

FEMINISM AND WOMEN WITH DISABILITIES

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Abstract: Women with disabilities are doubly discriminated against and socially excluded: through gender and disability. In order to perform an in-depth analysis of their actual situation, it is necessary to understand which models have been able to provide legal and political answers to this issue. Hence, the feminist model can be identified, on the basis of which we might elaborate upon its possible ties with the social model of disability. This study shows the correctness of feminist conclusions when dealing with inequality between men and women, but it also proves the inaccuracy of feminism in its approach on women with disabilities.

Keywords: Women with disabilities; feminist movement; disabilities; social model of disability; discrimination.

I. PREFACE

This scholarly work is aimed at showing the absence of an analysis on women with disabilities within the feminist discourse along with the consequences stemming therefrom. As it is well known, the feminist movement is of a vast, diverse, and multilayered nature. That is why I will refer to two schools of thought, which I consider shall be deemed representative of the movement as a whole as well as closely tied to the human rights discourse: egalitarian feminism and difference-based feminism or simply difference feminism. For that purpose, I will put forward what I consider to be flaws in these feminist strands, and I will attempt to specify the reasons for these shortcomings. I will also try to explain how their outcomes result in discriminatory acts against women with disabilities and in a hindered enjoyment of rights with respect to non-disabled women. Accordingly, and through a close examination of how the arguments originated in the feminist grassroots (as well as of the demands which triggered these grassroots' mobilization) giving rise to the feminist theory, both their relevance and their correctness on gender inequality is examined herein. Notwithstanding, this is an incomplete analysis to the extent that these arguments do not include women with

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disabilities within the group, or better said, insofar as they do not regard them as women. Therefore, these arguments shall be subject to a critical study. Throughout this paper I will try to elaborate upon this omission, which could be due to a lack of knowledge or a deliberate scheme. Along these lines, the said feminist strands analyze the relevant issues both from a human rights outlook and a women's rights and rights of persons with disabilities perspective. They perform a thorough study of discrimination situations suffered by women with disabilities in the legal and social domains from a joint perspective.

I.1. Feminist thought. Claimed rights

Despite the existence of various schools of thought within the feminist movement, they all share certain elements and objectives. In this connection, and regarding women's rights in the contemporary world -both socially and legally speaking-, these schools of thought coincide to a great extent when censuring male domination. Similarly, they agree on the meaning of the term patriarchy or that of the sex-gender system,² set forth in the 1970s feminist theory: "Patriarchy is not an essence; it is a social organization or a set of consistent practices which create a distinct material and cultural setting to foster its continuity" (PULEO, 2000). In this connection, it shall be understood that the aim of the feminist movement is to eradicate this patriarchy and to pursue equality between men and women.

However, at different points in time the feminist movement has had different projections, and its claims have stemmed from different political theories and from certain elements which shaped a given group at a given moment in time. In this vein, we

²As it happens with many other terms, there is no agreement on the use of the notion of patriarchy within the feminist movement. In fact, it is a term which has been severely criticized since it was used by radical feminists such as Millet or Firestone. In this vein, I assume Jónasdóttir's definition, who states that "patriarchy has an adequate abstraction degree as for general theory, [and thus] this term shall not be expected to provide specific details as for how a patriarchal society works (...). However, it provides an adequate prior framework in order to know how to inquire about the given social reality in each case." Some feminist theories prefer the 'sex-gender system,' this meaning any sort of gender organization, not necessarily an oppressive or a hierarchical one. A good example is provided by Celia Amorós, who considers patriarchy to be a synonym of sex-gender system (AMORÓS, 1992, pp. 41-58). In order to further elaborate on this, see PULEO (2000).

can talk about pre-modern feminism (which comprises the first claims from "controversial feminists"); modern feminism (starting with Poulain de la Barre's work along with French Revolution women's and feminist movements which gave rise to the great social movements of the 19th century), and finally contemporary feminism, by means of which the 60s and 70s neo-feminism along with the most recent trends is examined.³

The analysis performed in this paper will be based on contemporary feminism, on the basis of egalitarian feminism, both in its liberal and radical strands -which originated in the United States-, and on the basis of difference feminism, which flourished in Europe, particularly in France and Italy. The reason for this choice is that these two strands are the ones that best encompass the relevant ties between feminism and human rights. It must be clarified that not every theoretical contribution from these strands' scholars is examined herein. In fact, this paper highlights the most significant insights by means of a general assessment of these thoughts, which provides a good background for this work's theses statements.

According to Beltrán Pedreira (2001), the traditional distinction between the public and private spheres is challenged by means of a general feminist outlook. This is because the notion of a private sphere operating outside government's intervention as well as the alleged government's neutrality "simply accounts for a fictional construct which is very far from the traditionally set forth regulation and legal overview of family and reproduction. The said traditional regulatory framework has simply strengthened the patriarchy which was already in place."

In this vein, liberal feminism focuses on removing all legal barriers (SÁNCHEZ MUÑOZ et al. 2001). This school of thought aims at putting in place "gender-blind regulation"⁴ (BELTRÁN PEDREIRA, 2001) and as a result, they called for a greater

³Classification performed by DE MIGUEL (2000).

⁴This term is used by Beltrán Pedreira. This idea was first put forward in the United States *circa* 1982, to the end of the passing of a constitutional amendment declaring sexual equality ("Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."). They

female representation in the legislative and executive bodies. This claim gave rise to another main goal of liberal feminism: the incorporation of women to public life, companies, trade, education or politics. In accordance with this strand, gender inequality is due to an unfair rights and opportunities allocation. Liberal feminism is characterized by its definition of an inequality situation and by its advocacy of relevant reforms up until equality between men and women is accomplished (DE MIGUEL, 2000). However, the authors do not want this feminist approach to be in connection with a classic and traditional liberalism,⁵ since it goes "far beyond many liberal constructions in its approach and objectives" (SÁNCHEZ MUÑOZ et al. 2001).

Radical feminism does not even examine the public-private distinction; it asserts that inequality is present in both spheres. This school of thought took care of women subordination situations, comprising oppression in marriage along with sexual oppression by means of prostitution, pornography, pro-life regulation, lack of property rights and sexual violence. Every group of women stemming therefrom sought social awareness, and to that end they protested and started a struggle for a change in sexual domination structures (BELTRÁN PEDREIRA, 2001). Generally speaking, radical feminism stressed the importance of the psychological dimension of oppression⁶ (YOUNG, 2000): "It asserts that formal equality schemes are not enough in order to put an end to patriarchal domination, the origins of which can be traced back to the sex-gender system. On the basis of this strand, it can also be asserted that equality shall only be achieved by dismantling the foundations of this sex-gender system" (BARRANCO AVILÉS, 2013). In this connection, Silvina Álvarez states that "from this perspective, feminist analysis becomes driven by the notion of patriarchy, understood as the male

sought neutrality in the legislation, without taking into account gender, as well as attaining a greater female presence within the executive and legislative bodies (BELTRÁN PEDREIRA, 2001, p. 94).

⁵Barranco explains that the abstract right holder construct performed by liberalism "in the collective imagination matches a middle-class, heterosexual, white, economically, physically and socially independent white man." See BARRANCO AVILÉS (2011).

⁶Young, when explaining the concept of *oppression*, breaks it into five categories: exploitation; marginalization; powerlessness; cultural imperialism and violence. At the same time she highlights that oppression is a group condition, and in that regard she points out that oppression entails great injustices suffered by certain groups due to certain unaware people's reactions, who despite their good intentions, act driven by cultural stereotypes. In order to further elaborate on this subject, see: YOUNG (2000, p.71).

domination system which unavoidably entails women subordination" (ÁLVAREZ, 2001).

As opposed to egalitarian feminism approaches, difference feminism is a self-proclaimed advocate of sexual differences. This strand defines itself as a group of women which "highlight typically feminine features, roles and attitudes" (DE LAS HERAS, 2009). Hence, "it establishes a women liberation agenda towards a true female identity, leaving aside any reference to males" (CAVANA, 2000). Gilligan⁷ showed - through a comparative study of men and women- that from a very young age, males and females give different responses when faced with the same problems. In this connection, this authoress explains that there are two different ethics on the part of women and men: a female behavior, where responsibility and interdependence are strongly expressed, with a tendency towards more relational behaviors and a lack of jealousy. She also pointed out that the male moral conduct is grounded on the notion of rights, the entitlement of which shall be construed in relation to "a hypothetical impartial justice, which is also distributive and equitable." Along these lines, the authoress outlines a *feminine ethic of care*, rooted in the absence of violence and in the willingness to help others⁸ (ÁLVAREZ, 2001).

In a nutshell, these feminist strands' aims can be differentiated from each other by the role they assign women within society. On the one hand, there are some schools of thought fostering the "masculinization" of women in order to integrate women in socio-political structures created by males in accordance with their features and specific needs (egalitarian feminism). On the other hand, difference feminism advocates for a philosophical construct rooted in a cultural or group identity.

⁷ Carol Gilligan is an American feminist, philosopher and psychologist, whose studies took place after Nancy Chodrow's (feminist, sociologist and psychoanalyst). Gilligan reinterpreted Freud's Oedipus process, and explains that males and females reach their gender identity in distinct manners, and that the way in which men and women relate to their mothers is clearly different. Similarly, Chodrow asserts that there is a different identity development between men and women, which leads to large differences when entering into personal relations. "Women's self-perception tends to be as people tied to others by some sort of continuity linkage, by sympathy, closeness and affection. Contrarily, males tend to be distant, aggressive and selfish in their personal relations."

⁸ In this connection, Gilligan elaborates on what she calls an "*ethic of care* regarding affection, sensitivity and altruism, as opposed to men's ethics based on aggressiveness, competition and selfishness."

The feminist movement, in order to find a place for women within society, takes as a starting point the existence of a true male domination enforced through a patriarchal system. However, it does so within a given cultural context, which results in the impossibility of including women with disabilities within those theoretical grounds.

As Barranco Avilés (2013) declares, "feminist movements have homogenized women's image and have focused on a certain kind of woman, preferably western women." Along these lines, Palacios explains that "in broad terms, feminism has adopted a dominant woman pattern, which leaves women with disabilities aside. Thus, women with disability have been included in sub-groups designed for excluded women."⁹

II. WOMEN WITH DISABILITIES WITHIN FEMINISM

From this paper's standpoint, it is relevant to understand why women with disabilities were excluded from the feminist movement. In this section I will try to show how feminist thinking, which has been critical with the social structure in place, takes for granted the irrelevance and invisibility of women with disabilities in this social structure, aiming for the acknowledgment of a series of rights using a methodology (a scheme) thought for and adapted to the said rights.

II.1. Invisibility

Invisibility can be considered as one of the main causes giving rise to the lack of analysis on women with disabilities. From this outlook, it is highlighted that "gender and disability have been regarded as independent and isolated elements by the current women and disability movements, both of which have been very far away from each other" (ALVAREZ RAMIREZ, 2012). I only intend to comprise feminist thought with

⁹ This idea was taken from A. Palacios, in *Conferencia Internacional 2008-2013: Cinco años de vigencia de la Convención Internacional sobre los Derechos de las Personas con Discapacidad*. Comité Español de Representantes de Personas con Discapacidad (CERMI) and Instituto de Derechos Humanos Bartolomé de las Casas, Universidad Carlos III de Madrid, Madrid, May 2013.

respect to women with disability, leaving aside the thorough and in-depth analysis performed by the social model¹⁰ on disability and its connection with women.

The fact that women with disabilities are invisible to feminism and its strands is due to different social and cultural factors, which historically have awarded women with disability a vulnerable role within society. This perception of women with disabilities as dispensable and dependent on others is conducive to an imprisonment, a reductionism concerning their position as legal subjects which at the same time leads to oblivion and invisibility. The existing relationship between vulnerability and invisibility further increases the impact of stereotypes and assigned roles. Within our societies, there is at least a double discrimination and social exclusion for women, on account of their gender and due to their disability, and this places them under one or more (as the case may be) particularly vulnerable social groups. In the words of Barranco "the vulnerable nature of human beings is not dependent, or at least not totally, on their personal features. It is society's development what can make people become vulnerable" (BARRANCO AVILÉS, 2011). In this vein, Sheldon illuminates much of our subject matter when she asserts that women with disability are portrayed within society as needy, dependent and passive, all of them typically feminine features, whilst they are construed as incapable of assuming feminine roles (SHELDON, 2004). At the same time, Barranco points out that when this dependence becomes "official,"¹¹ it leaves room for arbitrary domination, and that is when rights become vulnerable.

¹⁰"There are two main premises as for the social model. In the first place, it is alleged that the causes leading to disabilities are neither religious nor scientific, but at least predominantly social. Pursuant to this model's advocates, disabilities are not due to individual constraints, but the actual limitations of society when it comes to providing adequate services and duly ensuring that disabled people's needs are taken into account as for social organization. Regarding the second premise -which refers to the utility for the community- persons with disabilities are construed as people who have a lot to contribute to society, or at least that their contribution would be as useful as that from the non-disabled. Moreover, assuming as a starting point that every human life is equal in terms of dignity, from the social model it is claimed that the contributions to society by persons with disabilities are closely tied to inclusion and difference acceptance" (A. PALACIOS, 2008). In order to further elaborate on this, see this authoress' work.

¹¹This means that for certain subjects (for instance, the case under examination here: a disabled woman) legislation limits the person with disabilities' legal capacity and thus his or her autonomy as for decision-making. See BARRANCO AVILÉS (2001).

Sheldon (2004) accounts for a postulate the basis of which is that women with disability have not been caught by feminist expectations and objectives. In her view, non-disabled feminists are wrong when they are oblivious to the fact that women with disabilities can greatly contribute to feminist thinking, and goes as far as to consider that this movement supports points of view which are prejudicial for women with disability. According to Sheldon, the feminist movement frequently declares that solely examining personal experiences shall suffice, experiences such as being "privileged" women, white, non-disabled, and heterosexual, while "marginalized women are overlooked" (BARRANCO AVILÉS, 2001).

II.2. Claimed rights

In connection with what was stated in the previous section's last paragraph, there is a second cause leading to the absence of women with disability in the various feminist strands, and it has to do with the objectives (claimed rights) sought by each of these schools of thought. As it is well known, the main objective pursued by the feminist movement is the empowerment of women and gender equality. To that end, feminism seeks to break with the existing inequality between men and women carefully crafted and implemented for generations by the patriarchal society itself. For the purpose of removing these barriers, each and every feminist strand focused on several goals stemming from their respective ideologies. According to these schools of thought, these goals were meant to putting an end to that sexist fragmentation.

A careful examination of the particular demands and qualms of the contemporary feminist movement points to a twofold conclusion. On the one hand, the obstacles encountered by non-disabled women are, to a greater extent, similar to those faced by women with disabilities. However, a close study of the said objectives shows an absolute lack of focus on disability, and women with disability are thus forgotten by this discourse. Considering this premise, Palacios' words become increasingly relevant when she asserts that "the largest obstacles faced by women with disability when trying

to exercise their legal capacity¹² are related to communication barriers (non-accessibility within the communication process when trying to shape their wishes, needs, and preferences) and, above all, attitudinal barriers, which in some cases include legal barriers driven by preconceptions and stereotypes about women with disabilities; court rulings resulting from legal interpretations based upon biases; absence of trained staff, and lack of support as well as of a gender approach when it comes to the exercise of legal capacity, among many others" (PALACIOS, 2009).

A crucial aspect within feminist movement objectives, as well as within disabled women's aims, is related to the exercise of certain individual rights, namely the right to sexuality, reproductive and abortion rights, along with maternity rights. Below is a brief analysis of these rights, which fall within a set of issues the focal point of which is domination over women. As Kathleen Barry has pointed out, "domination over women is politically addressed to specifically feminine features, namely sexuality and reproduction, which are socially and politically constructed as inferior. As women are politically, legally and economically discriminated against, this condition stems from a previous exploitation condition, which takes place in sexuality and reproduction by means of women's bodies" (BARRY, 2005, 1998).

II.2.a) Sexuality

Sexuality, both as an objective and a right claimed by women, was ignored by liberal feminism. Meanwhile, radical and difference feminism dealt with it, yet not in the same manner. The first refers to women sexualization as a form of oppression deeply rooted in the patriarchal system. This strand of feminism asserts that prostitution and pornography account for forms of oppression, caused by patriarchal domination. Barry refers to a "colonized territory" when she describes a woman's body and the

¹²Asís explains that legal capacity "shall be understood as a result of [legal] personality and leads to acknowledging the possibility of being entitled to rights and subject to obligations. DE ASÍS ROIG, 2012. In addition, Bariffi points out that "the essence of the concept and the rationale behind human rights entails considering that every person shall be awarded certain rights with no constraints nor discrimination of any kind." In this connection, see the work by F. BARIFFI, 2009.

oppression to which it is subjected. This same authoress explains that men, since they are in need of sexual experiences, look for women and frequently violently use them as a mere item. Barry compares men and women and concludes that men can sometimes be used for sex, but "in the light of sexualization, male bodies are not sexualized bodies." By means of this last statement, the authoress addresses the social construct made about sex. This construct defines sex as something inherently feminine and limited to a female body, which is reified. She clarifies that "prostitution is the essence of women's sexualization, because in its context, sexualized bodies in societies -every woman's body is indeed sexualized-, only need to be present and available to act on them to the end of having sex: particularly, the client's sexual pleasure or fantasy." Barry develops this idea and clearly differentiates between male and female sexuality. She asserts that men's sexuality has been construed "as a must, as a necessity," whilst women's has been traditionally regarded as a sort of "social identity," thus turning women into something or someone totally sexualized. Women's image becomes completely blurred and women are subsequently assigned a role after their reification has been performed. In Barry's (2005) words, this power exercised over women is "institutionalized" in the form of prostitution, pornography and marriage.

Within difference feminism, only a few cultural feminists tackled this subject. Susan Brownmiller, Germaine Greer, Andrea Dworkin, and Mary Daly, believe that male sexuality is aggressive and potentially lethal, as opposed to female's, which focuses on personal relations. They also think that women are morally superior to men, that feminine oppression stems from the removal of women's essence, and for that reason it is crucial to highlight the existing differences between both sexes as well as to become lesbian, insofar as "heterosexuality shall be censured due to its closeness to the masculine world" (OSBORNE, 2005).

These two social movements, which aimed -and still aim- at representing women's interests, have placed women with disabilities and their relation to sexuality on an outer layer, while these women have been socially disadvantaged with respect to any other woman. The truth is that women with disability are considered, exclusively

because of their disabilities, as (something or someone) asexual. This statement, deeply rooted in the collective imagination, derives from an existing stereotype, the arguments of which are clearly discriminatory, since they are grounded on the actual disability.

Certain consequences are derived as for the situation of women with disability from this reflection and the outcomes of the said bias. At the same time, this reflection leads to the lack of theoretical support of the feminist movement itself.

According to Palacios (2012), "disability conditions are often negatively considered, in order to justify the impossibility of exercising [certain] rights. Nowadays, women with disability are discriminated against on the basis of disability, as their sexuality is underrated, as well as their right to exercise it and thus also their very personality is underrated. Again, the authoress points out that "barriers encountered by women with disabilities when they attempt to exercise their rights result from the design of a society exclusively thought of for a standard person (usually a non-disabled man)" (PALACIOS, 2012). The aim here is, from human rights, disability and social model's perspective, designing society for all: for every man and woman.¹³

Notwithstanding, this deeply rooted understanding of society is due to stereotypes and leads to diverse ways of abusing women. Simply acknowledging them as dependent persons or the family itself¹⁴ creates an overprotection mechanism that brings along the "infantilization" of women with disability, who are dressed, undressed, and taken care of as if they were children. Since women become used to this practice and since they do not know the implications of making decisions about their own bodies (we shall recall that their autonomy is removed), it gets to the point of being unable to tell the difference between a situation in which a given woman is being touched as a result of a medical examination or a situation of abuse (VILLAVARDE, 2010). This

¹³For an in-depth analysis of universal accessibility and reasonable accommodation, see the work by DE ASIS & PALACIOS (2007).

¹⁴It shall be clarified that when I refer to family or relatives I also refer to (or maybe I just refer to) people with no blood ties, but who are part of a mutual assistance scheme, aimed at providing care. This may comprise friends, neighbors or teachers who could have developed some emotional and support bonds with the person in question over time.

inability to tell the difference results from the creation of a social environment. It is the answer to what society resolves about them: we are talking about people who cannot or must not decide over their own bodies and sexual desires and who are actually treated as asexual people or just as items which can be used for sexual purposes.

2.2.b) Control over their bodies¹⁵

Sterilization is a medical procedure by which any person is deprived of the power of reproducing. A forced sterilization takes place when this procedure is performed on a person without his or her consent. Forced sterilizations are performed on people without their consent, and they are normally driven by eugenic, punitive or forced contraception purposes. Concerning women with disability, sterilizations are performed to the end of preventing them from getting pregnant (forced contraception), since they are considered to be legally and socially *incapable* of parenting. This practice may be set forth by a State's law,¹⁶ i.e., it may be imposed on women with disabilities unknowingly, or it may be requested before a court by the woman's representative, to the extent that the latter shall give its consent replacing the woman's freedom and autonomy with regards to the decision of her own body. In this connection, Palacios (2012) puts forward that "women with disability are constrained by legal barriers in those countries in which it is legal to replace the woman's decision-making abilities involving her right to form a family." Hence, Barranco points out that "regulations are sometimes aimed at safeguarding the rights of people who are considered to be vulnerable. Many policies grounded on the rights to be granted in line with the specification processes have been drafted accordingly. Notwithstanding, a safeguarding policy which does not take into account the freedom of action of the persons addressed

¹⁵The decision over the own body comprises both reproduction and abortion. In this chapter only reproduction will be dealt with, excluding abortion from this study, since the issues to be examined herein are previous to it.

¹⁶In this regard, the International Committee on the Rights of Persons with Disabilities has played a role since in September 2011 urged Spain to eliminate this practice because it was contrary to the CRPD. See Committee on the Rights of Persons with Disabilities, On the Sixth Session, 19 September 2011, CRPD/C/ESP/CO/1, Review of the Reports turned in by the States parties in virtue of Article 35 of the Convention, Final remarks of the International Committee on the Rights of Persons with Disabilities, par. 37 and 38. Text available in: http://www.convenciondiscapacidad.es/Noticias_new.html. See also VILLAVARDE (2012).

thereby shall not be considered respectful or far less grounded on human rights" (BARRANCO AVILÉS, 2001).

It is mostly women with intellectual and mental disabilities who are subject to this practice, and it is often their family members -who act as their representatives and thus replace their legal will¹⁷-, who request judicial authorization to perform this practice. In this vein, Palacios (2012) asserts that "there is a common axis which allows for the constant violation of disabled women's rights, arising from the consideration of women with disabilities as weak, asexual and childish -subject to protection-, which at the same time leads to the replacement of their will, or even in previous measures, which prevent women themselves from finding out about their actual will (since exercising one's will is a learning process to which many women with disability have no access)."

The problem here is that the family does not get involved in the woman's willingness to have sexual relations or in the right time for her to have them. Contrarily, what is thoroughly assessed, and thus curtailed, is the right to be a mother. From this perspective, Villaverde states that there are "mainstream preconceptions about sexuality of girls and women with intellectual disability, on the basis of which forced sterilizations and abortions are grounded. These practices are enshrined in healthcare protocols regarding sexuality and reproduction, which were drafted with a total disregard for the applicable human rights law.¹⁸ Furthermore, the drafters of these protocols were completely unaware of these women's problems and they did not listen

¹⁷Quinn sets forth that "there is nothing inherently wrong in making decisions by replacement, inasmuch as this substituting decision-making process reflects my own will as well as my preferences (...). Instead of reproducing the person's will and preferences, there is always a conscious ignorance of his or her will and preferences, even when those are totally despicable" (QUINN G., 2012 p. 42). Bariffi explains that "the support system is featured by placing the final decision in the disabled person, regardless of the necessity of a third party's intervention to validate the decision in question. This third party has to give advice, contention to help for the person with disabilities." In order to further elaborate on this subject, see: BARRIFFI F. (2009).

¹⁸Forced sterilization is considered as a crime against humanity as well as a serious criminal offense. In this connection, one of its main features is that there is no need to ground the decision on a medical treatment, since regarding women with disabilities as the dominant approach is the medical model, it is often said that it is for the woman's best interest, thus allowing to perform the medical treatment without having it framed within a criminal offense. For an in-depth analysis, see: PALACIOS, (2008).

to women with intellectual disability who are subject to the said violations. All of this takes place at the guardian or parent's request, who is 'duly representing his children' and allegedly acts 'with the best of intentions.' These are simply paternalistic expressions which put social awareness at rest whilst violating human rights awarded to the most vulnerable people in society (Articles 1, 3, 12, 13, 23, and 25 of the UN Convention on the Rights of Persons with Disabilities)" (VILLAVARDE, 2012).

The foregoing is framed within gender inequality in the context of a patriarchal system. In other words, it is the man who decides whether women are able to conceive children (men with disability are not subject to vasectomy procedures) and who, by means of a standardization scheme, drafts a legal mechanism to the end of curtailing this right. This hypothesis is the framework for every feminist objective; it is the focal point for every claim arising from this movement. However, this situation cannot be found in its discourse. I am working with the simplifying proposal on which the absence of women with disability in the discourse is grounded, because the feminist movement is not identified by this proposal. Moreover, I consider Sheldon (2004) to be right when she asserts that it may be inevitable for non-disabled feminists to share all of society's negative attitudes towards people with disability as long as we live in a disabled society.

The feminist movement's keystone is no other than reproductive freedom. In this connection, Davis (2004) highlights that in the early 20th century feminism's main demands revolved around birth control; these claims were issued by white, non-disabled, middle-class women. As for disadvantaged women, the movement adopted a eugenic approach towards the attainment of demographic control, whilst it disregarded the individual right to birth control. Hence, throughout this century, forced sterilization of women with disability became mainstream, and these abuses still take place today (HUBBARD, 1990). Therefore, it must be concluded that reproductive freedom shall not be considered solely as the right to not being a mother, but also as the right to maternity.

Some situations of discrimination faced by women with disability can be inferred from this holistic outlook performed on the objectives pursued by mainstream feminism. As Young (2000) rightly points out, feminist general values also include social conditions which define injustice: oppression, the institutional barriers curtailing an unhindered development of personality, and the domination which prevents self-determination from taking place.

II.3. Methodology

As we saw before, the absence of women with disability in the feminist movement discourse can be due to three different reasons. In the first place, it could be due to the "invisibility" of women with disabilities. Secondly, it may stem from a total unawareness of the fact that both feminism and disability movements have in common almost every objective. In the third place, the said absence may be willful, and could be triggered by a methodological reason put in place to achieve the aims pursued. In fact, we are confronted by schemes, which are based on a series of carefully planned actions over time by the movement itself.

In the previous section we concluded that women with disabilities were not part of the objectives foreseen by the various feminist movement strands. Through this paragraph we try to find out the reasons why we reached the abovementioned conclusion. To this end, we analyze in detail this work's hypothesis, which can be summarized in a homogenization of the feminist movement, which leads to the absence of women with disability in the feminist discourse.

"Gender-based discrimination has very distinct features. In addition to the fact that women are not a minority (they actually account for more than half of the population), it is frequent to see how discrimination against women takes on a protection connotation (this sort of discrimination allegedly has a benign nature)" (BARRÈRE UNZUETA, 2003). Notwithstanding, in the legal domain, discrimination can only be defined as a difference in treatment, yet not in *status*, since defining the

latter necessarily entails talking about subordination or, in the words of Añón Roig, "systemic discrimination." In other words, it is strange to the legal notion of discrimination, and "accounts for a sort of inequality stemming from the impact of social values, which at the same time have arisen from the false universalism embodied in the drafting processes of the recognition of rights." Reference is made to those situations of social inequality, subordination or domination, in which it is impossible to individualize a given conduct nor a discriminatory treatment (in legal terms), can be identified (AÑÓN ROIG, 2010).

In light of all the foregoing, the discursive analysis of each of the strands becomes relevant. Along these lines, Asís Roig (2013) talks about a supporting discourse which puts forward two kinds of arguments, the so-called "situation argument" and the "identity argument." From this perspective, Asís asserts that pursuant to difference feminism, the claimed rights are grounded on "distinct feminine features which identify women, and not necessarily on the discrimination situation suffered by them." Contrarily, in accordance with egalitarian feminism (in its two schools of thought: liberal and radical egalitarian feminism), "the justification of rights comes from the discrimination situation faced by women, and not from the possible existence of distinct feminine features" (DE ASIS ROIG, 2013).

Barrere Unzueta (2003) points out that the applicable law shall be subject to an in-depth examination. In addition, she demands a "shift in the legal notion of discrimination (based on differences in treatment) towards the concept of subordination (based on differences in status)." Furthermore, feminism censures specific anti-discrimination legislation, on the basis of its severe deficiencies regarding the very understanding of discrimination while pointing out the existing structural and social inequalities (AÑÓN ROIG, 2010).

Discrimination against people with disability results from a social construct and a power relation, just as gender-based discrimination. "Persons with disabilities see how their autonomy is curtailed, leaving them as mere passive right holders instead of legal

subjects" (CUENCA GÓMEZ, 2012). "Disability is an evolving concept, (...) as well as a cultural notion, which experiences changes between cultures and societies" (PALACIOS, 2008). Therefore, its interaction with the environment is essential (SERRA, 2013), i.e., disability only arises when social factors account for a true obstacle for people.

The language used by the Reports of the Committee on the Elimination of Discrimination against Women can also be discriminatory¹⁹ when dealing with gender-based discrimination from a protective outlook. On the basis of this parameter, the Committee confers women with disability the same status as that awarded to "elderly women," and it uses a stereotyped language to address the first: the Committee declares that women "suffer" disabilities and are in need of "special attention." Language is an ideological instrument of power and in a context in which women with disabilities are discriminated against on account of their gender and because of their disabilities, such leniency in the language use shall not be permitted, since language "does not operate in the vacuum, but it is used in a given context" (HALLIDAY, 1982). Therefore it is dangerous to continue using a stereotyped language, the content of which is driven towards subordination in the surrounding reality.

Vulnerable groups put in place, by means of their movements and grass roots, certain schemes and tools aimed at putting an end to the existing structural discrimination²⁰ in order to be able to develop their personality on an equal footing with every other member of society. Regardless if we are within a legal culture (the analysis performed herein is meant to be purely scientific), when we find ourselves in the equality and non-discrimination arena we notice several differences between feminism and the disability movement concerning the tools to be used.

¹⁹Report from the Committee on the Elimination of Discrimination against Women 37th Session (01/15 to 02/02 2007) 38th Session (05/14 to 07/01 2007) 39th Session (07/23 to 08/10 2007) General Assembly 62nd Official Document Supplement No. 38 (A/62/38).

²⁰Añón Roig, following Vandenhoe, explains that structural discrimination shall be understood as a "sort of inequality stemming from the influence of dominant social values stemming from the able, heterosexual male model, while it shows a prevalent race, religion and language status" (AÑÓN ROIG, 2010, pp. 127-162).

I consider these differences to be due to both movements' starting points. The perspective adopted in order to put an end to the said barriers differs from one discourse to the other.

The feminist movement, understood as a group discriminated against in its various strands, is based on homogenizing a given standard.

Egalitarian feminism's demands revolve around the aim of total equality between men and women, in the literal sense of the term, on the basis of an assimilation ideal,²¹ as well as "making sexual equality dependent on the removal of every gender-based barrier" (MOSQUERA ANDRADE, 2006). It might seem that being on an equal footing with respect to the enjoyment and awarding of rights means being equal in the remaining human and social features, but the difference is a merely descriptive term, and as Ferrajoli points out, that difference is part of equality.

Pursuant to Young (2000), difference feminism "has regarded self-organization and the assertion of a cultural and group identity as a better strategy in order to be empowered and participate in the dominant institutions." In this connection, this strand of feminism defines women unlike egalitarian feminism. Its standard is no longer a white Western male, but the "perfect" woman, characterized by certain features.

The philosopher Michael Sandel (2007), when referring to genetic engineering, puts forward a set of ideas which I consider to perfectly fit this work. He points that "it is somewhat tempting to think that designing (...) ourselves in order to succeed in a competitive society accounts for our freedom. However, changing our nature to fit in the world -and not the other way around- is the greatest loss of freedom possible. It keeps us from critically reflecting on the world and appeases our impulse towards social and political improvement." This is exactly the subject of the new paradigm brought by the social model of disability, when it establishes that "the causes of disability are not

²¹This ideal of justice is analyzed by I.M. YOUNG (2000).

individual but social, and particularly due to the way society is shaped" (PALACIOS, 2008).

In this connection, the disability movement does not want to equal the disabled to the non-disabled concerning physical, mental, psychic, mental or sensory abilities. The aim is making differences part of human reality (which is the same thing many feminist movements do, yet not addressing disability). The goal is not to assess people's value on the basis of their social utility (PALACIOS, 2008). Their struggle is performed under a perspective which clearly differs from that of egalitarian feminism: they do not want to be equal (literally speaking) to non-disabled people. They claim to be different, highlighting that because of this they shall not be deprived from tools to develop their autonomy nor this should lead to discriminatory actions.

III. CLOSING REMARKS

Women with disabilities have not yet solved their human rights generalization process (DE ASÍS ROIG, 2010). Young points out that "an understanding of the legal system which challenges institutionalized domination and oppression shall provide a vision of a heterogeneous public sphere acknowledging and asserting group differences." Similarly, Young states that "cultural imperialism consists in making a group invisible while labeling and stereotyping it. (...) Thus, those who subject to cultural imperialism become invisible subjects, they lose their condition of people with own perspectives and experiences, with specific group interests. However, at the same time, they are labeled and petrified in a *negative mirror* existence, deviated from the dominant standard. Dominant groups do not need any self-awareness; they play an unlabeled, neutral and apparently universal role" (YOUNG, 2000).

The situation faced by women with disability is due to a series of factors. This work accounts for my attempt to show how a good part of feminist thinking has greatly contributed to this situation. Notwithstanding, this same way of thinking has led to the recognition of women's rights by using arguments and perspectives which are also

applicable to women with disability. That is why it is necessary for these discourses to get intermingled as well as to insert the disability social model's approach in the feminist movement.

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