267; Lorber J.: *Gender Inequality*, cit.

39 Moller Okin states that the most influential theory of justice of John Rawls does take into consideration family life, but his theory neglects the prevalent gendered division of labor within the family, along with the associated distribution of power, responsibility, and privilege. Among the theories of justice that take into consideration family justice as an essential dimension of social justice are Walzer's book *Spheres of Justice* (though with controversies that the multiculturalism approach brings about in this context) and Philippe Green, with his book *Retrieving Democracy*. However, the following books pay even less attention than Rawls pays to issues of family justice. The list includes: Bruce Ackerman and his book *Social Justice in the*

women outside their conceptions of justice, either by locating them in the family (with an uncontested traditional family structure), or by ignoring family as a matter of justice, or by making women invisible in the universal abstract categories of “person,” “individual,” “human being,” which hide a male-stream understanding of justice.⁴⁰

Within the logic of forgetting/neglecting on the one hand, and the framework of promoting abstract categories of “person,” “human being,” and “universal rights” on the other, intersectional dimensions of gender inequality (discrimination and oppression based on gender, race, class, culture, and other), as well as non-binary, transgender, and queer individuals are typically put aside.

But why do the most progressive theories of today, oriented toward the highest civilizational standards of universal human rights and constitutional principles – also omit the gender equality approach?

This can be explained by a kind of automatism that causes contemporary political theorists, including those dealing with human rights and constitutional democracy, to follow the path of the dominant legacy/ mainstream thought. And so it happens that these progressive theories, with their critical stances against various forms of inequality and injustice, paradoxically stand uncritical, non-reflexive toward gender inequalities and the importance of gender issues.⁴¹

Feminist critique assumes that modern and contemporary political and legal theories have nearly always automatically preserved allegedly neutral political concepts stemming from “grand theories,” which conceal power relations and the subordination and invisibility of women inherited from patriarchy. In addition, the entire liberal tradition – including liberal theories of justice and egalitarian liberalism – has had a profound conceptual problem with each substantive understanding of identities (gender identity, social identity, etc.) and has opted for abstract universalist categories, the “abstract citizen.” Besides all mentioned, it may sometimes also be a matter of a personal lack of awareness and biased mindset of prominent scholars with regard to gender equality issues, including constitutional democracy and human rights theorists.

Overcoming deeply rooted patriarchal mindsets requires clear awareness and attempts toward gender mainstreaming of political thought. This gender

Liberal State, Ronald Dworkin and his *Taking Rights Seriously* (and to add *Sovereign Virtue*, although the *Law's Empire* contains the chapter on the family), William Gallstone and his book *Justice and the Human Good*, Alasdair MacIntyre and his book *After Virtue* and *Whose Justice? Which Rationality?*, Robert Nozick and his book *Anarchy, State and Utopia*, and Roberto Unger and his book *Knowledge and Politics* and *The Critical Legal Studies Movement*. (See: MOLLER OKIN, *Justice*, cit., pp. 6-7).

40 Ibidem, p. 9.

41 VUJADINOVIC, D. “Feminist,” cit., pp. 4-6.

mainstreaming happens mostly under the influence of postmodern feminist political and legal theories.

2 “Old” and “New” Political Concepts in Feminist Political Theories.⁴²

Feminist transformation of the main political categories compromises the universality of ideals and delegitimizes male power within old political categories of justice, equality, freedom, rights, democracy, etc.

Feminist theories deconstruct the mainstream/“male-streamed” political and legal concepts and conceptions, and point to the necessity of overcoming power relations and male dominance hidden in these categories as well as in all spheres of everyday life.

The key achievement of feminist political and legal theories has been to alter the meaning of old political categories and to include new categories into the domain of politics and political thought.

Concepts such as family, sexuality, care, persuasion, patriarchy, violence, pornography, prostitution, sex trafficking, sexual harassment, modern slavery, gendered division of labor, privacy, and care, all of which are considered nonpolitical issues by “mainstream” theory, become relevant for a feminist understanding of the domain of political.

Care, as the concept at the heart of the private-public divide, has the potential to break with the dichotomy present in mainstream political theories, to treat the private sphere not only as a matter of family concern but also as a political concept that brings about a fundamental reorientation of politics toward the issue of building a “good political order.” “Caring” as a political concept implies a significant reorientation of politics toward the common good.

“Community” was considered in traditional political theories as the backdrop for politics but not politics *per se*, except in communitarian mainstream political theories. Feminists reject the identitarian definition of community found in many communitarian political theories, which carries the controversial potential for collectivist oppression of individual needs and choices, especially with regard to the negative impacts of various forms of patriarchal subordination of women within various cultural, ethnic, and religious identities.

Feminists emphasize the importance of the community for developing mutual relations – of care, negotiating about the common good, being-in-common, fostering a sense of belonging, and taking care in the political sense.

⁴² *Ibidem*, pp. 22-26.

The “new” political concepts such as care, community, family, and privacy, in their interplay with the “old” political concepts of democracy, power, and justice, contribute to the revising of the meaning of the “old” ones.

3 New Meanings of “Old” Political Concepts.⁴³

Equality is no longer just about formal equality; it is also a call for substantive equality (this, of course, does not apply only to feminist theories). In the case of postmodern feminist theories, the attempt at substantive equality includes intersectionality, connecting equality with the recognition of different needs of women and non-binary persons belonging to different classes and races (intersectional meaning of gender equality).

An inclusive democratic order is proposed, along with a progressive welfare policy and healthcare. This also does not apply only to feminist theories, but in their case, it also includes a call for equal access to reproductive rights for women from all classes and races.

Justice must include gender justice, overcoming patriarchy in family and public life, sharing responsibilities and obligations, and the equal redistribution of resources while considering women.

The premise is that justice has been viewed throughout the history of political philosophy, and even in most contemporary political theories, in a biased way: 1. Justice has always been restricted to the realm of the public sphere and politics (which are also restricted to a traditionalist framework that divides the public and private spheres); 2. Justice discourse and practice have been separated from family justice; 3. The family has not been regarded as a realm of justice; 4. The family has been viewed in a traditional, patriarchal manner; 5. Political subjects have been identified as males either explicitly (when women are framed within the family) or implicitly (when abstract, universal categories are used that lead to identifying a person, human beings, as males).

The theoretical and practical-political understanding of justice must incorporate family justice, because the family and the private sphere have a profound political significance, in the sense that the seed of public power relations is precisely in the family and the private sphere, and in the sense that types of people socialized within the family and through further socialization are critical for justice in the public sphere and constitute the ideal-typical political subjects of justice, or autonomous citizens.⁴⁴

⁴³ *Ibidem*, pp. 9-15, pp. 22-26.

⁴⁴ MOLLER OKIN, *Justice*, cit., pp. 17-24.

The concept of justice reconsidered from the feminist perspective abolishes the public-private dichotomy and significantly alters and enriches the meaning of democracy.

Democratic theory must take into consideration power relations in the private domain of the family as those that reflect the dominance in the public sphere and *vice versa*. The battle against dominance cannot be restricted to government institutions but must also include the family and private sphere as well as individuals, or in other words, gender justice.

In short, the feminist perspective thoroughly revises existing notions, such as privacy, freedom, individuality, collectivity, equality, democracy, justice, and citizenship.

Democracy was reconsidered by second-wave feminism in the late 1960s, mostly in relation to the Western world (changed conceptions of power, individualism, collectivity, community, collaboration, and persuasion). Feminists at that time established the notion of “women’s culture” as distinct from that of male participants in the “new social movements” of the 1960s, with this culture emphasizing connection and relationship over individualism and rights, celebrating collaboration and persuasion and creating power with others rather than imposing it through sanctions or force. The idea developed through the feminist practice was that political power must be more than simply the power of coercion.⁴⁵

Debates from the 1970s within mainstream democratic theory and practice of constitutional democracy, and under the influence of multiculturalism and feminist movements, led to requirements for a more inclusive democratic thought and order. Namely, it brought into focus the global pyramid of center/periphery subordination of nations, classes, and races, and it shed light on the additional subordination of all groups of women within the global pyramid based on concrete intersectional oppression experienced in their nation/state, ethnic group, race, class, and family. This was also the political-historical framework for the birth of postmodern feminisms. However, the direct theoretical impact on articulating postmodern feminisms came from postmodern political theories.

Third-wave postmodern feminisms have been reconsidering the concept of democracy (and other political concepts). African-American, international, and postmodern feminists revised the concept of democracy in an attempt to overcome the Western-centric approach and require a much more inclusive understanding of democracy.

45 MANSBRIDGE J.: “Reconstructing Democracy” in *Revising the Political* (edited by N. Hirschmann N, C. Di Stefano), Westview Press, 1986, pp. 117-138.

In addition, these feminists criticized the white, Western, middle-class-centered feminism of the second wave, which neglected the global context of subordination and its impact on women. The rise of the LGBTQ+ struggle for recognition comes also onto the agenda. In that context, feminists and LGBTQ+ groups struggle for the recognition of different multiple-gender and transgender identities; however, they also occasionally come into conflict.

Contemporary democracies employ a deliberative approach – a combination of coercive power (threat of sanctions and force) and persuasion – as opposed to manipulation, which implies providing reasons, communicating common goals, and employing a mixture of knowledge and emotion. Feminist insights into the specific female culture of care and “giving” are employed to advance deliberative democracy by giving persuasion a greater role.⁴⁶

The advancement of democratic persuasion (and deliberative democracy) in the context of feminist critique is driven by female experiences of “connection” and care, which stem from women’s historical position of powerlessness (women of all classes and races had to develop better persuasion capacities while being devoid of most economic, social, and political power resources). The concept of power as empowerment (of the powerless) emerges as an alternative to the masculine conception of power as domination.

Feminist scholars also assume that the theory and practice of democratic deliberation would be significantly better if deliberation was less hierarchical and more interactive and listening-oriented. It would allow for the recognition of the needs and interests of disadvantaged social groups and a more inclusive public space for their political participation. It would result in the reconstruction of democratic power based on insights of connection, common good, empowerment.⁴⁷

Feminists point to the fact that listening, empathy, and emotional commitment are as yet underdeveloped in democratic theory. Besides feminist contributions to advancing deliberative democracy through putting more accent on non-hierarchical persuasion, there are also those related to combining the cognitive/right-based approach and emotional/storytelling approach in democratic deliberation and persuasion. Feminist authors emphasize the importance of combining the affective, relationship-based, and connection-oriented approach with the cognitive, right-based, individual-oriented approach in democratic theory and practice. In other words, democratic theory/deliberative democracy should combine the emotional, storytelling approach – open for empathy, community, collectivity for the common

⁴⁶ *Ibidem*.

⁴⁷ *Ibidem*, p. 129.

good, and power as empowerment – on the one hand, and the approach related to rational acknowledgment of democratic ideals, on the other.⁴⁸

There is also a complex reconsideration of the notions of “private” and the “public,” as well as the so-called private/public dichotomy.⁴⁹

“Private is political” was the slogan of radical feminists in the 1960s, but the dichotomy between private and public became a general feminist issue only in postmodern feminist theories.

Feminists do not neglect “privacy” as such, but uncover the background of the so-called private sphere of a patriarchal family and subordinated female roles within that type of family.

Feminist critique has shown that what was considered the private realm was permeated with unequal power relations: the household was structured by gender hierarchies, domination, inequalities, women’s devaluation and violence.

The traditional division into the private and public, with state intervention in the private previously or still considered illegitimate, has had long-term and serious, often deadly, consequences for women victims/survivors of men’s violence.

Namely, considering marital rape, sexual violence, forced marriage, female genital mutilation and other forms of violence against women as private family matters has given them legitimation throughout the long patriarchal history.

What was considered private caused great harm to women’s rights, body, sexuality, and so on (sexual harassment, family violence, genital mutilation, forced marriages, child custody), and must now be governed by state social policy, political, social, and police state authorities.

The private sphere should not be neglected and erased but rather reconstructed, with certain dimensions related to personal autonomy remaining in the private domain.

Women’s legitimate privacy should be essentially different from the patriarchal privacy associated with female repression. It should provide women with opportunities for individual forms of privacy and private choices and the individual freedom to be left alone.

⁴⁸ *Ibidem*, p. 124.

⁴⁹ EISENSTEIN, Z.: “Equalizing Privacy and Specifying Equality,” in: *Revisioning the Political* (edited by N. Hirschmann N, C. Di Stefano), Westview Press, 1986, pp. 181-192.
See also: ALLEN, A.: “Privacy at Home: A Twofold Problem” in: *Revisioning the Political* (edited by N. Hirschmann N, C. Di Stefano), Westview Press, 1986, pp. 193-212.

Women of all classes and races should have the right to privacy in terms of control over their personal needs, space, and time, the opportunity to be left alone, to be independent, as well as in terms of the right to abortion and other reproductive rights. Women of all races and classes should have the right to privacy under conditions of an inclusive democratic order with progressive welfare policies and healthcare, with equal access to reproductive rights regardless of their racial and social-economic status.

Concerning the interconnectedness of the rights to privacy with the human rights discourse, they are especially intertwined in terms of equal access to abortion (reproductive rights).

The right to privacy has to be linked to the discourse of human rights, civil rights, and the demand for racial and sexual equality. The right to privacy has to be unrestricted by the state in terms of the right to abortion, contraception, and sexual identity, but also supported by welfare state measures that promote racial, sexual, and economic equality.

In short, the right to privacy demands welfare state policies. As Zillah Eisenstein states, “(w)ithout a commitment to racial, sexual and economic equality, privacy rights for women are reduced to a sham. They remain abstract.

4. Critical Feminist Legal Thought.

Legal feminism of the second half of the 20th century explicitly challenged the male orientation of law. Feminist analysis of law “is, negatively an analysis of how some or all women have been excluded from the design of the legal system or the application of law and positively a normative argument about how, if at all, women’s inclusion can be accomplished.”⁵⁰ Feminist legal scholars criticize the “impartiality” and “objectivity” of legal systems, uncovering male standards and assumptions underlying these concepts.⁵¹

MacKinnon, for instance, argues that ideals such as objectivity and neutrality, which are typical of Western legal culture, are actually masculine values taken as universal ones. It follows that “the law is male,” meaning that when a woman stands before the law, the law applies fundamentally masculine criteria. Feminist legal scholars highlight male standards in defining the “reasonable person” and how these standards mask male constructs, so consolidating male dominance.⁵²

50 ALVAREZ DEL CUVILLO, A. et al.: “Feminist Political and Legal Theories” in *Gender Competent Legal Knowledge* (edited by D. Vujadinovic, M. Froehlich and Th. Giegerich), Springer 2023, pp. 73-88.

51 Ibidem.

52 Ibidem, p. 85.

The central focus of feminist legal scholars is on the issue of equality and substantive equality, as well as implementing gender equality in legal theory and practice, followed by the issue of discrimination/oppression, the status of the female body (reproductive rights, domestic violence, sexual harassment, rape, pornography), and the private/public dichotomy.

Aristotle's principle of procedural justice (equality for equals, inequality for un-equals) was taken as the critical starting point for considering what equality requires against a patriarchal legal background. However, equality for equals again conceals – though differently in different contexts – the inequality of women within the framework of the legal subject, i.e. individuals seen as equal legal subjects throughout legal history.⁵³

Concerning the equality/diversity pair, legal feminists provided nuanced analyses distinguishing between formal and substantive equality, but also further developed the concept of substantive equality in terms of equality of opportunity, results or outcomes, conditions, power, and social equivalence, arguing for an intersectional approach to better articulate the connection between universal equality and the struggle for recognition of differences (applied on women of different classes, races, and color), or more specifically, between universal equality and the recognition of gender-based intersectional discrimination and oppression.⁵⁴

According to Sandra Fredman, four steps are needed for achieving substantive equality in legal theory and legal practice: 1. redressing inequality and disadvantage; 2. addressing stigma, prejudices, stereotyping, humiliation, and violence, 3. initiating institutional transformation; and 4. accommodating difference (stimulating inclusion, empowerment of women).⁵⁵

In legal analyses, the discussion on equality extends beyond the dichotomy of what is the “same” and what is “different”: it requires that male domination be uncovered and balanced, by constructing a legal standard that takes into account the perspective of women and their possibilities to act in society. Equality here becomes almost a function of empowerment.⁵⁶

Another fundamental goal of feminist jurisprudence is related to the oppression/discrimination pair: MacKinnon's analyses on male domination urged feminist legal scholars to address the legal structures of oppression rather than specific rights-related discrimination. Unlike discrimination, oppression is produced in a systemic way, operating through social, political, and economic systems that

53 *Ibidem.*

54 *Ibidem.*

55 FREDMAN, S.: *Discrimination Law*, 2nd Ed. Oxford University Press, 2011.

56 ALVAREZ DEL CUVILLO, A. et.al. “Feminist,” cit., p. 80.

simultaneously limit women's opportunities and penalize them in different but inevitable ways. Additionally, oppression targets groups rather than individuals. Unlike discrimination – which can affect individuals, as well as groups – oppression primarily involves groups and individuals who are affected by oppression because they belong to a group.⁵⁷

A prominent focus of feminist legal critique has also been the distinction between the public and private spheres. In this regard, an overlapping of political and legal feminist considerations has been at the forefront of considerations.

This dichotomy is assumed by legal scholars as one of the sources of women's oppression, of barriers to women's participation in the public sphere, and of legal structures that put a disproportionate burden on women. Feminist legal thought insists that legal regulation of rape and violence in family and marriage, as well as divorce and child custody, represent crucial public issues. They also accentuate that the right to privacy is the right to be alone, which should be reinforced by complementary legal protection of reproductive rights for women of all classes and races.⁵⁸

As previously stated, the central focus of feminist legal theories is the issue of reproductive rights, including the right to abortion.

Legal feminists accentuate that the debate on abortion does not exhaust the issues raised in the field of reproductive rights, because: a) all women must have access to welfare support for reproductive rights, otherwise many poor women cannot afford to exercise the right to abortion; and also because b) advancements in medical technologies have been accompanied by an increased medicalization of reproductive issues, as well as an increased regulation of this field, in which women's rights to exercise control over their bodies are pitted against the claims of the state, the husband, and the unborn.⁵⁹

IV. FEMINIST PERSPECTIVE IN LEGAL KNOWLEDGE AND PRACTICE.

Concerning legal knowledge production, a gender-sensitive and gender-competent approach is necessary in all fields of legal education, particularly positive law. The elaborated general theoretical-methodological premises, as well as those explored in regard to political and legal theories, should serve as the basis for reconsidering knowledge production in all relevant fields of higher legal education from a gender equality perspective.

57 *Ibidem*.

58 *Ibidem*, p. 81.

59 *Ibidem*, p. 86.

Reconsidering legal knowledge and multidisciplinary knowledge connected to law from a gender perspective has become an axiomatic task. If contemporary law is defined primarily from a human rights point of view, gender equality is unavoidable, because any human rights basis of law cannot be developed and established as the civilizational standard without also introducing women's rights and eliminating gender-based intersectional discrimination of binary and non-binary persons within the dominant legal systems and their articulation in the mainstream legal and political thought.⁶⁰

Mainstream legal knowledge has to be “deconstructed” and “reconstructed” from a gender equality point of view in all fields of positive civil, public, international, criminal law, European Union law, as well as the economic, historical, and theoretical fields of legal education. Without gender-competent legal knowledge, there will be no gender equality – neither in law nor in real life.⁶¹ Gender mainstreaming of law is of utmost importance for overcoming its own gendered character as well as for overcoming the deeply rooted power relations and gender-based heteronomous social relations in the family and all spheres of public life.⁶²

When constitutional law is concerned, as Susanne Baer states, “modern constitutional law is not innocent when it comes to gendered inequalities.” From the point of sex, sexualities, and intersectional inequalities, “constitutionalism is, or has been, a contract in front of a sexual contract that privileged public – male – politics over private – female – matters.” Critical scholarship of constitutional law reconsiders how gender affects constitutionalism, in an effort to achieve gender justice in the constitution.⁶³

According to Baer, the consideration of gender perspective in constitutionalism encompasses the nature of sex inequality in theories of the state and the design of constitutions and discusses gender as an issue when drafting a constitution, as well as when practicing constitutional law today.⁶⁴

Baer elaborates how democratic constitutionalism has been developing after 1945, from “never again to the Holocaust” to “never again to colonialism,” and then “a strong no to military regimes or other dictatorships.” Then, in 1989 and the 1990s it served to facilitate transitions from communist to liberal democratic

60 See: VUJADINOVIĆ, D. and KRSTIĆ, I.: “Introduction” in the book series *Feminist Perspectives in Law* (edited by D. Vujadinović and I. Krstić), Springer 2023.

61 VUJADINOVIĆ D., FROELICH M., GIEGERICH, Th.: “Introduction” in *Gender Competent Legal Education* (edited by D. Vujadinović, M. Froehlich and Th. Giegerich), Springer 2023. pp. 7-8.

62 Ibidem, p. 2.

63 BAER, S. “Constitutional Law and Gender” in *Gender Competent Public Law and Policies* (edited by M. Davinić and S. Kostić), Springer 2023, pp. 1-3.

64 Ibidem pp. 2-3.

regimes, or from more religious to more or less secular regimes.⁶⁵ However, nowadays liberal constitutionalism is threatened by extreme right-wing ideologies and practices, with the gender equality issue being a crucial target in the current attacks and struggle to preserve the “new constitutionalism”: “Gender inequality – patriarchy, heteronormativity, homo– and transphobia – is a prominent item on the agenda of those who abuse or destroy constitutionalism, couched in diffused rhetoric of ‘decadence’ and ‘national identity, ‘history’ or ‘tradition’. In the twenty-first century, it seems that gendered inequalities are in fact a marker of such developments.”⁶⁶

Concerning criminal law teaching and learning, and consequently its articulation in legal practice, feminist legal theory critically considers criminal law understanding of offenses or issues of particular relevance for women. However, a number of problems have been raised in the feminist critique or reconstruction also of so-called general principles, such as whether they obscure gender differentiation, as well as issues of sexual domination and sexual justice within criminal law arrangements.

Hence, the “general principles” in criminal law – which evoke standards such as the presumption in favor of a *mens rea* requirement; the presumption of innocence and the standard of proof beyond a reasonable doubt; the presumption against liability for omissions; the principle of legality; and normative propositions about excusing conditions and justifying circumstances – are to be contested from “gender lenses.”⁶⁷ All of these presumptions should be critically reconsidered against their patriarchal and power relations background. Namely, the feminist criminal law scholarship’s attempt to reveal “general principles” as an ideology that legitimates criminal law’s power, i.e. toward revealing the obfuscator aspects of “general principles” and weakening their ideological effects.⁶⁸

As Nicola Lacey critically states: “Probably the most distinctively feminist objection to the idea of criminal law as based on general principles lies, however, in the claim that generalizations—appeals to universally valid categories or concepts—tend to obscure important differences between persons, actions or situations. From a liberal point of view, for example, the move from the standard of a ‘reasonable man’ to that of a ‘reasonable person’ is an advance. But feminists may question whether the abstract person is implicitly understood in terms of characteristics, contexts and capacities more typical of men’s than of women’s

65 Ibidem p. 8.

66 Ibidem.

67 LACEY, N.: “General Principles of Criminal Law. A Feminist View” in *Feminist Perspectives of Criminal Law* (edited by D. Nicholson & L. Bibblings), Cavendish Publishing 2000, p. 90.

68 Ibidem pp. 86-87.

lives and, moreover, is so understood in generalised terms which render exposure of sex/gender issues yet more difficult than in the days of sex specific language.”⁶⁹

As for labor law in legal curriculum, the gender-competent approach to labor law first recapitulates the history of labor law and recognizes the positive changes in labor legislation related to overcoming gender-based discrimination of female workers, but also critically designates the unresolved issues of occupational segregation, career advancement, precarious work conditions, gender pay gap, unpaid domestic work, and work-life imbalances. It also critically reconsiders law impacts of technological changes, especially the digitalization of work, from the point of improving or diminishing gender equality within labor, then impacts of climate changes, demographic changes, international migrations, as well as impacts of the neoliberal developmental strategy and the crisis of neoliberal capitalism.⁷⁰

When it comes to family law as a subject within higher legal education, key points include the critical examination of the family as an institution where unequal gender roles are established through marriage law, a critical analysis of marriage and laws and marriage-related issues such as property, maintenance, divorce, parenthood, child support, and then considering the best interest of the child in the family, as well as domestic violence as a gendered matter in family law. Feminist scholarship considers family law and family policies as major sites for the promotion of gender equality, while unequal power relations and gendered practices are codified through family law reinforcing patriarchal structure and male domination throughout pre-modern societies but also in many modern and contemporary societies.⁷¹

I. Legal Practice.

Feminist critical legal analyses require reconsidering laws from the point of how much and whether at all they open the space for addressing gender-based inequalities and their overcoming. These analyses also require reconsidering interpretations of laws and the implementation of laws from a gender-sensitive and gender-competent perspective. Adopting a gender-sensitive approach to law creation, interpretation, and implementation by all legal professionals in all fields of their expertise is required. In other words, the gender-sensitive legal analysis is concerned with overcoming gender-based and intersectionally-defined inequalities

69 Ibidem p. 92. See also: SANCHEZ, M.A., MARKOVIC, I., STRAND, S.: “Gender Competent Criminal Law” in *Gender Competent Legal Education* (edited by D. Vujadinović, M. Froehlich, Th. Giegerich), Springer 2023. pp. 505-541.

70 See: GUERRERO PADRON Th., KOVAČEVIĆ Lj. and RIBES I. “Labor Law and Gender,” in: *Gender Competent Legal Education* (edited by D. Vujadinović, M. Froehlich and Th. Giegerich), Springer 2023, pp. 583-631. See also: KOVAČEVIĆ Lj. “Gender Perspective,” cit., pp. 105-129.

71 Ibidem p. 577.

and oppression stemming from existent laws, specifically their interpretation and implementation.

Concerning legal practice, an example of the parliament's duties and activities can be briefly taken into consideration. The parliament, as a central democratic institution, has a transformational impact on citizens' lives in terms of gender equality provided it exercises its constitutional functions of representation, law-making, oversight, and budgetary prerogatives in a gender-sensitive manner.⁷²

When parliamentary activities are concerned, such as creating laws, policies, and different programs, and deciding on budgets, every parliamentarian and official should take responsibility for carrying out gender-sensitive scrutiny,⁷³ which combines law-making and oversight activities with the goal of advancing gender equality in society. As Jutta Urpilainen explains, "(p)arliamentarians are in a unique position to explore whether laws, policies, programmes and funding are discriminatory or exclusionary, either intentionally or unintentionally."⁷⁴

The gender-sensitive approach can be used when examining draft laws, reviewing existing laws, as well as overseeing governmental actions and approving budgets in all policy areas. If gender-sensitive scrutiny reveals unfairness in draft laws or budgets, discrimination in draft laws or existing laws, or ineffectiveness in actions and policies, parliamentarians can make recommendations for change, propose amendments to legislation or budgets, or publicize their findings to apply political pressure.⁷⁵

In the feminist perspective can be applied to making and overseeing laws, the following questions arise as crucial: 1. Is the law, policy, program, or budget affecting or likely to affect women and men in different ways?; 2. Was gender a consideration in the decision-making process?; 3. Is the law, policy, program, or budget likely to enhance or reduce equality between men and women, or keep it the same, and are there opportunities to increase equality?⁷⁶

Concerning legal practice, the gender equality approach should be embedded in the actions of all legal professionals – lawmakers, judges, prosecutors, lawyers, public administrators, and policymakers.

72 URPIILAINEN, J. *Gender-Sensitive Scrutiny, Parliaments in Partnership*, IDEA 2022.

73 "Gender sensitive scrutiny is the deliberate exploration of how laws, policies, programmes and budgets will affect, or are affecting, women and men based on their experiences, needs and contributions to society." *Ibidem* p. 15.

74 *Ibidem*, p. 14.

75 *Ibidem*, p. 10.

76 *Ibidem*, p. 22.

Furthermore, feminist critical legal thought has been developing the so-called feminist judgment stream, contesting specific case law and judicial decision-making from the perspective of gender equality.

2. Feminist Judgements.

Feminist judgments could be considered from the point of gender-competent legal knowledge but primarily with regard to legal practice in the context of the judiciary.

Feminist judgment projects promote gender-competent judging and demonstrate how the reasoning or outcome of case law can differ if a feminist approach is used in judicial procedures and judges are not biased by patriarchal stereotypes in their decision-making.⁷⁷

Feminist judgments are based on the idea that law provisions can be applied taking into consideration the special condition of the woman involved in a concrete dispute while having critically in mind that law represents the outcome of social and economic processes subjecting women to male domination. "Feminist judgements can either give rise to the review of the gender approach in the enactment of law and the concepts which are entrenched in the male-dominated assessment of rules, or mold legal concepts."⁷⁸

Rewriting judgments starts by questioning the rules' impact on women's lives and putting women at the fore. "This approach is anchored in a shift from the perspective of the subject of law as an atomized individual to human relationality and interdependence."⁷⁹ The second feature of rewriting judgments is related to including women "both in terms of writing women's experience into legal discourse (as individual litigates and collectively, drawing on relevant research evidence) and in the construction of legal rules."⁸⁰ The third feature of feminist rewriting judgments is related to fighting gender bias which has been marking legal doctrine and judges' reasoning.⁸¹ The fourth feature is contextualization and particularity, i.e. reasoning from context and the reality of women's life experiences, making decisions as individual rather than categorical or abstract ones, paying careful attention to the individual before the court, not judging women for making different choices from those the judge herself would have made.⁸² Another feature of feminist judgments

77 See: EVOLA M., KRSTIĆ I., RABADAN, F. "Feminist Judgements," in *Gender Competent Legal Education* (edited by D. Vujadinović, M. Froehlich and Th. Giegerich), Springer 2023, pp. 143-181.

78 *Ibidem* p. 165.

79 *Ibidem*, p. 168.

80 *Ibidem* p. 169. (quoted from R. Hunter et All. *Feminist Judgements. From Theory to Practice*. Hart Publishing, 2010, pp. 3-29.)

81 *Ibidem*, p. 171.

82 *Ibidem*, p. 172.

“consists of seeking to remedy injustices and to improve the condition of women's life. ... Rewriting judgements is intended to foster the development of gender competent legal knowledge, in order to give new impetus to judicial experience in the wider perspective of contributing to the improvement of women's social and economic condition.⁸³ The feature of feminist judgements “has been also identified in drawing on feminist legal scholarship to inform decisions.”⁸⁴

To sum up the meaning and content of gender lenses in shaping techniques of judging: “The different Feminist Judgements projects scholars developed focus on several concurring needs: (a) facing the challenges which are embedded in a gendered law; (b) counteracting those stereotypes which affect the working of courts; (c) spurring society to reconsider the relationship between law and gender equality; (d) displaying that a gender competent legal knowledge can support the achievement of substantial equality.”⁸⁵

V. CONCLUSION.

The feminist perspective or “gender lenses” means reconsidering all spheres of social life, knowledge production, and legal and political theories and practices from a gender-equality perspective in order to overcome patriarchal subordination and power relations in the private and public spheres of social life. The ultimate goal of implementing the gender equality perspective is the full implementation of universal human rights, social justice, and gender justice while diminishing patriarchal tendencies and expanding emancipatory tendencies.

For that purpose, the contextualized dialectic of patriarchy and emancipation must represent the theoretical-methodological axis of the gender-based intersectional analysis of binary and non-binary social relations and the power imbalances embedded in them.

The mentioned theoretical-methodological axis should serve for the practical overcoming of patriarchy and power relations in the given contexts of private and public life, in law and politics, in political and legal theories, and in knowledge production in general.

The theoretical-methodological premises of the feminist perspective in legal and political theory and practice, distinctive in comparison to traditional and patriarchal mainstream methodologies, can be summarized as follows:

83 *Ibidem* p. 174.

84 *Ibidem* p. 175.

85 *Ibidem*, p. 165.

- Deconstructing universal categories and “meta-narratives” as “male-dominated” (and also as belonging to the West-centric legacy) and constructing gender-sensitive and gender-competent insights, which open up new visions and opportunities for implementing gender equality and social justice;

- Pointing to concrete-historical, comparative, and genealogical manifestations of the dialectic of patriarchy and emancipation in political and legal theories, as well as in all spheres of social practice;

- Critical deconstructing of mainstream political and legal concepts as male-streamed legal knowledge, deconstructing power relations based on the patriarchal aspect of the dialectic of patriarchy and advocating its overcoming, i.e. advocating the emancipatory aspects of the dialectic;

- Highlighting the importance of the intersectional approach to gender-based discrimination, i.e. to multiple discrimination/oppression and mutual crossing of different power relations within the concrete-historically situated theories and/or practices;

- Calling for the gender-sensitive political and legal domain to take much more into account the position of the “victim,” i.e. subordinated invisible and devaluated subjects, to introduce the perspective of women and all other disadvantaged groups into knowledge production, the perspective of the empowerment of the powerless.

- Considering the position of the subordinated through attempts to listen to and comprehend their experience, i.e. to achieve a situated knowledge about the concrete reality of a personally experienced intersectional binary or non-binary gender-based discrimination, which must be founded on gender-sensitive statistics and legitimized by a gender-sensitive scientific approach.

- Connecting power relations between men and women not only to the public realms of law, state, and economics but also to the private sphere of family and everyday life;

- Overcoming artificial dichotomies – embedded in the mainstream political and legal thought and practice – between private and public, freedom and obligation, authority and equality, rights and duties, justice and power;

- Promoting openness toward acknowledging the issue of multiple genders and transgender identities, as well as readiness to abandon or enrich the binary conception of gender;

– Opening Western feminist political and legal knowledge and practice for other cultures and experiences;

The feminist perspective has found a common axis in the intersectional and concrete-historical application of the dialectic of patriarchy and emancipation. However, because the feminist approach is by definition complex and plural, differences and disagreements in understanding and interpretations are unavoidable; confrontations among different proponents of gender-based equality may emerge.

However, synergy, openness to deliberation, and attempts at converging ideas and practices are always preferable to sharpening conflicts. The common interest would be achieving as much as possible gender equality for binary, heteronormative, non-binary, and transgender persons, because gender-based and intersectional inclusiveness as striving principles, as well as gender mainstreaming through law and policy-making (supported by political tools of deliberation, persuasion, empathy, and a sense of belonging boosted by peaceful conflict resolution and equal respect rather than conflict and domination) correspond to the highest civilizational values of universal equality and social justice, to the rule of law and constitutional democracy.

Neither the economic system, nor family, nor politics, nor language, nor education, nor the law and judiciary play a critical and/or unique role in gender mainstreaming, but various factors and their interconnectivity are important because the forces that maintain present inequalities are numerous and intertwined. This leads to the conclusion that multiple and complementary actions are necessary for all mentioned fields.

Law and legal education are of special importance in this regard, because legal ordering can serve either to reproduce power relations within the patriarchal matrix, preventing and obstructing improvements of democratic order and the rule of law, or can serve to emancipate from social relations based on hierarchy, subordination, and power imbalances. Gender-sensitive and competent education is thus critical for creating, interpreting, and implementing laws that fully affirm the centrality of human rights and anti-discrimination in social relations. Especially important is the continual education of judges to overcome gender-based biases and prejudices and incorporate gender justice in their judicial decision-making.

Educating students of law (future lawyers, judges, prosecutors, public servants, members of parliament, and government bodies) in a gender-sensitive manner means a direct investment in better legislation and a more just interpretation and implementation of the law. It also means an investment in a better future by sensitizing judges in particular, but also legal professionals in all fields of legal

practice. This serves the fulfillment of the essence of contemporary law – equal respect and protection for all individuals.

Feminist perspectives or “gender lenses” must reconsider each sphere of legal and political knowledge and practice from the standpoint of how particular solutions and decisions affect gender equality, whether they promote the elimination of intersectionally understood gender-based discrimination on the path toward overcoming “old” and “new” patriarchy and simultaneous promoting gender equality.

Introducing gender sensitive and competent approach to the most relevant political and legal theories, political and legal education, and political and legal practice, is a civilizational requirement. Ideal-typical ideas of the best civilizational outcomes of the rule of law and constitutional democracy are not really doable without incorporating a gender equality perspective, one that is enriched and deepened by intersectionality and diversity.

Proponents of the gender equality approach in theoretical, policymaking, and other practical matters must be well-informed and equipped with clear ideas about the meaning and content of the feminist perspective. In this regard, elaborating general theoretical-methodological premises of the feminist perspective is of crucial importance.

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