

**Applied Feminism and Intersectionality:
Examining Law Through the Lens of Multiple Identities**

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**Promoting substantive equality in cases of ‘particular vulnerability’:
Three variations of intersectionality at the European Court of Human Rights**

Intersectionality has often been dismissed as a *passé* theory, with a relevance limited to the US. However, current debates prove its present vitality, with a flourishing scholarship investigating intersectional discrimination, notably in European policy, law and society. While most contributions on intersectionality underline how the intersectional lens *should* inform legal practice, in this paper I take a step back and investigate how it actually *has* informed legal practice, with a case study of the European space and in particular the European Court of Human Rights (ECtHR). In this paper I argue that even though judges often do not openly speak about intersectionality, it does influence jurisprudence. Notably, I claim that the ECtHR has recently, even if still sporadically, adopted intersectional analytical frameworks in its non-discrimination case law, thereby reaching substantive and transformative equality outcomes. I claim that the configuration of intersectional analysis at the ECtHR is distinctively European, following the migration and adaptation to distinct structures of oppression in Europe. It relies on four main elements: the recognition of complexity, contextualization, and a dual shift from difference-based analyses (perpetrator’s perspective focused on wrongdoing) to disadvantage- (material) and to stigma- (symbolic) based analyses (victim’s perspective focused on harm).

This paper explores the effects of the intersectional framework in judicial practice by analyzing recent non-discrimination jurisprudence of the ECtHR, and explaining how the focus on the concept of ‘particular vulnerability’ has promoted alternative legal reasoning. First, this paper presents the specificity of intersectionality in the context of the ECtHR. Second, this paper exposes the three ways in which the ECtHR has recognized intersectional discrimination and its effects: through an inter-categorical approach in *B.S. v. Spain* (2012), through recognizing intra-categorical complexity in *Oršuš and Others v. Croatia* (2010), and finally through an alter-categorical approach in *Kiyutin v. Russia* (2010). Finally, this case study demonstrates case by case how and why the implementation of a reframed intersectional framework has produced substantive and transformative equality outcomes.

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