

ANALYZING GENDER INEQUALITY WITHIN THE FRAMEWORK OF RULE OF LAW: EVOLUTIONS AND TRENDS

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Abstract

Preserving and protecting human rights is one of the missions that the concept of the rule of law has assumed. This paper aims to analyse this concept, specifically from the perspective of gender inequality. The historical evolution of equal opportunities, the reduction of discrimination, the design of progressive policies is closely linked to the power of the rule of law. We find ourselves in the context of accelerating access to information and opportunities, yet simultaneously facing a risk of being disinformed or misinformed. This dynamic presents challenges for the younger generation that is striving for change, along with confusion, underestimation, underlined by an issue of underrepresented.

Therefore, this paper will explore the historical path and major events that have marked the reduction of inequality, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Beijing Declaration and Platform for Action (BPfA), even the 2030 Agenda and its 17 Global Goals, in order to determine the current situation, propose resolutions and assume trends.

Keywords: Gender Inequality, Rule of Law, Agenda 2030, Sustainable Development, Opportunity Equity

JEL Classification: [K38]

1. Introduction

This paper aims to analyse gender equality in the context of sustainable development and the rule of law. Thus, the main topics addressed include the history of gender inequality and what this concept entails alongside the rule of law, as well as its impact on the context of the 2030 Agenda and future resolutions.

The first objective of this paper is to analyze the history of gender inequality, this being the step that shows the origins of stereotypes, limitations, which until today have been translated into the legislation and culture of states, influenced by economic factors, social policies. Thus, over the centuries, women have often been seen as inferior to men, they were limited to domestic roles and deprived of fundamental rights.

Another important aspect of the paper is the analysis of the impact of gender inequality on sustainable development. By analysing statistical data and case studies from various countries, I aim to understand how gender inequality affects both women and society as a whole. In this respect, there are many efforts made by

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the public sector, the private sector and civil society that will be developed extensively in this paper. Last but not least, this paper also aims to highlight the importance of the rule of law in promoting gender equality, given that the rule of law provides the legal framework necessary to protect fundamental rights and eliminate discrimination.

Thus, analysing how different countries implement rule of law principles in the context of gender equality, I would be able to conclude that the respect of these principles is essential to achieve a fair and sustainable society.

2. The historical evolution of Gender Inequality in the Rule of Law context

When we talk about sustainable development, about peaceful and substantial development, about the good of the next generation, we must also talk about gender equality, about how this fundamental human right is reflected in today's society, the history of this goal, especially within the rule of law. Gender inequality, in particular, can be said to represent both the cause and the effect of obvious forms of discrimination in society that can be translated into reactions such as the disregard of gender rights, violence against women, as well as discrimination against women (Barajas-Sandoval, 2023, p. 95). To better understand the issue of gender inequality, we can start with the history of women's status in society. Women's status in society is determined by: actual treatment, opportunities for social participation and legal treatment, the nature and extent of work performed (Harry, 1921, p. 290). This status thus also determines the role that women have played throughout history within society, depending on the community to which they belong, we can say that there are similarities, namely: wife, mother, daughter, sister, biological reproduction, objects of beauty, the weaker gender, the delicate and sensitive character; often placed at the opposite pole of the man.

Buddhist philosophy, which originated with Buddha Sakyamuni some 2500 years ago, teaches that all beings are equal in dignity and worth, rejecting discrimination and advocating respect and non-exploitation for all, regardless of their current status or differences (Zlătescu, 2008, p. 8).

However, it should be noted that with the development of feminism, more in-depth studies on the subject have also begun, until recently, historical anthropological studies on women in history, tribal women being ignored or forgotten, with few expectations in societies where the role of women has evolved differently in the past, such as when until the 19th century in Sierra Leone, the leaders of towns and sub-regions, such as the Mende and Sherbro peoples, were women, such as Madam Yoko (Msuya, 2019, pp. 1145-1158).

As for the United Nations, the Economic and Social Council established the Commission on the Status of Women in its first year of operation as the main global policy-making body focusing exclusively on gender equality and the advancement of women. Moreover, the recognition of gender equality as a fundamental international right was recognised with the Universal Declaration of Human Rights

in 1948, and the UN's support for gender equality is underlined in its founding Charter, Article 1:

“To achieve international co-operation ... in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”

Also, in 1975 the General Assembly established the International Women's Year and thus the first World Conference on Women was held in Mexico City, and later in 1976-1985 the UN Decade for Women was established. During the same period, in 1979, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted by the General Assembly (The Convention on the Elimination of all Forms of Discrimination Against Women Assembly), within the 30 articles of this document, actions are also mentioned by which discrimination can be eliminated. Last but not least, the Commission on the Status of Women (CSW) was created as the main global intergovernmental body to promote gender equality and empower women.

In pursuing this complex theme, this paper wishes to look at the subject of gender equality through the lens of the rule of law, as representing respect for principles such as legality, legal security or predictability of legal norms, any deviation also drawing the citizen's lack of confidence in the public institutions of the state (Costachi & Iacub, 2015, p. 4). One of the definitions that the literature offers us, the rule of law represents a set of practices that we gather by guaranteeing the fundamental rights and freedoms of the individual, the active participation of citizens in the exercise of power, engaging in activities such as jurisdictional control of the respect of human rights by state institutions, as well as guaranteeing the separation and balance of powers in the state and their efficient functioning (Ionescu, 2008, p. 112). Last but not least, the rule of law became a "constitutional rule of law" in the 20th century, its institutions becoming the symbol of the guarantee of fundamental rights, law-producing institutions, a rule of law in which the concepts of professionalism, specialisation and authority are recognised by the reality of a state in which the equality of citizens before the law, in the opportunities offered, is intertwined with the impartiality and correct application of justice, all of which are achieved in a democratic spirit (Milca, 2016, p. 19).

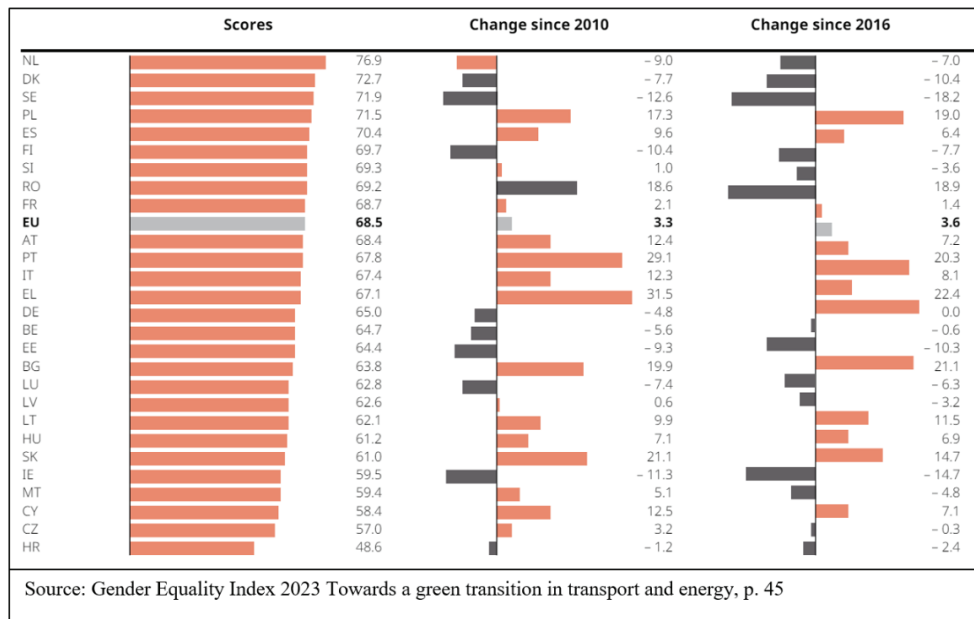
The principle of the rule of law was enshrined in the 1948 Universal Declaration of Human Rights (The Universal Declaration of Human Rights). which stressed that the best way to protect human rights is through the presence of the rule of law, as no distinction should be made before the law between women and men in terms of accessibility, clarity and fairness of human rights and legal processes (The Rule of Law Institute of Australia, 2013, p. 3). Therefore, in society, in the absence of fairness, clarity and accessibility, various forms of discrimination appear, which are reflected on the labour market, remuneration, education, accommodation and housing, for example:

- refusing to offer a loan to a married woman without her husband's signature, while a married man does not need his wife's signature;

- refusing to offer a job to a woman who has children or plans to have children in the future;
- to employ only women in certain jobs involving the care or upbringing of children (nursery nurse, kindergarten teacher);
- retention of women in management positions, etc.

National human rights institutions need to help the public, NGOs and authorities better understand human rights and how they are guaranteed in different countries under international covenants and treaties (Zlătescu, 2013, p. 41). In Romania, Law No. 202/2002 on equal opportunities and treatment between women and men came into force in 2002 (Legea nr. 202/2002 privind egalitatea de șanse și de tratament între femei și bărbați, 5 iunie 2013), which stipulates, in Article 14, that any form of discrimination based on sex which may restrict access to training, further training and education for women and men is prohibited. According to the Gender Equality Index 2023, Romania ranks last in the European Union with 56.1 out of 100 points; however, looking at the overall picture, since 2010 Romania's score has increased by 5.3 points, a significant improvement being in the time component ("time distribution between economic, care, and social activities") with an increase of 18.9 points, climbing in the ranking from 23rd to 8th place (see Figure 1) (EIGE, 2023, pp. 21-45).

Figure 1. *Domain of Time – Gender Equality Index 2023*



Legal recognition of gender equality plays an important role in addressing the challenges of inequality, a point well made by Pakistan Supreme Court lawyer Hina Jilani, who noted in an interview that "*Legal recognition is the first step*

towards effectively guaranteeing the fundamental rights and freedoms enshrined in national constitutions and international human rights instruments. [...] The right to challenge the actions of the state or private actors who violate the law enables women to access judicial forums to seek redress [...]", and in this sense, respect for democratic principles in a society, in a state, should also be reflected in ensuring gender equality and empowering community members in need (Women Deliver, 2019). As far as the state of Pakistan is concerned, the last few decades have seen a shift in the culture of the society from the stereotypical perception that "boys/men are smarter than girls/women", to the fact that data shows us that girls/women perform better in school and college in Pakistan, despite inequalities in access to quality education (Ullah, et al., 2023, pp. 178-179).

An example of good practice in creating new opportunities for women also comes from Germany. It comes from the security industry, where Germany had more male employment in more physically active and authoritative jobs; however, with the opening up of the industry to female workers and the development of training programs, they have allowed 50:50 employment of men and women, and the creation of a female-friendly work environment (Asian Development Bank & International Labor Office, 2013, p.16).

3. Gender inequality and 2030 Agenda

Today, gender equality is recognised and affirmed in sustainable development policies with the introduction of the 2030 Agenda, through Sustainable Development Goal 5 which aims to "*achieve gender equality and empower all women and women*", not just promote it (UN WOMEN, 2016, p. 5), but the offering of gender justice, a mirror of respect for gender equality as a fundamental international right and a reflection of the principles of the rule of law. This global effort established by leaders of states on 27 September 2015 with the "World Leaders' Meeting on Gender Equality and Women's Empowerment: A Commitment to Action", which aims to eliminate gender inequality, discrimination and violence against women, has set the year 2030 as the year in which all these goals will be achieved (UN WOMEN, 2016, p. 5). The importance of sustainable development is affirmed in the Brundtland Commission report, "Our Common Future", published in 1987 by the United Nations World Commission on Environment and Development, which defines sustainable development as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (Brundtland, 1987, p. 41). This perspective is therefore based on the recognition that the Earth's resources are finite, with an emphasis on using them in a responsible and sustainable way to ensure that they are accessible to future generations.

It also underlines the interconnectedness and interdependence of SDG 5 with the other SDGs of the 2030 Agenda. SDG 5, once improved and even achieved, can make major contributions in terms of eradicating poverty, hunger and achieving food security, as well as promoting sustainable agriculture, access to

quality and lifelong education for all, hygiene and sustainable water management, reducing inequalities between states, combating climate change, and last but not least, building peaceful, sustainable and inclusive societies (SDGs 1, 2, 4, 6, 10, 13, 16) (Brundtland, 1987, pp. 14-16).

Last but not least, the 2030 Agenda and the SDGs aim to create a positive impact in society, creating that environment where everything we use or want to enjoy, does not compromise the ability of future generations to do so as well, means balance, respect and responsibility in terms of the environmental, economic and social pillars. The latest Sustainable Development Report highlights where we are on the progress ladder: 15% of the SDGs have been fully achieved, 48% partially achieved, and 37 not achieved or regressing. Among the challenges facing SDG 5: Gender Equality are:

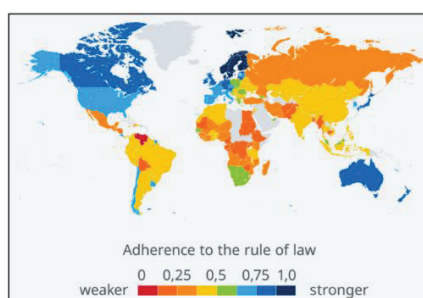
- By 2030 a quarter of women/girls will experience food insecurity,
- At the current rate, it will take about 300 years to end child marriage,
- 286 years to close gaps in legal protection and eliminate discriminatory laws,
- 140 years for women to be equally represented in positions of power and leadership in the workplace and,
- 47 years to achieve equal representation in national parliaments (United Nations, 2023, p. 11).

Moreover, the global crises that have come in waves have sharply accentuated the gender equality gap in terms of access to health care, education and economic opportunities; specifically, according to data collected in 2022 from 119 countries, these revealed that 55% of them had no laws prohibiting discrimination against women, 60% had no legal frameworks defining rape in the context of consent, during the pandemic 10 million girls were at risk of child marriage, and others (United Nations, 2023).

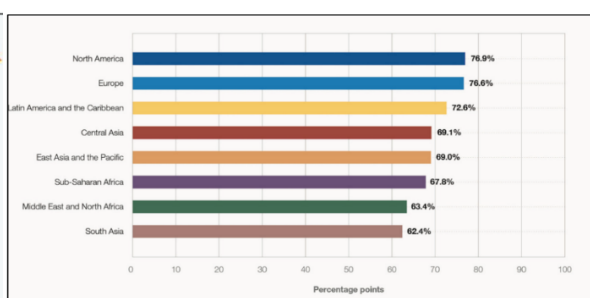
4. Future resolutions on Gender Equality

The principle of the rule of law has been enshrined in the Universal Declaration of Human Rights, along with the caveat that when we talk about the rule of law, we are talking about the equality of citizens before the law, regardless of gender, sex, race or religion, equal access to opportunities, as well as the impartiality and fair application of justice, all of which are achieved in a democratic spirit (The Universal Declaration of Human Rights (UDHR), 1948).

Therefore, when we look at the global evolution in terms of respect for the rule of law, we see that the least developed countries are the red-orange ones, such as Sub-Saharan Africa, South and Central Asia, Latin America (Figure 2).



Source: World Justice Project, Global Rule of Law 2022



Source: World Economic Forum, Global Gender Gap Index, 2022

Figure 2. *Global Rule of Law 2022*Figure 3. *Gender Gap by region, 2022*

At the same time, when we look at the gender equality gap between women and men, we see a similar trend in South Asia, Sub-Saharan Africa, Central and North Africa (Figure 3). Therefore, there is a correlation between where the rule of law is not respected, the gender equality gap is also likely to be strong.

In terms of tackling gender inequality in the labour market context, the Transforming the Future of Work for Gender Equality Initiative, a pioneer in addressing this challenge, has come up with three solutions that can be addressed by UNDP in terms of removing institutional barriers and bringing about behavioural change among women, as follows (UNDP, 2019):

- i. **Policy-oriented solutions** - involving UNDP's expertise in policy formulation with the aim of creating a guide that offers solutions to reduce the challenges of unpaid work for women;
- ii. **Private sector jobs** - involves helping companies to increase employee satisfaction, create a healthy, inclusive and equal work environment, and in this regard, 11 areas have been identified for action, among them we can name: crisis management and protection of female employees, equal pay and wages or even work-life balance;
- iii. **Prototype solutions at the grassroots level** - the programme aims to help India, Fiji, Malaysia, Maldives and Thailand test new ideas to make unpaid and domestic work fairer and to promote gender equality in the workplace.

It is worth mentioning that there are various good practices at international level, concerning the elimination of gender equality, but also increasing the potential of the rule of law principle. In 2018, Iceland introduced the world's first policy requiring companies and institutions with more than 25 employees to demonstrate that they pay men and women equally for work of equal value (Wagner, 2018, p. 7). As well as Sweden's equal parental leave policy which encourages both parents to share parenting responsibilities and employers to provide adequate support for this (Duvander & Cedstrand, 2022, p. 263). Last but not least, Canada's Gender Parity Act, which stipulates that boards of directors of government-appointed corporations must have balanced gender representation (Tu, 2022).

Conclusions

In conclusion, this paper has analysed the topic of gender equality in the context of sustainable development and the rule of law, starting from the main themes addressed, the history of gender inequality and what this concept entails together with the rule of law, as well as its impact on the context of the 2030 Agenda and finally addressing the topic of future resolutions.

The history of gender inequality provided valuable information on the origin of stereotypes, limitations, which until today have been translated into the legislation and culture of states, influenced by economic factors, social policies. In various cultures, women have been considered less capable of holding leadership positions or participating actively in social and political life. However, there are also examples worth mentioning highlighting cultural diversity, as in some societies, such as Sierra Leone, women held leadership roles until the 19th century.

In terms of the impact of gender inequality on sustainable development, the analysis of statistical data and case studies from various countries highlights the ongoing international effort to promote gender equality. Thus, the United Nations has played a crucial role in this regard, as well as in setting global standards for gender equality, the Sustainable Development Goals.

Finally, this effort is also translated into a framework that seeks to ensure the necessary legal framework for the protection of fundamental rights and the elimination of discrimination, and, in this regard, I have provided various examples of good practice from different countries where a balance is established between promoting gender equality and strengthening the rule of law.

Bibliography:

1. Asian Development Bank & International Labor Office, *Good global economic and social practices to promote gender equality in the labor market*, Mandaluyong City, Philippines: Asian Development Bank, 2013, p. 16
2. Barajas-Sandoval, E., Botero-Pinzón, H., Botero, J.C. et al., *Gender Inequality and the Rule of Law*, Hague J Rule Law 15, 95–107 (2023). <https://doi.org/10.1007/s40803-022-00175-9>, p. 95
3. Brundtland, G., *Report of the World Commission on Environment and Development: Our Common Future*, United Nations General Assembly document A/42/427, <https://sustainabledevelopment.un.org/content/document/s/5987our-common-future.pdf>, 1987, accesat la data de 06.02.2024, p. 41
4. Costachi Gheorghe, Iacob Irina, *Reflecții asupra securității juridice în statul de drept*, In: Legea și Viața, 2015, nr. 5(281), pp. 4-9. ISSN 2587-4365, p. 4
5. Duvander Ann-Zofie, Cedstrand Sofie, *Gender Equal Parental Leave Use in Sweden: The Success of the Reserved Months*, in Caroline de la Porte, and others (eds), *Successful Public Policy in the Nordic Countries: Cases, Lessons, Challenges*, Oxford, 2022, <https://doi.org/10.1093/oso/9780192856296.003.0013>, p. 263

6. EIGE, *Gender Equality Index 2023. Towards a green transition in transport and energy*, Publications Office of the European Union, pp. 21-45
7. Ionescu Steluța, *Justiția și marile doctrine privind statul de drept*, În: St. de Drept Românesc, 2008, p. 112
8. Lowie Robert Harry, *Primitive Society*, London, Ed. Routledge and Kegan Paul, 1921, p. 290
9. Milca Mihai, *Statul de drept, drepturile omului, siguranța cetățenilor și starea de excepție*, Drepturile omului 2:17-22, 2016, p. 19
10. Norah Hashim Msuya, *Concept of Culture Relativism and Women's Rights in Sub-Saharan Africa*, Journal of Asian and African Studies, 54(8), 1145-1158, 2019 apud., Nana Lynda Day, *The evolution of female chieftainship during the early nineteenth-century war of the Mende*, International Journal of African Historical Studies 27(3), 1994, pp. 481–503.
11. Raza Ullah, Hazir Ullah, Muhammad Shoaib, *A Cultural Transformation: Pakistani Girls Outperforming Boys in Education*, Qlantic Journal of Social Sciences, 2023, 4. 173-183. 10.55737/qjss.355122226, pp. 178-179
12. UN WOMEN, *Driving The Gender-Responsive Implementation of The 2030 Agenda For Sustainable Development*, New York, August 2016, p. 5
13. United Nations, *The Sustainable Development Goals Report 2023*, Department of Economic and Social Affairs, ISBN: 978-92-1-101460-0, New York, 2023, ISBN: 978-92-1-101460-0, p. 11
14. Wagner Ines, *Certified Equality: The Icelandic Equal Pay Standard*, Institute for Social Research 2018, p. 7
15. Zlătescu Moroianu Irina, „Drepturile Omului – Un Sistem în Evoluție”, Institutul Român pentru Drepturile Omului, Bucharest, 2008, p. 8
16. Zlătescu Moroianu Irina, *Principiul Nediscriminării pe Criteriul Cetățeniei sau Naționalității*, NEDES - 2013, Pro Universtaria Bucuresti, 2013 p. 41

Legal Framework

1. The Universal Declaration of Human Rights, Publication Date: 10 December 1948
2. United Nations General Assembly. The Universal Declaration of Human Rights (UDHR). New York: United Nations General Assembly, 1948, Article 7
3. The Convention on the Elimination of all Forms of Discrimination Against Women, Adopted in 1979 by the United Nations General Assembly
4. The Rule of Law Institute of Australia, *Gender Equality & the Rule of Law*, 2013, p. 3
5. Law No. 202/2002 on Equal Opportunities and Equal Treatment of Women and Men, published in the Official Gazette No. 326 of 5 June 2013.

Sitography

1. Women Deliver, *Strengthening the Rule of Law to Advance Gender Equality: Q&A with Hina Jilanim*, 10th of Marh, 2019, <https://womendeliver.org/streng>

thening-the-rule-of-law-to-advance-gender-equality-qa-with-hina-jilani/m,
Accessed by 22nd March, 2024

2. United Nations, *Achieve gender equality and empower all women and girls*, 2023, <https://sdgs.un.org/goals/goal5>, Accessed by 23rd of May, 2024
3. UNDP, *Transforming the Future of Work for Gender Equality Initiative*, <https://www.undp.org/asia-pacific/transforming-future-work-gender-equality-initiative>, Accessed by 24 of May, 2024
4. Rachael Tu, *Rethinking the Canadian Model for Advancing Board Diversity*, The Canadian Bar Association August 31, 2022, <https://www.cba.org/Sections/Business-Law/Resources/Resources/2022/EssayWinner2022EngBusiness>, Accessed by 25 of May, 2024.