The Gender Equality

Dr. Mirela SHAMETI

Abstract

The subject of this topic is the gender equality as a fundamental right and part of the human rights. As such it deserves the proper attention and position in the society. This paper aims to explicate the significance and implementation of the principles of the rates on gender equality. It also explicates discrimination in base of gender with regard to the involvement of woman in decision-making and political life of a certain country. These principles of the gender equality will be analyzed in the local and international aspect. Therefore, the study field is going to be comprehensive, but leaving somehow in darkness the historical aspect. This, for the only fact that I think it is a very specific subject, and the historical background is understandable. In the international relations women have had an important role mostly because of their ability to achieve peace. Outlook feminists say that women should be used and exploited for their talent. Since, women instead of being chosen to adapt the men’s games, may change the rules of the game themselves in order to reflect the fact that “average” women may be the main actors in the important roles of the international relations, but unfortunately this remains only a theory. Moreover, the analysis will also focus in the actual aspect of the implementation of the gender equality, the role and importance given to the principles of this right for a well-functioning of the society with equal rights. Even though in a modest way, the goal is that by means of this topic I could make a contribution no matter how minimal about women rights in this field. Women should know how much they are worth and that their role in a democratic society is much greater than the maintenance of the home and taking care for the children. They have all the potential to govern a country in the same way or sometimes even better than men. Feminist currents believe that a world in which most of the politicians or the military would have been women could have been a different world.

Keywords: gender equality, CEDAW, local governance, gender quotas, decision-making, policy-making.

Introduction

Did I, my lines intend for public view,

How many censures, wou’d their faults persue,

Some wou’d, because such words they do affect,

Cry they’re insipid, empty, uncorrect.

Lady Winchilsea!

I am starting the paper with these lines to express the injustices that have been made to women, since they were considered to be “appropriate” only for some functions, mostly the reproduction ones, the growth and care of children, cooking and housework. While, men on the other side were the ones that “owned” the producing functions. It was exactly by these violations of females’ capability that encouraged women all around the world to raise their voices and be heard.

The human right are what has been fought for many years. They are what human minds have written books, organized protests, faced challenges and even sacrificed their lives. But, despite all difficulties the achievements accomplished in this direction are enormous. Conventions have been signed, memorandums, laws, normative acts, etc.

However, if to recognize and respect human rights as a whole has been difficult, recognition of women's rights in particular has been and remains a challenge. Unfortunately, historical studies show that since the period of ancient Rome to the
present day, most legal systems have treated women as inferior to the male gender. The inferior position of women is considered a natural fact that has its roots in the dictionary or the way how objects or phenomena are labeled in many countries.

As a voice and support for women's rights all over the world, the feminist movement was developed. This, once a political movement with small dimensions, has become a very important ideology, mainly during the last 30 years.

The feminist movement has developed so much that in the ‘90 it took place also in the international arena, requiring a gender equality even in the international level.

Challenges for women's rights began to materialize when feminist jurisprudence had some goals and requirements associated with integration and gender equality. They, among other things, required that:

• During the drafting of legislation should "be asked the woman," that should define and accept the experience of women in regard to the rights,

• The right should take into consideration the practical reasoning of woman,

• To increase the awareness of woman on her role.

These marked the onset of a successful road towards what later would be called "gender equality". But to reach that point was an excessive work, because it was almost impossible from the male gender to accept such equality.

However, we must say that there are many wrong concepts and groundless facts regarding the education of children and society with healthy concepts for gender equality. Many people think that if we will not stress male elements in the education of boys and female elements in the education of girls, they will become homosexual.

It must be said that equality between women and men is a fundamental right for all. It is a core value of democracy in Albania and its integration into the EU. In order to achieve this true equality between women and men should be recognized not only legally, but implemented efficiently in all aspects of life: political, economic, social and cultural. Despite various efforts to address gender equality, and progress achieved in its formal recognition of the equality of women and men in daily life it is still not a reality.

It must be said that equality between women and men is a fundamental right for all. It is a core value of democracy in Albania and its integration into the EU. In order to truly achieve this, equality between women and men should be recognized not only legally, but implemented efficiently in all aspects of life: political, economic, social and cultural. Despite various efforts to address gender equality, and progress achieved in its formal recognition of the equality of women and men in daily life it is still not a reality. In practice, women and men do not enjoy the same rights and social, political, economic and cultural inequalities continue. These inequalities are the result of social configuration directory based on gender stereotypes present in many families, in political processes, in public life, in administrative procedures and in the organization of society. At the same time, these are areas in which it is possible to act, new approaches should be adopted and initiated a structural change.

**Methodology**

Wanting to conduct an accurate study of the paper I have tried to use some method, which I think have been productive.

For having a fairly concrete result:

• I have used the analytical methodology, analyzing normative acts of the field, national and international legislation;

• I referred to facts and actual events, have taken the experiences of different countries both in Albania and abroad. Experiences that I think have brought changes;

• I have used statistical data, with comparable effect to view the current state of the application of gender equality in the country;
I have highlighted problems faced by gender equality as a fundamental right and legal cramps for its application;

I have tried to illustrate the actual situation of implementation and non-implementation of gender equality in decision-making;

I have used referring methods in doctrines, works of honorable professors of Law;

I have also referred to the jurisprudence of the European Court for Human Rights, as the basic instrument for the establishment of the violated rights;

Another method that I have used is hermeneutics, which means the process of systematic analysis of existing knowledge and new derivation of conclusions from the interpretation and transfer of concepts.

Chapter I

Meaning and legal frameworks of gender equality

What is gender equality?

To understand accurately gender equality has not been very simple because of the fact that there was not a clear definition for it. It has always been conceptualized as a right that women were seeking and probably in a superficial way. Many reforms and efforts were needed to achieve a rough consolidation of the concept of gender equality.

At first, I would like to refer to the doctrinal concept, since I find it more general. According to the doctrine gender equality is equal participation of women and men in all areas of life, economic, social, political, cultural, equal position among them, the possibility of equal chances to enjoy their rights and to fulfill their duties in society by benefiting equally from its development accomplishments.

This is the principle by which human beings should have equal rights regardless of race, sex, religious beliefs, socio-cultural or political status.

According to the European Commission's gender equality means that women and men have equal conditions for the fulfilling of their human rights and to contribute to and benefit from the political, cultural, social and economic development. Gender equality is the same society assessment of similarities and differences between men and women in the roles they play. It is based on men and women as full partners in society, their community and families. It starts with equal evaluation of girls and boys.

Gender equality also means access to opportunities that allow people to live the life they choose.

In the Albanian legislation gender equality is defined as the equal participation of men and women in all fields of life, equal positions among them, equal chances and opportunities, to have rights and to fulfill the obligations in society, benefiting equally from its evolutionary accomplishments.

Based on this definition formal and fundamental equality should be explained as part of the gender equality.

Formal equality

Formal model of gender equality has to do with the classic equalization that outlines the treatment of women equally with men. The problem with this model stands in the fact that is not taken into consideration gender and biological differences between women and men, but it imposes a kind of pressure on women to behave according to the conventional standards of men.

Protectionist equality

Submission of equality through protectionist policies, argues that women should be deprived from doing some work, because it is in their interest. Protectionist equality accepts differences between men and women, but considers these changes as a weakness for women.
Egalitarianism

Egalitarianism recognizes the differences between people and works to address these differences, in order to ensure equality of results. Egalitarian doctrines maintain that all humans are equal in fundamental worth or social status.

This is also the model that Albanian legislation promotes. It emphasizes the importance of equal opportunities for equal access of women with men to the resources provided by the state. These laws and policies are provided through support from the institutions established by law.

But these measures among other things should also ensure equal outcomes except such opportunities and possibilities.

International Acts in support of gender equality

On a global scale women occupy only 6.8% of all ministerial posts and in despite of the Beijing Action Plan only 19.5% had improvement in women's participation in decision-making, ensuring their representation by not less than 30% in national assemblies. To make the application and implementation of gender equality in the world more realistic have been taken many measures of a legal character, enabling the partial realization of the gender equality goal.

Many international acts have been adopted setting out general principles of gender equality. These principles subsequently enable different countries to adopt domestic legislation in accordance with or even ratifying agreements, conventions, etc.

Albania is one of these countries which has ratified many international acts regarding the gender equality, and also approved special laws for the proper implementation of this right, which basically is part of the human rights.

International acts

International acts in support of gender equality are global instruments referring the international acts of UNO protecting individuals, their human dignity and fundamental freedoms. The fundamental document of these acts is the International Bill of Human Rights. It consists on:

• United Nations Charter (UNC)
• Universal Declaration of Human Rights (UDHR)
• International Covenant on Civil and Political Rights and its two Optional Protocols (ICCPR)
• International Covenant on Economic, Social and Cultural Rights (ICESCR)
• Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

Universal Declaration of Human Rights (UDHR)

UDHR composes the heart of the international juridical corpus and norms of every democratic country regarding human rights. As a document of the past and actuality at the same time, UDHR is programmed and proved to serve the future.

The UDHR consists of thirty articles which have been elaborated in subsequent international treaties, economic transfers, regional human rights instruments, national constitutions, and other laws.

International Covenant on Civil and Political Rights (ICCPR)

This covenant implements to state parties that have ratified it to respect and ensure the rights and freedoms of their citizens, rights defined in covenant. There are two Optional Protocols to the Covenant.

The First Optional Protocol establishes an individual complaints mechanism, allowing individuals to complain to the Human Rights Committee about violations of the Covenant.
The Second Optional Protocol abolishes the death penalty; however, countries were permitted to make a reservation allowing for use of death penalty for the most serious crimes of a military nature, committed during wartime.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

This convention obliges states to respect and ensure the rights and freedoms of their citizens. These rights consist mainly of the right to work, the right for fair and favorable working conditions, the right of association, the right to social insurance, rights with respect to the family, the right to education, the right to participate in cultural life and rights of profitability from scientific progress.

Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

This Convention, CEDAW is an international treaty adopted by the UN General Assembly aiming at protecting women's rights as human rights, is often referred as Women's Convention or Bill of Rights of Women. Until now, the CEDAW Convention has been ratified by 185 countries.

It is the first convention of human rights, which obliges State Parties to modify and refrain from social approaches, cultural patterns and practices, which are based on the idea of the inferiority or superiority of either sex.

CEDAW integrates the civil, political, economic, social, and cultural rights of women, in the normative framework of non-discrimination and equality.

The CEDAW convention has a triple purpose. It makes compulsory the adoption of appropriate and effective measures in three different levels:

• To implement full equality in law and public administration;

• To improve women situation de facto;

• To combat gender stereotypes and gender ideology.

These three objectives of the convention have the common purpose; that of elimination of all forms of discrimination against women.

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP-CEDAW)

The OP-CEDAW is an international treaty which establishes complaint and inquiry mechanisms for the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Parties to the Protocol allow the Committee on the Elimination of Discrimination against Women to hear complaints from individuals or inquire into “grave or systematic violations” of the Convention. The Protocol has led to a number of decisions against member states on issues such as domestic violence, parental leave and forced sterilization, as well as an investigation into the systematic killing of women in the Mexican city of Ciudad Juárez, Chihuahua.

Regional instruments

The principle of gender equality is one of the basic principles of the Council of Europe. European Court of Human Rights has held that equality of the sexes is one of the major goals of the Member States of the Council of Europe. Some European instruments related to human rights and gender equality are:

• European Convention of Human Rights (ECHR)

• Protocol no. 7 of ECHR

• Protocol no. 12 of ECHR
Gender equality is stated as one of the fundamental principles of the European Convention on Human Rights. Article 14 of the Convention provides that: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political opinion or other, national or social origin, associating with the status of a national minority, property, birth or other status."

The convention is an international treaty drafted to protect human rights and fundamental freedoms and has played an important role in the development and awareness of Human Rights in Europe.

The ECHR also established the European Court of Human Rights (ECtHR). Any person who feels his or her rights have been violated under the Convention by a state party can take a case to the Court. Judgments finding violations are binding on the States concerned and they are obliged to execute them. The Committee of Ministers of the Council of Europe is responsible for monitoring the execution of judgments, particularly to ensure payment of the amounts awarded by the Court to the applicants in compensation for the damage they have sustained.

The ECHR is composed of another fifteen protocols since 2010. These protocols can be divided into two main groups: those amending the framework of the convention system, and those expanding the rights that can be protected. In this paper I am just mentioning protocols no.7 and no.12, which are directly related to my topic.

**Protocol no. 7 of ECHR and article no. 5**

Article no. 5 of protocol no. 7 provides that: "Spouses shall enjoy equality of rights and responsibilities of a private law character between them and the relationship with their children, regarding marriage, during marriage and at its dissolution case. This article shall not prevent States from taking measures necessary in the interest of children."

According to this article, spouses shall enjoy equal rights with regard to marriage, during and in the event of termination. This equality should be ensured only in relations between the spouses themselves, about their person or property, and in their relationships with their children. Rights and responsibilities are purely private law, shall not apply to other areas of law, such as administrative law, fiscal, criminal, social, religious, or labor laws. This article, which deals with the case of "spouses", excludes the period before marriage, and does not apply in the case of the ability to marry, which is granted by the law of the country in question.

**Protocol no. 12 of ECHR and its' article no.1**

Protection against discrimination under Article 14, was recently completed by Article 1 of Protocol No. 12 of the ECHR. Protocol 12 expands the range of application of Article 14, by providing a completely independent application of the principle of non-discrimination, to any right set forth by law. This particular protocol expands the range of protection from discrimination to include negative obligations of the contracting parties as well as a positive obligation.

It stands next to Article 14, without amending or repealing it. Protocol No. 12 of ECHR guarantees the right’s standing on its own, for equality.

Article 1 of Protocol 12 provides a non-discrimination clause and therefore provides a range of protection which extends beyond the "the enjoyment of rights and freedoms established in the Convention".

Article 1 of Protocol 12 provides protection from discrimination by public authorities. The article is not intended to impose a general positive obligation on Parties to take measures for the prevention or correction of all cases of discrimination in relations between private persons.
European Social Charter

European Social Charter is a complementary instrument to the European Convention on Human Rights, as it includes a number of economic and social rights. Institution that guarantees the respect of Charter is the European Committee of Social Rights.

The Convention addresses issues of gender equality and non-discrimination. For this it requires that the rights defined in the European Social Charter to be provided to everyone, both domestic and foreign, regardless of race, gender, color, language, religion, opinion, nationality, social composition, state of health or association with a national minority.

European Union Legislation

A short introductory explanation that deserves attention is the difference between the EU and the EC. Currently, therefore, before the entry into force of the Lisbon Treaty, the European Community and consequently the right of the EC, it is only a part of European Union law. All the right of gender equality is a right that has its roots in the treaty that set up the European Community (EC Treaty), which is older than the EU Treaty. Consequently, while we can talk about the right to gender equality EU, more accurate references are those to the EC Treaty. With the entry into force of the Lisbon Treaty, the EU and EC merged into a single unit that is the European Union.

In the Treaty that set up the European Economic Community, adopted in 1957, was included only a single provision (Article 119 of the Treaty the EEC, now Article 141 of the EC Treaty’s) to fight gender discrimination, namely, the principle of equal pay between men and women for equal work. However, the European Court of Justice stated that Article 119 of the EEC’s aim was not only economic but also social. Later, the ECJ ruled that the economic aim is secondary to the social purpose. It also stated that the principle of equal pay is an expression of a fundamental human right.

With the entry into force of the Amsterdam Treaty in 1999, the promotion of equality between men and women throughout the European Community has become one of the essential tasks to Community.

In addition, since 1999, the Community had the authority to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability and age or sexual orientation.

This article has provided a legal basis about anti-discrimination directives not related to gender, but also for the Directive of the principle of equal treatment between men and women in access and supply of goods and services 2000/113 / of the EC.

**Directives**

- **Directive 79/7 / of EEC for the equal treatment of men and women in statutory security schemes.**

The so-called Third Directive on equal treatment between men and women covers the social security provided for by law (statutory). The Directive prohibits direct discrimination and indirect both due to sex (Article 4, paragraph 1). Protected persons are *population works - including self-employed persons and workers whose activity is interrupted due to illness, accident or unemployment, not apart from them and persons seeking employment- and workers retired or disabled, as well as self-employed persons “*(Article 2).

- **Directive 2004/113/ of the EC of equal treatment between men and women in access and supply of goods and services**

This is the first directive that treats gender equality issues outside of the employment field. The submission of this Directive recognizes that discrimination based on sex, including harassment and sexual harassment, also takes place in areas outside the labor market and can be equally damaging, acting as a barrier to the successful integration of men and women in economic life and social. The principle of equal treatment means that there should be no discrimination directly or indirectly based on sex, including less favorable treatment of women for reasons of pregnancy and childbirth. More favorable provisions for the protection of women as regards pregnancy and childbirth do not conflict with the principle of equal treatment.
Restated Directive 2006/54 / of the EC

In 2006, the new directive 2006/54/ of EC, which merges existing provisions of the various directives of the equality of the sexes, including some cases from case law of the ECJ.

This directive abrogates:

• Directive 75/117/ of EC for equal pay for women and men.
• Directive 76/207/ of EC for equal treatment of men and women in hiring.

The aim of this Directive is to clarify and merge into a single text the provisions on employment, including promotion and vocational training, as well as working conditions, along with wage and occupational social insurance schemes.

After the conduction of the study of legal framework we can conclude that gender equality has been in focus of both EU and CEDAW.

If we make a comparison vertical between the EU law and CEDAW could say that the regime of EU law is a corpus more applicable laws, and the law of CEDAW, which treats its obligations to States Parties, has very limited opportunities to sanction violations.

Chapter II

Mechanisms of gender equality into a country.

LGE (The Lobby for Gender Equality) charges Ministry of Labor, Social Affairs and Equal Opportunities as the authority responsible for gender equality. The Ministry's main function is to monitor the implementation of relevant laws and the application of the principles of non-discrimination and equality between men and women.

Auxiliary mechanisms for achieving gender equality in general levels are:

Department for equal opportunities and family policy (DEOFP). DEOFP's mission is to promote gender equality and women's participation in economic, political and cultural life, and develop policies for the prevention and reduction of gender-based violence. It consists of two sections:

• Section for gender equality and measures against violence, and
• Section for rights and protection of children.

National Council for Gender Equality. It is responsible for proposing policies for gender equality. This Council advises the government on national policy direction for the harmonization of gender and gender equality and ensure the inclusion of gender in all areas.

• Commission of Labor, Social Affairs and Health is responsible for women and family issues, in addition to issues of labor relations, social affairs, social security and health. This committee reviews the draft, take legislative initiatives in the areas of its expertise and cooperates with the MoLSAEO on issues of gender equality and children.

• Commissioner of Protection against Discrimination, examines complaints of discrimination from individuals, groups of individuals or organizations on issues such as discrimination, including gender, but also gender identity, pregnancy, sexual orientation, marital or family status and parental responsibility.

Gender equality officers in the central government level (ministries) and the local unit are mandated to lead efforts to harmonize gender and expected to play the role of promoters and monitors the implementation of the national gender policy.
Recommendations

Political parties have a special responsibility to speed up implementation of measures to increase the proportion of women not only as candidates, but also as elected parliamentarians and government ministers and local. In all parties and within the Parliament should have zero tolerance for language and behavior that is abusive exclusionary and belittles women, as well as personal attacks on candidates that significantly express a direction against women. Party programs should include their apparent position in relation to gender equality and the empowerment of women in all thematic and sectorial areas. Male and female candidates should be informed about comprehensive policies on gender equality and women's empowerment.

Pursuant to the Declaration and Beijing Action Plan and the implementation of LGES, gender mainstreaming requires institutional changes in working methods, and the explicit responsibility of promoting gender equality. Gender equality is an integral part of strengthening democracy - the process is incomplete if there are no policies, measures and practices that aim to reduce inequalities between men and women in all spheres of life and to align gender democracy.

Article 9 and 22 of LGES clearly engages Albanian government to take special measures for the empowerment of women in Albania. It was followed by an analysis of current conditions, various sectors of political and public life have gender balance. Women remain under-represented at senior levels in the administration and politics. To remedy these situations specific measures to encourage the participation of the less represented gender such as recruitment policies that favor for a limited time less represented gender.

Some of the measures that can be taken are:

- The consistent realization of fuller, systematic and comprehensive studies for deeper recognition of the problem, of depth, differentiated intensity occurrence of problems of gender equality in Albania.

- The necessity and importance of collecting statistical data for performing analyzes gender studies, for in-depth knowledge of the current situation of gender perspectives, to design and implement concrete and effective programs, aiming at enhancing gender equality.

- Drafting of strategies and policies of "pro gender" nature, with clear and achievable objectives.

- Recognition of domestic and international legal framework for gender equality and the improvement of existing legislation and undertaking new legislative initiatives.

- Strengthening the educational role of print and electronic media, which could become the strongest ally of women in Albania in her battle for equality and social justice.

- The importance of increasing the participation of women in political and public decision making as a prerequisite for the democratization of the Albanian society.

- Women’s rights to be seen as human rights in general and not just as gender rights.

- Raising awareness of women themselves for their rights and their role in achieving gender equality.

- Increasing the role of women as social actors in the development of society as much as men for eliminating discriminatory practices and gender stereotypes on this role.

Conclusions

Women represent half of the potential talents and skills of humanity and their under-representation in decision-making is a loss for society as a whole. Gender equality means equal access to and control over resources and benefits, equal participation in political decision-making on law and equality for women and men. Gender equality is not only a democratic necessity in itself, but also an economic necessity, social policy and poverty reduction and the integration of Albania into the EU.
Political and structural changes should promote increased participation of women in political life. The amendment of the Electoral Code in order to ensure a better implementation of the gender quota by ending the uncertainty expressed in the case of general elections (option "and / or" in the ranking of candidates) through the application of systems that have resulted effective in other countries as well as ongoing review of the threshold of gender quotas.

It is necessary to increase the number of women participating in decision-making structures of the party by reviewing the statutes of parties and procedures for the selection of leaders. Creating alliances of women as a group, but also with men allies, informally and organized inside / outside and beyond political forums are essential strategies that their participation is higher and real. Thus, their role in politics will be more powerful. Increased media attention in respect of equal treatment between men and women representatives, regarding the portrayal of political figures.

Increased capacity of journalists to advanced knowledge on gender issues, in order to develop a competent and professional media coverage. Strengthening the role of media in promoting women in politics, both in terms of awareness of the quota, women's right to self-representation, value added from our most powerful women in political and democratic processes. Strengthening the role of civil society in general and the organizations dealing with gender issues and women in particular, the promotion of women in politics and the development of alliances needed in this regard. Improving and creating social programs and services is essential to reduce the overload of gender roles, so that women have the opportunity to realize their potential in all spheres of life, as well as in the political field.

Drawing conclusions and recommendations that should be a priority for the new stage of the struggle of women in Albanian society to deepen the indicators of gender equality by turning it into a social challenge, it aims to highlight some objectives measurable indicators for work of all state institutions, public, media and civil society.

The issue of gender equality should be seen making several comprehensive analyzes this problem, which is really a social and political problem and gender. So the problem must be seen as political issues related to the political rights of women in decision making, such as social problem that has to do with women's rights as a man and the obstacles it faces in familiar environment.

In conclusion, I would like to summarize once again what I have discussed above, noting aloud that people are born male and female first and family formation makes men and women. May not be important if you are female or male, when the potential to change and improve society is of a higher dimension. Albania has tried and is trying day by day to make its contribution to improving the gender ratio in all areas of life, by passing laws that help to establish gender-balanced and respect the gender quota required by European standards.

But despite the bulk of the world’s population are women, their participation and role remains very low in political life and not only, in a country. Still cannot fail to mention the fact that things are improving. Women are aware that they have a key role in the development of students and society in shaping a country’s history and every day more and more of them are giving their useful contribution. They are demanding always more to get a proper education, making possible that nowadays 58.2% of university students are females.

During a study regarding international relations, I noticed how much the feminine spirit was needed in the maintenance and improvement of relations between the countries. Women leaders would make the world to have more goods and peace. Many of these women have sacrificed their lives and goals that have filed a gender equality worldwide. And though it seems a utopian goal in itself, I think it is very possible and realizable. It may take many more years and may require many reforms and new laws, but women will achieve the equality and respect they deserve in a democratic and European society.