

# **GENDER BASED DISCRIMINATION**

**ANA MEMETI**



# EQUALITY

Formal equality

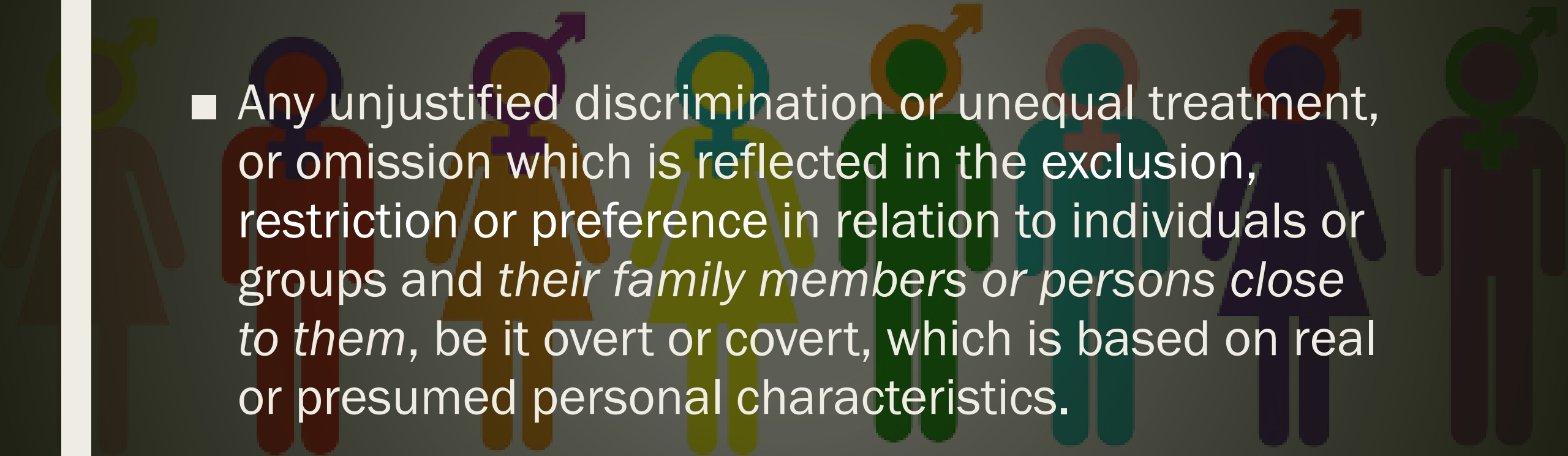
Substantive equality

- a) 'equality of results' requires that the result of the measure under review must be equal.
- b) 'equality of opportunity' suggests that all individuals must have an equal opportunity to gain access to the desired benefit, taking into consideration their different starting positions.



# DISCRIMINATION

- Any unjustified discrimination or unequal treatment, or omission which is reflected in the exclusion, restriction or preference in relation to individuals or groups and *their family members or persons close to them*, be it overt or covert, which is based on real or presumed personal characteristics.



# Forms of discrimination



Direct discrimination

Indirect discrimination

**Direct discrimination** occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have, or because they associate with someone who has a protected characteristic

**Indirect discrimination** can occur when there is a condition, rule, policy or even a practice that applies to everyone but particularly disadvantages people who share a protected characteristic

- **Systemic discrimination** involves the procedures, routines and organisational culture of any organisation that, often without intent, contribute to less favourable outcomes for minority groups than for the majority of the population, from the organisation's policies, programmes, employment, and services.
- Systemic discrimination comes under a range of titles in the literature including “structural discrimination”; “institutional discrimination”; and “systematic discrimination”.



- Charter of the United Nations – Article 1 (3)
- Universal Declaration of Human Rights (1948)
- Art. 1: All human beings are born free and equal in dignity and rights.
- Art. 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.
- Art. 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.



- **International Covenant on Civil and Political Rights (ICCPR) (1966)**
- **Art. 2(1):** Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, **without distinction of any kind**, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- **Art. 3:** The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.
- **Art. 14(1):** All persons shall be equal before the courts and tribunals. ...
- **Art. 26:** All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

- International Covenant on Economic, Social and Cultural Rights (ICESR) (1966)
- Art. 2(2): The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised **without discrimination of any kind** as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

- UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights) (2009):
- 8. In order for State parties to “guarantee” that the Covenant rights will be exercised without discrimination of any kind, discrimination must be eliminated both formally and substantively.
- (a) **Formal discrimination:** Eliminating formal discrimination requires ensuring that a State’s constitution, laws and policy documents do not discriminate on prohibited grounds; for example, laws should not deny equal social security benefits to women on the basis of their marital status;
- (b) **Substantive discrimination:** Merely addressing formal discrimination will not ensure substantive equality as envisaged and defined by article 2, paragraph 2. The *effective enjoyment* of Covenant rights is often influenced by whether a person is a member of a group characterized by the prohibited grounds of discrimination. Eliminating discrimination in practice requires paying sufficient attention to groups of individuals which suffer historical or persistent prejudice instead of merely comparing the formal treatment of individuals in similar situations. [...] For example, ensuring that all individuals have equal access to adequate housing, water and sanitation will help overcome discrimination against women and girls children and persons living in informal settlements and rural areas.

- UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights) (2009):
- 9. In order to eliminate substantive discrimination, States parties may be, and in some cases are, under an obligation to **adopt special measures** to attenuate or suppress conditions that perpetuate discrimination. Such measures are legitimate to the extent that they represent **reasonable, objective and proportional** means to redress de facto discrimination and are discontinued when substantive equality has been sustainably achieved. Such positive measures may exceptionally, however, need to be of a permanent nature, such as interpretation services for linguistic minorities and reasonable accommodation of persons with sensory impairments in accessing health-care facilities. [...]

## Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

- Adopted in 1979 by the UN General Assembly
- Focused on women rights
- Three core principles:
  - 1) Substantive equality
  - 2) Non-discrimination
  - 3) State obligations

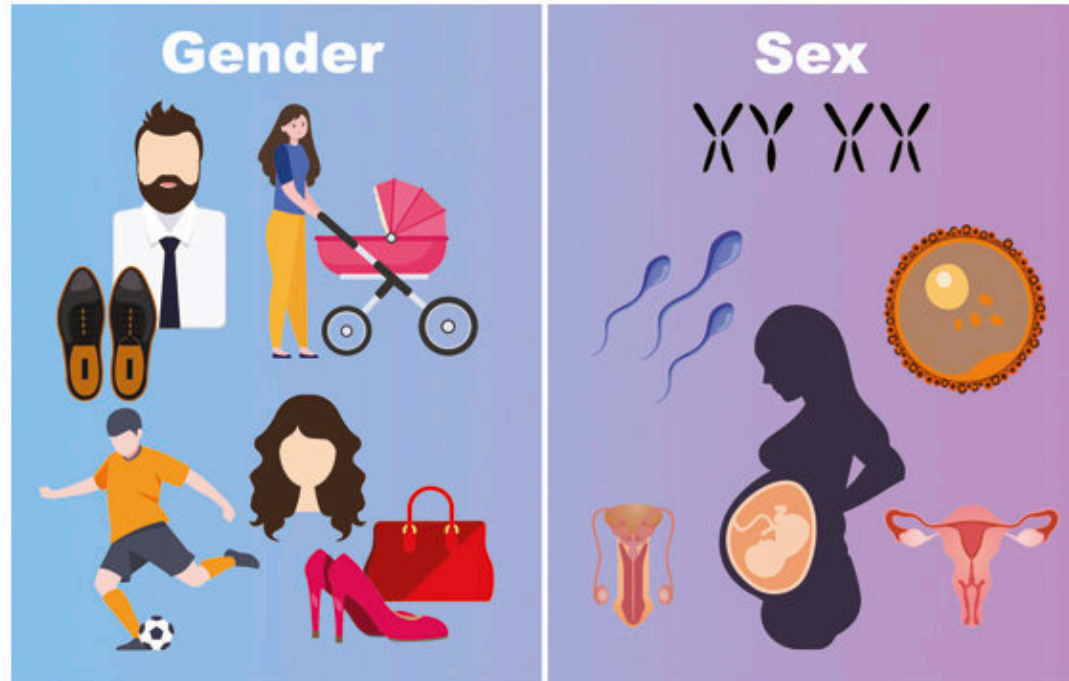


CEDAW

- Definition of the term “discrimination against women”
- Article 1
- For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the *political, economic, social, cultural, civil or any other field*.
- Article 3
- States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

- Article 5 (a)
- States Parties shall take all appropriate measures:
- To **modify the social and cultural patterns** of conduct of men and women, with a view to achieving the **elimination of prejudices and customary** and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on **stereotyped roles for men and women**;





Term '**SEX**' - reference to biological, genetically determined differences between women and men

Term '**GENDER**' - socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men

---

## GROUND

'SEXUAL ORIENTATION' – refer to a person's pattern of emotional, romantic, and sexual attraction to people of a particular gender (male or female)

---

'GENDER IDENTITY' – is the personal sense of one's own gender

---

'GENDER EXPRESSION' – is how a person publicly expresses or presents their gender; this can include behavior and outward appearance such as dress, hair, make-up, body language, name and voice

---

'SEX CHARACTERISTICS' – relates to intersex status

---

# What causes discrimination?

## **Gender stereotype is**

- a generalized view or preconception about attributes or characteristics, or the roles that are or ought to be possessed by, or performed by, women and men; or
- preconceived ideas whereby females and males are arbitrarily assigned characteristics and roles determined and limited by their gender

## **Gender stereotyping** refers to

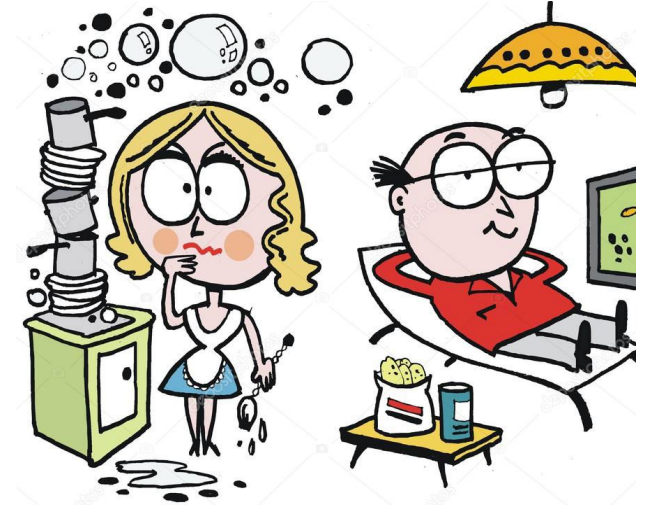
- ascribing to an individual woman or man specific attributes, characteristics, or roles by reason only of her or his membership in the social group of women or men; or
- overgeneralization of characteristics, differences and attributes of a certain group based on their gender

## **Prejudices**

- unfair feelings of dislikes for a person or group because of their personal characteristics.

## **Discrimination**

- the act of making unjustified distinctions between human beings based on their personal characteristics.













# WHAT IS THE ROLE OF GENDER STEREOTYPES AND HOW THEY CAN BE OVERCOME?

# Exercise:

- 4 different persons will be presented
- Each student will be given one identity
- Think about the personal characteristics on which you can be discriminated in society

# Meet Lisa

- Lisa is a CEO of the IT Company worth 3 million euros
- Lisa is 52 years old
- Lisa studied IT at Harvard University and comes from Germany
- Lisa has two children, and Lisa recently adopted a girl from Afghanistan who is disabled





# Meet Samira

- Samira is 65 years old
- Samira is from Afghanistan
- Samira is uneducated, and most of her life she was working in a clothing factory
- She was forcibly married when she was 12
- She has 5 children

# Meet Adanna

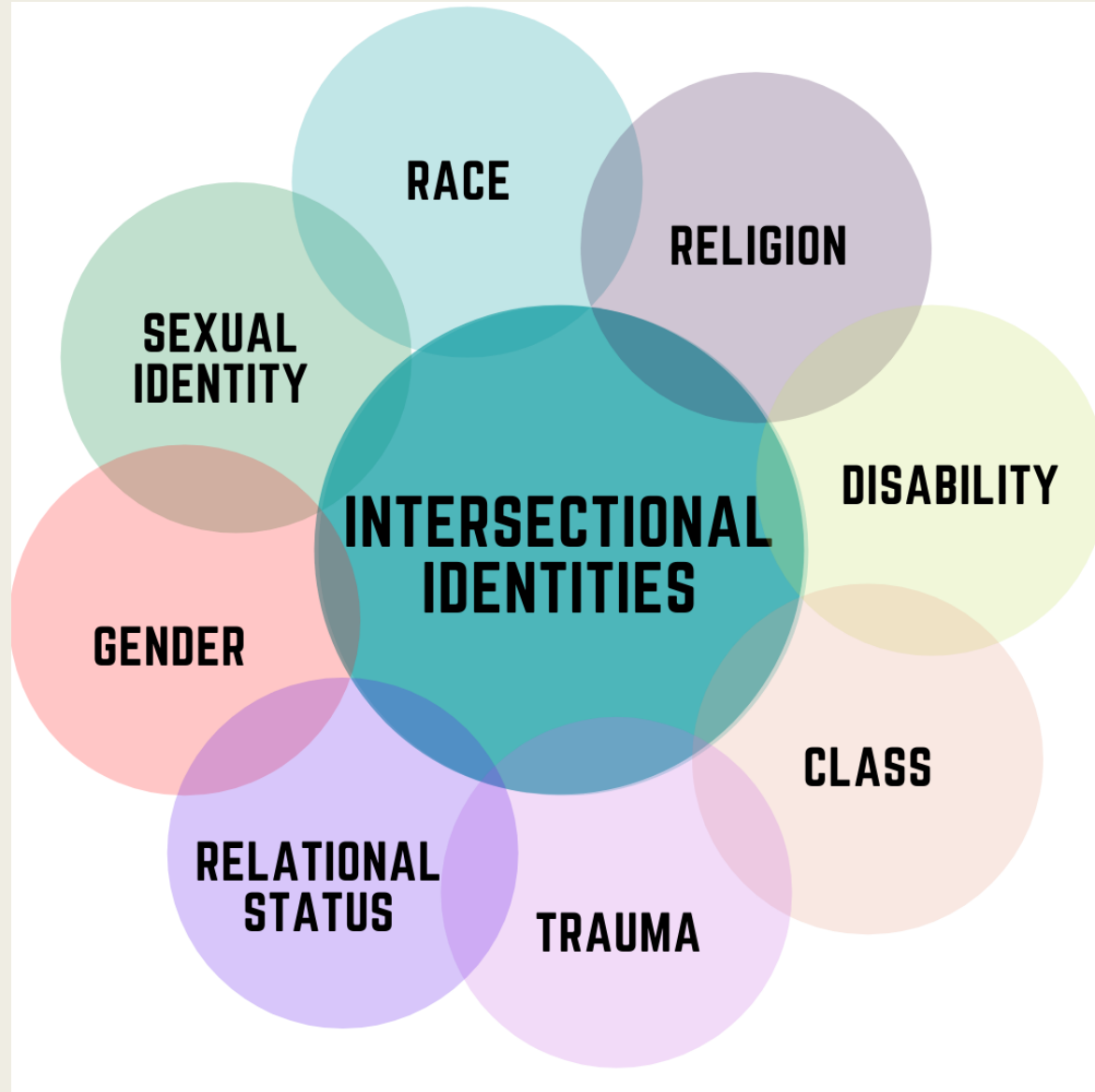
- Adanna is from Nigeria
- Adanna is waiting for her asylum decision in Germany
- She is 22 years old, and studying biology
- Adanna is lesbian
- She left Nigeria due to a risk of being exposed to female genital mutilation, like her mother





# Meet Valerie

- Valerie is 32 years old
- She lives in Paris and she is working at the library
- She was raped by two men at the club when she was 25
- She left college because she started having panic attacks and sleeping disorders after being raped



## Intersectionality

- Intersectionality is a metaphor for understanding the ways that multiple forms of inequality or disadvantage sometimes compound themselves and create obstacles that often are not understood among conventional ways of thinking
- Intersectionality refers to the simultaneous experience of social categories such as race, gender, socioeconomic status, and sexual orientation and the ways in which these categories interact to create systems of oppression, domination, and discrimination



# Kimberle Crenshaw

- Kimberlé Williams Crenshaw is an American civil rights advocate and a leading scholar of critical race theory. She is a professor at the UCLA School of Law and Columbia Law School, where she specializes in race and gender issues.
- Crenshaw is known for introducing and developing intersectional theory, the study of how overlapping or intersecting social identities, particularly minority identities, relate to systems and structures of oppression, domination, or discrimination.
- Her work further expands to include intersectional feminism, which is a sub-category related to intersectional theory. **Intersectional feminism examines the overlapping systems of oppression and discrimination that women face due to their ethnicity, sexuality, economic background...**

# GENDER BASED VIOLENCE



# GENDER-BASED VIOLENCE (GBV)

- CEDAW
- General Recommendation no. 19, 1992 – violence against women - Violence against women is a form of **discrimination**, directed towards a women because she is a woman or that affects women disproportionately
- General Recommendation no. 35, 2017 – prohibition of gender-based violence has evolved into a principle of customary international law, binding all states
- State obligations – take positive action to prevent and protect women from violence, punish perpetrators of violent acts and compensate victims of violence – principle of **due diligence** – link between human rights obligations and acts of private persons

# Definition of gender based violence

- Article 3
- Violence that is directed against a woman because she is a woman or that affects women disproportionately



# Forms of gender based violence

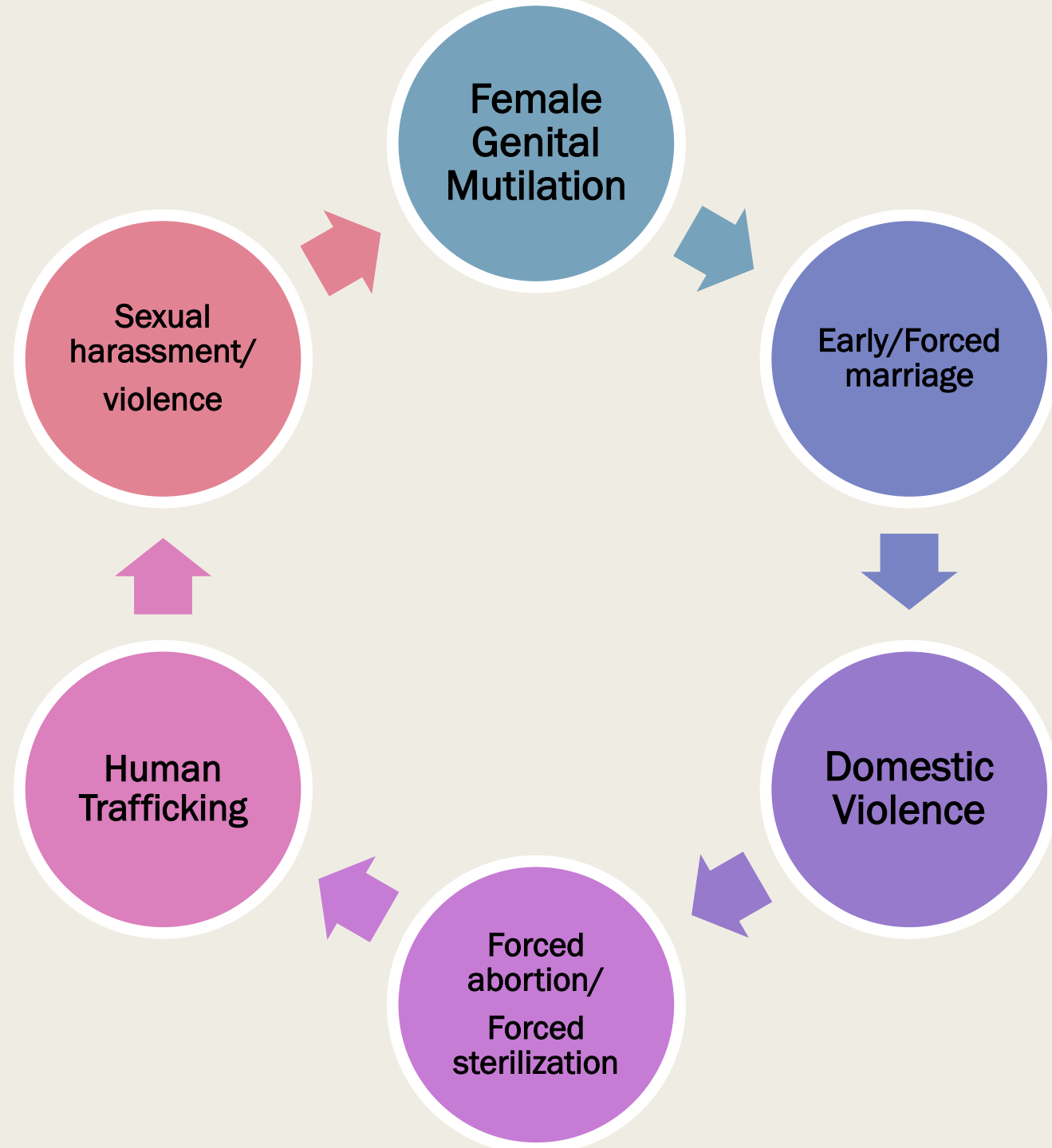
Physical violence

Sexual violence

Psychological violence

Economic violence





- **Female genital mutilation** - is defined as a customary practice involving the partial or complete removal of external female genitalia or other forms of injury to female genital organs, carried out for reasons unrelated to medical purposes
- **Forced marriage** is a marriage in which one and/or both parties have not personally expressed their full and free consent to the union. A **child marriage** is considered to be a form of forced marriage, given that one and/or both parties have not expressed full, free and informed consent.
- **Sexual harassment** is a type of harassment involving the use of explicit or implicit sexual overtones, including the unwelcome and inappropriate promises of rewards in exchange for sexual favors. Sexual harassment includes a range of actions from verbal transgressions to sexual abuse or assault

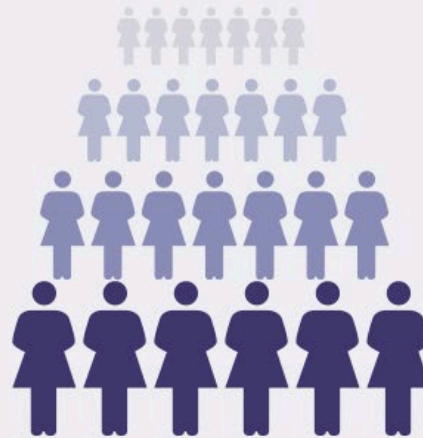




48,800  
worldwide



More than  
**133**



women or girls are killed by  
someone in their own family

- In 2022, around 48,000 women and girls worldwide were killed by their intimate partners or other family members.
- On average, more than 133 women or girls were killed every day by someone in their family.

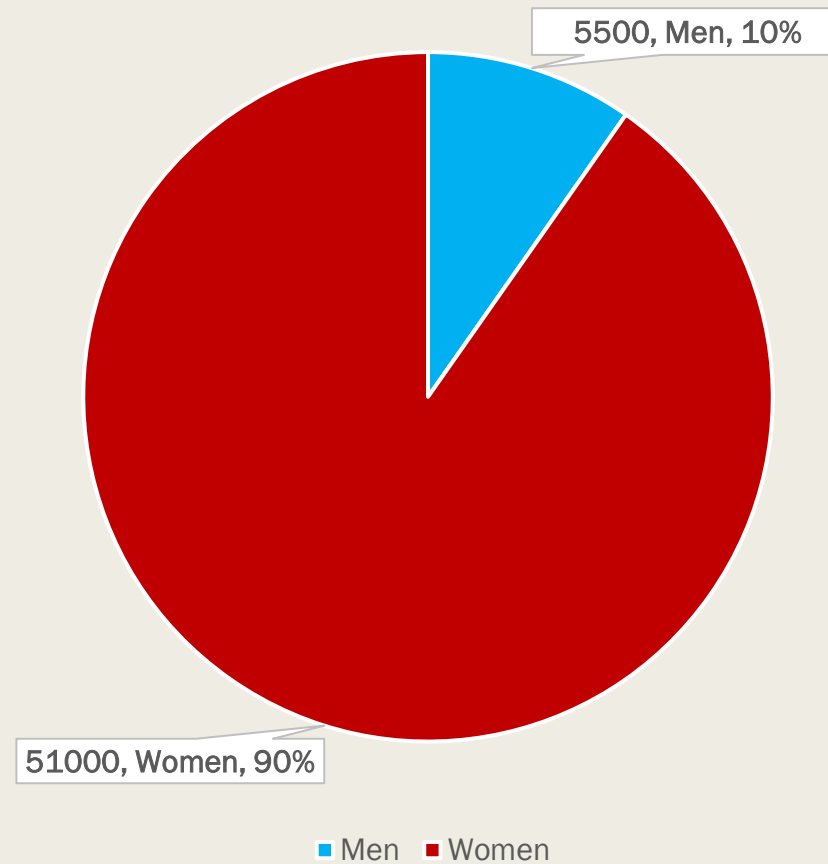
# Globally 736 million women

- have been subjected to physical and/or sexual intimate partner violence, non-partner sexual violence, or both at least once in their life.
- More than 640 million or 26% of women aged 15 and older have been subjected to intimate partner violence.

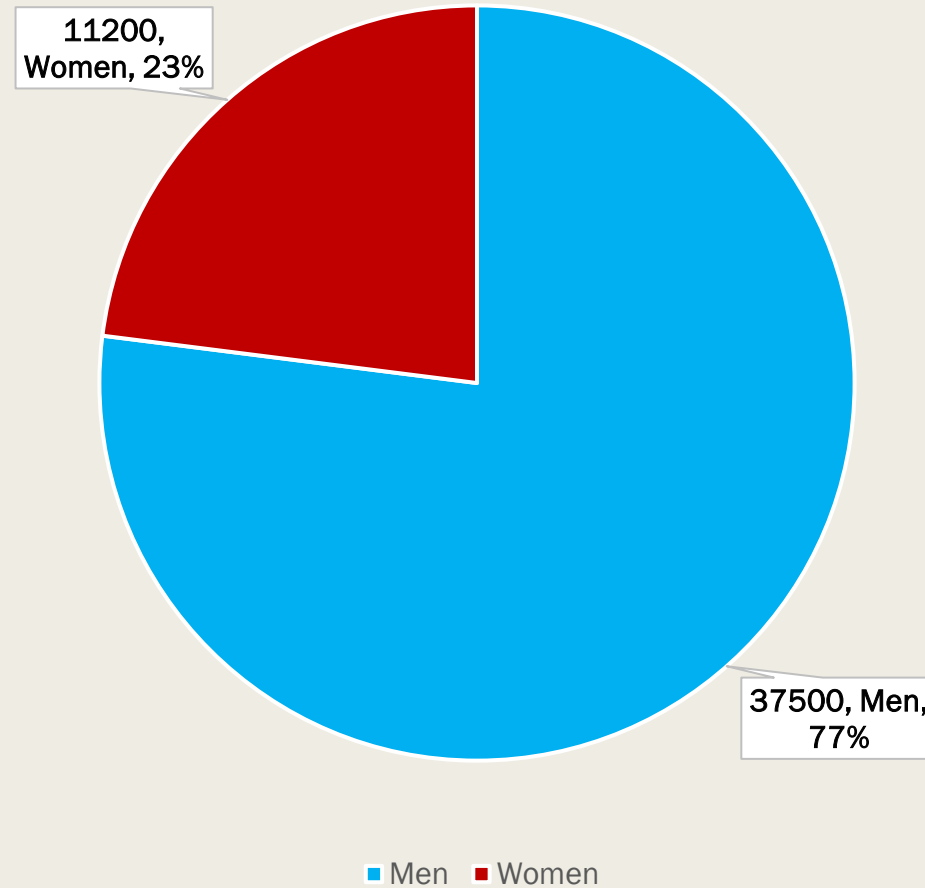


# Sexual Violence

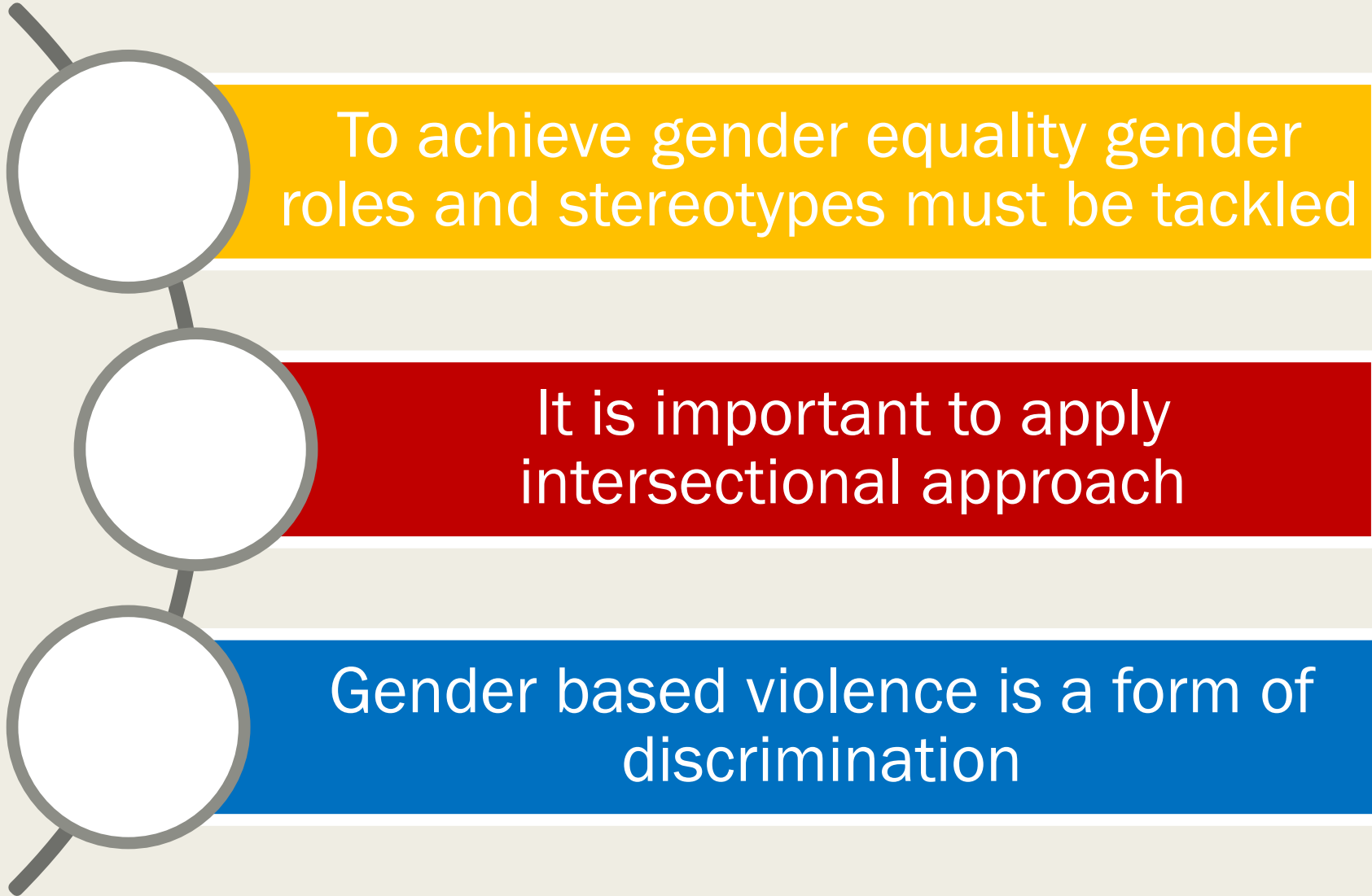
Rape Victims (reported in EU, 2016)



# Suicide Rates in EU, 2016



What may be causes for this results?



# THANK YOU FOR YOUR ATTENTION!

- For further information, feel free to contact me!
- [amemeti@ius.bg.ac.rs](mailto:amemeti@ius.bg.ac.rs)