

Gender Equality in Europe; Developments with reference to Gender Pay Gap and Violence

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Abstract: *The European Union has kept the agenda of gender equality at the front line of legislation and policy development. The research examined the policies and the efficacy of the European Union in endorsing gender equality and determines where the Union's system has proved to be less effective. Despite the efforts by the European Union in addressing gender-related issues, a slow improvement has been indicated in achieving gender parity. Inequality persists in many domains of gender equality, including the gender pay gap and gender-based violence. Our research suggests that adequate attention in terms of relevance, effective implementation and funding must be given to all domains of gender equality.*

Key Words: EU and Gender Equality, Gender Inequalities in Europe, Pay Gap and Gender-Based Violence in EU.

Introduction

The world community has made continued efforts to promote gender equality and eliminate gender discrimination. The developed states have seen a significant improvement in women's rights as enshrined in the international legal framework on gender equality. These states have kept women related matters, including gender discrimination and inequalities, at the forefront of legislation and decision making. As a result, women's rights are making progress, even-thought slowly and at an uneven pace in different societies (Glaze, 2018). At the European Union level, the Union is committed to implement and encourage the global agenda of gender equality and empowerment. The European Union has shown significant advancement in promoting gender equality. The continues efforts of the European Commission, and parliament have given Union superiority over other nations in promoting gender equality. Fourteen of the top twenty states in the world on gender equality are European Union members (European Commission, 2020). Despite significant progress made by the European Union, the 2019 report on equality between women and men in the EU indicates several areas - including gender pay, decision making and gender-based violence - where the gender inequalities persist. Furthermore, the European Union Gender Equality Index 2019 indicates a slow improvement of 5.4 points on gender equality since 2005, resulting in 67.4 points in 2019 to the

member states (Gender Equality Strategy, 2020). Considering the commitment and efforts of the European Union in promoting gender parity and persistence of inequalities between the sexes, this article analyzes the efforts of the European Union made in partnership with the international and regional organizations for sustainable development and supporting gender equality. In addition, this article examines the policies and efficacy of the European Union in endorsing gender equality and determines where the Union's system has been less effective, and in turn, how its system can be improved upon.

Gender Equality in International Law and European Union's Cooperation with the United Nations

The European Union works in partnership and cooperation of international and regional fora to promote the global agenda of gender equality. The European Union has launched several projects in collaboration with the African Union, the International Labour Organization, the Organization for Security and Cooperation in Europe and the United Nations. At the international level, the United Nations has adopted many instruments, created structures and endorsed policies to address gaps in gender equality around the globe. The first recognition of women rights came from the United Nation's Charter. Article 1 of the Charter states to promote and

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encourage human rights without any discrimination as to sex, race, language or religion. Gender equality was again endorsed in the Universal Declaration of Human Rights, 1948. The Universal Declaration reaffirms its commitment to the equality of all human beings in dignity and rights. The efforts of the United Nations in developing the agenda of gender equality, over the period of decades, culminated in the adoption of the convention on the Elimination of all Forms of Discrimination against Women in 1979. It is also called the 'International Bill of Women's Rights' or 'Women's Convention. It set up an agenda of gender equality by challenging the cultural practices that discriminate against women. The CEDAW Convention has received the second-highest ratifications following the Convention on Rights of Child. Only six states, i.e. United States of America, Iran, Palau, Sudan, Somalia and Holy See, have not ratified the CEDAW Convention (International Women's Rights Action Watch, n.d.).

The journey to promote women rights and gender equalities at the international level started in 1974 by the United Nations. Since then, four world conferences have been organized in 1975, 1980, 1985 and 1995. The United Nations celebrated the decade for women's rights during 1976-1985, and a UN Development Fund was established to assure adequate resources for the implementation of policies and activities to be carried out ([the UN Refugee Agency, n.d.](#)). Each world Conference on Women offers a Programme of Action for the member states to ensure women's rights across the globe. The Fourth World Conference on Women set a new global era by embodying the roadmap for women rights. It was held in 1995 in Beijing, and representatives of 189 governments, about 30,000 activists, and 17,000 participants gathered across the world to reassert the commitment of the nations of the world to uphold the agenda of gender parity (UN Women, n.d.). The Conference ended with a blueprint for advancing women's rights globally and is considered as the recognized guidelines for further actions known as the Beijing Declaration and Platform for Actions. After a decade and a half of the Beijing Declaration, in 2010, the General Assembly established 'UN Women' by merging four international agencies, including UNIFEM. The UN Women helps the member states in formulating and implementing the policies on gender equality (ibid). Considering the importance of women's role in the economy and sustainable future, the United Nations in 2015 reaffirmed its commitment to Goal 5 of the Sustainable Development Goals 2030 to empower women.

Gender equality is essential to achieve stimulus productivity, economic growth and a peaceful society. The goal of ending gender discrimination and securing gender equality is a challenge for the world community. The United Nations Secretary-General, Mr Antonio Guterres, opined that women empowerment and gender equality had not been achieved, and it is one of the greatest challenges in the implementation of human rights ([United Nations, n.d.](#)). Despite clear guidelines of the United Nations to eliminate gender discrimination, the fact that gender discrimination is widely practised in nearly every country cannot be denied, particularly in developing and under-developed countries (United Nations. Meetings, Coverage and Press Releases, 2007). The mechanism under the United Nations system to enforce its policies on gender equality and implement the treaty provisions has proved to be less effective. One of the obvious reasons for non-compliance with the equality provisions by the states is the formulation of incompatible reservations to the CEDAW Convention. Article 18 of the Vienna Convention on Law of Treaties prohibits the formulation of reservations that contradict the object and purpose of the treaties. The Vienna Convention's criterion has been adopted in article 28 of the CEDAW Convention. Many states have ratified the international human rights treaties, including the CEDAW Convention, with reservations that contradict with object and purpose of the convention. The most noticeable incompatible reservations have been formulated in the name of religion ([Bonner, 2009](#)). Such reservations give justification to the reserving states to opt for the responsibilities under the convention. Resultantly, the cultural practices that deny girls the right to education forced marriages and the right to property continue to persist despite the United Nation's policies.

Gender equality is one of the core values of the European Union. The Union is not only committed to promoting gender parity within its borders but also uphold the agenda of gender equality across the globe. The European Union has extended its support for the effective implementation of the CEDAW Convention in line with the Program of Action under ICPD and the Platform for Actions of the Beijing Declaration. In 2017, the European Commission played an active role in drafting the G7 Roadmap for a Gender-Responsive Economic Environment. The roadmap incorporates the structural policies for the member states on delivering gender equality. The main objectives incorporated in the roadmap includes eliminating gender-based violence, encouraging and ensuring the equal participation of women in all spheres of life by empowering them economically. In the same year, the European Union

published a report, 'Sustainable Development in the European Union', on progress by the member states towards the Sustainable Development Goals 2030 ([European Commission Report, 2018](#)). The European Union has focused on strengthening the global community by joining hands with other countries, civil society organizations, international and regional organizations. For instance, the European Union has been working in partnership with the UN Women since the latter was established. Several memorandums of understandings have been signed, including a partnership agreement in 2012 and 2016. In 2019, the European Union contributed USD 84.4 million to the UN Women (UN Women, Partner Spotlight, n.d.).

One of the key areas of concern of the European Union has been eliminating violence against women. This is indicated by the projects being supported by the European Union. In 2017, the European Union was supporting around sixty programs to eliminate gender-based violence. The European Union launched a joint venture, 'the Spotlight Initiative', with the United Nations to address gender-based violence. It is one of the largest initiatives by the European Union with a budget of EUR 500 million that focuses on five regions of the world, i.e. Asia, Latin America, Sub-Saharan Africa, the Pacific and the Caribbean. Under the spotlight initiative, EUR 25 million financial support was given to realize the rights of women migrant workers in the ASEAN region. Similarly, since 2017 the European Union has been working in partnership with UN Women in the western Balkan states for ending gender-based violence. A budget of EUR 5 million was allocated to focus on programs and technical support to the governments for developing policies and reforming the laws in line with CEDAW and Istanbul Convention (ibid).

Another focused area of the European Union's partnership is Female Genital Mutilation. According to the European Parliament resolution, 2012/2684(RSP), about half a million women in Europe and two hundred million women have suffered FGM in the world ([European Parliament Resolution, 2012](#)). The European Institute for Gender Equality estimated about 180,000 girls at risk of undergoing FGM each year ([European Institute for Gender Equalities, 2017](#)). The European Commission has been sponsoring several projects across the world to fight violence and FGM. Since 2017, the European Union has provided financial and technical support to 1.5 million women. The European Union granted EUR 3.8 million to a program launched from 2011 to 2017 with the Egyptian government and the United Nations.

Similarly, the European Union has been working in partnership with the Pan African Parliament and the African Union to eliminate FGM. Furthermore, eliminating FGM stands tall in the regional sub-Saharan African 'Spotlight Initiative' program, a partnership program of the European Union and United Nations in the sub-Saharan Africa ([European Commission Report, 2019](#)).

The Policies of the European Union on Gender Equality

The human rights regime in Europe has developed into a regional system of human rights over the period of 70 years since the inception of the European Convention on Human Rights in 1950 ([Keller & Sweet, 2008](#)). The ECHR operates on the principles of international law. However, the European Court of Human Rights has, in several cases, interpreted the provisions of the convention according to the special characteristics of the convention as a public order instrument of Europe instead of international principles. In *Mamatkulov and Askarov v Turkey* case, the court stated that the values of the democratic society must be promoted while interpreting the provisions of the Convention ([Wildhaber, 2007](#)). In 2000, five years after the adoption of the Beijing Platform for Actions by the United Nations, the Charter of Fundamental Rights was adopted 2000 through the Lisbon Treaty. Article 21 of the Charter ensures all dimensional protection from discrimination in the member states. The Charter has consolidated rights and freedoms that have been interpreted by the European Court of Justice over the period, the rights that have been set out in the ECHR, rights arising from the common traditions of EU countries, UDHR and CEDAW Convention (Communication from the Commission, 2010).

The European Parliament forms a collaborative sort of supernatural government, mandated with legislative, budgetary and supervisory powers. The Member states have a say in the make-up of the parliament, as well as how various laws are implemented. This gives more power to the domestic realm of law to the member states (European Parliament, n.d.). The European Union issues the goals for its member states by setting out a standard policy in the form of directives, regulations and recommendations. The directives have set a uniform standard across Europe in order to ensure protection from discrimination. In order to simplify and make the law more accessible to the general public, the provisions regarding gender equality and relevant case law were consolidated in a single document, i.e. the Directive 2006/54/EC, also

known as the Recast Directive ([Burri & Prechal, 2009](#)). The Directive sets out a standard mechanism for all the member states to fight gender discrimination and harassment. However, the methods by which these goals are to be accomplished are left to the convenience of the member states. As a result, the member states have experienced varied outcome on the gender policy due to the different methods of implementation and varied weight given to the principles.

The European Commission and the European Parliament play a significant role in the promotion of the global agenda of gender equality. The Parliamentary Committee on Women's Rights and Gender Equality' monitors the implementation of gender policy in all sectors and the removal of all forms of discrimination based on sex ([Promoting Equal Opportunities, n.d.](#)). The European Union adopted the Strategic Engagement for Gender Equality 2016-2019, focusing on the five priority areas, including equality of gender pay, economic independence of women, promoting gender equality and eliminating gender-based violence, supporting victims and legal equality ([European Commission SEGE, 2015](#)). The key strengths of the SEGE include framing policies, monitoring mechanism, multidimensional approach and a wide range of supporting instrument and finance. As the result of strategic implementation of the SEGE 2016-2019, the European Union has witnessed improvement in many areas as for instance gender gap in education has seen significant improvement, and therefore, it has been closed (European Commission, 2020), and the domain of health has improved with 88.1 points on GEI 2019 report. Similarly, the participation of women in the bodies governing the parliament has improved from 36.5% to 41% in the elected Parliament of 2019. The parliament called on the political parties, before the elections 2019, to ensure the participation of women in the bodies governing the parliament. As a result, the new elected Parliament of 2019 carries more women than ever (The Parliament's Fight for Gender Equality, n.d.).

The European Union, despite the improvements in the domains of gender equality, has witnessed gender inequalities in several domains. For instance, the gender gap in employment, pay, care, power and pensions. Gender-based violence continues at an alarming level, and violation of principles of gender equality needs to be addressed. The 2019 Report on equality between women and men in the EU reveals that European women earn 16% less than men, only 68% of women are employed as compared to 78% of men, women pensions are 30.1% lower than

men's pensions, 33% of women have experienced physical or sexual violence, 22% of women have experienced violence by an inmate, and 55% of women have been sexually harassed. Similarly, the Gender Equality Index, 2019 report reveals that the improvement in achieving gender equality is very slow, with 67.4 points out of 100. In 2018, the European states established a compact 'EU Common Security and Defense Policy' consisting of 10 strategic guidelines and 22 commitments. One of the commitments in the compact is to promote the representation of women in the missions. This made it challenging to increase the representation of women in CSDP missions. The commitment has proved to be less concrete and ambitious, as shown by the gender-disaggregated data on states contribution to each civilian CSDP mission in 2019. Four member states, including Finland, Sweden, Italy and Denmark, contributed half of all the seconded women personnel in the Civilian CSDP. On the other hand, representation by other states, including France (7%) and Poland (4%), remained very low (Smit, 2019).

Moving forward with the agenda of gender equality, the European Union adopted the Gender Equality Strategy 2020-2025, with an aim to achieve substantial progress in gender equality by 2025. The focused domains in the strategy are ending gender-based violence, the gender gap in the labour market, gender pay gap and pension gap fighting gender stereotype and attaining gender balance in decision making and politics. In order to achieve the targets set out in Strategy 2020-2025, it is important to learn lessons from the shortcoming in the Strategic Engagement of Gender Equality 2016-2019. Therefore, this article analyzes the domains of gender equality, where gender inequalities continue. Considering the annual report of equality between men and women 2019 and focused areas of the Strategy 2020-2025, two domains have been identified for the purpose of analyzes, i.e. gender pay gap and gender-based violence. The policies adopted and experiences of the EU member states in the identified domains are elaborated, and the shortcoming in the policies are highlighted.

Gender Pay Gap

The principle of equal pay stands tall in the policies of the European Union. Direct and indirect gender discrimination in gender pay is prohibited in Europe. Article 157 of the TFEU and the Recast Directive 2006/54 set out the principles of equality for equal work. The implementation of the provisions regarding equal pay, pension and eliminating poverty among women remains one of the challenges in

Europe. The European Parliament has stressed on the member states to take material steps for abolishing the gender pay gap. The European states have adopted several methods and policies to rectify the gaps within gender-related concerns. Many European states have ensured equal pay protection through collective agreements instead of decentralized bargaining. The Gender Equality Agency in Employment of Portugal marks the collective agreements with provisions of pay discrimination. Similarly, in Finland, an 'equality allowance' highlights the equality in pay agreements. The legal framework was strengthened by introducing financial penalties for non-compliance. However, this could not prove to decrease the gender pay gaps ([Brochard, Charpenel & Pochic, 2020](#)). Similarly, many member states have imposed reporting obligations on employers and companies regarding the wage differences between both sexes. In Portugal, the national parliament enacted a law, i.e. Law N. 60/2018, obligating the companies having more than 250 employees to adopt a transparent policy on remuneration. Furthermore, the companies are required to submit an evaluation report on the differences in the pay audit to the Authority for Labour Conditions. Moreover, the employees are entitled to seek wage information and opinion from the Commission for Equality in Labour and Employment about gender pay discrimination ([European Commission Report, 2019](#)). In addition to the above-mentioned initiatives, many European states, including Austria, Belgium, Cyprus, Germany, France, the Netherlands, Portugal, Spain and Sweden, have taken awareness-raising measures by organizing 'Equal Pay Day on 4th November since 2005 ([Best Practices in European Union Countries, n.d.](#)).

Despite the initiatives taken under SEGE 2016-2019, the gender pay gap persists in Europe. The 2019 Report on Equality between Women and Men in EU reveals the improvement of 0.6 % over the period of 3 years, i.e. 16.6% in 2014 to 16% in 2017 ([European Commission Report, 2019](#)). Several factors may have hindered the implementation of the provisions on pay equality. The primary factor is the lack of legal cases challenging the discrimination in gender pay. In some member states, including Bulgaria, the Czech Republic, Liechtenstein and Romania, there seems to be no or very few legal cases on equal pay. The limited number of cases reflects the complicated, lengthy and costly complaint procedure. In some states, the cases have not been published. For instance, in Slovakia, no cases on equal pay are published either by the Slovak National Labour Inspectorate or national equality body, i.e. Slovak National Center for Human Rights.

Similarly, in Denmark, limited judgements of the high court and supreme court are published. The lack of reported cases in Denmark is due to the settlement of equal pay disputes through a private dispute resolution mechanism. Most of the cases that have been reported are related to indirect discrimination in pay. The scarcity of legal cases has made it difficult to assess the development and progress of the member states in upholding the principles of equal pay ([Burri, 2019](#)).

In many states, the equality bodies, i.e. labour courts and labour inspectorate, play an important role in the implementation of the principles of equal pay. The Commission for Protection against Discrimination in Bulgaria and Labour Inspectorate in Finland are the equality bodies with an objective to prevent discrimination and ensure equality. The claimants who seek protection against unequal pay prefer equality bodies over the law courts for the simple procedure. However, in some member states, the inconsistency in the interpretation of the provisions on equal pay by the courts and equality bodies has impeded the claimants from enforcing their rights. For instance, in Finland, the individual cases of discrimination are derived from the Supreme court, and cases of discrimination regarding collective agreements are decided by the Labour courts. These two forums have differently interpreted the cases related to discrimination in pay. In a case regarding the choice of a comparator, the Labour court interpreted in favour of the complainant to choose the comparator. However, the Supreme court disagreed with the Labour court's interpretation ([Burri, 2019](#)). Some European states have experienced lacunas in the legislation. For instance, in Estonia, 'pay' has not been defined in the Employment Contracts Act, and the understanding of the 'pay' is to be derived from the different article of the Act. Similarly, the definition of 'work' is not found in the Gender Equality Act, and it has not been elaborated in the case laws. In Cyprus, no specific criteria have been provided for the application of principles of equal pay for equal work or work of equal value (*ibid*). Another reason for the persistence of inequalities in pay and pensions is the high costs of the litigation, including the attorney's fees. The claimants hesitate from starting the litigation in fear of losing cases and money as well. For instance, in the Netherlands, the court fees are very high, and the claimant must pay Eur 3000 to Eur 4000 if their claims are rejected (*ibid*).

Gender-Based Violence

Gender-based violence is given due consideration in the international agenda of gender equality by

international and regional organizations. The CEDAW Committee, in its General Recommendation No. 19, adopted in 1992, defined violence as 'violence which is directed against a woman because she is a woman or that affects women disproportionately. At the European Union level, violence against women is one of the most addressed domains of gender equality. The European Parliament and the Commission have paid special attention to the policies in the elimination of all forms of violence. 2018 was marked as a year for 'ending gender-based violence. During that year, the Commission organized many campaigns, awareness-raising activities, conferences and programs to end violence against women. The leading campaign 'Say No Stop VAW' was launched as part of the focused year. The economic cost of fighting violence in Europe is estimated to be more than EUR 225 billion per year ([Non. No. Nein, n.d.](#)). The efforts of the Commission are not limited to its member states, but the Commission has worked together with the Organization of Economic Cooperation and Development, the Council of Europe, UN Women and the World Bank to end violence against women. At the national level, many states have taken measures to combat violence. In this regard, the efforts of Sweden are noteworthy. She has made significant progress by developing the legal system in its fight against gender-based violence. In 2018, a 41-year-old victim was sentenced to 10 years for committing online rape, i.e. coercing girls in Canada, Britain and the USA to perform sexual acts on webcams. Under Swedish law, rape also includes non-physical acts. A new law was enacted in Sweden, clarifying the 'consent' in sexual activity. According to the new law, any sexual activity without express or implied voluntarily participation is considered rape. The law also states that even during the sexual activity, if a person changes his mind, the voluntarily act would become rape ([European Commission Report, 2019](#)).

The European Union lacks a comprehensive framework to eliminate gender-based violence. As a result, gender-based violence persists in different forms like female genital mutilation, sexual and cyber harassment and domestic violence. It indicates the need for more effective actions in this domain. According to the 2019 Report on Equality between Women and Men in EU, one in every 3 women aged above 15 have experienced physical or sexual violence, and every tenth of women in Europe have faced cyber harassment. The situation of the female

parliamentarian is very disappointing as well. A report issued by the Inter-Parliamentary Union and the Parliamentary Assembly of the Council of Europe shows that the acts of sexism and abuse among the female member of the parliament are at the alarming level. According to the report, 85% of the female members have reported that they have faced psychological violence in parliament. The members under the age of 40 and female parliamentary staff endure more violence and are at more risk to be harassed ([Union, 2018](#)). Under the Covid-19 crisis, the domestic violence cases in Europe have increased to 30-50%. Immediate actions are required to combat the hike in cases of violence ([European Women's Lobby, 2020](#)).

Conclusion

The efforts of the European Union in promoting gender equality have helped the Union to achieve gender parity in many domains. A wide range of policies and activities have been adopted at the European Union level and by the member states. However, the persistence of inequalities in many domains of gender equality shows the need to adopt more concrete policies and effective mechanism to make Europe a women's continent. The limited knowledge of the SEGE 2016-2019 to all stakeholders due to the low-profile communication strategy had made progress less effective and slow. In addition, inadequate attention and limited funding were given to several domains of gender equality, including sexual harassment, the gender gap in pay and pension, combating stereotype and violence. Adequate attention, in terms of relevance, effective implementation and funding, must be given to all domains of gender equality. In addition, a systematic mechanism of implementation and follow-ups must be adopted in all European states. The courts and the equality bodies must adopt a consistent practice of interpreting the provisions on gender equality, and facilitation must be provided for taking legal actions. The European Union must adopt a comprehensive policy on the elimination of gender-based violence in line with the Istanbul Convention of 2011. The Istanbul Convention has introduced a unique legal framework for the elimination of all forms of violence, including domestic violence. The COVID-19 crisis may affect the Gender Equality Strategy 2020-2025. The European states and institutions need commitment and coordination to ensure that the women do not carry the burden of crisis as unemployment and economic decline is feared.

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