

Contents lists available at [ScienceDirect](https://www.sciencedirect.com)

Women's Studies International Forum

journal homepage: www.elsevier.com/locate/wsif

The evolving understanding of gender in international law and 'gender ideology' pushback 25 years since the Beijing conference on women[☆]

Marija Antić^{a,*}, Ivana Radačić^{b,1}

^a Institute of Social Sciences Ivo Pilar, Marulićev trg 19, 10000 Zagreb, Croatia

^b Institute of Social Sciences Ivo Pilar, Marulićev trg 19, 10000 Zagreb, Croatia

ARTICLE INFO

Keywords:

Gender
Gender ideology
Sexual orientation
Gender identity
Anti-gender movements
International human rights

ABSTRACT

This paper provides an analysis of the use of the term gender in international human rights law – both in the discourse on women's rights and on sexual orientation and gender identity – as well as the current contestations and challenges raised by the anti-gender movements. It is argued that the rise of the SOGI concept in international human rights system and the social constructionist definition of gender in the Istanbul Convention were among the defining moments in the development of the 'gender ideology' discourse and anti-gender movements in the 2010s. The paper concludes by arguing for an inclusive understanding of the term to keep transforming the gendered system, an obligation undertaken at the 1995 Beijing conference on women. On the occasion of the quarter-century anniversary, the Beijing+25 provides an opportunity to take stock of the developments and ensure that gender equality and human rights are not undermined by the 'gender ideology' discourse.

1. Introduction

The Beijing Declaration and Platform for Action² affirmed that women's rights were inalienable, integral and indivisible part of human rights (as proclaimed at the Vienna Conference on Human Rights) and recognised 'gender' as an important tool for understanding and challenging women's rights violations. While the use of the term gender has produced resistance ever since, the idea of 'gender ideology' which sees gender as a tool of 'an ideological colonisation' that aims to destroy the traditional family, entered public and political discourse transnationally in the 2010s. Twenty-five years since the adoption of the Beijing Declaration and Platform for Action not only has the term gender been seriously contested and challenged in international human rights fora, the anti-gender movements, mobilised under the umbrella of fighting 'gender ideology,' have put the hard-fought gains in the area of women's rights, particularly reproductive and sexual rights, under threat.

This paper provides an overview of the origins and characteristics of

the 'gender backlash' epitomised in the 'gender ideology' discourse, as one of the main challenges for women's rights 25 years after the Fourth World Conference on Women in Beijing. We start with a discussion of the use of the term gender in the international human rights system. We analyse not only the discourse(s) on gender equality and women's rights in international human rights system, as the dominant discourse on gender, but also the discourse(s) on sexual orientation and gender identity (SOGI). Both of these discourses operate with a concept of gender and both are opposed by the anti-gender movements fighting 'gender ideology.' Moreover, we argue that the rise of the SOGI concept in international human rights law (particularly the understanding of gender identity as an internal experience of gender) since the 2010s, together with the adoption of the social constructionist definition of gender in the Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention) in 2011, were among the defining moments in the development of anti-gender movements opposing 'gender ideology,' first in Europe and

[☆] This paper has not been published previously, it is not under consideration for publication elsewhere, and its publication is approved by all authors. The idea for this paper arose during a literature review on gender and gender backlash undertaken for the UN Working Group on Discrimination against Women and Girls.

* Corresponding author.

E-mail address: marija.antic@pilar.hr (M. Antić).

¹ Member of the UN Working Group on Discrimination against Women and Girls.

² Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995, UN Doc. A/CONF.177/20/Rev.1.

then in Latin America.³ The main characteristics and targets of the movements are discussed in the third part of the paper. The paper concludes by discussing the opportunities to take stock of these developments and ensure that gender equality and human rights are not undermined by the 'gender ideology' discourse, on the occasion of the celebrations of the Beijing+25.

2. The United Nations approach to gender

2.1. Gender equality

The question of equality between men and women is embedded in the UN discourse since its very beginnings.⁴ In the early days the central idea was formal equality, but in the 1960s and the 1970s the focus shifted on women through the 'Women in Development' agenda. The 1990s was the decade of the shift from 'women' to 'gender' in the UN approach, as it was recognised that men also need to be part of the change if gender equality is to be achieved (Connell, 2009). This approach culminated at the Fourth World Conference on Women in Beijing where two major concepts were propagated – gender equality and gender mainstreaming.

The transition from 'women' to 'gender' was not an easy one (and has still not been fully achieved). The term gender, introduced in feminist theory in the 1970s to point to the social construction of difference between women and men and the relational aspect of defining femininity and masculinity, has been understood in multiple and different ways. Two dominant approaches operated at that time: one which focused on socialisation, sex roles and stereotypes (associated with liberal feminism), but neglected the economic, political and domestic power relations, and the other (associated with radical feminism) which focused on power relations, oppression and patriarchy, but took men and women as predefined categories (Connell, 1985). In the 1990s a paradigm shift emerged: intersectionality perspective challenged the one-dimensional conceptualisation of gender, emphasizing that our social identities profoundly influence how we experience gender,⁵ while

³ While the opposition to gender equality and rights of the LGBTIQ+ persons is present in all continents, and while women's rights face backlash internationally (see the report of the UN Working Group on Discrimination against Women and Girls, *Reasserting Equality, Countering Rollbacks*, A/HRC/38/46), the discourse on "gender ideology" is present primarily in Europe and Latin America. It is for this reason that we will use the examples from these two continents in this paper.

⁴ The Charter of the United Nations (1945) emphasised 'equal rights of men and women' (Preamble), while the Universal Declaration of Human Rights (1948) proclaimed that everyone is entitled to rights without distinction on the basis of sex (Article 3).

⁵ Although the ideas connected to gender, such as sex roles, were discussed already in the late 1940s, the concept of gender in feminist writings appears for the first time in the 1970s, in Kate Millett's *Sexual Politics* (Millett, 1970) and Ann Oakley's *Sex, Gender and Society* (Oakley, 1972). It was developed to challenge the then dominant position of biological determinism, which had naturalised gender inequality as arising from biological difference between women and men.

⁶ The term intersectionality was coined by K. Crenshaw in an effort to point at the 'multidimensionality of Black women's experience' (Crenshaw, 1989: 139) which a single-axis analysis could not comprehend. It calls for an intersectional analysis of multiple interlocking dimensions of oppression such as gender, class, race, ethnicity, sexuality, disability.

queer theory challenged the binary understanding of gender, dualism between sex and gender, and heteronormative assumptions of the gender theories of the time.⁷ The tension between (certain) feminist and (certain) queer perspectives on gender remain until today (Miller, 2011; Otto, 2015).

In the UN multilateral documents, the term gender first appeared at the insistence of feminist activists in the outcome document of the Third World Conference on Human Rights in Vienna (1993).⁸ The Vienna Declaration and Programme of Action included concepts such as 'gender bias,' 'gender-specific data' or 'gender-based violence,' but 'gender' itself was left undefined (Girard, 2007). The meaning of the term gender was again discussed at the 1994 International Conference on Population and Development (ICPD) in Cairo, particularly in the context of an arduous debate on sexual and reproductive rights (Girard, 2007). While 'gender' was referred to more than a hundred times in the ICPD Programme of Action,⁹ it was left undefined due to the opposition.¹⁰

By the 1995 Fourth World Conference on Women in Beijing, language used in drafting the Platform for Action was a topic of negotiations in itself.¹¹ Different delegates and activists operated with different meanings of gender, reflecting the different theoretical understandings of the term. Most governments and feminist activists at the negotiations preceding the Beijing Conference were still using 'gender' as a proxy for 'women.' However, feminist social constructionist and queer perspectives were also reflected in the debate: while certain activists and delegates advocated such meanings, others saw their possible ramifications as disastrous.¹²

For the Holy See, the term gender was threatening not only "because of the idea that 'male' and 'female' are socially constructed categories," but also "because it opened the door to different and fluid sexuality identities which are not constrained by biological identification" (Buss, 1998: 348). The Holy See argued that gender was "grounded in biological sexual identity, male or female" and 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 (as cited in Buss, 1998; see also Oosterveld, 2005). The term gender (referenced over 200 times) was included in the Beijing Declaration and Platform for Action only after states agreed upon a statement that "gender as used in the Platform for Action was intended to be interpreted and understood as it was in its 'ordinary, generally accepted usage'" (as cited in Girard, 2007; see also Oosterveld, 2005).

This non-definition approach was the ongoing practice at the

⁷ It introduced the notions of 'gender performativity' (Butler, 1990), 'gender fluidity' (Butler, 1990; Stone, 1987) and 'gender as a spectrum' (Fausto-Sterling, 1993). Gender performativity challenges the static conception of gender, proposing the idea of gender construction through 'stylized repetition of acts.' Gender fluidity denotes the 'unstability' of gender identity, while envisioning gender as a spectrum allows the inclusion of a different non-conforming 'performances' of gender that are often subsumed under umbrella term 'non-binary' or 'genderqueer'.

⁸ Vienna Declaration and the Programme of Action, Vienna, 14–25 June 1993, UN Doc. A/CONF.103/9.

⁹ Report of the International Conference on Population and Development, Cairo, 5–13 September 1994, UN. Doc. A/CONF.171/13/Rev.1.

¹⁰ The Holy See, Nicaragua and Qatar stated reservations concerning the use of the term, emphasizing their understanding of the concept as grounded in biological sexual identity of man and woman. *Programme of Action*, International Conference on Population and Development (1994), in Statements and Reservations on the Programme of Action.

¹¹ During the negotiations on the language used in the drafted *Platform for Action*, at the Third Preparatory Committee (PREPCOM III) in 1994, the Holy See and its allies started contesting the use of 'gender' and asked for the deletion or definition of the term (Girard, 2007).

¹² While gay and lesbian groups were advocating for the inclusion of sexual orientation in the language of the Platform, North American right-wing organisations linked gender to homosexuality and argued that the idea of five genders was being promoted (Girard, 2007).

multilateral level in international human rights fora. When the term gender was discussed at the negotiations on the Statute of the International Criminal Court (the Rome Statute), the 'Beijing (non)definition' was also proposed. However, the delegates opted for defining gender (in a manner acceptable to all state parties), on the ground that this was required by the principle of legal certainty in criminal law (Oosterveld, 2005, 2014). The following definition was included:

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.¹³

The 'constructive ambiguity' (Oosterveld, 2005, 2014) used as a strategy to reach a consensus during the negotiations of the Rome Statute became a topic of critique of both feminist and conservative scholars and activists: some claimed the definition was simply referring to two sexes, while others understood the reference to the 'context of society' as indicative of social construction of gender and possibly inclusive of sexual orientation (Oosterveld, 2014).

This definition had implications for the human rights law system. It was replicated in the Outcome Document of the 2001 UN World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban.¹⁴ Moreover, the conservative alliance led by the Holy See used the Rome Statute definition, which they saw as indicative of roles based on innate biological sex, on multiple occasions in an attempt to impede a wider understanding of gender at the international level, such as during the negotiations on the Istanbul Convention (Oosterveld, 2014).

However, during the drafting of the Istanbul Convention, which was undertaken by the group of experts rather than state delegates,¹⁵ there was a wide consensus that gender should be defined in line with the social constructionist approach, the dominant approach in feminist theory and international law at the time. The expert committee line-up was probably pivotal for securing the consensus on the definition of gender, as there was no direct political pressure in drafting the Convention. Problems arose later, during the process of ratification in several European countries, which will be discussed below.¹⁶ The following definition was included (in Article 3(c)):

'gender' shall mean the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men.

While this is the first such definition in an international treaty, it was already operational in international human rights fora. For example, the Committee on Elimination of All Forms of Discrimination against Women gave the following definition, explaining that the Convention on the Elimination of All Forms of Discrimination against Women covers gender-based discrimination against women:

The term 'sex' here refers to biological differences between men and women. The term 'gender' refers to socially constructed identities, attributes and roles for women and men and society's social and cultural meaning for these biological differences resulting in

hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women.¹⁷

Although the understanding of 'gender' in the Istanbul Convention was hence not new, its definition was one of the major points of contestations of the Convention, probably due to the fact that it was, for the first time, contained explicitly in a legally binding international document, which had ramifications for the whole international human rights law system. Another major point of contestation was its explicit prohibition of discrimination on the basis of gender identity,¹⁸ which reflected the wider recognition of the rights of sexually and gender diverse (lesbian, gay, bisexual, transgender/transsexual, intersex, queer) people.¹⁹ Indeed, the rise of the SOGI concept in international law was, with the adoption of the Istanbul Convention, among the defining moments for anti-gender mobilisations, in the socio-political context of the rise of fundamentalisms, political populism, unchecked authoritarian rule and focus on corporate profit.²⁰

2.2. Rise of the SOGI concept in international human rights law

Although the discussion of LGBTIQ+ rights started already at the Beijing conference (Girard, 2007), it was in 2003 when Brazil put forward the resolution titled Human Rights and Sexual Orientation (which it later withdrew due to strong opposition), before the Human Rights Commission, that 'sexuality,' 'sexual health' and 'sexual orientation' were for the first time put on the table at the UN inter-state body (Girard, 2007: 354). Three years later, in 2006, 'gender identity' was included for the first time in the UN Joint Statement on Human Rights Violations Based on Sexual Orientation and Gender Identity²¹ delivered by Norway on behalf of 54 states (McGoldrick, 2016; O'Flaherty & Fisher, 2008). The Statement acknowledged numerous reports of the human rights violations based on sexual orientation and gender identity and called for the future discussions on the issue. In 2008, a Joint Statement on Human Rights, Sexual Orientation and Gender Identity,²² which recognised the context of 'violence, harassment, discrimination, exclusion, stigmatization and prejudice,' was delivered in the General Assembly by Argentina on behalf of 66 countries. An opposing statement followed, sponsored by the Organisation of Islamic Cooperation (formerly Organisation for the Islamic Conference, OIC) on behalf of 57 countries, stating that 'so-called notions' of sexual orientation and gender identity had 'no legal foundation.'²³ The Holy See expressed similar concerns, arguing that these categories were not recognised or defined in international law (Waites, 2009: 141–142).

However, initiatives to ensure visibility and addressing the specific

¹⁷ General recommendation no 28., section 5.

¹⁸ This provision was already problematic at the time of adoption of the Convention. Russian Federation expressed its reservation to including a reference to 'gender identity' and 'sexual orientation' as a ground for discrimination. The Report of the 5th meeting of CAHVIO Committee (2010), available at <https://www.coe.int/en/web/istanbul-convention/cahvio>.

¹⁹ There is an ongoing discussion on the most inclusive (while precise) term for referring to persons of diverse sexual orientations and gender identities. We will use LGBTIQ+ as one of the most commonly used.

²⁰ Report of the UN Working Group on Discrimination against Women and Girls (2018, para 42).

²¹ Human rights violations based on sexual orientation and gender identity, delivered by Norway on behalf of 54 States, Human Rights Council, December 2006; available at: <https://arc-international.net/global-advocacy/sogi-statements/>.

²² Human Rights, Sexual Orientation and Gender Identity, delivered by Argentina on behalf of 66 States, UN General Assembly, December 2008; available at: <https://arc-international.net/global-advocacy/sogi-statements/>.

²³ Note verbale dated 19 December 2008 from the Permanent Mission of the Syrian Arab Republic to the United Nations addressed to the Secretary-General (A/63/663); available at: <https://undocs.org/pdf?symbol=en/A/63/663>

¹³ Article 7 (3) of the Rome Statute of the International Criminal Court, UN Doc. A/CONF.103/9.

¹⁴ Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban, 31 August – 8 September 2001, UN Doc. A/CONF.189/12.

¹⁵ Ad Hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO) was entrusted with drafting the Convention. CAHVIO members included national experts representing either the Ministries of Social Affairs/Gender Equality/Human Rights or the Ministries of Justice in the forty-seven Member States of the Council of Europe (Peroni, 2016).

¹⁶ On 15 June 2020 34 states have ratified the Convention. <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures>.

human rights violations of LGBTIQ+ at the international level continued. In 2011 the United Nations Human Rights Council (HRC) adopted its first resolution titled Human Rights, Sexual Orientation and Gender Identity, 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.'²⁴ The report of the High Commissioner for Human Rights, documenting hate crimes, criminalisation of homosexuality and discrimination based on sexual orientation and gender identity, was issued in December 2011.²⁵ After the report, the first intergovernmental panel discussion on human rights violations based on sexual orientation and gender identity was held at the 19th session of the Human Rights Council (2012).

Although there was a strong opposition to LGBTIQ+ rights by some states, particularly the members of the OIC (as stated above) (McGill, 2014), the increased support from other member states was reflected in the 2014 HRC resolution Human Rights, Sexual Orientation and Gender Identity (25 to 14, 7 abstentions) which requested the High Commissioner 'to update the report with a view to sharing good practices and ways to overcome violence and discrimination.'²⁶ In 2016, the HRC passed another resolution on Human Rights, Sexual Orientation and Gender Identity²⁷ to appoint an Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity.

However, the term gender identity has not been defined in these documents and there was confusion regarding its meaning. Some states acknowledged that they did not understand the term 'gender identity,' while others referenced transsexuality as a 'sexual orientation' (O'Flaherty & Fisher, 2008). As already stated, the Istanbul Convention, the only treaty which explicitly prohibited discrimination on the basis of gender identity, has also left the term undefined.

The term has been defined in a non-binding document titled Yogyakarta Principles, drafted by the human rights experts as a parallel effort to secure LGBTIQ+ rights.²⁸ The Yogyakarta definition 'draws upon social constructionist, post-structuralist, feminist, transgender and queer theories' (Waites, 2009: 138). In its preamble, gender identity is defined 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.²⁹

This definition brought another layer in understanding the term gender. While 'gender' has been dominantly used in feminist theorising of gender (in)equality to point to social structures which produce unequal position of women (as a group), in queer theory to point to fluidity of social identities, and sometimes to give visibility to gendered harms imposed on sexually non-conforming persons, primarily gay men, in trans-gender theories emphasis has been placed on internal experience of gender.

However, these are not independent concepts: person's internal gender identity is not (per)formed independently of social structures, including gender as a hierarchical system of ordering relationships between the sexes.³⁰ Moreover, sexism, normative heterosexuality and dichotomous understanding of gender are all-interrelated, as they are all expressions of patriarchal structures. As Otto claims, 'sex/gender/gender identity are all given substance by the same matrix of gendered social relations' (Otto, 2015: 15). It is thus not surprising that both women's rights and LGBTIQ+ rights have been attacked by the anti-gender movements.

However, an identity-based understanding of gender, whereby the term is used to refer to a particular group (women, gay, transgender), have obscured the more radical meaning of gender (Miller, 2011). As argued by Sen, gender is neither substituting the term women nor it is the term which flags gay (men) or transpersons; rather, it refers to (a) social system(s) that operate(s) at different levels to create vulnerabilities and privileges for all gendered people.³¹ It is this system that the anti-gender movements want to preserve. Different uses and sometimes oppositional discourses of (some parts of) the movements using the term gender – feminist groups and LGBTIQ+ groups – have played well for the 'anti-gender' movements.

3. The 'gender ideology' discourse

3.1. Development of the discourse

The origins of the discourse on 'gender ideology' can be traced to the 1990s UN world conferences where the strong feminist and LGBT advocacy managed to put gender at the centre of international human rights agenda (Buss, 1998; Case, 2011, 2019; Corrêa, 2017; Paternotte, 2014; Paternotte & Kuhar, 2017a). The notion of 'gender ideology' was 'initially created to oppose women's and LGBT rights activism as well as the scholarship deconstructing essentialist and naturalistic assumptions about gender and sexuality' (Paternotte & Kuhar, 2017a: 5).

The early use of the concept is usually associated with the Vatican, referencing the 2001 John Paul II's declaration that "misleading

²⁴ Human Rights, Sexual Orientation and Gender Identity (HRC/RES/17/19) introduced by South Africa, adopted by vote, June 2011; available at: <https://arc-international.net/global-advocacy/sogi-statements/>. There had previously been references to sexual orientation in resolutions on the death penalty and on arbitrary and summary executions (McGoldrick, 2016).

²⁵ Discriminatory Laws and Practices and Acts of Violence against Individuals Based on their Sexual Orientation and Gender Identity, December 2011; available at: <https://arc-international.net/global-advocacy/sogi-statements/>

²⁶ Human Rights, Sexual Orientation and Gender Identity (HRC/RES/27/32), October 2014; available at: <https://arc-international.net/global-advocacy/sogi-statements/>.

²⁷ Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity, (A/HRC/RES/32/2), July 2016, available at: <https://arc-international.net/global-advocacy/sogi-statements/>.

²⁸ Those efforts included the adoption of Declaration of Montréal on Lesbian, Gay, Bisexual and Transgender Human Rights at the International Conference on LGBT Human Rights in 2006 (full text available at: <http://www.declarationofmontreal.org/DeclarationofMontreal.pdf>); the Yogyakarta Principles in 2007, and the Yogyakarta Principles plus 10 in 2017 (full texts available at: www.yogyakartaprinciples.org).

²⁹ Yogyakarta Principles plus 10 defined two additional concepts (in preamble). Gender expression is defined as 'each person's presentation of the person's gender through physical appearance – including dress, hairstyles, accessories, cosmetics – and mannerisms, speech, behavioural patterns, names and personal references,' which 'may or may not conform to a person's gender identity.' Sex characteristics are defined as 'each person's physical features relating to sex, including genitalia and other sexual and reproductive anatomy, chromosomes, hormones, and secondary physical features emerging from puberty.'

³⁰ For an explanation of gender as a hierarchical social system see UN Working Group on Discrimination against Women and Girls, position paper Gender Equality and Gender Backlash (2020).

³¹ Interview by Mindy Jane Roseman with Gita Sen, Public Policy Professor, Ctr. for Pub. Policy, Sir Ratan Tata Chair Professor, Indian Inst. of Mgmt., at Harvard Law School (15 December 2009) (as cited in Miller, 2011).

concepts concerning sexuality and the dignity and mission of the woman' are driven by 'specific ideologies on 'gender'' (Corredor, 2019: 615). For the Vatican, a new secular agenda was emerging in the international fora, represented by the term 'gender', which had the ultimate goal of deconstructing sex differences and the traditional notion of family (Case, 2011; Paternotte, 2014; Paternotte & Kuhar, 2017a).

In the years following the Beijing Conference, anti-gender campaigns were fought in the high spheres of international negotiations and at the theological level (Corréa, 2017). The Vatican, as one of the key actors of the opposition, was arguing for a different approach to women's rights rooted in John Paul II's theology of difference and complementarity of sexes where women and men are seen as human beings to the same degree, who perform different but complementary roles in life (Buss, 1998; Case, 2016; Paternotte & Kuhar, 2017a). Popes Benedict XVI and Francis retained this understanding of difference. Benedict XVI, in years preceding his papacy, as a Cardinal Joseph Ratzinger and a prefect of the Congregation for the Doctrine of Faith, played a major role in launching the counter-strategy to what was perceived as 'gender agenda' and 'gender ideology,' most notably seen in the 2003 *Lexicon: Ambiguous and Debatable Terms Regarding Family Life and Ethical Question*,³² and the 2004 *Letter to the Bishops of the Catholic Church on the Collaboration of Man and Women in the World*³³ (Case, 2011, 2016; Corréa, 2017; Paternotte & Kuhar, 2017a). Later, Pope Francis also took part in the further development of the discourse on 'gender ideology,' as his 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).³⁴

3.2. Anti-gender campaigns of the 2010s

As mentioned earlier, the anti-gender campaigns started immediately as the term gender was propagated in the UN, but for almost 20 years they were contained to the international human rights fora (Corréa, 2017; Paternotte, 2014). The transnational anti-gender movements, as specific forms of mobilisations and campaigns against gender equality and LGBTIQ+ rights, gained traction in the 2010s. One explanation provided for this confounding 20 years gap is that it 'corresponds to the time needed for this discourse to be propagated and for activists to mobilize a wider constituency' (Paternotte & Kuhar, 2017b: 255). However, there is another possible explanation. The movements emerged around the same time as the adoption of the Istanbul Convention and the rise of the SOGI concept within the UN. These developments at the Council of Europe³⁵ and the United Nations could have been perceived by different conservative and religious actors, who were gaining more power, as a tipping point and the right time to start

campaigning on the ground, as they could have been seen as dismantling the long-term status quo on gender in international fora.

The anti-gender movements gained traction first in Europe,³⁶ and then Latin America,³⁷ with predominantly Catholic states, which were at the time generally facing progressive developments in relation to women and LGBTIQ+ rights (calls for less restrictive abortion legislation in Latin America and same-sex marriage legislation in Europe).³⁸ This could have been perceived by the Vatican, and other conservative actors in international arena, as a direct threat to 'the traditional Christian values' in the national contexts.³⁹ The Vatican's focus on international organisations as 'the colonising forces' imposing 'gender ideology' links gender-progressive developments in international arena with local anti-gender mobilisations.

As with the opposition in the UN system, three specific groups of conservative actors campaigning against 'gender ideology' could be discerned: governmental, religious and civil society actors (Shameem, 2017; Paternotte & Kuhar, 2017b). These groups of actors formed not only different national, but also transnational alliances with shared discourse and corresponding strategies and objectives. 'Gender ideology,' 'genderism,' 'gender agenda' or 'gender theory' were main discursive frames within which specific anti-gender meanings, sentiments and key messages were constructed. 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 governmental mechanisms to influence or change educational system, legislation and public opinion to reflect 'traditional Christian values,' as main objectives of anti-gender campaigns. Within those spheres of interest, specific targets can be identified as LGBTIQ+ rights, reproductive rights, sex and gender education in schools, and the very notion of gender.

3.2.1. Challenges to education

Anti-gender campaigns contested several things in relation to educational system, from the very notion of gender in the textbooks and education programmes to the national sex education plans and curricula (Corréa et al., 2018; Paternotte & Kuhar, 2017b). Initiatives to introduce sex education in schools were targeted early on in Croatia (2006) and later in Ecuador (2014), Serbia (2017) and Argentina (2019) (Jenner, 2019; Paternotte & Kuhar, 2017b; Petričević, Čehulić, & Čepo, 2017; Wilkinson, 2017; Zaharijević, 2018), while petitions and rallies targeting existing sex education curricula and gender-sensitive language were organised in, for example, Austria and Poland in 2015 (Kuhar & Zobec, 2017).

The LGBTIQ+ sensitive education has also been opposed. In Brazil, for example, educational materials challenging discrimination and violence against LGBTIQ+ persons were dubbed as 'gay kit' and their distribution was stopped in 2017 (Prandini Assis & Ogando, 2018). Moreover, gender studies came under attack in academia, most notably in Hungary where they were denounced as an 'ideology' and the government revoked all permissions to master-programmes in 2018 (Peto,

³² Available at: <https://www.ewtn.com/library/CURIA/PCFLEXCN.HTM>.

³³ Available at: http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20040731_collaboration_en.html.

³⁴ See also: Address of His Holiness Pope Francis to the Members of the Diplomatic Corps accredited to the Holy See for the Traditional Exchange of New Year Greetings, 7 January 2019, available at: http://www.vatican.va/content/francesco/en/speeches/2019/january/documents/papa-francesco_20190107_corpo-diplomatico.html; and Statement by His Excellency Archbishop Ivan Jurković, Permanent Observer of the Holy See to the United Nations and Other International Organisations in Geneva at the 43rd Session of the Human Rights Council, 2 March 2020, available at: <https://novenanews.com/holy-see-geneva-un-colonisation-freedom-of-religion/>

³⁵ Although the Istanbul Convention is binding only for the European states that ratified it, it has ramifications for all the European states, while the standards it sets have a role in the whole international legal system and could thus be of concern for other states as well.

³⁶ Early mobilisations against same sex marriage and sex education were identified before the 2010s, but the concept of 'gender ideology' was not used in public or political discourses (Paternotte & Kuhar, 2017b).

³⁷ The first anti-gender campaign was registered in Paraguay (2011), Ecuador followed (2013), and from 2014 the anti-gender movements have been active in numerous countries (Corréa, Paternotte, & Kuhar, 2018).

³⁸ It is, thus, not argued that the progressive national developments had no impact on anti-gender mobilisations, rather that the developments in international arena gave incentive for transnational anti-gender mobilisation of 2010s, mainly in Europe and Latin America. In addition, these international developments also had an influence at national levels.

³⁹ The other oppositional force in international arena, Organisation of Islamic Cooperation, probably had less reason to propagate international developments on gender as national threats, as there were no major progressive tendencies with regards women's and LGBTIQ+ rights in the Islamic countries.

2018; Smith, 2018). In Poland, cutting in funds for gender studies has been reported.⁴⁰

3.2.2. Challenges to legislation

One of the main targets of the anti-gender campaigns and movements was the same-sex marriage legislation. It was contested through protests, such as in France in 2012 and Mexico in 2016, as well as referendum campaigns in Slovenia in 2012, 2014–2015,⁴¹ Croatia in 2013 and Slovakia in 2015 (Paternotte & Kuhar, 2017b; Wilkinson, 2017). While these are examples of non-state actors contesting the proposed legislation, in Russia, a state-sponsored anti-LGBT campaign culminated in the 2013 'anti-propaganda law' banning the 'homosexual propaganda' (Moss, 2017).

With regards to the reproductive rights, the anti-gender campaigns and movements were mainly focused on banning abortion. In both Spain (2011) and Poland (2016) governments tried to introduce restrictive legislation on abortion, but without success (Cornejo & Pichardo, 2017; Graff & Korczluk, 2017). In Hungary, despite the legal status of the abortion, a concept of 'protection of life from the point of conception' was introduced into the Constitution (Paternotte & Kuhar, 2017b). Simultaneously, initiatives to reform the restrictive legislations in Latin American countries have been under attack.⁴² In Brazil, for example, during the presidential campaign Jair Bolsonaro (now president) promised to veto any changes that would liberalise the abortion law (Nugen, 2018; Phillips, 2018).

In the European context, especially in Central and East-European countries, ratification of the Istanbul Convention was a specific political and legal issue targeted by different religious, civil society and political actors with the definition of gender and the prohibition of discrimination on the basis of gender identity as the main points of contestation. In 2018, Bulgarian Constitutional Court declared that the Istanbul Convention did not conform to the Bulgarian Constitution (Gotev, 2018b), while the Slovakian Prime minister announced that he considered the Convention at odds with the country's constitutional definition of marriage as a heterosexual union and refused to proceed with ratification (Gotev, 2018a).

3.2.3. Influencing the public opinion

Media exposure was instrumental for influencing and forming the public opinion on gender issues. Different tactics, such as social-networks campaigns, attractive visuals, using young people as 'faces' of the campaigns, organising online petitions and press conferences, as well as US-imported campaigns such as 40 Days for Life and March for Life, were used to reach that objective (Paternotte & Kuhar, 2017b).

The far-reaching impact of influencing the public was reflected in the 2016 rejection of the Columbian Peace Accord because of the alleged government's agenda to impose 'gender ideology,' recognised in the terms 'LGBT persons' and 'Gender Commission' in the drafted text of the Accord (Wilkinson, 2017). Same arguments concerning imposition of 'gender ideology' were used in many Eastern European countries (Poland, Slovenia, Croatia, Bulgaria, Slovakia and Ukraine) during the anti-gender campaigns which targeted the Istanbul Convention (Ebe-turk, 2018; Ketelaars, 2018; Paternotte & Kuhar, 2017b), and stopped or prolonged the process of ratification in some countries.

As discussed in the previous section, 'imposition of gender ideology' was the main argument of not only the Catholic organisations or

religious actors, but also of politicians and the conservative actors within academia (Peto, 2018; Zaharijević, 2018) who appropriated that same discourse and helped legitimise anti-gender position in the public. Indeed, in some countries, such as Croatia, academics actively opposed the Convention,⁴³ while those who defended it bore consequences.⁴⁴ Furthermore, denouncing gender theory and gender studies as an ideology not only justified cutting in funds for gender research and gender studies, but also led to delegitimisation of scientific knowledge on gender and normalisation of moral positions in science debates (Peto, 2016).

With regards to reproductive rights, ferocious public campaigns created an atmosphere where shrinking access to safe and legal abortion became a question of little importance and religious or moral positions took precedence over the implementation of law. An increasing number of conscientious objections by gynaecologists in France, Belgium, Italy or Croatia (Anedda et al., 2018; Paternotte & Kuhar, 2017b) seem to be, at least in part, the result of an increased public pressure and an atmosphere in which it is easier for clinics not to provide legal service than to have a bad reputation as an 'abortion clinic.'

4. Conclusion

The notion of gender has been discussed since its introduction in international human rights law discourse in the early 1990s, reflecting changes in gender theories and the demands of the different activist groups. Different and often conflicting understandings of the term resulted in decades-long 'non-definition' approach in multilateral documents. Despite that, since the Beijing conference on women, gender became a common term, used both in international and national contexts, and much progress on women's and LGBTIQ+ rights has been achieved at international and national levels.

While the 'non-definition' approach at the international level meant that the opposing sides could interpret the term in a way that suited them, the Istanbul Convention changed this. The Convention introduced the social constructionist definition of gender in a legally binding treaty and prohibited explicitly discrimination based on gender identity for the first time. At the same time, gender identity became an important topic at the UN, with numerous statements and resolutions on SOGI, addressing discrimination and violence against LGBTIQ+ persons. While the term gender identity is still undefined in the multilateral documents, its increased recognition leaves little space for the interpretation of gender as grounded in biological sexual identity of men and women.

These changes in the international system were perceived by the conservative forces as one-sided, and together with specific national developments, gave way to (trans)national mobilisations against 'ideological colonisation'. While the opposition to gender existed since its introduction in the UN system (primarily in the context of international negotiations and theological discussions), it was in the 2010s, when the conservative forces were losing the 'war on gender' at international

⁴⁰ Visit to Poland: Report of the Working Group on Discrimination against Women and Girls, A/HRC/41/33/Add.2 (2019).

⁴¹ During the Slovenian 2015 referendum campaigns transgender rights were explicitly attacked as manifestation of gender ideology (Paternotte & Kuhar, 2017b).

⁴² Only Cuba, Uruguay, French Guiana and Guyana permit elective abortions; Interactive Map; World Abortion Laws, available at: <https://reproductiverights.org/worldabortionlaws>.

⁴³ During public debate preceding the ratification of the Istanbul Convention, a statement was issued by the Science Committee for Education and School System of the Croatian Academy of Sciences and Arts that 'gender ideology in Istanbul Convention is unacceptable for the educational system'. HINA (28 December 2017), *Academics write to Government, Parliament, Pantovčak: this Istanbul Convention should not be ratified*, available at: http://www.novilist.hr/novilist_public/Vijesti/Hrvatska/Akademici-pisali-Vladi-Saboru-Pantovcaku-Ovakvu-Istanbulsku-konvenciju-ne-ratificirati.

⁴⁴ After public engagement on the Istanbul Convention, Dr Radačić's teaching contract was terminated and her 'Sex, gender and human rights' course was abolished at the Department of Croatian Studies at University of Zagreb. Srednja.hr (18 July 2018), *It seems that there is no space for Radačić at Croatian Studies: Recently became the head of the UN Working Group, but has been dismissed*, available at: <https://www.srednja.hr/faks/cini-se-da-hrvatskim-studijima-vi-se-nema-mjesta-ni-ivanu-radacic-nedavno-zasjela-celo-un-ove-skupine-pa-isp-la-iz-nastave-hs-a/>.

level, that transnational movements opposing 'gender ideology' became fully operational. The main targets of the anti-gender movements were LGBTIQ+ rights, reproductive rights, sex and gender education in schools, and the very notion of gender.

The fact that there were different and sometimes opposing interpretations of gender within the women's and LGBTIQ+ movements played well for this opposition. While feminist, queer and LGBTIQ+ movements have built on each other and have mostly worked in solidarity, they have also sometimes used oppositional and exclusive discourses. In addition, gender was often used as referring simply to a group of persons (women, gay, transgender) or (possibly less often) as a performance of the identity, which has obscured its more radical meaning: gender as a system of stratification and othering. It is now time to reclaim this more radical meaning.

We submit that the term 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 existences. It is thus important for the women's rights and LGBTIQ+ rights movements to work together to challenge the opposition, as was obvious in the context of the opposition to the Istanbul Convention, where both sexism and transphobia were present. The celebration of the 25th anniversary of the Beijing conference, and particularly the 64th session of the Commission on the Status of Women, which main focus will be on the review and appraisal of the implementation of the Beijing Declaration and Platform for Action, represents a good occasion to have further discussions on gender and think about the future strategies to challenge the current gendered system so as to ensure gender justice. One of the steps is to define the term gender in an inclusive manner, in a way which would be able to capture gendered harms – the harms which patriarchy produces to all gendered beings.

Declaration of competing interest

None.

References

- Anedda, L., Arora, L., Favero, L., Meurens, N., Morel, S., & Schofield, M. (2018). *Sexual and reproductive health rights and the implication of conscientious objection*. European Parliament: Policy Department for Citizens' Rights and Constitutional Affairs.
- Buss, D. E. (1998). Robes, relics and rights: The Vatican and the Beijing conference on women. *Social & Legal Studies*, 7(3), 339–363.
- Butler, J. (1990). *Gender trouble: Feminism and subversion of identity*. New York: Routledge.
- Case, M. A. (2011). After gender the destruction of man? The Vatican's nightmare vision of the "gender agenda" for law. *Pace L. Rev.*, 31(3), 802–817.
- Case, M. A. (2016). The role of the popes in the invention of complementarity and the Vatican's anathematization of gender. *University of Chicago Public Law & Legal Theory Working Paper*, 565, 1–17.
- Case, M. A. (2019). Trans formations in the Vatican's war on "gender ideology". *Signs: Journal of Women in Culture and Society*, 44(3), 639–664.
- Connell, R. W. (1985). Theorising gender. *Sociology*, 19(2), 260–272.
- Connell, R. W. (2009). *Gender in world perspective*. Cambridge: Polity Press.
- Cornejo, M., & Pichardo, J. I. (2017). From the pulpit to the streets: Ultra-conservative religious positions against gender in Spain. In D. Paternotte, & R. Kuhar (Eds.), *Anti-Gender Campaigns in Europe: Mobilizing against Equality* (pp. 233–251). London: Rowman & Littlefield.
- Corrêa, S. (2017). Gender ideology: Tracking its origins and meanings in current gender politics. Retrieved from <https://blogs.lse.ac.uk/gender/2017/12/11/gender-ideology-tracking-its-origins-and-meanings-in-current-gender-politics/>.
- Corrêa, S., Paternotte, D., & Kuhar, R. (2018). The globalisation of anti-gender campaigns. Retrieved from <https://www.ips-journal.eu/topics/human-rights/article/show/the-globalisation-of-anti-gender-campaigns-2761/>.
- Corredor, E. (2019). Unpacking "gender ideology" and the global right's antigender countermovement. *Signs: Journal of Women in Culture and Society*, 44(3), 613–638.
- Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum*, 1, 139–167.
- Ebeturk, I. (2018). Norms of gender equality and the backlash against Istanbul Convention. Retrieved from <https://ordersbeyondborders.blog.wzb.eu/2018/06/06/norms-of-gender-equality-and-the-backlash-against-istanbul-convention/>.
- Fausto-Sterling, A. (1993). The five sexes: Why male and female are not enough. *Science*, 33, 20–25.
- Girard, F. (2007). negotiating sexual rights and sexual orientation at the UN. In R. Parker, R. Petchesky, & R. Sember (Eds.), *SexPolitics: Reports from the front lines* (pp. 311–359). Sexuality Policy Watch.
- Gotev, G. (2018a). After Bulgaria. In *Slovakia too fails to ratify the Istanbul convention*. Retrieved from <https://www.euractiv.com/section/future-eu/news/after-bulgaria-slovakia-too-fails-to-ratify-the-istanbul-convention/>.
- Gotev, G. (2018b). Istanbul Convention 'unconstitutional' in Bulgaria. Retrieved from <https://www.euractiv.com/section/future-eu/news/istanbul-convention-unconstitutional-in-bulgaria/>.
- Graff, A., & Korczuk, E. (2017). "Worse than communism and Nazism put together": War on gender in Poland. In D. Paternotte, & R. Kuhar (Eds.), *Anti-gender campaigns in Europe: Mobilizing against equality* (pp. 175–195). London: Rowman & Littlefield.
- Jenner, F. (2019). Don't mess with my kids: Why Argentina still doesn't have comprehensive sex education. Retrieved from <https://argentinareports.com/dont-mess-with-my-kids-why-argentina-still-doesnt-have-comprehensive-sex-education/2399/>.
- Ketelaars, E. (2018). When 'European values' do not count: Anti-gender ideology and the failure to comprehensively address GBV in Ukraine. Retrieved from <https://blogs.lse.ac.uk/gender/2018/09/26/when-european-values-do-not-count-anti-gender-ideology-and-the-failure-to-comprehensively-address-gbv-in-ukraine/>.
- Kuhar, R., & Zobec, A. (2017). The anti-gender movement in Europe and the educational process in public schools. *CEPS Journal*, 7(2), 29–46.
- McGill, J. (2014). SOGI... So what? Sexual orientation, gender identity and human rights discourse at the United Nations. *Canadian Journal of Human Rights*, 3(1), 1–38.
- McGoldrick, D. (2016). The development and status of sexual orientation discrimination under international human rights law. *Human Rights Law Review*, 16, 613–668.
- Miller, A. (2011). Fighting over the figure of gender. *9(31)*, 837–872.
- Millett, K. (1970). *Sexual politics*. New York: Doubleday.
- Moss, K. (2017). Russia as the saviour of European civilization: Gender and the geopolitics of traditional values. In D. Paternotte, & R. Kuhar (Eds.), *Anti-Gender Campaigns in Europe: Mobilizing against Equality* (pp. 195–214). London: Rowman & Littlefield.
- Nugen, C. (2018). How far-right presidential candidate Jair Bolsonaro could transform Brazil. Retrieved from <http://time.com/5433379/brazil-bolsonaro-policies/>.
- Oakley, A. (1972). *Sex, Gender and Society*. (e. 1985). London: Temple Smith.
- O'Flaherty, M., & Fisher, J. (2008). Sexual orientation, gender identity and international human rights law: Contextualising the Yogyakarta principles. *Human Rights Law Review*, 8(2), 207–248.
- Oosterveld, V. (2005). The definition of "gender" in the Rome statute of the international criminal court: A step forward or back for international criminal justice? *Harvard Human Rights Journal*, 18, 55–84.
- Oosterveld, V. (2014). Constructive ambiguity and the meaning of "gender" for the international criminal court. *International Feminist Journal of Politics*, 16(4), 563–580.
- Otto, D. (2015). Queering gender [identity] in international law. *Nordic Journal of Human Rights*, 33(4), 299–318.
- Paternotte, D. (2014). Christian Trouble: The Catholic church and the subversion of gender. Retrieved from <http://critic.com.councilforeuropeanstudies.org/christian-trouble-the-catholic-church-and-the-subversion-of-gender/>.
- Paternotte, D., & Kuhar, R. (2017a). "Gender ideology" in movement: Introduction. In D. Paternotte, & R. Kuhar (Eds.), *Anti-gender campaigns in Europe: Mobilizing against equality* (pp. 1–23). London: Rowman & Littlefield.
- Paternotte, D., & Kuhar, R. (2017b). The anti-gender movement in comparative perspective. In D. Paternotte, & R. Kuhar (Eds.), *Anti-gender campaigns in Europe: Mobilizing against equality* (pp. 253–277). London: Rowman & Littlefield.
- Peroni, L. (2016). Violence against migrant women: The Istanbul convention through a postcolonial feminist lens. *Feminist Legal Studies*, 24, 49–67.
- Peto, A. (2016). How are anti-gender movements changing gender studies as a profession? *Religion & Gender*, 6(2), 297–299.
- Peto, A. (2018). Attack on freedom of education in Hungary. In *The case of gender studies*. Retrieved from <https://blogs.lse.ac.uk/gender/2018/09/24/attack-on-freedom-of-education-in-hungary-the-case-of-gender-studies/>.
- Petrićušić, A., Čehulić, M., & Čepo, D. (2017). Gaining political power by utilizing opportunity structures: An analysis of the conservative religious-political movement in Croatia. *Politička misao*, 54(4), 61–84.
- Phillips, T. (2018). "Stop this disaster": Brazilian women mobilise against 'misogynist' far-right Bolsonaro. Retrieved from <https://www.theguardian.com/world/2018/sep/21/brazilian-women-against-jair-bolsonaro-misogynist-far-right-candidate>.
- Prandini Assis, M., & Ogando, A. C. (2018). Gender ideology and the Brazilian elections. Retrieved from <http://www.publicseminar.org/2018/11/gender-ideology-and-the-brazilian-elections/>.
- Shameem, N. (2017). *Rights at Risk*. Toronto&Mexico City: Association for Women's Rights in Development (AWID).
- Smith, S. (2018). (Anti-)Gender and international relations. Retrieved from <https://blogs.lse.ac.uk/gender/2018/09/18/anti-gender-and-international-relations/>.
- Stone, S. (1987). The empire strikes back: A posttranssexual manifesto. In *First presented at: Other Voices*. Other Worlds: Questioning Gender and Ethnicity, Santa Cruz, CA.
- Waites, M. (2009). Critique of 'sexual orientation' and 'gender identity' in human rights discourse: Global queer politics beyond the Yogyakarta principles. *Contemporary Politics*, 15(1), 137–156.
- Wilkinson, A. (2017). Latin America's gender ideology explosion. In *Anthropology news*. available at: <https://anthrosource.onlinelibrary.wiley.com/doi/abs/10.1111/AN.379>.
- Zaharijević, A. (2018). Habemus gender: The Serbian case. In *Feministika*. available at: <http://feministika.net/habemus-gender-the-serbian-case/>.