



Gender in international law and ‘gender ideology’ discourse

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Introduction

- ▶ Notion of 'gender' introduced in the UN system in the 1990s, producing backlash ever since
- ▶ 2010s – anti-gender campaigns fighting 'gender ideology' in national contexts
- ▶ Anti-gender mobilisations as (trans)national phenomenon – scholarship focusing on national manifestations of movement against 'gender ideology'
- ▶ Where there any specific developments in international arena that led to this change of the 'battleground' in the war on gender?



UN(non-definitional) approach to gender

- ▶ 1990s – shift from ‘women’ to ‘gender’
- ▶ 1993 Vienna Declaration and Programme of Action - ‘gender bias,’ ‘gender-specific data’, ‘gender-based violence’
- ▶ 1994 Cairo ICPD Programme of Action – over hundred references to gender
- ▶ 1995 Beijing Declaration and Platform for Action – gender ‘to be interpreted and understood as it was in its ordinary, generally accepted usage’ (Girard, 2007; Oosterveld, 2005).



The opposition

- ▶ Holy See; Organisation for Islamic Conference; conservative North-American organisations – understanding of gender as grounded in biological sexual identity of man and woman;
- ▶ Holy See (1995) argued that “dubious interpretations based on world views which assert that sexual identity can be adapted indefinitely to suit new and different purposes” must be excluded



The Rome Statute

- ▶ The 1998 Statute of the International Criminal Court (the Rome Statute):
For the purposes of this Statute, it is understood that the term 'gender' refers to the two sexes, male and female, within the context of society. The term 'gender' does not indicate any meaning different from the above.
- ▶ 'Constructive ambiguity' (Oosterveld, 2005; 2014) or intentional vagueness which allows simultaneous claims that the definition is simply referring to two sexes, or that the reference to the 'context of society' is indicative of social construction of gender
- ▶ Holy See used the Rome Statute definition on multiple occasions in an attempt to impede a wider understanding of gender, such as during the negotiations on the Istanbul Convention




The Istanbul Convention

- ▶ 'Gender' shall mean the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men (Article 3(c)) - CAHVIO – national experts from 47 CoE member states
- ▶ First social constructionist definition of gender in a legally binding treaty
- ▶ Explicit prohibition of discrimination on the basis of gender identity reflected the wider recognition of the rights of sexually and gender diverse people



SOGI in international law

- ▶ 2006 – gender identity included for the first time in the UN Joint Statement on Human rights Violations Based on Sexual Orientation and Gender Identity;
 - ▶ 2008 - Joint Statement on Human Rights, Sexual Orientation and Gender Identity, followed by an opposing statement, sponsored by the Organisation of Islamic Cooperation
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SOGI

- ▶ 2011 the UN Human Rights Council (HRC) adopted the first resolution requesting the UN High Commissioner for Human Rights 'to commission a study documenting discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity.'
- ▶ 2016 resolution on Human Rights, Sexual Orientation and Gender – established the mandate of the Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity.



Understanding gender identity

- ▶ Undefined in multilateral documents
- ▶ Yogyakarta Principles, drafted by the human rights experts as a parallel effort to secure LGBTIQ+ rights, define it as referring

...to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerism.
- ▶ UN and regional bodies have referenced the Yogyakarta Principles (McGoldrick, 2016).



Development of the 'gender-ideology' discourse

- ▶ The emergence of the notion traced to the 1990s UN world conferences
- ▶ The early use associated with the Vatican, referencing the 2001 John Paul II's declaration that "misleading concepts concerning sexuality and the dignity and mission of the woman' are driven by 'specific ideologies on 'gender'"
- ▶ For almost 20 years contained to the high spheres of international negotiations and at the theological level.



Development of the 'gender ideology' discourse

- ▶ Adoption of social constructionist understanding of gender in internationally binding treaty, and growing recognition of the rights of sexually and gender diverse people, both in CoE and UN context, seen as dismantling the long-term status quo on gender
- ▶ The Vatican's emphasis on 'ideological colonisation' helped to identify international and supranational organisations, such as the UN or the EU and different NGOs, as forces imposing a new ideology with an ultimate goal of family and community destruction (Case, 2019)
- ▶ Specific progressive developments, such as calls for same-sex marriage legislation in Europe and for less restrictive abortion laws in Latin America, together with the shift in international politics, triggered the mobilisation of anti-gender movements



Anti-gender movements: actors, strategies and objectives

- ▶ State, religious and civil society actors (Shameem, 2017, Paternotte and Kuhar, 2017) formed different national and transnational alliances with shared discourse and corresponding strategies and objectives
- ▶ 'Gender ideology,' 'genderism,' 'gender agenda' or 'gender theory' as main discursive frames
- ▶ Shared strategies included propagation of the anti-gender discourse both in traditional media and on social networks, as well as using petitions, protests, prayers, marches or, in case of state actors, specific state mechanisms to influence or change educational system, legislation and public opinion to reflect 'traditional Christian values,' as main objectives of anti-gender campaigns
- ▶ LGBTIQ+ and SRR targeted



Challenges to legislation

- ▶ Same-sex marriage - protests in France in 2012 and Mexico in 2016; referendum campaigns in Slovenia in 2012, 2014-2015, Croatia in 2013 and Slovakia in 2015
- ▶ Reproductive rights - In Spain (2011) government tried to introduce restrictive legislation on abortion; in 2021 Poland introduced near-total abortion ban. In Hungary a concept of 'protection of life from the point of conception' was introduced into the Constitution. In Brazil, Bolsonaro promised to veto any changes that would liberalise the abortion law.
- ▶ Ratification of IC - Bulgarian Constitutional Court declared that the IC did not conform to the Bulgarian Constitution (2018); Slovakian and Hungarian Parliaments rejected the IC (2020); Poland announced withdrawal (2020); Turkey formally withdrew in March 2021



Challenges to education

- ▶ Initiatives to introduce sex education in schools were targeted early on in Croatia (2006) and later in Ecuador (2014), Serbia (2017) and Argentina (2019); those targeting existing sex education curricula and gender-sensitive language were organised in Austria and Poland in 2015.
- ▶ In Brazil educational materials challenging discrimination and violence against LGBTIQ+ persons were dubbed as 'gay kit' and their distribution stopped in 2017.
- ▶ Gender studies came under attack in academia; in Hungary they were denounced as an 'ideology' and the government revoked all permissions to master-programmes in 2018. In Poland, cutting in funds for gender studies has been reported.



Influencing public opinion

- ▶ Tactics: social-networks campaigns, attractive visuals, using young people as 'faces' of the campaigns, online petitions and press conferences, US-imported campaigns such as 40 Days for Life and March for Life
- ▶ Rejection of Columbian Peace Accords; rejection of IC; shrinking access to abortion



Concluding remarks: A call for solidarity

- ▶ 'Gender ideology' as an alternative construction of gender that produces real harms for women and LGBTIQ+ persons, arose in the 2010 when conservative forces were loosing ground at IHR level
- ▶ Different and sometimes opposing interpretations of gender within women's and LGBTIQ+ movements played well for anti-gender movements
- ▶ Finding the common ground: gender as a system that operates 'at different levels to create vulnerabilities and privileges for all gendered people' (Sen, 2009)
- ▶ gender is of a great importance, as an instrumental word in describing patriarchy as a heteronormative binary system which structurally oppresses women and excludes all non-conforming existence