



DISRUPTING

**THE MULTILATERAL
ORDER?**

The impact of anti-gender actors on
multilateral structures in Europe

A study by the Centre for Feminist Foreign Policy



IMPRESSUM

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Disrupting the multilateral order? The impact of anti-gender actors on multilateral structures in Europe?

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TABLE OF CONTENTS

List of abbreviations	5
Executive Summary	7
Key Takeaways	10
1. Introduction	12
1.1. Overview of the study	15
2. Setting the scene	17
2.1 Anti-gender actors, democracy, and populism	17
2.1.2. Anti-gender non-state actors	19
2.2. The politically contingent nature of the multilateral order	20
3. Entry points	22
3.1. Responsiveness to domestic politics	22
3.1.1. An epistemic clash - a case study of the UN Human Rights Council (UNHRC)	23
3.1.2. The instrumental nature of capturing human rights language	27
3.1.3. Ideological resistance - a case study of the European Parliament	28
3.1.3.1. Being prepared makes a difference - the Estrela and Matic reports	29
3.2. The importance of language	31
3.2.1. Misusing multilingualism	32
3.2.2. 'Gender' and its status in international law	33
3.2.3. Omitting references to 'gender' – a case study of OSCE	34
3.3. Values in international governance need to be operationalised to matter	36
3.3.1. Contesting the community (of) values? - a case study of the European Union	36
3.3.1.1. The European Commission	39
3.3.1.2. The European External Action Service	40
3.3.2. Influence or principles? – the Council of Europe	41
3.4. Agenda-setting via budget negotiations	44
4. Impacts	46
4.1. On progressive delegates' negotiation strategies	46
4.2. Delegitimising expert bodies - the case of the European Court for Human Rights	48
4.3. Levelling the playing field in favour of those in power? – a new meaning for civil society	50
4.3.1. Astroturf advocacy, on- and off-line	52
4.3.1.1. Astroturf: Online	52
4.3.1.2. Astroturf: Off-line	53
4.3.2. Limiting institutional space, disinformation, and harassment	54
4.3.3. Ensuring access vs limiting disingenuous participation	56
5. Conclusions	59
6. Recommendations	62
7. Bibliography	67
8. List of respondents	84

LIST OF ABBREVIATIONS

ADF International - Alliance Defending Freedom International
ASEAN - Association of Southeast Asian Nations
BBC - British Broadcasting Corporation
CDADI - Steering Committee on Anti-Discrimination, Diversity, and Inclusion
CEDAW - Convention on the Elimination of All Forms of Discrimination Against Women
C-Fam - The Centre for Family and Human Rights
CFFP - Centre for Feminist Foreign Policy
CFR – Council of Foreign Relations
CFSP - Common Foreign and Security Policy
CJEU - Court of Justice of the European Union
CoE - Council of Europe
COHOM – Working Party on Human Rights
COMECE - Commission of the Bishops’ Conferences of the European Union
Covid-19 - Coronavirus Disease 2019
CSE - Comprehensive Sexual Education
CSO - Civil Society Organisation
CSW - Commission on the Status of Women
CTBTO - The Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization
DAC - Development Assistance Committee
DCAF - Geneva Centre for Security Sector Governance
DROI - European Parliament’s Subcommittee on Human Rights
EC - European Commission
ECHR - European Convention of Human Rights
ECI - European Citizens’ Initiative
ECLJ - European Centre for Law and Justice
ECPM - European Christian Political Movement
ECR - European Conservatives and Reformists
ECtHR - European Court for Human Rights
EDW - European Dignity Watch
EEAS - European External Action Service
EEC - European Economic Community
EESC - European Economic and Social Committee
EIGE - European Institute for Gender Equality
EP - European Parliament
EPF - European Parliamentary Forum
EPP - European People’s Party
EU - European Union
FAFCE - Federation of Catholic Family Associations in Europe
FAO - Food and Agricultural Organisation of the United Nations
FEMM Committee - European Parliament’s Committee on Women’s Rights and Gender Equality
FRA - Agency for Fundamental Rights
FWI - Family Watch International
GAP - Gender Action Plan
GDP - Gross Domestic Product
GONGO - Government Operated Non-Governmental Organisation
HIV/AIDS - Human Immunodeficiency Virus/ Acquired Immunodeficiency Syndrome
HRC - United Nations Human Rights Council
IDAHOBIT - International Day Against Homophobia, Biphobia, Interphobia and Transphobia
IAEA - International Atomic Energy Agency

IE-SOGI - UN Independent Expert on Sexual Orientation and Gender Identity
IFAD - International Fund for Agricultural Development
IJRC - International Justice Resource Center
ILO - International Labour Organisation
IMO - International Maritime Organisation
INGO - International Non-governmental organisations
IOM - International Organisation for Migration
IPPF - International Planned Parenthood Foundation
ITC - International Trade Centre
ITU - International Telecommunications Organisation
LGBTQI* - Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Others
MEP - Member of European Parliament
NGO - Non-governmental organisation
PACE - Parliamentary Assembly
OAS - Organization of American States
ODIHR - OSCE Office for Democratic Institutions and Human Rights
OECD - Organisation for Economic Cooperation and Development
OHCHR - Office of the High Commissioner for Human Rights
OIC - Organisation of Islamic Cooperation
OPCW - Organisation for the Prohibition of Chemical Weapons
OSCE - Organisation for Security and Cooperation in Europe
SDG - Sustainable Development Goals
SOGI - Sexual Orientation and Gender Identity
SRHR - Sexual and reproductive health and rights
STIs - Sexually Transmitted Diseases
TFEU - Treaty for the European Union
TGEU - Transgender Europe
UDHR - Universal Declaration of Human Rights
UK - United Kingdom
UN - United Nations
UNAIDS - The Joint United Nations Programme on HIV/AIDS
UNESCO - United Nations Educational and Scientific Organisation
UNFCCC - United Nations Framework Convention on Climate Change
UNGA - United Nations General Assembly
UNHRC - United Nations Human Rights Council
UNIDIR - United Nations Institute for Disarmament Research
UNIDO - United Nations Development Programme
UNITAR - United Nations Institute for Training and Research
UNODC - United Nations Office on Drugs and Crime
UNOG - United Nations Office in Geneva
UNOPS - United Nations Office for Project Services
UNSC - United Nations Security Council
UNSCC - United Nations Staff College
UNWTO - World Tourism Organisation at the United Nations
UPU - Universal Postal Union
URG - Universal Rights Group
US - United States of America
WEOG - Western European and Others Group
WHO - World Health Organisation
WIPO - World Intellectual Property Organisation
WMO - World Meteorological Organisation
WTO - World Trade Organisation

EXECUTIVE SUMMARY

There is an increasingly transnational, multi-level group of actors seeking to restrict the rights of women and LGBTQI* people, sexual and reproductive health and rights (SRHR), and comprehensive sexuality education (CSE) globally. Delineating the impact of these so-called anti-gender actors on multilateral spaces is vital to conceptualise the extent of the threat and develop appropriate responses. This study is the first comprehensive, comparative, policy-oriented study on the impact of anti-gender actors on the European multilateral space that seeks to understand the dynamics of anti-gender contestation in European multilateral fora and develop concrete policy recommendations aimed at governments and other actors seeking to advance human rights for all.

Across the European multilateral landscape, there are multi-level strategic networks, spanning domestic, regional, and global policy spaces, which include actors as diverse as governments, politicians, and non-state actors. Coalescing around the resistance to what they characterise as 'gender ideology', this group of actors utilises the full array of entry points into a system that relies heavily on the construction of concepts, aiming to transform the multilateral order into a protector of patriarchal values. Anti-gender actors are extraordinarily well-connected and adept at 'venue-shopping' - utilising the different priorities and compositions of the various institutions, entrenching regressive conceptualisations of human rights in one forum, which then becomes part of the mutually referential loop of treaties, declarations, and international jurisprudence. To do so, they capitalise on crises and geopolitical power-plays in multilateral spaces, exploiting the challenges of operating in a multilingual, multilateral framework to frame human rights for all as a radical, foreign agenda. Skilfully using semantics and employing disinformation, they pick up and capitalise on existing misogynist, xenophobic, nationalist, and anti-feminist beliefs in society to frame equitable access to fundamental human rights for all as a radical, destabilising notion, threatening nature, normality, or society.

Using increasingly secular language, they couch their opposition in human rights terminology, claim democratic values, and characterise human rights advocates as anti-democratic, totalitarian ideologues seeking to impose the dominance of identities not endemic to all societies.

These efforts have resulted in an increase of seemingly small concessions in 'unrelated' policy areas such as trade, migration, sports, or culture. Through such concessions, anti-gender actors succeed in codifying regressive language, which they then reference in future negotiations, eventually undermining the human rights framework's application to the rights of women and LGBTQI* people. Their success is, in part, facilitated by the lack of institutionalised gender mainstreaming and complexity of gender equality and LGBTQI* issues.

In practice, human rights commitments and norms previously acceded have been reneged and ignored by states where anti-gender actors are part of power structures. With geopolitical fault lines coalescing around gender equality and LGBTQI* rights, the contestation of these issues has destabilised the foundations of multilateral governance and questioned its system of mutual oversight of human rights and democratic standards. At the UN Human Rights Council (HRC) (headquartered in Geneva), there has been a project ongoing over the past fifteen years to redefine the human rights framework along traditionalist-relativist lines, placing cultural traditions and the family over fundamental human rights for women and LGBTQI* people, and framing the idea of human rights for all as imperialist and relativist. At OSCE, 'gender' and LGBTQI* rights have consistently been opposed by Russia and the Holy See, limiting the space for OSCE to apply an inclusive approach to its work in the human dimension and beyond. The number of members of the European Parliament whose politics can be described as anti-gender has doubled, to 30 percent, compared to the last legislature. In EU foreign policy, individual member states deliver

statements inconsistent with the EU joint statement in multilateral spaces, resulting in a growing incoherence between the EU's rhetoric and that of its member states. At the Council of Europe, the Istanbul Convention has become a focal point for anti-gender contestation with the reasoning that it is incompatible with national values, as evidenced by the withdrawal of Turkey and the successful constitutional challenge in Bulgaria. Other member states are reacting by inserting the protection of the heterosexual family as a notion in their constitutions, which brings into question the authority of the Council of Europe to defend human rights, democracy, and the rule of law.

Expert, technocratic, and judicial bodies such as the European Court for Human Rights (ECtHR) do not directly reflect the growing contestation of gender equality and LGBTQI* rights in domestic politics across Europe and are more resilient to anti-gender narratives than consensus-based intergovernmental bodies such as OSCE or the Council of the European Union. The ECtHR is currently the most advanced international body in terms of developing case law promoting and protecting SRHR and the rights of sexual minorities. Still, its vulnerability to populist political backlash and the undermining of national judiciary structures in member states puts case law on sexual minorities and its tentative codification of a right to abortion at risk. Through challenging the authority and legitimacy of international human rights monitoring bodies and courts and questioning the rules-based character of the multilateral order, anti-gender contestation exposes the lack of meaningful enforcement mechanisms, and therefore the fragility, of the human rights framework.

Anti-gender contestation is neither random nor a simple pushback against advances by human rights proponents. It goes beyond an attack on gender equality, or the rights of women and LGBTQI* people. Rather, it is about power. Anti-gender actors are working towards a strategic goal: to develop and institutionalise international norms in opposition to equality and universality as core elements of democracy and the human rights framework. Consequently, contesting the claim of women and LGBTQI* people to of fundamental human rights is dangerous to all policy fields in the multilateral system, and must be

understood as an early warning sign of broader anti-democratic strategies.

Non-state anti-gender actors, experts at direct lobbying both within and outside institutional negotiation spaces have been able to increasingly influence agenda-setting, issue-framing, or the positions of delegates across the range of multilateral institutions in Europe. There is further evidence of the top-down nature of anti-gender popular mobilisation with a claim to represent grassroots groups, including at the multilateral level. Anti-gender actors often use misleading names or obfuscate their actual activities and intentions, fostering the impression that they, too, stand in defence of human rights and fundamental freedoms as they work to undermine those very systems. Considering the underrepresentation of feminist civil society in many multilateral fora due to a lack of resources and active efforts by anti-gender actors to restrict this participation, anti-gender narratives are becoming increasingly dominant in policy spaces.

Multilateral institutions are a function and reflection of the combined political climate(s) where they exist, and they can move towards or away from a more rules-based, robust, universal understanding of human rights. There is no teleological progress on human rights. It is unclear what long-term effects these efforts to reframe and undermine the multilateral order will have. However, it is a threat which must be taken seriously. If anti-gender narratives are perceived as morally equivalent to advocating human rights for all, as a mere viewpoint, or as only impacting gender equality and not also other elements of the multilateral order, multilateral institutions are vulnerable to fragmentation and, eventually, fracture. An effective response requires imbuing the rules-based order with meaning and legitimacy, which will necessitate a rethinking of dominant approaches and increased efforts towards preserving the indivisibility of human rights.

This study urges progressive governments to use this crisis as an opportunity to build a stronger, more equitable, and more just multilateral system. It does this through a set of recommendations organised in six thematic clusters:

- Strengthening secretariats, monitoring

bodies, and institutional safeguards to secure the normative foundations of multilateral institutions.

- Mainstreaming human rights and gender equality knowledge throughout the foreign and diplomatic service.

- Engaging in clear and consistent communication to counter disinformation and polarisation.

- Rebuilding trust in multilateralism and strengthening its rule-based nature.

- Filling critical knowledge gaps on anti-gender contestation in other fora, societal attitudes and reasons for supporting the exclusion of women and LGBTQI* persons, and the funding and networks advancing anti-gender ideas.

- Recentring civil society and supporting their participation in policy processes.

KEY TAKEAWAYS

- 1. Broad coalitions exist among state actors, policymakers, and non-state actors, formed around resistance to what they term 'gender ideology', which seeks to promote and entrench international norms exclusive of fundamental rights for women and LGBTQI* people.** The Holy See, Russia, Hungary, Poland, and Islamic governments, join forces with Members of the European Parliament (EP) and national-level political parties with anti-gender politics and non-state anti-gender actors. They have well-devised messaging strategies, such as depoliticising gender or invoking subsidiarity, and they utilise the full array of entry points into the human rights framework - a system that relies heavily on constructing concepts. These actors are extraordinarily well-connected and adept at venue shopping, utilising the different priorities and compositions of the various institutions. They skilfully use semantics and exploit the challenges of operating in a multilingual, multilateral framework to frame human rights for all as a radical, foreign, and imperialist agenda.
- 2. The argument that fundamental rights for women and LGBTQI* people, such as sexual and reproductive health and rights (SRHR), or access to comprehensive sexuality education (CSE) are an ideology or imposed by a minority of actors to the detriment of society is false. SRHR and access to CSE already fall under the framework of human rights law.** Nothing new needs to be invented, and no special rights are being demanded, simply the enjoyment and protection of fundamental human rights. However, the multilateral order relies on alignment as to what the human rights norms mean. It requires ongoing political consensus and robust independent monitoring by expert bodies. Both factors are malleable and subject to change over time. Recognising the ongoing advocacy work – specifically by feminist civil society – as crucial to the advancements of the rights of women and LGBTQI* people should caution against a simplistic, teleological view of progress and reconfirm the responsibility and urgency to organise better to counter anti-gender actors' efforts to restrict rights.
- 3. Anti-gender actors use the full array of entry points and exploit the vulnerabilities of the multilateral system in Europe.** In the UN Human Rights Council (UNHRC) and European Parliament (EP), they exploit the responsiveness of these institutions to the proliferation of anti-gender narratives domestically. In both institutions, there has been an increasing divide between staunchly pro- and anti-gender positions, advancing mutually incompatible understandings of the human rights framework. The values are being contested and reshaped in value-based institutions such as the European Union (EU) and the Council of Europe (CoE). When comparing the two, it becomes clear that the extent to which values are legally enforceable determines how vulnerable the institutions are to anti-gender narratives. Other crucial entry points used by anti-gender actors are the multilingual nature of multilateral institutions, their reliance on agreed language and precedent, and budget negotiations. Language creates political realities, and anti-gender actors skilfully use semantics to undermine the human rights framework. Similarly, budgets are used to control the mandate of international institutions and, in effect, their view of the world.
- 4. Anti-gender actors have real, tangible impacts on multilateral structures in Europe.** They use venue shopping to advance their policy agenda. Their consistent and forceful opposition causes intimidation or confusion among delegates, resulting in fatigue and self-censorship. In policy areas not traditionally associated with 'gender', such as trade, migration, or culture, anti-gender actors have greater success in rolling back language. Actors from secretariats who are principled in their support of equality use the space within their mandates to defend gender equality and LGBTQI* rights but are often limited to 'holding the line' and can only advance gender equality when there are no cost implications to the measures. Anti-gender contestation also delegitimises judicial and expert bodies. Against the backdrop of intensifying contestation of gender equality, LGBTQI* rights, and SRHR in Europe, this risks the very tentative codification of re-

productive rights and hard-won protections for trans rights by the European Court for Human Rights. It is worth remembering that it was judicial bodies and not majorities that overturned the right to abortion in both Poland and the United States.

5. **With the increasing participation of anti-gender non-state actors in multilateral policy spaces, traditional understandings of the role of civil society as representing the interests of those traditionally marginalised from access to political power and contributing to democracy and good governance, no longer holds universally true.** Anti-gender actors do not perform this role: they seek to limit and narrow the applicability of human rights protections and work to maintain the unjust status quo. Anti-gender non-state actors have become socialised into civil society advocacy practices (at the UN, EU, or CoE levels), accepting the rules of engagement but not the normative framework. This means there are now two groups of non-state actors participating in multilateral fora, one with an anti-egalitarian and restrictive approach to determining who deserves to be the subject of human rights. Non-state anti-gender actors show features of 'astroturfing' - an activity intended to create the illusion of widespread grassroots mobilisation, despite having no connection to the grassroots. They often use misleading names or are deceptive about their purpose and funding.

6. **This study recommends that governments aiming to promote human rights for all develop strategic intent in responding to anti-gender actors seeking to promote exclusionary conceptualisations of human rights and take bold political action to realise this intent.** This requires, internally and externally, recentring civil society in norm development, strengthening technical bodies, mainstreaming human rights and gender equality, developing proactive communication campaigns, rebuilding trust in multilateralism by being consistent and holistic, and filling critical knowledge gaps on anti-gender contestation in other fora.

1. INTRODUCTION

*Io sono Giorgia, sono una donna, sono una madre, sono italiana, sono cristiana: non me lo toglierete!*¹

In 2019, as Italy discussed introducing gender-neutral markers for parents on birth certificates (Feo and Lavizzari 2021), Giorgia Meloni, leader of the far-right Brothers of Italy party and now Prime Minister of Italy, positioned herself, as a mother, Italian, and Christian, against the policy. Deeply connected to other anti-gender parties in Europe - Vox in Spain, Fidesz in Hungary, and the Law and Justice party in Poland, Meloni had made clear her opposition to 'gender ideology' by 'LGBT lobbies' already before she came into power, including in the 2018 manifesto of the Brothers of Italy. Opposition to gender equality, the rights of LGBTQI* people, SRHR, and comprehensive sexuality education, akin to racist or xenophobic rhetoric, is often employed as one of the tools to mobilise votes at the national level. It strengthens the political capital of exclusionary actors² as 'defenders of the people' in the discourse of many of the populist actors who are also anti-gender actors. Indeed, there cannot be a distinction between 'us' and 'them' without caring for the reproduction of 'us', implying patriarchal control over gendered bodies (Mostov 2021).

Our previous study, *Power over Rights* (published in March 2021), demonstrated that actors from the Catholic Church, Islamic states, political parties, right-wing think tanks, citizen associations, academics, and conservative media outlets are united by their opposition to 'gender ideology'. Seeking to

1 I am Giorgia, I am a woman, I am a mother, I am Italian, I am Christian: you will not take that away from me!

2 Many of the mobilisations we describe are nominally in opposition to so-called 'gender ideology', the existence of which we do not acknowledge and have deconstructed in *Power over Rights*. As in *Power over Rights*, in this study, too, we refer to the phenomenon under discussion as the anti-gender movement and the actors comprising it as anti-gender actors. We also interchangeably refer to them as exclusionary actors, to highlight the aim of their efforts: to establish international human rights norms which exclude women and LGBTQI* people. It also serves to underline the point that while anti-gender ideologies often overlap with right-wing ideologies, they are not one and the same. For more detailed argumentation on these points, see *Power over Rights* (Denkovski et al. 2021, 14; 18-22).

restrict and undermine the rights of women and LGBTQI* people, they had been gaining ground for decades. Equal rights for women and LGBTQI* persons are being curtailed domestically as the separation of powers, rule of law, and civil society space are being dismantled with real-life, material effects across the European context. Reproductive rights are being restricted and replaced with natalist policies, defunded, and turned into "paper tigers",³ or re-framed into traditionalist family protection measures promoting demographic sustainability. Several European states (Croatia, Slovakia, Hungary) have constitutionally defined marriage as being heterosexual, and some, such as Hungary, have passed laws prohibiting discussion on LGBTQI* issues in schools (Hoctor et al. 2021). Anti-gender actors also actively work to dismantle formal consultation structures for civil society engagement with national governments (Roggeband and Kriszan 2018, 14), in selective and gendered patterns of shrinkage, with feminist and queer organisations bearing the brunt (Roggeband and Kriszan 2021). We argued that the mobilisation against the rights of women, SRHR, and LGBTQI* rights is not about these rights as such. It is about power and maintaining social hierarchies (Denkovski et al. 2021).

While research on the impact of anti-gender actors in national contexts is growing, there remains a knowledge gap on the impact of the anti-gender actors on multilateralism as such, which was also beyond the scope of *Power over Rights*. Multilateral systems and the norms developed therein bear significant relevance to human and feminist security. Grassroots organisations and civil society more broadly depend heavily on multilateral spaces and norms to advocate for protections in their contexts. Understanding how anti-gender actors impact negotiations, the adoption and implementation of treaties, alliance building, and polarisation within multilateral structures is vital – not only to counter exclusionary actors but to be able to understand the extent of the threat and build a stronger, resilient, and just multilateral order. Increasingly, the 'us' and 'them' distinction manifests also at the multilateral level: the rights

3 Interview No 8; 29.03.2022.

of women and LGBTQI* people ('them') are being contested, framed as notions that disagree with, and threaten, the cultural values and traditions of the alleged majority people or states ('us').

The multilateral framework (in Europe, as elsewhere) is characterised by its multipolar nature with multiple bodies concerning themselves with interpreting and enforcing human rights norms. Operating independently and within their respective mandate and scope of action, they are all part of an interconnected system built on the foundations of the Universal Declaration of Human Rights (UDHR) (IJRC n.d.). The multiple arenas where human rights are discussed and defined in the European context allows actors to engage in 'venue shopping' - selecting the forum most permeable to their normative stance, capitalising on differential priorities, positionality, and composition of the various institutions. The tension between nationally defined political interests and universal human rights principles is higher in intergovernmental spaces such as the Council of the European Union, or OSCE than in expert and values-based multilateral institutions such as the Council of Europe (Mégret & Alston 2019, 36). Over the last 15 years, there has been an evident shift across the multilateral system away from human rights, norms, and rule-based global governance towards a much more realist system of "managed competition" between states (Lupel 2019). As a result, multilateralism is in crisis.

At the same time, domestic political discourse globally is showing a turn towards more polarisation and entrenchment of anti-feminist and anti-LGBTQI* positions. Beyond states such as Hungary, Poland, France, Germany, or Sweden, we see the way South Korea's current President built on the mounting anti-feminist sentiment in the country to win the election in early 2022 (Gunia 2022) or Turkey where anti-feminism is part and parcel of political discourse (Hülagü 2020). These developments only highlight the necessity to monitor national discourses and the extent to which multilateral organisations are vulnerable to the diffusion of exclusionary norms. As standard setting actors, it is important how multilateral organisations see the world.

The universalist/relativist debate being played out in the areas of gender and sexuality rights is not new - we discuss in *Power over Rights* how the Holy See joined forces with OIC countries in Beijing in 1995

to restrict language on SRHR (Denkovski et al. 2021, 21). However, three aspects of the engagement of anti-gender actors at the multilateral level set it apart from the contestations of the 1990s and early 2000s:

- Embedding relativist arguments in human rights language, consistent with the analytical frame of socialisation by anti-gender actors into the multilateral sphere
- Calling for a return to the human rights framework as codified in the UDHR or the founding treaties of the European Union, in turn framing the inclusion of the right to abortion, or LGBTQI* rights as against the original intention of the drafters
- Portraying individualist approaches to human rights, as ideas of the few, imposed on most people or states.

Relying on primary and secondary desk research and thirty interviews with delegates and staff of European multilateral organisations working on gender equality and human rights, we analyse multilateral institutions in Europe. We seek to understand how anti-gender (state and non-state) actors might impact and influence the agenda-setting in these spaces. Looking at the language in documents and resolutions, statements by delegates, and budgets, we sketch out the impact anti-gender strategies have on like-minded (progressive) actors' negotiation approach and alliance building. Being sustained by the ongoing consent and support of their constitutive elements (states), with their values and principles (to the extent they are codified) continuously subject to interpretation by changing bureaucratic structures, multilaterals are essentially a function and reflection of the combined political climate(s) they exist in. The European trend of de-democratisation then necessarily raises the question of how resilient human rights norms and frameworks are – considering the essential role civil and political rights play in a democracy (von Stein 2015). Europe has a vibrant, multipolar multilateral landscape that is constantly in flux. With the increase of anti-gender contestation and exclusionary populism across the continent, it is essential to assess the impact of these developments on the multilateral system. While the findings of this study are not representative of multilateral dynamics globally, our findings highlight some key considerations that may be of use to actors seeking to better understand better mobilisation against the rights of marginalised populations in other multilateral fora.

An independent study commissioned by the Ministry for Foreign Affairs of Finland, this study focuses on norm development and enforcement, policy implementation, budget negotiations and civil society influence in four institutions: the European Union (EU Commission, the European External Action Service (EEAS), and the European Parliament (EP)), the Organisation for Security and Cooperation (OSCE), the Council of Europe (CoE), as well as the United Nations Human Rights Council (UNHRC).

1.1. Overview of the study

Chapter 2: Setting the Scene

Chapter 2 contextualises the study, delineating who the ‘anti-gender actors’ in the multilateral fora are at the state, political party, and non-state levels. We provide an overview of the critical connections between anti-gender actors, populist narratives, and anti-democratic sentiments. In doing so, this chapter highlights two main points. Firstly, that intersectionality, gender equality, and human rights, rather than add-ons, must be central pillars of efforts to secure democracy and a rule-based international order; and secondly, that in seeking to understand the impact of anti-gender actors on the multilateral space in Europe, it is essential to pay attention to national-level dynamics of contestation around gender and sexuality issues as these play out in multilateral policy spaces, polarising discourse.

Chapter 3: Entry points

Having established the relevance of national-level discourse and the need to centre intersectional approaches in the previous chapter, Chapter 3 looks at the way anti-gender actors exploit intergovernmental spaces’ structural vulnerabilities as entry points to restrict the rights of women and LGBTQI* people. First, through two case studies, we analyse the transference of domestic political dynamics in international spaces. The first case study focuses on the ongoing epistemic clash at the UNHRC about the nature of human rights and who is worthy of protection - an illiberal norm diffusion project spearheaded by Russia and Western non-state anti-gender actors capitalising on the ongoing crisis of multilateralism. The second focuses on the often-unconstructive nature of the political contestation of gender equality, LGBTQI* rights, SRHR, and CSE at the European Parliament in a context where the number of MEPs who can be classified as anti-gender has doubled between the current and previous legislature. The section concludes by highlighting the critical difference that awareness of and preparation for disinformation and harassment make in ensuring that progressive, gender-transformative language gets passed in the EP.

The next section delves deeper into language as a critical entry point. On the one hand, we explore how anti-gender actors misuse the multilingual nature of multilateral arenas and the structural differences between languages to frame ‘gender’ and LGBTQI* rights as an ideological imposition by a particular set of actors. On the other hand, we look at language as ‘diplomat speak’ (what is contained in treaties and international law). We dive into the questions of what ‘gender’ actually refers to and to what extent it is codified in international law (i.e. ‘agreed language’ in UN jargon) to illustrate that the contestation of ‘gender’ as a term is both a misrepresentation of what ‘gender’ stands for and reliant on a selective reading of international law. Using the case study of OSCE as an extreme example of a consensus-based intergovernmental body, we illustrate the impact of the ideological contestation of ‘gender’ or LGBTQI* rights as non-agreed language.

The following section looks at the contestation of the values and principles of multilateral organisations as an entry point for anti-gender norm diffusion. A lack of legally enforceable values and insufficient gender mainstreaming results in a limited mandate for the EU and ability to respond when member states violate fundamental principles such as non-discrimination and the rule of law. We compare this to the CoE’s, which, in spite of its legally enforceable values, is faced with the dilemma of maintaining influence and standing by its principles. We illustrate the challenges the contestation of the Istanbul Convention poses to the CoE as a guarantor of human rights in Europe. Finally, we explore how anti-gender actors use the entry point of budget negotiations to limit the agenda of multilateral institutions and contest where values are operationalised, illustrating this through examples of negotiations at OSCE and CoE.

Chapter 4: Impacts

Chapter 4 pulls together the implications of anti-gender contestation on multilateral spaces. Starting with the effects of the persistent opposition of gender and the broader challenges to the universality of fundamental human rights, we look at what that means for the negotiation strategies of progressive actors. We note confusion, a tendency to self-censorship, and strategic decisions to accept ambiguous definitions to unblock negotiations. The analysis underlines the potential risks of agreeing to restrictive or regressive

language in contributing to a codification of a human rights framework, which excludes women and LGBTQI* people. We then turn to how anti-gender contestation can contribute to the delegitimisation of expert bodies. We analyse the example of the European Court for Human Rights - the most advanced international judicial body regarding gender equality and the rights of sexual minorities. Such efforts contribute further to the destabilisation of human rights frameworks and the creation of an international order exclusive of protections for women, LGBTQI* people, and SRHR.

This is followed by sketching the impact of anti-gender actors on the understanding of the role of civil society in policy spaces. We discuss how anti-gender non-state actors have been socialised into the operational aspect of multilateral institutions. They learned to 'speak the language' but do not accept their normative foundations. We challenge the claim of anti-gender actors that they represent the grassroots by arguing that they operate as a top-down, well-funded network connected to political elites (a phenomenon known as 'astroturfing'). We point to their efforts to limit the institutional space for participation for feminist civil society, domestically and internationally. Finally, we raise the question of what this re-definition of civil society means for the future of participatory mechanisms in policy spaces.

Chapter 5-6: Conclusions and recommendations

The study wraps up with conclusions and recommendations to governments seeking to protect and advance human rights for all in Chapters 5 and 6.

2. SETTING THE SCENE

2.1. Anti-gender actors, democracy, and populism

From governments such as Russia, Hungary, or Poland, to right-wing populist parties such as Vox in Spain, the Brothers of Italy, or the AfD in Germany, ultra-conservative NGOs such as the Alliance Defending Freedom, Family Watch International, or the European Center for Law and Justice, the Russian Orthodox Church and the Vatican, anti-gender actors in Europe form broad, strategic coalitions, overcoming ideological differences – united by their opposition to what they term ‘gender ideology’. Figure 1 below is an excellent visual depiction of this tactical coalition building. The actions of this increasingly transnational, multi-level coalition of anti-gender actors (Uitz 2022) are not a simple pushback against advances by human rights proponents in advancing gender equality, LGBTQI* rights, or policies on SRHR and comprehensive sexuality education (Denkovski et al. 2021, 9). This mobilisation is not about rights as such. Actors seeking to advance human rights for all need to become aware that once the applicability of human rights to women and LGBTQI* people is questioned, there is a danger that advances in human rights in all sectors are less meaningful, since such questioning challenges a basic principle of the human rights framework: its universality. Anti-gender mobilisation is about power, aiming to entrench and legitimise unjust social hierarchies via the assertion that equitable access to fundamental human rights for all is a radical notion threatening nature, normality, or society (Strand and Svensson 2021). Through making that assertion, anti-gender actors present socially constructed and historically contingent gender norms and roles as immutable facts. In a second step, this is used as grounds to justify gender-based discrimination and exclusion from human rights protections. This exclusion is centred around denying the fact that in a patriarchal world, the way sexual orientation, gender identity, and sex characteristics are perceived by society at large contributes to vastly different lived experiences, including violence against and marginalisation of individuals who do not conform to that set of norms and roles.

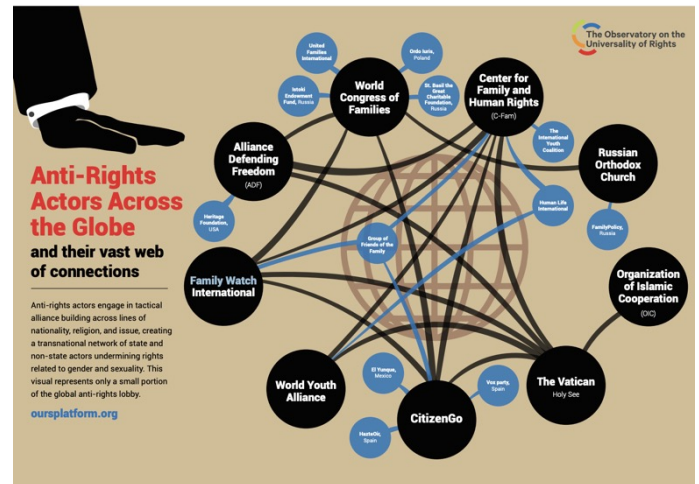


Figure 1 An illustration of the strategic coalition building by anti-gender actors. Image from the Rights at Risk Report by AWID (Shaheem 2021)

Presenting socially constructed gender norms and roles as fact is, at its core, an exercise in othering. It claims to give a voice back to the people, employing traditional values, religious freedoms, and the protection of culture to blame women and LGBTQI* people for society’s problems and justify discrimination and violence against these groups (Kuhar and Paternotte 2017). This is not new. However, anti-gender actors have captured progressive discourse (Lewin 2021), speaking in increasingly secular language, formulating their opposition in human rights terminology and democratic values, and constructing human rights advocates as totalitarian, anti-democratic ideologues.

Anti-gender contestation within Europe is not simply reactive. It is a part of a broader political project (European Parliament 2022). It is a concerted, strategic, top-down effort to develop, produce, and institutionalise alternative norms that oppose equality and universality as core elements of democracy and the human rights framework.

Despite references to speaking on behalf of the people, anti-gender mobilisation is manifestly discon-

“The scapegoating of CSOs working on women’s rights and with minorities and vulnerable groups such as LGBTIQ+ persons is not an isolated event, but functions as a premeditated and gradual dismantling of fundamental rights, which are protected in Article 2 TEU, and constitutes part of a larger political agenda of ‘anti-gender’ campaigns” (European Parliament 2022)

“Attacks on gender and LGBTQIA+ rights and policies are not merely a feminist issue but rather a sign of deeper de-democratization processes across and beyond Europe.” (Vida 2022, 11).

nected from the grassroots. Its origin lies in deeply embedded anti-egalitarian beliefs held by political and societal elites. Unlike those who advocate for marginalised groups, conservative forces have historically occupied positions of power in politics or society (Roggeband 2018). Transnational anti-gender mobilisation is a strategic process which aims to capture segments of society who find cultural and demographic change unsettling and seek stability, offering world-building in a time characterised by concurrent crises and rampant socio-economic inequality. Employing disinformation and skilled communication methods, existing misogynist, xenophobic, nationalist, and anti-feminist beliefs in society are picked up and capitalised on to frame the ‘other’. ⁴These notions are very much present and acceptable in our societies, further legitimised by the discursive linkage with traditional values or national sovereignty and framed in opposition to the ‘external’ origin of gender equality and LGBTIQ* rights – leading to a hyper-polarised discourse.

While this study focuses on the multilateral order, domestic political dynamics must also be considered. Democratic institutions, the rule of law, space for civil society, and non-discrimination protections can be halted or reversed (Vida 2022, 28) in the same way as norms at the multilateral level. Democracies were set up under patriarchal systems. As just one example, universal suffrage was absent any structural change of wider patterns of exclusion of women and other politically marginalised groups in society. It was encumbered by racial discrimination bias, as it was not universal to all women, or many other categories of people, often traceable to conscious political

trade-offs (Hill 2020; Amaya 2021).⁵ Until now, most theoretical and practical approaches to strengthening democracy have treated issues of rights representation as identity politics, pursuing a gender-blind approach or framing gender equality as an add-on.⁶ This study argues that gender, instead of being a sectoral issue, must be treated as an essential part of democracy. Democracy must be grounded in gender equality to be robust and functional.⁷ We have previously argued that anti-gender mobilisation is both a manifestation and a reinforcement of broader anti-democratic trends. We have also highlighted how opposition to ‘gender’ or feminism, by appearing, offhand, less right-wing than open xenophobia or nationalism, allows for the ‘quiet’ delegitimisation of equality principles and ultimately approaches other exclusionary ideologies to the political centre (Denkovski et al. 2021, 16-18). Contesting gender is, in that sense a critical element of the rise of right-wing populism across Europe (Graff and Korolczuk 2022). As previously argued, however, anti-gender actors should not be conflated with right-wing actors - there is ample evidence of actors on the far left also picking up anti-gender narratives. As unjust hierarchies are contingent on preventing accountability and removing opposition (Freedom House 2022), whether mobilising for referenda, as political parties, or curtailing space for civil society, anti-gender actors are adept at using democratic tools to undermine democratic institutions and destabilise the rule of law. They may aim to block or remove progressive gender equality policies or empty them of any practical impact, rendering them ineffective. Anti-gender narratives are transmitted from the international to the domestic level and back in a complex loop.

5 Consider examples in North America in regard to Black women and Indigenous women.

6 Interview No. 28, 22.07.2022

7 See feminist literature on how levels of gender equality is predictive of stability and security within and between states (Hudson et al. 2012).

4 See also Chapter 9.1. on astroturf advocacy.

On the one hand, multilateral norms are being eroded or replaced to justify exclusion at the national level. On the other hand, human rights become instruments for geopolitics, populist mobilisation, and the performance of domestic politics (Voss 2019).⁸

Anti-gender actors take advantage of pre-existing vulnerabilities of the multilateral order - the areas of trade, development, and climate being only some examples (Singhal 2016; Narlikar 2020; Sipanghule and Phiri 2019) - and frame LGBTQI* identities as external (Western) impositions to undermine multilateralism. In the same way as the independence of the judiciary or civil society oversight at the domestic level, monitoring bodies or international courts at the multilateral level are disrupted by undermining their influence and legitimacy, cutting their funding, or creating a hostile environment for their work (Roggeband and Krizsan 2018). As such, anti-gender mobilisation needs to be analysed against the rise of exclusionary politics and authoritarianism in Europe and the ongoing existential crisis of the multilateral order.

2.1.2. Anti-gender non-state actors

Several anti-gender lobbying groups, such as the European Center for Law and Justice (ECLJ), ADF International, European Dignity Watch (EDW), the European Christian Political Movement (ECPM), and Federation of Catholic Family Associations in Europe (FAFCE) have established pan-European advocacy offices in Brussels or Strasbourg in the past decade with the explicit aim of influencing multilateral policies in the European context. In November 2022, ADF moved the international secretariat of the Geneva Consensus Declaration on the protection of the family from Brazil to Hungary (Johnson 2022). In *Power over Rights*, we highlighted the strategic engagement of the ECLJ, ADF, and Ordo Iuris at the European Court of Human Rights (ECtHR), including defending Italy and Poland as both countries attempted to restrict LGBTQI* rights and SRHR. These actors intend(ed) to establish case-law case law of restrictive definitions of human rights.

ECPM is an official advocacy group at the EU level, even receiving funding from the European Parliament, while FAFCE was granted official consultative status at the CoE in 2001 (Hodzic and Bijelic 2014, 13). On the other hand, ADF International was denied participatory status in 2019 (granted annually) at the CoE due to its opposition to the Istanbul Convention. The World Youth Alliance Europe⁹ received one-third of its total 2018 budget from the EU's Erasmus+ programme (Zacharenko 2020, 38). Ordo Iuris is systematically part of any public consultation launched by the European Commission on gender issues. On the grounds of religious dialogue, the Treaty of the European Union grants the Commission of the Bishops' Conferences of the European Union (COMECE) favourable access to EU policymakers (ibid, 32). Numerous civil society organisations, including C-Fam, Family Watch International, and ADF, enjoy consultative status at the United Nations, meaning they can organise side and parallel events and directly access diplomats (Sanders and Jenkins 2022). In addition to cementing their presence with-

⁸ Multilateral norms and institutions can also improve the situation of marginalised populations in some contexts. Research shows that despite the lack of formal penalties and enforcement power, some human rights norms have demonstrably affected state behaviour. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has been shown to have improved women's political rights (Englehart & Miller 2011), and ECtHR jurisprudence shows a significant degree of compliance (Dukalskis 2022). We discuss in Chapter 4 that member state politics can, and do, influence the ECtHR, in addition to the ECtHR 'knowing its limits' vis-a-vis the member states.

⁹ As Zacharenko (2020, 37) highlights: "While it presents itself as a youth organisation with a general interest in health and education and a particular focus on the family, women and children, the WYA has a clear anti-choice agenda."

in the lobbying reach of domestic and multilateral institutions, anti-gender actors actively work on dismantling formal consultation structures for sustained civil society engagement with national governments (Roggeband and Kriszan 2018, 14), as well as using technical argumentation (and disinformation) to limit access for civil society in multilateral fora (Goetz 2020).

2.2. The politically contingent nature of the multilateral order

The international human rights framework is based on the premise that all human beings are born free and equal and that everyone is entitled to all rights and freedoms without distinction of any kind simply by being human (OHCHR 2018a; OHCHR 2018b). It rests on universality, interdependence, indivisibility, equality, and dignity. States are the duty-bearers; they must guarantee human rights. The multilateral order, insofar as it goes beyond 'managed competition', aims to address the inherent power imbalance between rights holders and the states where they live. States, then, have a set of binding obligations accepted via treaties, though means for enforcing human rights norms are relatively weak, relying on inter-state or public pressure, i.e., the 'court of public opinion'. The multilateral order, then, depends on some degree of alignment as to what the norms mean. It requires ongoing political consensus and robust independent monitoring by expert bodies. This study demonstrates that both factors are malleable and subject to change over time.

Human rights are universal, indivisible, and inalienable. That notwithstanding, assertions that "while the promotion and implementation of human rights standards demand an awareness of context, the universality of the essential values and aspirations embodied in these commitments is beyond doubt" (Pillay 2008) can undoubtedly be contested from an intersectional feminist perspective. The human rights project itself is not ahistorical. Iteratively built on the Universal Declaration of Human Rights (UDHR) foundations, human rights discourse continues to reflect patriarchal and colonial epistemologies (Lynch and

Patel 2022). It is disproportionately dominated by the perspectives, interests, and privileges of heterosexual white men from the Global North. Regardless of the geographic diversity of the nine drafters of the UDHR, there is a clear dominance of European cultural background (Khaliq 2022, 238), and many European states, in particular in Western Europe, were active colonial powers when the UDHR was adopted. The expertise, experience, priorities, and perspectives of many in the Global South and those experiencing various forms of discrimination or repression worldwide remain inadequately incorporated in the interpretation, application, and implementation of human rights norms (Lynch and Patel 2022). Consider, as a recent example, vaccine inequality and the lack of global cooperation during the Covid-19 pandemic (Balfour et al. 2022; Makau 2021), which demonstrated both a state failure in guaranteeing the right to health (Amnesty International 2021) and a retreat to the national interest, shirking multilateral cooperation (Pearson 2021). The unequal application of nominally universal human rights is a central element of the pre-existing crisis of the multilateral order and is a key factor facilitating the success of the contestation of gender equality, LGBTQI* rights, SRHR, and CSE at the multilateral level. Strengthening the multilateral order is contingent on addressing the structural injustices and legitimacy crisis of the human rights framework because of the way that these injustices are instrumentalised by anti-gender actors and others who seek to destabilise international governance systems and foster division over human rights.

While the universality principle of human rights has never been explicitly contested in a multilateral forum (Ramcharan 1998), contestation over its scope and application to certain societal groups has always existed. Leaving the definition of who is 'human' up to international consensus means the human rights framework and the multilateral order itself are, by design, liable to distortion (Shetty 2018). Recognising the continuous advocacy and work – specifically by feminist civil society – as crucial to the advancements of the rights of women and LGBTQI* people should caution against a simplistic, teleological view of progress and reconfirm the responsibility and urgency to organise better to counter anti-gender actors' efforts to restrict rights.

Anti-gender actors aim to polarise discussions on

human rights. While challenging for deliberative debate, polarisation is not necessarily negative. The example of popular mobilisation in the global racial justice demonstrations following the murder of George Floyd and demonstrations for gender justice, such as the uprising of Iranian women and the protests by Polish women against the blanket abortion ban, all suggest that extreme polarisation, and crises, can act as a catalyst and help equality along - if these critical junctures are used advantageously. Technocratic expansion of rights progresses very slowly and rarely leads to structural change. Conversely, the natural push to extremes that polarisation causes disallows middle-of-the-road positions in society and for political actors alike. In morality politics (contestation regarding what is socially permissible based on beliefs), progress can be very dynamic if crises and polarisation are used well. For example, while, in 2018, the constitutional court of Bulgaria ruled that the Istanbul convention is unconstitutional (a problematic decision in terms of women's rights, SRHR, and LGBTQI* equality), countries such as Moldova ratified the Convention in 2021 followed by Ukraine and the United Kingdom in 2022. This suggests that geopolitical forces are pulling and pushing actors to different sides of the issue. Similarly, in Chapter 3, we discuss how the EU is challenged by the absence of legally enforceable values in the face of member states such as Hungary or Poland – but these developments are also pushing the EU towards developing and testing legal ways to respond to flagrant violations of the rule of law and non-discrimination principles. What this means is that if the threat posed by anti-gender actors to the universality of human rights is taken seriously, progressive actors can use the resulting polarisation to accelerate progress towards realising human rights for all. If, on the contrary, the threat is not taken seriously, extreme positions excluding women and LGBTQI* people from the human rights framework will dominate the discussion, reversing critical gains achieved over the past three decades. This study provides an analysis of the crisis and concrete recommendations for governments seeking to promote human rights for all to utilise the critical juncture faced by the multilateral order in Europe and beyond.

3. ENTRY POINTS

The European multilateral arena consists of different types of institutions - some are intergovernmental bodies which make decisions based on consensus or voting, others are more technical, or expert bodies. Intergovernmental bodies such as the Council of the European Union, the Council of Ministers at the CoE, the UNHRC, OSCE, and OECD, as well as political party institutions such as the EP are more vulnerable to the entrenchment of anti-gender narratives than expert or technical bodies. With the UNHRC and EP, the vulnerability comes from the fact that delegates in these bodies are more responsive to the proliferation of anti-gender narratives domestically. With institutions such as the EU or CoE which are values-based, the values themselves can be contested and reshaped. The comparison of the two institutions shows that the extent to which values are legally enforceable is a determining factor in how vulnerable they are to anti-gender narratives. Other crucial entry points used by anti-gender actors are the multilingual nature of multilateral institutions, their reliance on agreed language and precedent, as well as budget negotiations. The final sections of this chapter explore those as well.

3.1 Responsiveness to domestic politics

The European multilateral arena consists of different types of institutions - some are intergovernmental bodies which make decisions based on consensus or voting, others are more technical, or expert bodies. Intergovernmental bodies such as the Council of the European Union, the Council of Ministers at the CoE, the UNHRC, OSCE, and OECD, as well as political party institutions such as the EP are more vulnerable to the entrenchment of anti-gender narratives than expert or technical bodies. The vulnerability comes from the fact that delegates in these bodies are more responsive to the proliferation of anti-gender narratives domestically. Moreover, intergovernmental bodies reflect geopolitical issues and challenges around multilateral governance, providing ample space for these tensions to be instru-

mentalised to advance anti-gender ideas. In these spaces, anti-gender actors can create the very truth they are arguing, e.g. by inserting new language, as each document and resolution contributes to building international (customary) law. Consider the propagation of texts with seemingly innocent human rights language like 'rights of the family' in the UN. In 2016, a reference to "[r]ecogni[sing] the family as a contributor to development" (UN Women 2016, 9) and an encouragement for states to implement "measures to reconcile family, private and professional life" (UN Women 2016, 11) was inserted in the adopted text of the Agreed Conclusions of the Commission on the Status of Women. Anti-gender actors immediately disseminated it in other policy areas, referring to it as agreed language and mainstreamed the concept of 'family' within the CSW by linking it to development and human trafficking (Cupac and Ebetürk 2020). Similarly, in some spaces like OSCE, Russia has been known to bring up seemingly neutral notions of the family and how to protect it, with EU member states, such as Hungary, picking up the frame. In *Power over Rights*, we describe how such language builds on an idea of a traditional society made up of familial units as its fundamental building blocks. Implicitly or explicitly, this refers to heterosexual, cis-gendered, married couples with children. According to UN Women, "diversity is the norm" for household composition: only 38 percent of households globally consist of a couple and children (2019, 8). Such a framing puts 'the family' in opposition to women's rights, SRHR, and LGBTQI* rights since the very exercise of these rights threatens the family as defined by these actors (Denkovski et al. 2021, 50)

In this sense, whether at the international or domestic level, the regressive policies rejecting gender equality, comprehensive sexuality education in schools, SRHR, or LGBTQI* rights in the name of the family constitute a conceptual exclusion of women and LGBTQI* people from accessing fundamental rights. Anti-gender actors are in particular successful in efforts to create restrictive language or water down existing language because at the civil society level they can access significantly more (private) funding

and resources than progressive civil society actors (Datta 2021; Denkovski and Kreitlow 2021). This enables them to be present at every multilateral forum regardless of the topic, from sports to labour rights and migration - to oppose references to 'gender' by arguing it is irrelevant or not agreed language. Through venue and forum shopping, anti-gender actors build alliances and polarise debates. This can lead to the intimidation or confusion of delegates or policymakers who may lack knowledge of the issue or the understanding of its relevance and do not know what the latest agreed language is on gender equality or LGBTQI* issues, or what the implications of a concession are, thereby (often unintentionally) agreeing to regressive language. The following sections serve to illustrate this dynamic through the examples of the UNHRC and EP. We explore the impact on progressive and undecided delegates and policymakers further in Chapter 4.

3.1.1 An epistemic clash - a case study of the UN Human Rights Council (UNHRC)

The UNHRC remains a “hybrid affair” and “transactional body”, combining aspirations towards human rights with classical realpolitik power plays by states (Eggel and Galvin 2020; Dworkin and Gowan 2019). Like other intergovernmental fora, it is a space where global geopolitical tensions are reflected with mounting tensions between Russia and Western countries, as well as efforts by China to introduce an alternative approach to human rights as relative to the level of economic development (URG 2021, 2). These tensions lead to established human rights norms and the multilateral order at the UN itself being highly contested. The suspension of Russia from the UNHRC in a General Assembly vote in April 2022 prompted accusations of colonialism and imperialism towards the United States and other Western countries by member states opposing the vote (DeYoung 2022).¹⁰ The discussion during the vote hinted at the ideological fault line as highlighted in the box below between two incompatible concepts

¹⁰ The vote itself was arguably about issues broader than whether Russia should be part of the HRC, reflecting state positions on interventionism, sanctions, isolationism, territorial integrity, and geopolitical alliances.

at the HRC on the origin and applicability of human rights as well as the purpose of the HRC itself and the UN system more broadly (URG 2021, 2; URG 2020, 5; Stoeckl and Medvedeva, 2018).

Over the past 15 years, these two blocks in the UNHRC have coalesced around “sexual morality” issues, which had previously been considered outside the scope of multilateral institutions (Stoeckl and Medvedeva 2018, 386), such as gender and women’s rights, SRHR, and LGBTQI* equality (SOGI in UN-speak).^{11,12} It is noteworthy that the relativist approach also claims to be universal, in the sense that it constructs the human rights framework as subject to global consensus, seeking the lowest common denominator, which, in this framing, excludes LGBTQI* people and SRHR.

The tension within the HRC can be summarised as a tension between:

- A universalism grounded in the idea of the individual as a rights holder, and expanding human rights to explicitly include marginalised groups, and
- A traditionalist relativism grounded in the idea that cultural mores and institutions such as the family are deserving of protection.

The universalist/relativist debate being played out in the areas of gender and sexuality rights equality is not new - we discuss in Power over Rights how the Holy See joined forces with OIC countries in Beijing in 1995 to restrict language on SRHR (Denkovski et al. 2021, 21). However, three aspects of the engagement of anti-gender actors at the UNHRC set it apart from the contestations of the 1990s and early 2000s:

- Capturing progressive discourse and embedding relativist arguments in human rights language, consistent with the socialisation by anti-gender actors into the multilateral sphere (Cupac and Ebetürk

¹¹ While some states may end up on one side or the other on specific resolutions or as a result in shifts in the domestic context, the two “camps” of the ideological divide are generally seen to be: the United States, Western and some Eastern European states, and GRULAC on one side and Russia, China, the OIC, most post-Soviet states as well as most African countries. (Voss 2021; URG 2021; Stoeckl and Medvedeva 2018; Tuominen 2022).

¹² Sexual Orientation and Gender Identity.

2020; Lewin 2021)

■ Calling for a return to the human rights framework as codified in the UDHR, in turn framing the inclusion of the right to abortion, or LGBTQI* rights as against the original intention of the drafters

■ Portraying approaches to codify the protection of the human rights of women and LGBTQI* people, historically associated with Western countries, as the few advancing cultural imperialism against the global majority, whose values, traditions, and beliefs are subjugated.

To illustrate the framing as a disagreement between a liberally oppressive ideological interpretation and the silent majority “groups of countries”, consider the 2018 statement by the European Centre for Law and Justice (ECLJ) at a symposium organised by the Mission of the Holy See to the Council of Europe (CoE):

“One can witness divergent interpretations of Human Rights: there is a growing gap between the liberal interpretation, on the one hand, tending towards individualist radicalism, which is moving away from the founding treaties, and the positions of different groups or countries, claiming the protection of their cultural identity” (ECLJ 2018).

On universality, cultural diversity, and LGBTQI* rights

The universality principle of human rights is not only compatible with cultural diversity; it defends and ensures it (Ramcharan 1998). The UN Special Rapporteur on Cultural Rights dedicated her entire 2018 report to the issue of universality, where she poignantly addresses the problem with cultural relativism as applied to human rights, highlighting that the claim of cultural relativism is made concerning the rights of others because of the collective to which they are seen as being part of: “almost no one would relativise [their] own rights” (UNGA, 2018). With the assent of most member states globally, the human rights system has regularly addressed cultural practices deemed harmful, such as female genital mutilation or child, early, or forced marriage. Societies evolve, and girls are no longer a category of human beings seen

as less-than and, therefore, not deserving of full, equal protection, participation, and a life of dignity. Cultural practices cannot override fundamental rights and freedoms. If human rights are not understood as universal and not subject to arbitrary political decisions, if states as guarantors can selectively apply fundamental human rights protections to some groups and not others, or only guarantee social and cultural, but not economic and political rights, the human rights system stops making sense. Therefore, fundamental rights for women and LGBTQI* people, SRHR, and CSE already fall within the framework of human rights law. Nothing new needs to be invented.

Consider the ECOSOC General Comment No 22 on the right to sexual and reproductive health:

“The freedoms include the right to make free and responsible decisions and choices, free of violence, coercion and discrimination, regarding matters concerning one’s body and sexual and reproductive health. The entitlements include unhindered access to a whole range of health facilities, goods, services, and information, which ensure all people full enjoyment of the right to sexual and reproductive health under article 12 of the Covenant” (ECOSOC 2016).

Similarly, the Office of the High Commissioner for Human Rights (OHCHR), among others, has stated that a new set of human rights laws or standards is not required to protect LGBTQI* people from violence and discrimination since states are already legally required to safeguard their fundamental human rights as people (OHCHR 2018a).¹³

13 Other official UN Bodies and documents which recognise and emphasise the universality principle of human rights with special regard to LGBTQI* rights and/ or sexual and reproductive health and rights are the following: Committee on Economic, Social and Cultural Rights general comment No. 14 (2000) on the right to the highest attainable standard of health, paras. 2, 8, 11, 16, 21, 23, 34 and 36; Convention on the Elimination of All Forms of Discrimination against Women, Art. 12; Convention on the Rights of the Child, Articles 17, 23-25 and 27; Convention on the Rights of Persons with Disabilities, Articles 23 and 25; Committee on the Elimination of Discrimination against Wom-

en general recommendation No. 24 (1999) on women and health, paras 11, 14, 18, 23, 26, 29, 31 (b); Committee on the Rights of the Child general comment No. 15 (2013); Committee on the Rights of the Child, General Comments No. 4 (CRC/GC/2003/4), 2003, para. 6, and No. 9 (CRC/C/ GC/9), 2007, para. 8; Committee against Torture, General Comments No. 2 (CAT/C/ GC/2), 2008, para. 21, and No. 3 (CAT/C/ GC/3), 2012, paras. 32, 39; *Toonen v. Australia*, Human Rights Committee, Communication No. 499/1992 (CCPR/ C/50/D/499/1992), para. 8.7.

The outcome of having these two camps and their competing ideologies is that the HRC has been increasingly adopting resolutions displaying mutually incompatible understandings of human rights. In 2009 the HRC adopted a resolution on traditional values tabled by Russia, which suggested that human rights should be implemented while taking into account cultural and moral specificities and the traditional values of societies.¹⁴ It garnered support among most non-Western states and was opposed by Western states and human rights NGOs. Similar resolutions were adopted in 2010, 2011, and 2012. Around the same time, following advocacy by LGBTQI* activists, in 2011, the HRC passed the first UN resolution to focus on discrimination and human rights violations based on SOGI. Other resolutions on SOGI followed in 2012, 2014, and 2015, culminating in the introduction of the Special Procedure of the Independent Expert on SOGI in 2015, with a noticeably high number of opposing votes relative to general voting patterns (Ali et al., 2016). The IE SOGI resolutions were led by the Latin American Group and supported, as LGBTQI* rights in other UN fora, by WEOG¹⁵ (minus the Holy See) and parts of the Eastern European group that were oriented towards the EU, with the Africa group¹⁶ and the OIC voting

14 It is worth noting that marriage equality laws had started proliferating across the EU and the Americas, since the early 2000s (CFR Staff 2021) and UN Women was established in 2010 (UN Women n.d.). The resolution can be traced back to arguments by the Russian Orthodox Church that well organised minority groups are promoting amoral, extreme feminist and homosexual attitudes (Horvath 2016).

15 Western Europe and Others Group.

16 States in the Africa group almost universally vote against resolutions on SOGI in the HRC, or table/support amendments on women's and girl's rights and SRHR as a 'foreign agenda contrary to African culture'. This has to be contextualised and can directly be linked to the colonial imposition of Western patriarchal values spread by Christian missionaries (Tamale 2013; Tamale 2015; Kojoué 2022). In *Power over Rights*, we highlighted how anti-gender actors are increasingly targeting African states

against. In what HRC delegates have described as a reaction to the HRC's engagement on SOGI (Voss 2019), in 2014, Egypt tabled a resolution on the protection of the family, which proceeded to be tabled regularly from 2014 onwards (Cupac and Ebetürk 2020, 709), supported by nearly all states outside of WEOG as well as the Holy See.

The essential role of non-state anti-gender actors in shaping discourse in inter-governmental fora

Family Watch International is a co-founder of the UN Family Rights Caucus (UNFRC) that coordinates NGO statements on protecting the family. They train and partner with other NGOs including holding "Family Leadership Summits", engage in direct UN lobbying, "have been invited" to give private briefings to UN delegates from the Caribbean Community (CARICOM), the African Group, and the OIC to prepare delegates to protect the family (FWI n.d.a). They also regularly develop and circulate policy briefs, citing social science and international law precedent, as negotiation tactic menus. The briefs include "Threats to National Sovereignty: UN Entities Overstepping Their Mandates", "Binding Obligations of States to Protect the Family", "An Analysis of the 2030 Sustainable Development Agenda: the Hidden Threats to Life, Family, and Children", and "The Relentless Push to Create an International Right to Abortion". FWI has produced a resource guide of relevant wording from UN treaties and key consensus documents, which they provide to UN delegates wishing to secure "family-friendly" outcomes at the UN (FWI n.d.b). A similar product was published by United Families International, which indexes and

to this day (Denkovski et al. 2021, 31). It can also be linked to the lack of balanced consideration by SOGI proponents of social, economic, and cultural rights, or the right to development. In that sense, for some states voting against SOGI, there are possibly broader (geo)political considerations at play. Regardless, this pattern of voting supports efforts by anti-gender actors to undermine human rights for all, in an example of anti-gender actors instrumentalising the pre-existing crisis of the multilateral order (Agostini 2022).

cross-references UN documents referencing “the family” (Roylance 2019) and “is now known as the “Bible” of Pro-family work at the UN” (UFI n.d.). FWI states as their achievements the event on the family at the UN HRC, co-sponsored by 54 member states, which “laid the groundwork for the passage of the “Protection of the Family” resolution” and that they “helped UN delegations delete multiple anti-family provisions, including references to “sexual rights,” a term used to promote such things as the legalization of abortion, prostitution, same-sex marriage, explicit sexuality education, and radical homosexual and transgender rights for children and adults.” (FWI n.d.c)

LGBTQI* rights, SRHR, and the right to abortion continue to be contested at the HRC (URG 2020, 5). Positions appear entrenched and are consistently reinforced. In 2021, Bahrain, Egypt, Eritrea, Russia, and Pakistan, among others, rejected references to comprehensive sexuality education and bodily autonomy, using the standard argumentation that such concepts violate their religious or cultural traditions and have no basis in international human rights law. They requested the Council to stick to agreed language, such as in the Beijing Platform for Action where gender is understood as binary and not socially constructed, or the Cairo Platform for Action which states that abortion is explicitly not to be considered as a method of family planning. Western and Latin American states argued that human rights norms are meant to evolve, and the Council is tasked with expanding them, concluding that the Council cannot simply ignore 25 years of societal progress in gender equality (URG 2022, 8). Both positions claim, as their basis, universal human rights as codified in prior international law. Both also appear to be able to call upon codified soft or hard law on their side (Voss 2019), consistent with the multi-level, multi-polar nature of norm development.

Amendments: iterative contestation or hostile polarisation?

There is a recent trend of an increased tabling of amendments in the Council. While amendments could be used to clarify an issue or as a form of permanent objection to a resolution a state may seek to undermine, their use by Russia and a few other states suggests an intention to delay proceedings using institutional mechanisms. Voss finds that HRC delegates are concerned about the amount of time and resources discussing amendments takes and how this practice might polarise the Council. Indeed: “[s]tates most often use amendments to argue that resolutions are either creating new international law or are a form of cultural imperialism through human rights—both of which are problematic for the Council’s legitimacy” (Voss 2019, 418). However, in the context of the politicisation of human rights discourse and divergent epistemic understandings of the human rights framework, as well as the HRC as a site of replication of global geopolitics, amendments may also undermine the international order as such.

The UNHRC will likely continue to be the site of fiercely polarised debate over the epistemic origin of human rights and human rights law, which “reduc[es] it to a ‘zero-sum’ clash of cultures and values” (Stoeckl and Medvedeva 2018, 407). It is relevant to note that “Russia’s role as antagonist in human rights law is not limited to the UNHRC but is part of the bigger picture of Russia’s place in the international legal system: the European Court of Human Rights, the Council of Europe, or OSCE are alternative fora where Russia acts as polariser over the meaning of human rights” (ibid, 412).¹⁷ This supports our assertion that the contestation of gender equality and LGBTQI* rights at the HRC goes beyond these rights as such, but is rather a geopolitical question of power displaying a selective acceptance of parts of the human rights framework. The Independent Ex-

¹⁷ We discuss the delegitimisation-through-intransigence approach by Russia in terms of OSCE and Council of Europe in sections 3.4., 3.8., and 3.11.

pert on SOGI sees the issue in the same way “concepts, including the rights of women and the human rights of LGBT persons, are being instrumentalised to underline an alleged difference between the understanding of human rights between the Global North and the Global South and the Global West and the Global East. It is much more based on the control of resources, military might, and geopolitical domination, just translated into a language that is appropriate to the UNHRC.”¹⁸

3.1.2 The instrumental nature of capturing human rights language

The couching of contestation of human rights for all in democratic principles and universal human rights is instrumental and part of a broader political project and. It has the purpose of concealing the extent of the contestation and aims to discursively “undermine and ultimately dismantle” frameworks crucial to the rights of women and LGBTQI* people (Lewin 2021, 257). The right to life, the right to religious freedom, the right to freedom of conscience, and, more recently, the rights of the family, or the rights of parents, in conjunction a reference to the imposition of culturally specific (‘Western’) values are deployed to argue against gender equality, SRHR, CSE, and non-discrimination in the application of fundamental rights to LGBTQI* people (McAlister 2022; FWI 2021).

The frames utilised by anti-gender actors are definitionally simpler than the complex rebuttals they require. They define concepts such as ‘society’ or ‘the family’ in inherently patriarchal and therefore exclusionary terms. This suggests a misleading zero-sum dichotomy: the encroachment of special rights granted to minority groups on the fundamental rights and freedoms applicable to all human beings. The question is much less about whether SRHR or CSE is codified in international law and more about politically defining who is deserving of fundamental rights. This is a misrepresentation of what gender equality, LGBTQI* rights, SRHR, or CSE refer to – no special rights are being demanded, simply the enjoyment and protection of the fundamental rights

already available to those who are seen as conforming to patriarchal norms (Meyer 2019). Victor Madrigal-Boroz, the current holder of the IE-SOGI mandate highlights the misleading use of the narrative that ‘LGBTQI*’ is a Global West concept to justify denying fundamental rights to sexual and gender identity minorities: it suggests that we can somehow put on a scale LGBTQI* people having no human rights on one side and LGBTQI* people having human rights on the other and that this is somehow morally equivalent.¹⁹

The shift away from arguing restrictive approaches to human rights using references to religious exceptionalism or the precedence of religious epistemology as done by the Holy See or the OIC until the 2010s, towards doing so via concepts such as the protection of the family or traditional values that do not reject, *prima facie*, the normative universality of the human rights framework, means that the issue is also no longer one of regionally specific exceptionalism. Anti-gender actors have tapped into a frame of authoritarian illiberal states shared with anti-gender non-state actors in the West: the rejection of liberal democratic individualism and a wish to return to an imagined, idealised past where traditional values are seen to provide safety and stability, with the consequence of marginalising those who do not conform to patriarchal norms. As a result, it provides coherence, an impetus to mobilisation, and state partners for anti-gender non-state actors in the multilateral arena (Stoeckl and Medvedeva 2018, 397). We discuss in chapter 9 the transformative impact this has had on how we understand civil society in human rights fora.

The conscious instrumentalisation of the basic principles of the human rights framework to restrict fundamental rights based on arbitrary categories poses a serious threat to multilateral human rights governance. Language and norms evolve, and the international legal framework is inherently driven by intergovernmental processes (Bonacquisti et al 2018, 6), which means it can evolve in either direction: towards or away from human rights for all. Anti-gender actors pick up on existing geopolitical crises, tensions between Global South and Global North countries on the human rights framework and deploy cultural imperialism arguments to these issues to debates on gender equality and sexual minorities. In doing so, they drive these discussions

18 Interview No. 30, 26.10.2022

19 Interview No. 30, 26.10.2022

to extreme polarisation and member states are more likely to take up extreme positions. While this discursive linkage is not always successful, it does result in watering down key language or establishing restrictive language in international law, contributing to a weakened protection of the rights of marginalised groups. Without strategic, considered engagement by progressive actors to counter anti-gender narratives in intergovernmental spaces, there is the risk that the human rights framework will be increasingly weakened, especially when it comes to protecting the rights of women and LGBTQI* people.

3.1.3. Ideological resistance - a case study of the European Parliament

Elected for five-year terms in a direct voting process in all EU Member States, the European Parliament (EP) is the most directly representative institution in Europe, addressing some of the criticism on democratic deficit levied against the EU. Unsurprisingly, national frames and issues tend to dominate the debates in the EP, constraining its power as an institution (Ahrens et al. 2022). It also means that anti-gender political actors from across the EU have a direct entry point into EU politics. Current MEPs have stated in background talks²⁰ that the growing presence of anti-gender actors in EU institutions is tangible in their daily work and influences policies. Zacharenko (2020) finds that the politics of approximately 210 MEPs²¹ in the ninth legislature (2019-2024) can be classified as anti-gender, double the amount present in the eighth legislature (2014-2019). The upcoming EP election in 2024 is likely to be more politicised than any before as anti-gender, exclusionary populist, and Eurosceptic forces continue to make inroads in domestic politics across the European Union²² and domestic political dynamics are likely to be reflected in the discourse.

With regards to gender equality norms, the EP is often described as a defender and champion (Berthet 2022, 2) with an overall progressive tilt.²³ For ex-

20 Closed door roundtable, June 2021.

21 30% of the total number of MEPs

22 Interview No. 10; 04.04.2022.

23 Interview No. 19; 06.05.2022

ample, progressive actors within the EP such as the LGBTI Intergroup and the members of the FEMM Committee succeeded in proposing extremely important language on gender equality and LGBTQI* rights including calls on member states to end the forced medicalisation and sterilisation of trans persons and intersex genital mutilation²⁴ in 2017 and 2019. This language was confirmed in the adopted texts by a majority vote of the MEPs. However, the EP's legislative track record on the issue is not straightforward (Ahrens et al 2022, 804). Exposing tensions within the political groups, gender equality and LGBTQI* rights are increasingly contested, highlighting the fragility of the definition of human rights as inclusive of women's and LGBTQI rights (Kantola and Lombardo 2021a). In fact, interventions on gender issues are systematic and increasing, giving the impression that they are highly contested morality issues which also divide the electorate. One of the interviewees stated that "the opposition [is now] much more direct: misogynist, racist, homophobic language is used more often, as well as the use of gender-ideology discourse".²⁵ This highlights the need for progressive actors to understand how anti-gender actors operate in the EP and develop strategies to effectively respond.

Ahrens et al. (2022, 804) identify three clusters of MEPs when it comes to their approach to gender and LGBTQI* equality: the 'defenders', the 'reframers', and the ones 'sitting on the fence'. The defenders consistently and universally see women's and LGBTQI* rights as integral parts of human rights. The reframers consistently excise women's rights and LGBTQI* rights from the human rights agenda. In both groups of MEPs, positions and voting are strictly controlled by the party groups, with deviations subject to punishment, as both groups see their viewpoint as a matter of party identity. The fence-sitters - MEPs who are neither anti-gender nor very progressive or feminist, and whose positions can be swayed - have more contingent positions and play a crucial role. Some of the MEPs on the fence tend to leave the plenary or the committee session whenever an issue is voted upon, thereby abstaining, which can have significant impact on the outcome of the vote, with some respondents suggesting we need to find ways to engage them in a less confrontational way to work towards equality.²⁶

24 Interview No. 2; 18.03.2022

25 Interview No. 21; 11.05.2022

26 Interview No. 10; 04.04.2022.

Anti-gender MEPs are very loud and active in plenary debates, not seeking a debate in good faith, but rather to foster conceptual confusion often based on disinformation and “create enough controversy around a proposal so that some MEPs in the ‘moveable middle’ become reluctant to vote” (Perroux 2016). As the plenary debates, where voting on legislative proposals and reports developed by the committees takes place, offer a much larger stage, and are reported on publicly (unlike most committee meetings), it appears that anti-gender actors’ interventions in plenary debates do not necessarily seek to convince anyone in the EP, as the vote is essentially decided beforehand, but are rather directing their intervention at domestic constituencies. Here, they use direct and indirect forms of contestation relying on frames of Euroscepticism and subsidiarity, femo-nationalist and homonationalist arguments in debates on migration, depoliticised narratives where gender is reduced to biology, as well as self-victimisation (Kantola and Lombardo 2021b). They rarely participate in the substantive work of most of the 20 standing and two sub-committees that do the bulk of the Parliament’s legislative work (Kantola and Lombardo 2021b; Ahrens et al 2022).²⁷ ²⁸ Even in the absence of media attention, voting behaviour is scrutinised. The Catholic Church still has significant influence over MEP votes, and, in some countries like Poland, the Church publishes lists with the voting behaviour of MEPs on sexuality and SRHR issues.²⁹ Indeed: “[i]f you are elected thanks to the Catholic Church, you cannot vote in favour of pro-choice positions” (Mondo & Close 2019).

Apart from posturing, when they do present pseudo-scientific research and provide expert opinion in support of their position, “anti-choice publications are primarily designed to mislead policy makers and the general opinion to win them over to the anti-choice cause” (Zacharenko 2020, 53). This is particularly relevant when considering the role of civil society in providing expertise to policymakers. The assumption that “the letters NGO [in the name of an organisation in the EU transparency register]” stand for advocates for equality and justice needs to be deconstructed.³⁰

27 Interview No. 19; 06.05.2022; Interview No. 20; 06.05.2022; Interview No. 25; 14.06.2022.

28 The FEMM Committee is an exception, with anti-gender MEPs being very present and highly disruptive there.

29 Interview No. 20; 06.05.2022.

30 Interview No. 19, 06.05.2022.

While pro-gender civil society at the EP still tends to follow the classical approach of asking for a meeting, explaining the issue, or sending suggestions for amendments, there are now [pro-gender] specialists and experts who are afraid to contribute to hearings on SRHR for fear of harassment.³¹ See Chapter 4.3.2 for a more in-depth analysis of this phenomenon.

3.1.3.1. Being prepared makes a difference - the Estrela and Matic reports

Two crucial examples of anti-gender mobilisation against landmark EP reports are the 2013 Estrela report and the 2021 Matic report. Submitted in 2013 by the Portuguese MEP Edite Estrela and endorsed by the FEMM Committee, the Estrela report called for legal and safe access to abortion, comprehensive sexual education for school children, and access to information around sexually transmitted infections (STIs) such as HIV/AIDS, among other issues. After being tabled in plenary, the report was rejected, sent back to the committee, and following amendments resubmitted to the plenary, where it failed. Instead, the EP, on World Human Rights Day in 2013 adopted a resolution which stated that Sexual and Reproductive Health and Rights are a matter of national competence and should not be regulated on an EU level (Cupac and Ebetürk 2020). In the weeks leading up to the vote on the Estrela report, many MEPs who publicly supported the report were being attacked and systematically harassed by conservative actors, including sending over 80.000 emails to MEPs, including personal threats (Vesterinen 2013). The reasoning of the anti-gender actors was that they “can see that the Commission wants to define sexual and reproductive health as rights, which [in their view] is inaccurate” (Pialoux 2013).

In 2021, the Matic report, with similar content to the Estrela report was successful in getting the EP to define sexual and reproductive health as a human right in the EU. The proponents of the report ensured to have “negotiations with the EPP group and took on board some of the positions of the EPP shadow

31 Interview No. 19; 06.05.2022.

rapporteur for the text that went to Plenary”.³² As expected, the report sparked massive mobilisation of anti-gender actors in the weeks leading up to the vote with MEPs in support of the report subjected to severe online harassment. Both progressive civil society and MEPs were much better prepared in comparison to 2013. Expecting a backlash and public outcry, progressive MEPs and civil society engaged in explanatory discussions with supporters of the report, diminishing the impact of the anti-gender mobilisation on middle-of-the road MEPs. The adoption of the report was a landmark move by the EP. However, it should be emphasised that the impact of such mitigation measures on more conservative political groupings was more limited. Following the social media campaigns, MEPs from the “EPP and ECR tabled alternative resolutions to stop the adoption of the text, even though the EPP group were part of the original draft”.³³

As with the UNHRC, anti-gender actors utilise the specific vulnerabilities of the party-political landscape of the EP to polarise debates and attack progressive language or introduce exclusionary language. They also make full use of formal and informal mechanisms for civil society participation to mislead, confuse, or intimidate MEPs into opposing progress on gender equality and LGBTQI* rights. Moreover, existing tensions such as growing Euroscepticism is instrumentalised and used to frame gender equality as an imposition by Brussels. The examples of the Estrela and Matic report demonstrate two key points. Firstly, they demonstrate how anti-gender actors are adept at utilising institutional and non-institutional pathways to influence voting, exploiting the inherent responsiveness of MEPs to perceived mass popular opposition to an issue in their electorates. Secondly, the examples showcase how progressive actors can learn to prepare MEPs, especially those who are on the fence on an issue, and counter disinformation and intimidation campaigns.

In both the UNHRC and the EP, there is a growing divide between two ideologically opposed camps coalescing around gender equality, SRHR, and LGBTQI* rights, with these issues often being linked to efforts to reach broader (geo)political goals. The authority of the institutions to have positions on gender equality and LGBTQI* rights is being questioned using technical argumentation. At the same time, al-

ternative norms exclusive of the rights of marginalised groups are being promoted. Within the UNHRC and EP there is increasing capture of human rights and democratic discourse, which is not coincidental, it is a tool deployed by anti-gender actors to conceal the extent of the contestation of the institutional frameworks they participate in. This is also done by non-state anti-gender actors who use human rights terminology in their names as they actively work to shape and reframe discussions away from human rights for all. In both institutions, there are actors on either side of the issue with entrenched positions but also actors ‘on the fence’. The examples of the Estrela and Matic reports show that being aware of the threat by anti-gender actors and preparing for the disinformation and harassment campaigns does make a difference.

OECD

The Organisation for Economic Cooperation and Development (OECD) has had partial success in expanding its normative and standard-setting influence in technical policy areas, such as education (Nieman and Martens 2018),³⁴ and many of its standards are considered soft law. Due to the relative like-mindedness of its membership on issues of gender equality and LGBTQI* inclusion as demonstrated by the overview of protected grounds in non-discrimination legislation across the organisation (OECD 2020a, 73) and the Organisation’s mandate, which does not deal with human rights norms per se, we found no direct evidence of contestation on the fundamental principles of the international order in the way this can be seen in other multilateral structures in the European

34 The Programme for International Student Assessment (PISA) is an arena where the OECD initially demonstrated a progressive tilt to their new ‘global competence’ domain, which, when initiated, would have included references to feminism, anti-racism, gender and sexual orientation in the process documents, but these were later removed from the final documents. Since that time, the OECD has very recently partially re-inserted intersectional lenses to its education research (e.g. considering differential experiences of students with ADHD, Roma and LGBTQIA students) (Grotlütchen 2018; Cerna 2020).

32 Interview No. 19; 06.05.2022.

33 Interview No. 19; 06.05.2022.

landscape. While further research is required, it appears that the OECD is pushing for stronger gender equality and LGBTQI* protections, as evidenced by OECD-wide commitments to achieve LGBTQI* equality in May 2021. Prima facie, none of these documents display organised anti-gender contestation, in fact they note that “the road to equality can also take us backwards, with some laws or bills being passed that, in fact, exacerbate inequalities”. The bureaucratic leadership of the organisation, however, remains an exclusive boys’ club. Reflecting this, the OECD’s approach to gender and sexuality equality is very measured, displaying terminology that is sometimes dated or out of place with its peers and often instrumentalising women and LGBTQI* people by reducing equality to its business case. One potential sign of concern is that “in the 2010s, CSO-state relations did begin to alter at least in part due to the international aid effectiveness process led by the OECD DAC. The changes are subtle, but they promote a technocratic view of development with CSOs as service delivery agents” (Engel 2017, 43). Further research is needed to understand if this depoliticisation of gender in development is a “quiet backlash” (Elomäki and Ylöstalo 2021). We include this reflection due to the growing success the organisation has had in establishing itself as a standard-setter and the coexistence of a progressively intersectional approach alongside steps taken to depoliticise gender. Further research is needed to determine to what extent the Organisation is experiencing anti-gender contestation, and which factors may contribute to it.

3.2 The importance of language

The anti-gender movement has developed and is implementing a strategy that has considered the entire host of entry points into the multilateral order. International law is not only built at the intergovernmental human rights venues and treaty negotiations, but also a function of the construction and deconstruction of concepts. Language, discourse, and concepts are a significant part of analysing the impact of anti-gender actors on multilateral structures and therefore merit separate consideration as a particularly important entry point into the multilateral system. As highlighted above, all inter-state interaction contributes to developing norms and customary international law. The strategic aim of anti-gender actors is to create international law incompatible with gender equality and exclusionary of the human rights of persons to live free of violence and discrimination based on sexual orientation and gender identity.³⁵ Language constructs meaning, and different languages shape how we see the world around us. This is not a merely linguistic consideration - it has direct and indirect material effects. The language used shapes political realities with implications for law, social policy, and social inclusion (Lewin 2021, 257). Legal words and their interpretation determine which person or group has power, who can claim resources, or exercise human rights (Sanders and Jenkins 2022). For instance, the shift from *de jure* rights for men and women to a more comprehensive vision of tackling *de facto* inequality is conditional upon a cognitive shift towards considering the social construction of gender (EIGE 2022, 10-11). Interpretive choices are political when drafting and negotiating texts, regardless of if between different languages within the multilingual multilateral order or semantically within individual languages.³⁶ This can and has been used by anti-gender actors to restrict the rights of politically marginalised groups.

35 Interview No. 30; 26.10.2022.

36 De-facto in multilateral spaces, this is often English.

3.2.1. Misusing multilingualism

In June 2022, the UNGA passed a resolution spotlighting the link between multilateralism and multilingualism, aiming to alleviate the disparity among the six official languages of the UN, with the text being introduced as celebrating “the role of multilingualism as an enabler of multilateral diplomacy” (UN n.d.). Multilingualism is one of the cornerstones of multilateralism, but it comes with the possibility that multiple meanings of legally enforceable terms can appear across different language versions of the same document. Understanding how anti-gender actors use multilingualism in multilateral spaces to achieve their ends is crucial when seeking ways to adapt and expand language and context-sensitive engagement in promoting human rights for all. Semantic equivalence (the spirit of the document) does not come from translating the letter of the document, this is where the political choice of interpretation comes in.

The very title of the UDHR, the basis of the entire human rights framework, is a good illustration: in French, one would typically speak of *droits de l'homme* (rights of man), while many other languages, including English, would now speak of *droits humains* (human rights) (Chriv 2021). It was not evident that the English text would refer to human rights. For example, the United Kingdom and the United States both opposed the gender equality agenda advanced by representatives from the Global South as the UDHR was being drafted (Shetty 2018). It is Indian feminist Hansa Mehta who is credited with the fact that the result was a Declaration of Human Rights and not a Declaration of the Rights of Man, and Dominican diplomat Minerva Bernardino who advocated for a reference to “equality between women and men” in the Preamble (OHCHR 2018b). Neither of these were obvious, guaranteed semantic choices. This contestation was not just a semantic issue. It can be a deliberate political choice, especially when considering translation issues with gendered languages, which is an issue in itself. The outcomes of these debates can have long-reaching political consequences on who is worthy of rights and having them protected depending on the positionality of those interpreting

it.³⁷ The insistence of anti-gender actors on ‘agreed language’ to restrict the application, or even question the belonging of gender equality, SRHR, and LGBTQI* rights in human rights frameworks illustrate why this feature is important, especially with the validity of norms and binding treaties being questioned, and multilateralism as such in crisis.

The EU is an outlier among multilateral institutions in Europe, with 24 official languages. Multilingualism plays an even more crucial role in communication, political strategy, and everyday life, shaping its policies. In most cases, texts in European multilateral institutions are drafted in English (Kwon 2009; European Commission 2022) by English native and non-native speakers alike.³⁸ However, translating the spirit of the original draft into the remaining 23 languages is not always straightforward due to structural differences between languages as well as cultural and historical factors. Bold political choices are needed to address these challenges.

‘Gender’ is an excellent illustration. In English, ‘gender’ is, by now, a common term. In many European languages, such as Bulgarian, German, and Finnish, there are no two words to distinguish between ‘gender’ and ‘sex’. In French, gender is not a term that occurs naturally as in English, so French texts usually refer to equality between the sexes or equality between men and women. To highlight the political nature of these choices, consider the following example: during the French presidency of the EU Council, the French were consistent in using *egalite de genre* (singular), to make clear that there is a possibility to use this term in French. Anti-gender actors, in turn, also make political choices in exploiting these challenges: the choice to not translate the term ‘gender’ into the respective national language when campaigning against gender ideology facilitates advocating for its rejection by framing it as foreign and imposed (Wittenius 2022). For instance, in Bulgaria

37 Similarly, challenges emerge in the UDHR with verbs expressing obligation: Article 1 says that human beings *doivent agir les uns envers les autres dans un esprit de fraternité* - the translation to English could be that all human beings either a) should, b) must, or c) have to act towards one another in a spirit of brotherhood (ibid). As above, the choice of should act towards one another in a spirit of brotherhood in the English translation is not random, it is political.

38 Unlike the predominance of European cultural traditions in the drafting of the UDHR, drafting in English does not inherently imbue the text with specific cultural preconceptions, as the drafters represent the scope of cultures in the EU.

during the campaign against the Istanbul Convention ‘gender’ was used as a slur towards LGBTQI* people (Todorov 2021). With anti-gender actors mobilising around their opposition to ‘gender ideology’ and contesting the inclusion of the terms ‘gender’ or ‘gender equality’ is one of their most common strategies, the next section seeks to clarify the meaning of these terms.

3.2.2. ‘Gender’ and its status in international law

When the authors of this study speak of ‘gender’, we refer to the feminist concept emerging in the 1970s - that ‘gender’ is performative, a set of socially constructed norms and roles that are not immutable (Grady 2018). Queer theory emerging in the 1990s moved this forward, questioning the heteronormative and binary understanding of gender in much of the feminist writing that preceded it, expanding the concept of gender to refer to a spectrum of lived experiences (Distiller 2022). Therefore, the discrimination and violence experienced by anyone based on their perceived gender identity or sexual orientation and seen to be in violation of patriarchal norms is gender-based, meaning that gender equality, LGBTQI* rights, SRHR, and CSE are all interconnected and part of the same agenda. ‘Gender issues’ or ‘gender’ is often used as a shorthand. It should be noted that the different and sometimes oppositional and mutually exclusive uses³⁹ of the term within the feminist, queer, and LGBTQI* movements have created a further layer of complexity, which anti-gender actors have taken advantage of in undermining the concept.

‘Gender’ as a term is only tentatively codified in international human rights law. It is neither in the UDHR, the ECHR, nor the Charter of Fundamental Rights of the European Union - they all only speak of equality between women and men. As a product of their time, core human rights instruments are a reflection of the social norms and language prevalent at

³⁹ 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” (Antić and Radačić 2020; Radačić and Facio 2020).

the time they were adopted. Anti-gender actors call upon this as justification for preventing excluding already marginalised groups from human rights protections, making the point that moving beyond the binary, biological conception of gender, as well as LGBTQI* rights, cannot be part of a universal rights framework as it goes against international consensus or the intentions of the drafters.

Such legalistic arguments are common across multi-lateral institutions in Europe:

■ At the EU, resistance by member states with anti-gender leanings manifests itself by denying a mandate for the EU to speak of ‘gender equality’, as it does not exist in its foundational documents, or by issuing individual interpretations to European Council conclusions that within their domestic legal framework gender equality means equality between women and men

■ At the CoE, resistance has been framed around the fact that the term ‘gender’ is not part of international public law and does not have a universally agreed definition (apart from the Istanbul Convention, which is binding only to the 34 states (CoE 2022a) that have ratified it and is itself a central site of anti-gender contestation)

■ Similarly, at some United Nations institutions based in Europe, the applicability of human rights to LGBTQI* people are being contested using the claim that only the exact wording from the UDHR should be considered legally binding and not any case law that has been developed since then.⁴⁰

‘Gender’ as a term began to appear, with no definition, in international law in the 1990s. In 1992 the CEDAW Committee General Recommendation 19 was the first document to refer to ‘gender-based violence’. The term was included in the Vienna Declaration and Programme for Action in 1993, while in 1994, it appeared in the International Conference on Population and Development Programme of Action in Cairo. In the Beijing Declaration and Platform for Action 1995, it appears multiple times, conditional on the caveat that gender be understood as in its ordinary, generally accepted usage because of the opposition of the Holy See. Cairo 1994 and Beijing 1995 were also the initial mobilisation grounds for what would become opposition to ‘gender ideology’. That year, the OHCHR convened an expert group to

⁴⁰ Interview No 15; 19.04.2022; Interview No. 5, 25.03.2022; Interview No. 3, 22.03.2022.

3.2.3. Omitting references to ‘gender’ – a case study of OSCE

define the term with respect to women’s rights, which found that “Historically, different cultures construct gender in different ways so that women’s roles, the value that their society places on those roles, and the relationship with men’s roles may vary considerably over time and from one setting to another”. Just three years after the OHCHR group stated that gender is a fluid, socially constructed concept, during the negotiations for the Rome Statute of the International Criminal Court, a concession was made to define ‘gender’ referring to two sexes, ‘male’ and ‘female’, within the context of society.

In 2010, the CEDAW Committee defined sex discrimination as including gender-based discrimination to mean: “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” (Radačić and Facio 2020). It was not until the Istanbul Convention in 2011 that gender (in the context of gender-based violence) was first explicitly defined within an international instrument (albeit one with limited applicability to the states that have ratified it) as “the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men”. Even though this understanding of gender was not new, its definition in the Istanbul Convention along with the inclusion of a reference to the prohibition of discrimination based on ‘gender identity,’ was one of the key foci of mobilisation by anti-gender actors. Another point of contestation of the Istanbul Convention was its explicit reference to ‘gender identity’, which at the time of its adoption had also been recognised as a prohibited ground of discrimination by the 2011 UNHRC resolution on SOGI.⁴¹

OSCE provides an excellent illustration of how the term ‘gender’ can be contested and how its effective exclusion from the body of binding decisions by the Organisation as a result of the consensus requirement has material effects on the ability of the institution to work on human rights for all. Created during the Cold War with the idea that the East and West come together to “addres[s] a wide range of security-related concerns” and promote a “[c]omprehensive approach to security [along three dimensions] that encompasses politico-military, economic and environmental, and human” dimensions (OSCE 2022b), OSCE, with its 57 participating states, is the world’s largest security-oriented multilateral institution (OECD 2016, Auswärtiges Amt 2022). The Helsinki Decalogue⁴² defines the ten founding principles of the organisation, including respecting human rights and fundamental freedoms (OSCE 1975). As mentioned, no decisions can be made without full consensus, giving each participating state an effective veto. Despite the equal weight each state’s vote carries, in practice, there are three main players in OSCE: the EU member states as a bloc, Russia, and the United States, who essentially need to agree to all major decisions (Lichtenstein 2016). ‘Gender’ has always been one of the organisation’s most contested issues, which is unsurprising considering it has both Russia and the Holy See as participating states and their established positions on this issue area.

Its setup makes it a priori difficult for OSCE to have a progressive tilt on gender or sexuality issues. OSCE’s gender equality approach is founded on the 1999 Charter for European Security (OSCE 1999) and the 2004 OSCE Action Plan for the Promotion of Gender Equality (OSCE 2004), which “participating states [committed to] endorse”⁴³ but not to implement. Various Ministerial Council Decisions⁴⁴

41 Gender identity, which conceptually follows the queer theory developments of the 1990s, remains undefined in any legally binding treaty. But both the Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity (Yogyakarta Principles, n.d.), and the Independent Expert on protection from violence and discrimination based on sexual orientation and gender identity (UNGA 2018) refer to gender identity as roughly 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.

42 Among other documents, including the Charter of Paris, the Helsinki Document, and the Charter for European Security.

43 Interview No. 9; 30.03.2022.

44 Decision 4 on Preventing and Combating VAW; Ministerial Council Decision No. 14: OSCE Action Plan; Ljubljana Ministerial Decision No. 15 on preventing and combating VAW; Ljubljana Ministerial Decision No. 14 on women in conflict pre-

operationalise the commitments and refer to the action plan, but they are, by definition, restricted in their scope.

Interviewees describe the early 2000s as the ‘golden era’ for gender equality, mediation, security sector reform, and other technical topics that could be advanced in the organisation⁴⁵—since then, reaching even gender-sensitive decisions has been difficult (Zellner 2007).⁴⁶ Interviewees suggested that there is hesitation among gender-sensitive actors to attempt an update to the 2004 Gender Action Plan since even agreeing to the same language is not guaranteed. LGBTQI* topics are not even on the table: “Russia and the Holy See take every opportunity to highlight that [OSCE Office for Democratic Institutions and Human Rights (ODIHR)] should not work on non-consensual issues, i.e. LGBTQI* issues”.^{47 48} To have language on gender equality included in documents requires that it “specify it only refers to “men and women”, which [we sometimes opt for] since it can still expand the concepts”.⁴⁹

For Russia, it appears to be both “an ideological issue, and an important bargaining chip: they know that [progressive actors] will not compromise [on gender] below a certain level”.⁵⁰ The Holy See is reported to be somewhat more amenable to compromise.⁵¹ There is also no unified strategy among progressive participating states, whose individual approaches depend on the issue’s salience within their domestic policy. For some participating States, like Sweden or Canada, gender equality is a top priority. The EU also considers it a core priority, but respondents noted slight nuances in how member states go about the issue. Some are more idealistic, focusing on maximalist wording, while others approach more pragmatically and are more open to compromise to move negotiations along. The pragmatism/idealism debates take place explicitly in the preparations of the discussions. Due to this contestation, some par-

vention, crisis management and post conflict rehabilitation; Decision No. 7/09, Women’s Participation in Political and Public Life; Decision No. 10/11 on promoting equal opportunity for women in the economic sphere; Decision No. 7/14 on preventing and combating VAW.

45 Interview No. 13; 11.04.2022.

46 As opposed to gender transformative approaches.

47 Interview No 1; 11.03.2022.

48 Interview No. 5; 25.03.2022.

49 Interview No. 9; 30.03.2022.

50 Interview No. 17; 22.04.2022.

51 Interview No 1; 11.03.2022.

ticipating states may resist gender equality language as a practical choice, not as a matter of ideology.⁵²

The mandate of OSCE is entirely based on Ministerial Council decisions, including what ODIHR does, which means that there is no reference to gender equality, only equality between women and men - placing strong restrictions on gender-transformative work.⁵³ As we highlight below, actors from the secretariat and progressive participating states can and do use the space to push for gender-sensitive or gender-responsive language or find ways to advance gender equality within their mandates. It should be noted that, unlike most other multilaterals under consideration in this study, the OSCE Secretariat is not an actor in its own right, limiting the agenda-setting power of OSCE staff.⁵⁴ At the technical level, however, there have been advances in OSCE’s approach to gender equality and LGBTQI* rights due to staff being able to operate ‘under the political radar’. In 2021, OSCE published an updated version of a publication on the human rights of military personnel (OSCE/ODIHR, DCAF 2021). “The old version referred to lesbians and gays; now we managed to include a chapter on LGBTI people in the armed forces”.⁵⁵ Moreover, the documents on gender-based hate crime provide significant conceptual strengthening of gender as socially constructed. Similarly, for the past 20 years, respondents highlighted that parts of the WPS agenda are already being implemented in OSCE, both with regard to its functioning and its outside (policy) work – field offices have been working within their mandates and upon the invitation of participating states to advance gender equality projects at the country level.⁵⁶ Such developments hinge on the motivation of individual staff members, and their own understanding of the importance of intersectional approaches.

Long before the Ukraine war, OSCE had struggled to maintain its foundations in the human dimension with receding consensus on the meaning of key terms, including democracy and human rights (Zellner 2007,4), which means that the contestation of human rights for all is part of a broader division between democratic and authoritarian modes of governance. Since early 2022, however, the organisa-

52 Interview No. 22; 30.05.2022.

53 Interview No. 9; 30.03.2022.

54 Interview No. 13; 11.04.2022.

55 Interview No. 9; 30.03.2022.

56 Interview No. 17; 22.04.2022.

tion has been effectively paralysed along all three dimensions because of the increasing geopolitical tensions between Russia and the other states. In Chapter 3.2.3, we reflect on the existential threat this deadlock poses for OSCE.

The example of OSCE demonstrates how important language is, and the way anti-gender actors make use of ‘agreed language’ arguments. By consistently opposing the insertion of the term ‘gender’ or references to LGBTQI* people in consensus documents, actors like the Holy See or Russia circumscribe the scope of action of the organisation, preventing meaningful work on key issues such as the WPS agenda and even more markedly limiting its work in the human dimension. In OSCE, more than other multilateral institutions due to the consensus-based decision-making, the consistent opposition has contributed to progressive actors conceding and omitting references to gender and diversity from documents in order to unblock negotiations. More broadly, this chapter serves to stress the point that language, and interpretive choices are not merely about semantics, but they produce material realities. In international fora, these choices determine the way that the rights of marginalised groups are protected, if at all. It highlights the need for progressive actors to strengthen internal capacities and be attentive when agreeing to strategically ambiguous formulations or making seemingly small concessions. It further highlights the importance of systematically engaging with the multilingual nature of the multilateral system and develop ways of engaging with the human rights framework that are culturally and context-responsive.

3.3. Values in international governance need to be operationalised to matter

3.3.1. Contesting the community (of) values? - a case study of the European Union

The European Union (EU) is based on the respect for human dignity and human rights, freedom, democracy, equality, and the rule of law (European Parliament 2021), conferring citizen rights⁵⁷ as well as political, economic, and social rights in accordance with the Treaty of the European Union (European Union, 2012). It also sees itself as “a global leader in gender equality” (European Union 2012, 1).

While anti-gender mobilisation began to grow in the early 2000s at the EU level, it was quite limited to direct opposition against the right to abortion or SRHR more broadly by some member states: Ireland,⁵⁸ Malta, and Poland. While incremental progress in expanding the meaning and scope of gender equality provisions was limited to employment issues, there was no contestation in the EP of the sort we delineate in Chapter 3.1.3.⁵⁹ Following the entry into force of the TFEU in 2009, the “trajectories for LGBTQI issues and gender equality [...] merged into an overlapping issue”⁶⁰, moving beyond free and equal participation in the common market to the social and political rights pillars of the EU. In parallel, with the growing impact of the austerity measures following the 2008 financial crash, increasing numbers of EU citizens felt socio-economically marginalised. In conjunction with the deepening sense of a fundamental

57 To EU citizens.

58 Before the 2018 referendum legalising abortion.

59 Interview No. 10; 04.04.2022.

60 Interview No. 10; 04.04.2022.

democratic deficit in the EU, the type of discourse, justification and argumentation used by member states to resist gender equality changed.⁶¹ ⁶²The developments enabled the populist capture of voters at the member state level through a combination of neo-conservative, patriarchal, nativist, Euro-sceptical, xenophobic, and racist sentiments, moving political discourse away from the EU's social democratic foundations.⁶³ The impact has been uneven across member states, with some remaining at the level of discursive change (e.g. France, Italy, Slovenia), and others, where there was a broader project to weaken human rights and civil society frameworks, saw regressive gender policies enacted (e.g. Poland, Hungary).

Now, "rule of law issues [are no longer] temporary and isolated deviations from a norm of compliance, which had been presumed. Instead, non-compliance with European values has become a principled ideological choice of several governments" (Scheppelle et al. 2021, 8). Particularly pertinent regarding protections around equality and anti-discrimination rights, as we also argue in Chapter 2, such backsliding and non-compliance with EU values has much broader repercussions on democracy (ibid). Hungary, Poland, Romania, and Bulgaria are often mentioned in this context. It would be erroneous to only look at the 'obvious suspects' and not pay attention to what is happening in the national parliaments in the Netherlands, Germany, Sweden, or Finland.⁶⁴ In Germany, the AfD, whose gender policy is both anti-statist and linked to the protection of the white, heterosexual family, consistently wins more than 10 percent of votes at federal elections (Hayek 2020; Statista 2022). In Sweden, the far-right Swedish Democrats, whose conservative gender views and femonationalist, instrumental use of 'our' gender equality to deploy xenophobic anti-immigrant rhetoric ostensibly protecting white Swedish women, have scrapped the term 'feminist' from the world's first Feminist Foreign Policy (Off 2022). In Finland, the masculinist brand of the Finns Party's equality discourse works to distract from the structural roots of gender inequality (Ylä-Anttila and Luhtakallio 2017). In the Netherlands, between 10 and 20 percent of tweets directed at women politicians are hate comments (Tekath 2021)

61 Interview No. 14; 19.04.2022.

62 In much the same way as in the EP – see Chapter 3.1.3.

63 Interview No. 14; 19.04.2022.

64 Interview No. 20; 06.05.2022.

in conjunction with Geert Wilder's anti-gender discourse shifting mainstream political discussions to the right (Schaart 2021). The same pattern of gender equality and LGBTQI* rights discourse taking a more conservative turn in response to anti-gender positions takes place across Europe - this has impacts on the national positions of progressive governments as they seek to reconcile political debates at home. We highlight in Chapter 2 how anti-gender narratives allow the centring of other exclusionary narratives as they facilitate an overall shift of political discourse to the right.

Returning to the 'obvious suspects': the fact that an illiberal democracy can be created and maintained within the EU is problematic in itself as it constitutes a rejection of the EU's normative foundations.⁶⁵ The more robust legal basis on economic matters might explain why, when faced with the choice, economic integration, free movement of goods and services, and trade regulations have taken precedence over social policy and justice-related interventions by the EC to respond to illiberal member state policies. There are limited mechanisms to hold member states accountable except for naming and shaming, which the EC is also often reluctant to resort to, not least because of an awareness that it can fuel Eurosceptic narratives. It is also noteworthy that the founding values appear to be somewhat contingent on context and flexible to the need to stabilise crisis situations. Consider how, when Russia invaded Ukraine in early 2022, suddenly, as an interviewee pointed out, Poland became the EC's 'best friend'. These patterns undermine the predictability necessary for the rule of law. In Chapter 4.2, we analyse how such flexibility of core principles may undermine the European Court for Human Rights as well.

The concept of 'gender' does not exist in EU treaties, which only refer to "equality between women and men" (EIGE 2022, 4). Nevertheless, following the 1995 Beijing Conference and the Treaty of Amsterdam in 1997 (Article 13 in particular), development of EU secondary law, political documents, and policies, as well as case-law by the Court of Justice of the EU (CJEU) has incrementally embedded references to 'gender' or 'gender equality' in the EU legal framework. Consistent with the EU's evolution from its European Economic Community origins, the most developed EU legislation on gender equality is on

65 Interview No. 14; 19.04.2022

employment topics.⁶⁶ Efforts to shift to a more robust gender equality structure in the social and political pillars can be noted in the landmark adoption of the Gender Equality Strategy 2020-2025 (which situates gender equality as a core value and a fundamental right in the Union (European Commission, 2020a)) and the LGBT Equality Strategy (European Commission 2020b) being adopted in the same year. Newer instruments display a more intersectional approach with references to gender expression and identity and sex characteristics (Lombardo and Verloo 2009). In practice, the situation is more nuanced. Intersectional discrimination is currently still not protected under EU law (Ganty and Sanchez 2021) and EU-level legislation fails to comprehensively protect against discrimination on all grounds mentioned in Article 19 of the TFEU. Equinet has identified a “hierarchy of protection grounds” with strongest protections against discrimination based on racial or ethnic origin, then sex, religion or belief, disability, sexual orientation, and age at the bottom (Ganty and Sanchez 2021).

As the EU’s legislative framework in these issue areas develops further, “there is growing internal opposition [to] the EU’s understanding of gender and sexuality rights”.⁶⁷ Internally, as well as externally, there is increasing incoherence between the EU’s rhetoric and the reality of its policies and among those of its member states. Moreover, the EC cannot make its increasingly progressive understanding of gender compulsory for member states, nor does it sanction them when women’s rights and LGBTQI* equality are tacitly or explicitly denied, leaving it with limited scope of action in this regard.

Considering that gender equality (and democracy

66 Article 141 EC (and its subsequent Directive 75/117 on Equal Pay); Directive on equal treatment of men and women in employment (76/207); Directives on equal treatment between men and women in statutory and occupational social security schemes (Directive 79/7 and Directive 86/378); Directive on equal treatment of men and women engaged in an activity, including agriculture, in a self-employed capacity (86/113); Directive on pregnant workers (92/85); Directive on parental leave (96/34); Directive on equal treatment of men and women in the access to and supply of goods and services (2004/113/EC), and lastly the Recast Directive, which unified all aforementioned provisions into one single text and supplemented it (Burr and Prechal 2008). The Recast Directive (2006/54) provides formal definitions for direct discrimination, indirect discrimination, positive action, harassment and sexual harassment, and instruction to discrimination (Burri and Prechal 2008).

67 Interview No. 15; 19.04.2022.

and the rule of law) were not defined and anchored in concrete laws and directives - relying instead on the assumption of a “compliance culture” and “shared interpretive scheme” (Falkner et al. 2010) – added ex-post to a system designed to facilitate economic cooperation and trade, the mounting resistance to gender equality and LGBTQI* rights among member states raises the question whether “the notion of gender-equal Europe is more mythical than real” (Vida 2022, 48). Abstract norms provide an orientation as to the EU’s normative position. In theory, “all EU member states have committed themselves to the fundamental values [of the Union], including democracy, rule of law, and respect for human rights [which means that] backsliding and non-compliance does require a [new] set of strategies to counter and protect democratic rights” (Blauberger and van Hüllen 2020). Legally enforcing them in practice is challenging.

In the absence of values anchored in specific directives and laws, anti-gender actors can “use the soft spots in the EU’s normative framework” (Mos 2018, 325-6). In much the same way as the proponents and opponents of gender and LGBTQI* equality at the UN both claim that their positions are grounded in the universality of human rights (Voss 2021, 3), anti-gender actors at the EU level have picked up the frame of promoting and defending the EU’s founding values of respecting fundamental rights. Anti-gender civil society events at the EP are increasingly framed as being in defence of EU values, while advocating for the dismantling of fundamental human rights protections for women and LGBTQI* people. The same lack of anchoring also puts the EC’s Article 7 TFEU and infringement proceedings⁶⁸ against Hungary and Poland in question: it opens the basis for the proceedings (i.e. the values themselves) up for contestation.⁶⁹

We argue in Chapter 3 how engaging with human rights frameworks and adopting human rights terminology is part of a political strategy to advancing alternative norms in opposition to fundamental rights for all. There is likely an additional constructive element to the performance of value adherence by anti-gender actors. For instance, anti-gender MEPs regularly electoral pledges organised by ECLJ or FAFCE

68 Intended to be enacted against a member state which continuously breaches the founding principles of the EU as outlined in Article 2 TFEU.

69 Interview No. 27; 28.07.2022

on a variety of issues, such as placing the right to conscientious objection under broader protections for religious freedom or defining human dignity as applying to embryos (Mos 2018). Over time, a sufficient body of general and specific exclusionary interpretations of the EU values and their application could be built to support a claim to formalise those interpretations (ibid). As we argue above, the meaning of norms in multilateral spaces is defined through a politically contingent process of contestation. Without a credible effort by the EU to imbue its foundational values with meaning and anchor this in concrete directives, the anti-genders' actors' definitions will be the only voice in the debate.

The following two sections explore the impact of the contestation of the EU's normative framework and the lack of anchoring in concrete directives on the EU's mandate to act as illustrated by the institutional examples of the European External Action Service (EEAS) and European Commission (EC).

3.3.1.1. The European Commission

SRHR in particular, but also gender equality and LGBTQI* rights fall under policy areas largely under member state competence making them "thorny"⁷⁰ issues which the Commission often lacks the mandate to get involved in. Since the EC cannot politically intervene unless there is a demonstrated violation of the Treaty, its political responses are often then limited to naming and shaming. The individual Commissioners, and their political will appears a decisive factor on how the EC will act on gender issues internally and externally, especially the extent to which it is willing to push back when member states invoke subsidiarity and agreed language arguments: they know where to step and where not to step when getting member states on board.⁷¹

Practically, resulting from the lack of legal enforceability of EU values and the distribution of competences, each member state is free to apply its own interpretation regarding how they implement Article 19 TFEU on non-discrimination. To illustrate the process: member states submit draft implementation

plans to the EC, which can comment; the comments are, however, not binding for member states. The often-generalised operationalisation of Article 19 on the member state level does not always provide a deep understanding of the positionality of national authorities, and prior to the announcement of LGBT-free resolutions by multiple Polish municipalities, there was much less attention paid to this by EC staff. Consider the following comment by an interviewee: "If we look at the [Polish] guidance from 2014-2020, there is [on paper] good operationalisation on the issue of disabilities and equality between men and women, and unspecific integration of discriminations on grounds of religion, gender, age, and the other grounds".⁷² Political pressure by pro-LGBTQI* MEPs and civil society solicited the view that it was necessary to investigate whether the resolutions might violate anti-discrimination clauses, and thus, European values.⁷³ Traditionally occupying a technical, consultative role, EC staff are unprepared for ex-ante checks on funding given to regions or municipalities, to determine whether the LGBT-free resolutions might violate anti-discrimination clauses. Complicating matters further, even though the EC approves the programmes, it is the member state that disburses the grants to beneficiaries (e.g. municipalities).

Increasingly, the EC is resorting to responses of a technical nature to exclusionary policies in member states, within its competences in relation to cohesion funds. For instance, to address the implementation gap made evident by the LGBT-free resolutions, during negotiation of the 2021-2027 disbursement of EU cohesion funds with the Polish government, "[the EC] added the provision that municipalities with anti-LGBT resolutions would not get [access to] cohesion funds". This is a stop-gap measure; and as an interviewee noted, "for now, hopefully, the wording is strong enough".⁷⁴ It leaves the interpretation in the hands of the member states and only applies to the specific instances of anti-LGBTI resolutions passed at the sub-national level. While the measure had an effect (most municipalities withdrew their resolutions to continue to be eligible for EU cohesion funds), on its own, it cannot ensure non-discrimination on the grounds of sexual orientation and gender identity in general.

70 Interview No. 15; 19.04.2022.

71 Interview No. 11; 04.07.2022.

72 Interview No. 24; 13.06.2022.

73 Interview No. 2; 18.03.2022.

74 Interview No. 24; 13.06.2022.

To better respond to instances of member states disregarding non-discrimination principles, EC staff require further capacity building on human rights frameworks and practical knowledge on how structural discrimination manifests in very specific cases that may be relevant to, for instance, the disbursement of cohesion funds. This can strengthen their ability to respond to perceived discriminatory policies by national and sub-national authorities. Practically: when EC staff inquired about the perceived clash with Article 19 with one of the municipalities in Poland with an LGBT-free resolution, the municipality responded that the funds to which the inquiry was related were earmarked for infrastructure which can of course be shared equally by everyone regardless of sexual orientation or gender identity, rendering the inquiry moot. In such discussions, appeals to general human rights norms are not sufficient. A staff member of the Commission stated in one of the interviews for this study: “we need to give the anti-discrimination clauses life - if someone is walking on a pavement, how do we show they are discriminated, how can we prove that people have been discriminated in a training or employment situation?”⁷⁵ Concretising and operationalising gender equality and non-discrimination principles can be helpful in the other direction, too. It can facilitate cooperation. As outlined above, there is rhetorical resistance to the concept of ‘gender’ overall. One interviewee suggested that much of the resistance may be traceable to a simple lack of knowledge or a misunderstanding of the implications of diversity and gender, leading to fear and contestation (see also the discussions on disinformation and misinformation in Chapters 2, 3, and 4). Progress on gender mainstreaming in individual policy areas is possible if the issues are approached in terms of practical impact (i.e. the ‘business case’ for gender equality).

3.3.1.2. The European External Action Service

Mandated to implement the Common Foreign and Security Policy (CFSP), the European External Action Service (EEAS) “combat[s] discrimination and promote[s] diversity, both within the EU’s borders and beyond, through a combination of public diplomacy and awareness-raising activities, political and

human rights dialogues, capacity building and financial assistance” and that it “supports the universal adherence to all the core human right instruments” (European Union External Action 2021). In practice, due to a no institutionalised gender mainstreaming and the transmission of anti-gender narratives via member states, the EEAS struggles to either combat discrimination or support universal adherence to human rights instruments.

Important top-level decisions such as the creation of the post of EU Ambassador for Gender and Diversity in 2021 notwithstanding, the EEAS as an institution does not share a common understanding of gender and diversity nor has an institutionalised approach to viewing foreign policy through a gender lens, let alone a feminist perspective. Chappell and Guerrina point out that when a “gender perspective does occur, it is unlikely to have dispersed across the [EEAS]. Hence, there may well be ‘pockets’ of gender, but no gender mainstreaming” (2020, 8). As we point out in our study on a Feminist Foreign Policy for the EU: “while gender advisors have very specialist and in-depth knowledge, many other staff members seemed unable to capture the essence of [the Women, Peace, and Security Agenda]⁷⁶, often framing the agenda as one that can be applied at their discretion (Bernarding and Lunz 2020, 34). The detailed application of the CFSP at the EEAS is defined in 28 regional and thematic working parties. The chairs of most working parties are appointed by the office of the High Representative for Foreign Affairs and Security Policy. They have extensive framing power over the issue under discussion, and they can decide to what extent a gender lens will be applied to the discussion as well as how much compromise on gender and sexuality issues they are willing to suggest when discussions need to be moved along. As a result, personal understandings of the relevance of gender equality, LGBTQI* rights, or SRHR for peace, stability, and freedom greatly influence the way these questions are treated, if at all. In practice, discussions on the CFSP often reflect a view that it should concentrate on hard security topics rather than “soft issues” like gender⁷⁷ and many EU external policies are “gender-blind, inadequately gender-sensitive, and often inconsistent or siloed” (Bernarding and Lunz 2020, 32).

75 Interview No. 24; 13.06.2022.

76 UN Security Council Resolution 1325.
77 Interview No 12; 08.04.2022.

3.3.2. Influence or principles? - the Council of Europe

The policy decisions on human rights of the EEAS remain controlled by Member States through the Working Party on Human Rights (COHOM) (Hrant 2016). Political debates and discourses from the EU Council are reflected in these meetings, too. Even when agreement is reached in COHOM among the EU27, there have been examples where member states would change their position in multilateral fora, weakening the EU position. This can play out during internal EU negotiations at the EU Delegations to the UN in Geneva or New York, which are responsible for arranging EU coordination meetings and delivering EU positions (Tuominen 2022). In effect, the EU is torn between cohesion (a weaker, lowest common denominator statement), and adherence to its values (maximalist wording) in its external action, limiting the scope for internal and external coalitions, respectively. The statement on behalf of EU member states when Russia tabled its traditional values resolution at the UNHRC in 2009, illustrates these competing imperatives. Hungary's submission was clearly in support of Russia's traditionalist position along with numerous anti-gender NGOs from EU countries. This division in front of external audiences provides arguments for anti-gender actors to portray liberal universalism as hegemonic, in this instance Belarus compared Brussels to the "Moscow of the Soviet Union" (Tuominen 2022).

For a long time, across the EU institutions, there has been an assumption that all actors within the EU share the same set of values and understand them in the same way. This has meant that the EU has been able to increasingly integrate on the economic level without a marked need to define and lay down in key legislation its values of democracy, equality, and respect for fundamental human rights. As these founding principles are increasingly questioned, in particular in reference to gender equality and LGBTQI* rights, the necessity of values being operationalised in law to make them enforceable has surfaced. Acknowledging the challenges of such an endeavour in the current political climate, in the short term, both in the EC and the EEAS, strengthening the institutionalisation of an intersectional, gender lens beyond the gender advisors would foster an environment for the development of gender-transformative approaches and would allow staff in both institutions, within their mandates, to react to violations of these values.

Founded in 1949 as a regional human rights organisation, the Council of Europe (CoE) is mandated by its 46 member states⁷⁸ to promote democracy and protect human rights and the rule of law in Europe. These values are enshrined in the European Convention on Human Rights (ECHR) (ECtHR 2021). As a standard-setting and conceptual development body, the CoE has pioneered establishing progressive language on 'gender mainstreaming', 'gender budgeting', and 'parity democracy' since the early 2000s. While the main substantive focus of CoE standards is on equality between women and men, in the last decade, a more intersectional perspective has been implemented.⁷⁹ In contrast to the institutions of the EU, the CoE values have been operationalised in the ECHR which is binding to member states, while the jurisprudence of the ECtHR is binding to member states concerned by the respective decision. However, defining values in law does not suffice to ensure the respect of human rights for all. The following paragraphs illustrate, by using the example of Russia and the broader opposition to the Istanbul Convention, how the CoE has been put to a choice between enforcing its values (principles) and continued engagement with actors who challenge them (influence).

Despite the legal enforceability of its values and its progressive track record, the CoE remains an Inter-governmental Organisation in the classical sense where member states sit down and elaborate treaties, or recommendations.⁸⁰ With the diverse membership of the organisation, norm-spoiling (modifying or deleting key language) also happens at the CoE - anti-gender actors have increasingly opened case-by-case discussions on previously agreed upon

78 In March 2022, the CoE Parliamentary Assembly (PACE) voted to expel Russia from the CoE, following suspending its right to representation in a Committee of Ministers vote in February 2022. On the day of the vote, 15 March 2022, Russia also notified the CoE of its withdrawal from the Council and all its instruments (Committee of Ministers 2022).

79 Interview No. 6; 25.03.2022.

80 Interview No. 3; 22.03.2022.

documents. Indeed: “[the CoE] is a very diplomatic setting, everyone knows their place, there is a subtle game with unwritten rules of who speaks when and how much everyone pushes their points on different issues. Things are changing in the sense that, five or six years ago, there was an effort by progressive actors to accommodate, but growing fatigue at the persistent contestation by anti-gender actors is changing this.⁸¹ An interviewee noted that “anti-gender actors have begun to redefine LGBTQI* issues as a threat to the family. They frame the Istanbul Convention as a threat, and numerous other documents are seen as tools for the illegitimate progress of gender ideology”, the CoE Secretariat is sometimes framed as an enemy rather than fulfilling its role in upholding the organisation’s values and legal standards”.⁸²

Anti-gender efforts at the CoE are increasingly systematic, demonstrating a tendency for more organised anti-gender contestation trying to change previously agreed language. An important feature to note is that this standardised, ideological opposition is consistent across policy contexts: “sports, culture, and all other issues. Regardless of the negotiation, gender as a term gets questioned”.⁸³ A clear majority of member states can be described as progressive, defending, and advancing the status quo on human rights, with a handful of states taking restrictive stances.⁸⁴ Before its exclusion in 2022, Russia would consistently take a very uncompromising stance with legalistic arguments pushing anti-gender narratives. Some other member states may have ideologically similar positions but would “hide behind” Russia.⁸⁵ It remains to be seen the impact Russia’s expulsion from the CoE will have on the political dynamics at the organisation when it comes to gender and sexuality issues.

Mobilising against Istanbul - a litmus test for European multilateralism

The adoption of the CoE Convention on preventing and combating violence against women and domestic violence, commonly referred to as the Istanbul Convention, was a landmark achievement. While it does not

introduce any new mechanisms - it is entirely in line with CEDAW and the jurisprudence of the ECtHR - it sets comprehensive standards for eliminating gender-based violence and remains the only international law document defining gender as a set of socially constructed norms. Therein lies the issue. In *Power over Rights*, we discussed the narratives of anti-gender actors in their resistance to the Istanbul Convention, including claims about its purpose and scope, suggesting, for instance, that it forces a non-defined ‘gender ideology’ on states or that it would institute a ‘third gender’. It is noteworthy that several years passed between 2011 when it was opened for signatures, and 2016 when opposition to the Convention intensified. Bulgaria, having signed the Convention, did not ratify it, following a constitutional court decision in 2018 that deemed the Convention incompatible with the Bulgarian Constitution due to its reference to ‘gender’ and ‘gender-based violence’ as opposed to ‘women’ and ‘violence against women’. Turkey officially withdrew from the Convention in 2021, citing incompatibility with its national values. Poland, whose government had asked the constitutional court to assess the extent to which the Convention contravened family and religious values and was considering withdrawing as well, proposed the alternative ‘Warsaw Convention’, uniting conservative forces in the restriction of the rights of women and LGBTQI* people (Harper 2021). It is worrisome to see that beyond challenging the Convention in constitutional courts, some states acted positively to codify the protection of family values as a notion in their constitutions. The constitutional changes contribute to shifting the ‘European Consensus’ – the ECtHR’s method of determining the existence of common ground on an issue among the member states. In response to these developments the EP, in 2019, requested that the Court of Justice of the European Union (CJEU) issue an opinion on whether the EU itself has the legal basis to ratify the Convention and whether it needs a unanimous decision by the Council of the EU to do so. The CJEU responded two years later

81 Interview No. 6; 25.03.2022.

82 Interview No. 23; 09.06.2022.

83 Interview No. 7; 25.03.2022

84 Interview No. 23; 09.06.2022.

85 Interview No. 3; 22.03.2022.

with a non-committal opinion that “the Council can take additional time to achieve greater political support among member states but cannot make ‘common accord’ a prerequisite for a decision on accession, which should be made based on a qualified majority” (La Strada 2021).

The increasing opposition on these issues polarises society, but as we argue in Chapter 4.3.3, it would be disingenuous to see this as grassroots mobilisation. “This top-down, carefully strategised and well-funded attack is forward-looking in its plans for further advancement of its agenda, for instance through the preparation of toolkits [by anti-gender actors to oppose the Istanbul Convention] that can be widely used in any circumstances to contest the legal adoption of progressive standards” (CoE 2021). This was the background to civil society calls for the EC to step in with a comprehensive, unambiguous directive to end gender-based violence in the EU following the CJEU ruling. This is not a hypothetical concern. If we draw a parallel with the overturning of *Roe v Wade* in the United States, multiple states had trigger laws⁸⁶ restricting access to abortion in place, and anti-abortion movements cut and pasted language from toolkits to hasten the rollout of anti-abortion legislation. The combined precedents of the Bulgarian decision, the withdrawal of Turkey from the Istanbul convention, and the Polish proposal of an alternative Warsaw convention have all contributed to the destabilisation of the foundations of multilateral governance and mutual oversight of human rights standards in relation to gender-based violence specifically, and in so doing, implicitly of the rule-based order more generally. It is likely to result in increased challenges and calls for withdrawal from the ECHR and other human rights instruments, with the opposing forces threatening to pull the CoE standards, structure, and rule-based system apart. How progressive actors respond will shape the future of multilateral engagement.

While the decision to expel Russia from the CoE was not directly related to its anti-gender rhetoric, its invasion of Ukraine pushed the CoE towards deter-

mining the extent of violation of its principles it was willing to tolerate and it offers a helpful framework for considering potential responses to the contestation of the Istanbul Convention. Preceding that, Russia’s right to representation in the Parliamentary Assembly was revoked by the PACE, to which Russia (successfully) retaliated by withholding two-thirds of its funding to the CoE (Dzehtsiarou et al. 2022). In the lead up to excluding Russia from the CoE, the Council of Ministers displayed significant hesitation, stretching the normative framework of the CoE to “keep the family together” (Demir-Gürsel 2022), highlighting the dilemma between maintaining influence over member states who disregard the organisation’s values and being principled in defending those values (Dzehtsiarou 2018). In part due to the only other instance a member state was expelled being Greece during the military dictatorship, the dilemma reflects analyses questioning the extent to which Greece’s expulsion had a measurable impact on curbing human rights violations in the country. Therefore, following Russia’s expulsion, it remains to be seen whether the CoE will respond decisively to further democratic backsliding and violations of fundamental values by member states such as Hungary, Poland, or Turkey⁸⁷ and the impact these decisions will have when it comes to bringing member states back into “the family” (Demir-Gürsel 2022).

The preceding sections discussed another inherent vulnerability of international governance: stated values and the challenges in enforcing them. On the one hand, there is the example of the EU which had assumed a shared interpretive framework among its member states and had not codified key founding principles such as equality or non-discrimination in a way that is legally enforceable beyond economic and rule of law interventions. Increasing contestation of these values has resulted in a situation where illiberal democracies exist within the EU in apparent opposition to its principles. On the other hand, there is the CoE which has a much stronger legal basis for enforcing its values. However, like the other bodies discussed in this study, the CoE is also an intergovernmental mechanism reliant on the continued acceptance of its authority by its member states. In instances of defiance of key values such as by Russia leading up to the invasion of Ukraine, the CoE had to decide whether to maintain influence over Russia

86 Laws that have been passed but are unenforceable, pending a major, pre-defined change in circumstances.

87 See Chapter 4.2 on the attacks on the European Court of Human Rights.

and tolerate the defiance or protect its principles by expelling it. The destabilisation of frameworks such as the Istanbul Convention using disinformation in multiple member states, and as we discuss in Chapter 4.2, the refusal of member states like Turkey or Hungary to comply with ECtHR decisions, only further highlight the importance of such decisions, as they can shape the future of multilateralism in Europe as such.

3.4. Agenda-setting via budget negotiations

The decisions by the Trump administration in the United States to withdraw from the UNHRC (BBC 2018), UNESCO (Adamson 2019), and the WHO in the middle of a global pandemic (Rogers & Mandavilli 2020) generated significant media attention, as they reflected a very clear exercise of the power wielded by member states (especially those contributing significant portions of the budget) to use funding as a way of communicating political messages and influencing the agenda of multilateral institutions. We have previously elaborated on the strategic use of funding for anti-gender mobilisation and defunding feminist activism by the anti-gender movement to restrict rights (Denkovski et al. 2021, Denkovski and Kreitlow 2021). In multilateral settings, budgets make mandates – contestation in budget negotiations bears a significant impact on how, or whether, gender equality and LGBTQI* rights are addressed.

OSCE unified budget negotiations (to which all participating states contribute) regularly involve Russia and the Holy See objecting to gender equality being further conceptually developed in the work of organisation, with efforts to incorporate LGBTQI* issues in the mandate receiving even harsher backlash. The argument put forward was that there is no consensus on these issues, and they fall outside of OSCE's mandate as a security organisation. As a result, ODIHR, most gender work, as well as peace mediation (areas framed as 'soft issues') depend on extrabudgetary, voluntary contributions by participating States.⁸⁸ Even for the extrabudgetary contributions, which are limited to technical support projects, the mandate

of the budget position must be agreed among all 57 participating states. It appears that negotiations on advancing women's rights in OSCE are marginally easier compared to reaching consensus on integrating LGBTQI* issues, consistent with the analysis of the ideological contestation in Chapter 3. The statement made in October 2021 by the Norwegian representative on the 2022 proposed budget, noted that OSCE is becoming increasingly dependent on extrabudgetary contributions and seconded personnel, which respondents for this study indicated is not sustainable, bringing the very existence of OSCE in question. The general political deadlock in the Permanent Council following Russia's invasion of Ukraine only further exacerbated the existential crisis. It also means that human rights for all are not even part of the conversation. However, consistent with assertions in other sections of this study, the positionality of individual mandate holders is a highly relevant factor to institutional engagement with gender and sexuality issues. Each rotating Chairperson-in-office brings in their own set of priorities. Poland insisting on renaming the post to Chairman-in-office for the duration of their term in 2022 is telling of their positionality. Moreover, where no budget is needed, we see that actions on gender equality and LGBTQI* issues do move forward. The current OSCE Secretary General is creating a women mediators' platform, which is a decision without cost implications and therefore does not require assent from the Permanent Council. While this is a welcome development, it underscores the centrality of budgets as a strategic tool for anti-gender actors.

At the CoE, the budget needs approval by the Committee of Ministers, which votes on a four-year programme and a two-year budget. In addition to voluntary contributions, the funds come from contributions by member states relative to their population and GDP, with France, Germany, Italy, the United Kingdom and, until 2022, Russia paying the same amount towards the ordinary budget. There is also member state opposition to incorporating gender equality and LGBTQI* rights into the organisation's agenda. For instance, activities on sexual orientation and gender identity (SOGI) had been financed through voluntary contributions by 10-15 member states – it was only in 2020 that SOGI work was integrated as part of the regular program financing, and only with a compromise that the term SOGI would not explicitly appear in the work programme (CoE

88 Interview No. 1, 11.03.2022; Interview No. 7, 25.03.2022.

2022b). During the negotiations on the budget in 2020, progressive member states were attempting to get a subcommittee on SOGI under the antidiscrimination committee, and bring SOGI issues formally into the work programme of the organisation. Even though 33 member states were in favour, due to instrumentalisation and policy bargaining by five states the subcommittee was not established. Regardless, the Terms of Reference 2022-2025 for the Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI) note that the question will be revisited for the second budgetary cycle in the programming period as part of a mid-term review. Respondents for this study attributed these compromises to the strength of the Secretariat, and its strong understanding of the universality of human rights. As in OSCE, Russia had been the main actor opposing the expansion of human rights protections to include LGBTQI* people, with respondents noting that other member states appeared to share Russia's position but would let Russia lead the way. Following Russia's expulsion, it remains to be seen how the other member states who could potentially oppose LGBTQI* rights will position themselves. One distinguishing feature may be that the CoE has been actively engaging in combatting disinformation on human rights issues and preparing parliamentarians and ministries to counter disinformation themselves. This facilitates agreement on the applicability of human rights norms to politically marginalised groups.

tween a pro- and anti-gender camp, strengthening the framing of gender equality and LGBTQI* rights as an idea promoted by a select group of states as opposed to human rights for all.

Multilateral institutions are dependent on member states financing to exist and act in accordance with their founding documents. As mentioned above, budgets make mandates. Budget negotiations make an excellent entry point for member states who seek to restrict the application of key frameworks and protections on women and LGBTQI* people. Both the CoE and OSCE examples show that states may opt to force their point of view on multilateral institutions by withholding budgetary contributions. They also show there are ways for human rights for all to be partially institutionalised by progressive states through extrabudgetary contributions or decisions by mandate-holders in particular positions to act without cost implications thereby circumventing the need to secure approval from member states. As demonstrated by the example of OSCE, over-reliance on extrabudgetary contributions is not a sustainable solution in the long-term. It is also problematic because it reinforces a division as in the UNHRC or EP be-

4. IMPACTS

4.1. On progressive delegates' negotiation strategies

Political will and thought leadership are an essential factor in the institutionalisation of any norm, particularly when it comes to the consideration and defence of the rights of politically marginalised groups. In multilateral institutions, the choices and compromises made by progressive delegates are central factors determining whether and how human rights for all are codified and protected. For this reason, the following section examines the impact of anti-gender actors on the strategies and behaviour of progressive delegations. We discuss above how recognising the equality of LGBTQI* people, deconstructing gender norms, and sexual and reproductive health and rights questions all tend to be salient issues for both proponents and opponents, meaning that they carry a high degree of relevance and are therefore subject to both the personal positionality of actors and contextual cues within their surroundings, contributing to increased polarisation. These issue areas also exhibit a high degree of complexity, meaning that they are part of a complex system of interconnected norms and beliefs. Across the multilateral institutions under discussion in this study, the opposition to progress in these policy areas tends to be forceful and automatic, even in fields that are not immediately and obviously linked to gender equality and LGBTQI issues. A growing awareness of the fact that anti-gender actors are increasingly less likely to compromise has contributed to less willingness among progressive actors to put the topic on the agenda. Two interviewees from different institutions noted that there appears to be a tendency to avoid referencing gender when it is “not necessary”, to ensure that processes are not unnecessarily delayed – in effect a pattern of self-censorship.^{89 90} This holds especially true for policy areas with no strong or explicit gender

focus such as sports or culture, where the staff and delegates do not necessarily have a strong interest or capacities towards defending gender issues, similar to fence-sitter policymakers. The effort and emotional labour of explaining why gender is important is not to be underestimated either, even when the deprioritisation or silencing of ‘gender’ by some (otherwise progressive actors) is not malicious, rather coming from fatigue or a simple lack of understanding of equality issues.⁹¹ This in particular holds true for people directly impacted by gender discrimination. The lack of institutionalised gender mainstreaming in all institutions mentioned above and the high degree of polarisation around gender equality and LGBTQI issues, paired with the unremitting opposition by anti-gender actors and growing fatigue among progressive actors leads to an increase in small concessions in seemingly unrelated policy fields. This undermines the human rights framework through the codification of regressive agreed language which anti-gender actors can reference in future debates.

Not all institutions experience this pattern in the same way, with OSCE appearing to display the highest rates of self-censorship in negotiations. Anti-gender actors often dismiss or deprioritise gender issues as or portray them as irrelevant or unwelcome ideological positions,⁹² shifting the focus of discussions back to what “matters most: peace, but this means shifting focus away from issues that also matter such as gender-based violence”.⁹³ In turn, equality advocates censor themselves: “[y]ou put yourself in the position of thinking “is gender important for this?” and either try to soften the way they mainstream gender or pre-emptively water down the text so agreement would be easier to reach.⁹⁴ These developments also have an impact on the staff in the institutions with progressive language being blocked ex ante by heads of departments or managers due to a fear that such language might be a red flag that

91 Interview No. 1; 11.03.2022.

92 Interview No. 1; 11.03.2022 & Interview No. 18; 05.05.2022.

93 Interview No. 18; 05.05.2022.

94 Interview No. 1; 11.03.2022.

89 Interview No. 6; 25.03.2022.

90 Interview No. 1; 11.03.2022.

prompts anti-gender mobilisation.⁹⁵ In the CoE, two interviewees reported that policy areas not traditionally associated with gender issues exhibit a higher degree of self-censorship compared to policy fields where the delegates and staff have a stronger background in gender issues. However, the red lines are neither firm nor consistent. One interviewee reported that, in case of resistance, it was sometimes necessary to “find alternatives to the mention of gender” by referring to “personal characteristics of women” while avoiding the term itself.⁹⁶ Another noted how constructive ambiguity applies also to the translation of documents: “the French translation of [gender equality] is equality between men and women, [it] gives us room for manoeuvre that we can agree to leave gender equality in the English text”.⁹⁷

Acknowledging that maximalist positions pose a sometimes-insurmountable challenge to reaching an agreement, small concessions may help in the short term, but they carry long term consequences. As highlighted by Sanders and Jenkins (2022, 6): “when meanings are altered or words are silenced or removed, these shared understandings and concomitant manifestations in real-world policy are also weakened”, which slowly transforms international law and weakens the basis for human rights protections.

The impact of constructive ambiguity is two-fold. Firstly, a direct impact is the resulting debate on how to interpret ambiguous terms or reconcile differences in meaning across language versions is inevitable at the time of implementation. Secondly, an indirect impact is that ambiguity builds precedent. For instance, the decision to opt for a constructively ambiguous definition of gender to facilitate consensus during the negotiations of the Rome Statute, which the Holy See could interpret as a biological definition and progressive actors can interpret as socially constructed norms established a framing⁹⁸ that was replicated in the Outcome Document of the 2001 UN World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance

in Durban. The Holy See is also regularly trying to argue the definition contained in the Rome Statute as international consensus (Oosterveld 2014, 574), using it to prevent more progressive interpretation of gender as a concept in international law (Antic & Radacic 2020, 3). In the same way, the decision to offer a concession to the Holy See and some OIC members at Cairo 1994 and Beijing 1995 by stating that abortion cannot be considered a method of family planning continues to be used to restrict and block progress on international protections of sexual and reproductive rights today. This is not to say that constructive ambiguity should be avoided at all costs, but that it needs to be done strategically, with meaningful counterweights to the narrow interpretations in mind (Oosterveld 2014, 574).

It is important to note that, in a polarised world given the importance of political correctness in many multilaterals, it may happen that despite the best intentions of people to be “on board with gender”, some are “very nervous” of using the wrong terminology and might be alienated by a categorically maximalist approach.⁹⁹ An MEP indicated that self-censorship may not always be a bad thing, and that there is a need to be less confrontational and become more nuanced, working not to alienate the undecided.¹⁰⁰ The response to self-censor or opt for constructive ambiguity to move negotiations along is more likely indicative of fatigue or lack of awareness as to the fundamental importance of maintaining agreed language on gender equality and LGBT-QI* rights in the face of mounting contestation. A way to address the challenge, as two interviewees from the CoE and UN system suggested that gender equality needs to be situated within the wider human rights agenda conversations, rather than taking up gender equality as a single-issue campaign, which some (state) actors tend to do.

95 Interview No. 18; 05.05.2022.

96 Interview No. 6; 25.03.2022.

97 Interview No. 7; 25.03.2022.

98 “[T]he 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” (Rome Statute 1998).

99 Interview No. 16; 22.04.2022.

100 Interview No. 25; 14.06.2022

4.2. Delegitimising expert bodies - the case of the European Court for Human Rights

International courts and treaty monitoring bodies can advance the universal enjoyment of human rights for all and act as the ultimate balancing measure between the power of states versus individuals. They have, in theory, a more robust conceptual knowledge of the human rights framework than political delegations in intergovernmental spaces and a lack of direct accountability and vulnerability to an electorate. There is an assumption that expert bodies (e.g., the ECtHR and CJEU, or the CSW or ICC outside of the European context) and technical secretariat staff might therefore be more resilient to anti-gender narratives. This chapter demonstrates that this assumption needs to be qualified, and teleological progress should not be assumed.

This study focuses on the ECtHR as Europe's foremost interpreter of human rights law. The ECtHR was set up in 1959 to ensure compliance for member states with the civil and political rights established in the ECHR. The ECHR was developed to give life at a regional level to the UDHR, with explicit references to the latter in its Preamble (Viljanen 2009, 249). Citizens or member states can petition the Court directly as a "fourth-instance" court when they believe a member state has violated their fundamental rights. Comprised of one judge per CoE member state, elected for a nine-year term by the PACE, it is, in many ways, the ultimate interpreter of the ECHR, influencing national jurisprudence within the confines of "democracy, the rule of law, protection of human rights, and subsidiarity" (Ulfstein 2021, 173). In the view of the ECtHR, its "judgments are binding on the countries concerned and have led governments to alter their legislation and administrative practice in a wide range of areas. The [ECtHR] case law makes the [ECHR] a modern and powerful living instrument for meeting new challenges and consolidating the rule of law and democracy in Europe" (ECtHR n.d.).

The ECtHR approach has been to see the ECHR as a living instrument to be interpreted in the light of how society has progressed. It applies a pro-homine view (though not always consistently), meaning that the norm is to be interpreted in the way that is most beneficial to the individual (Khaliq 2022, 242). Since 2018, it can also issue advisory opinions to help interpret the meaning of a particular article or aspect of the ECHR (CoE 2018).¹⁰¹ In practice, the case law developed by the ECtHR can expand the application of the ECHR provisions to new and unforeseen (at the time of drafting) policy areas.

Thus far, the assumption of progress seems to hold. Consider how the ECtHR has approached the issue of CSE. The ECtHR ruled in 2018 that the inaccessibility of science-based, age-appropriate, comprehensive sexuality education for children "can expose children to physical, emotional and social harm [and that] it is vital to give young people the means and skills to recognise sexual abuse, lay down boundaries and be aware of the ownership they hold over their bodies" to effectively exercise their fundamental rights (IPPF 2018; Bourke et al. 2022; Kennedy and Covell 2009). This interpretation was reiterated in the 2022 Handbook on European law relating to the rights of the child (European Union et al. 2022).

Similarly, on the right to life, the ECHR affirms that "everyone's right to life shall be protected by law". Advocating for granting rights for an embryo in a person's body at the expense of the person's right to life, health, dignity, and bodily autonomy violates that principle. In subsequent statements, the European Commission for Human Rights has clarified that any recognition of an absolute right to life that begins before birth would "be contrary to the object and purpose of the Convention". The ECtHR has interpreted the Convention to say that an embryo is not regarded as a 'person' directly protected by Article 2. Even if the embryo did "have a 'right' to 'life,' it is implicitly limited by the mother's rights and interests" (ECtHR 2004), including the rights to life, health, and privacy. International standards are clear that the rights of pregnant people necessarily limit any rights or protections of an embryo. Indeed: "a fundamental principle of international law states that governments cannot invoke their domestic law to justify non-compliance with treaty obligations" (Centre for Repro-

¹⁰¹ This mandate was granted to the ECtHR by the entry into force of Protocol No. 16.

ductive Rights 2014; Katsoni 2021). Therefore, it is not a choice between the right to life of the embryo and the rights of the person seeking an abortion – because such a choice is made *ex-ante* by the fact that the embryo does not yet possess legal personhood. Nevertheless, likely due to the vast difference among national positions on abortion, the ECtHR has so far refrained from deciding on the existence of a right to abortion, deferring to member states to decide on issues of “public morals” (Kapelańska-Pręgowska 2021).

The ECtHR remains the most advanced international body in terms of promoting and protecting the rights of sexual minorities (Aguebor 2022). However, it is crucial to contextualise its role and positionality: it “does not have an ability to combat major human rights problems on its own” (Viljanen 2009, 273). Its rulings are not always predictable or consistent, especially on LGBTQI* rights. It is not an activist court, and it has often taken a conservative position in applying the ECHR protections on sexual minorities, for instance, with petitioners often struggling to convince the ECtHR that the Convention’s provisions apply to instances of discrimination based on sexual orientation or gender identity (Johnson 2016, 3).

In sum, on the one hand, “there are precedents and court rulings which guarantee the universality of human rights. And [the Court is] moving more and more in that direction”.¹⁰² On the other hand, in cases where one would expect the ECtHR to rule against the states, it capitulated - showing an awareness of how far it can push (Khaliq 2022, 245). Such ‘flexibility’ suggests that the rule of law is not sacrosanct and can be bent to legitimise the political will of states.

In the multilateral arena, governments reign supreme - there is no separation of powers. The instances of Poland and Hungary defying the ECtHR, with Turkey often doing the same (Euractiv 2021; Reuters 2021; Polgari 2016; Hungarian Helsinki Committee n.d.), demonstrate that, when it comes to geopolitics, expert and judicial bodies are also subject to the changing tides of politics. A crucial development was the adoption of Protocol No. 15 in 2021, which essentially reminded the ECtHR that “it works for the member states and not the other way around” (Khaliq 2022, 244). Protocol No. 15 references the

principle of subsidiarity and the doctrine of the margin of appreciation in the Preamble to the ECHR. It emerged from a context in 2012 when several member states, in what appeared to be a move directed at domestic audiences, suggested that the Protocol was a response to a foreign court “interfering unduly in sovereign domestic matters” and ‘over-playing its hand by acting as a ‘court of fourth instance’” (Leach 2021). This is only one of the potential entry points for anti-gender actors to challenge the ECtHR’s legitimacy as the process of contesting gender and sexuality issues continues.

It is, therefore, crucial not to fall into an assumption of teleological progress. While the ECtHR “is not allowed to curtail or even abstractly alter a right which it has extended itself by means of a final judgment” (Chridaris 2018), studies have found that populist political backlash and the undermining of national judiciary structures have influenced the case law of the ECtHR, leading to increasing tacit regressive tendencies in its decisions (Helfer and Voeten 2020). Against the backdrop of intensifying contestation of gender equality, LGBTQI* rights, and SRHR in Europe, this risks the very tentative codification of reproductive rights and hard-won protections for trans rights. For instance: the judgement passed in *P.V. v. Spain* in 2010, where the Court found that “transsexuals” (sic) are entitled to the enjoyment of the human rights enshrined in the Convention without discrimination “and the *Identoba and Others v. Georgia* 2012 case where the Court explicitly stated that “all trans people are protected on the ground of “gender identity” (TGEU 2015). This consideration is particularly relevant in the context of the United States Supreme Court ruling to overturn *Roe v Wade*, thereby removing a federally guaranteed right to abortion (Reintke 2022).

102 Interview No. 7; 25.03.2022.

4.3. Levelling the playing field in favour of those in power? – a new meaning for civil society

At the outset, it is essential to recognise the historical and political context of colonialism and oppression from which human rights discourse and the multilateral framework emerged. We mention this because deconstructing historically prevalent notions on the (in)equality of human beings, i.e., the power to decide who is human and worthy of protection, is always a process of political contestation between groups. There is nothing inherently problematic with new or more interest groups being formed and claiming the space to advocate for extending human rights protections to a heretofore excluded or marginalised group. However, anti-gender actors, working to restrict and undermine the rights of women and LGBTQI* people, definitionally do not perform this role. Firstly, they seek to limit and narrow rather than expand and broaden the applicability of human rights protections. Secondly, as we have previously demonstrated, anti-gender actors seek to re-establish the dominance of patriarchal structures, i.e. maintain the unjust status quo. In sharing the interests of already dominant societal groups, they cannot be seen as levelling the playing field.

Multilateral norms, frameworks, and discourses are historically contingent and subject to change. Consequently, they can develop to be strengthened and expanded, respond to new and emerging issues and threats, and address entrenched but often invisibilised power, prejudice, and privilege (Lynch and Patel 2022). The sustainability of progressive feminist policy gains is in question globally, and multilateral spaces can be venues for reversing norms if anti-gender actors dominate the discussion (San-

dlar and Goetz 2020). One of the significant impacts of anti-gender non-state actors on multilateral frameworks in Europe (and beyond) has been the redefinition of 'civil society': the function it serves and the interests it represents, challenging traditional assumptions. Anti-gender actors are also actively working to restrict access to policy spaces for feminist civil society, domestically and internationally.

Civil society refers to all social action not managed by the state (EurLex n.d.). There is an assumption of a contentious relationship between civil society and state actors (Dellmuth and Bloodgood 2019) – with the former assumed to push the latter towards strengthening protection norms. Across policy areas - on human rights, anti-corruption, and environmental protection, securing the space for civil society to participate in policy fora is crucial in diversifying the perspectives considered in policy discussions. It follows, then, that with civil society having the role of interlocutor or mediator between citizens and decision-makers, it can be instrumental to levelling the democratic playing field, providing an alternative, more inclusive space for the sublimation of the interests of citizens towards states, holding the latter accountable to their constituents. Expanding access points for civil society in domestic and multilateral policy spaces is seen as a response to the assumed democratic deficit and self-interest of purely (inter) governmental policy making (Senit 2020). Simply put, the assumption is two-fold. Firstly, including traditionally marginalised groups in policy spaces, will lead to a more robust human rights system. Secondly, civil society represents those traditionally marginalised from access to political power, thereby contributing to democracy and good governance.

Based on these assumptions, over the past few decades, most multilateral institutions have developed some formalised mechanisms for civil society participation. At the EU:¹⁰³ "institutions shall, by appropriate means, allow citizens and representative associations to make known and publicly exchange their views in all areas of Union action; in addition, the institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society" (European Union 2012). Similarly, the UNHRC and the CoE have also emphasised the crucial role of civil society in developing stable and robust democracies and strengthening human rights

103 Article 11 of the Treaty of the European Union (TEU).

protections (European Union Agency for Fundamental Rights 2017). The global standard-setting conferences in the 1990s, such as the 1992 United Nations Conference on Environment and Development, the 1993 World Conference on Human Rights, the 1994 International Conference on Population and Development (i.e. Cairo 94), the 1995 World Conference on Women (i.e. Beijing 95), and the 1996 World Food Conference were informed by the approach arguing for a rights-based approach to development, civil society participation, and its democratising effect (Tabbush 2005, 6).

The multilateral arena was open for civil society to provide expert, research-based input to strengthen protections and advocate for the marginalised, and participation was encouraged and actively supported by governments and international organisations. Therefore, in much the same way that civil society has embedded itself in policy processes at the domestic level within democratic frameworks, over time, non-state actors such as (I)NGOs have become actors in their own right within multilateral institutions as pluricentric spaces of influence, with different actors representing various interests.

(I)NGOs are generally limited by the absence of direct voting rights – they can influence member states' perceptions of the issues at hand and exert normative pressure (Dellmuth and Bloodgood 2019). Civil society actors may seek to affect both the outcome and the process of negotiations, with "influence occur[ing] when one actor intentionally communicates to another so as to alter the latter's behaviour from what would have occurred otherwise" (Corell and Betsil 2008, 24). Civil society influence, depending on the institutional context and relative resources and power at the disposal of actors, can take place inside policy spaces by direct lobbying, commenting, or provision of scientific expertise or outside these spaces through protests, naming and shaming, and, increasingly, social media pressure (Senit 2020). Normative influence on the process of negotiations can be seen through discursive changes in agenda setting, issue framing, or position shifting. We measure influence by tracing the overlap of frames, terminology, and reasoning used by civil society and state actors in interventions and submissions (Senit 2020; Allan and Hadden 2017).

The extent of influence and impact non-state actors

have is contingent on political opportunity structures. We can understand these as a confluence of the institutional setups, i.e. access points and accreditation systems for civil society, the access to resources and coalitions civil society may have, as well as the issue – its complexity and salience (Dellmuth and Bloodgood 2019; Joachim & Locher 2008). In a comparative analysis of the influence of civil society on the EU and UN (Joachim & Locher 2008), the authors note similar patterns of forming networks or platforms, reliance on personal contacts and alliances with like-minded states, lobbying and scientific expertise provision. However, the 2008 study finds that civil society actors do not resort to symbolic or polarising action or opt for radical criticism. Joachim and Locher highlight how when they encounter resistance, civil society actors "shop for different venues linking up to the international level (in the case of the EU) or reaching down to the regional level (in the case of the UN) to mobilise support" (Joachim & Locher 2008, 4). Venue shopping takes place horizontally and vertically, and multi-arena governance systems (such as the one for human rights or gender equality in the European multilateral space) are often beneficial for advancing a policy agenda (Kaunert et al. 2013, Murphy and Kellow 2013).

So, what is new?

At both the UN and EU levels, scholars have observed that anti-gender actors have now become politically flexible and engaged in competitive mimicry, adopting strategies and democratic influence tools developed by progressive civil society such as issue framing, popular mobilisation, lobbying, or venue-shopping (Cupac & Ebetürk 2020; Hodzic & Bijelic 2014; Zacharenko 2020). The resistance that had been primarily couched in religious and conservative terms has shifted to an increased use of human rights language, legalistic and technical approaches, and become less reactive. It is instead a highly productive form of resistance, seeking not only to dilute existing protections for the rights of women and LGBTQI* people, but to entrench norms that actively exclude these populations from the human rights framework.

4.3.1. Astroturf advocacy, on- and off-line

Anti-gender non-state actors have an excellent grasp of advocacy strategies. Yet, the positions communicated to policy-making circles domestically and at the multilateral level by anti-gender actors are not representative of the population: research has demonstrated that anti-gender actors show features of astroturfing¹⁰⁴ - activity intended to create the illusion of widespread grassroots mobilisation, despite having no connection to the grassroots, financed and controlled top-down by a concealed interest group or organisation (Datta 2021; Sosa 2021). The existential value conflict sparked by extremely polarising anti-gender narratives is well established in online and offline discourses. Social media, in particular, extends what we understand as 'the public sphere', reducing or entirely removing barriers to access to policy making circles by directly showing up on their social media feed (Sosa 2021).

4.3.1.1 Astroturf: Online

Hall et al. (2019) examine the new ways civil society organisations can create networks, mobilise, and assert influence on decision-making bodies using social media. Two of the methods identified are primarily relevant for this study: proselytising (one-way advocacy) as well as facilitation and brokering. Facilitating and brokering is a method of supporter-produced advocacy where the agenda is being set by the community or supporters of an organisation, with the latter only taking the role of 'brokering' the public opinion onto the political stage. Hodzic and Bijelic (2014) find that, in reality, the process of 'brokerage' towards domestic and EU policymakers starts by drawing attention to specific issues through social media, e.g., Twitter, increasing the salience of the issue in public discourse. The idea is then further shaped in texts published on ultra-conservative blogs. As the narrative makes its way through the conservative social media bubble, it capitalises on the extensive interconnectedness of anti-gender

platforms (secular, religious, and political parties on the populist right¹⁰⁵) as well as the high potential for cross-pollination of ideas supported by the simple, straightforward, bite-sized nature of the message. These ideas are then packaged in the form of political demands which organisations like European Dignity Watch place on policymakers, "as it was the case with organised pressures to dismiss Estrela, Lunacek and Zuber reports, achieved through intensive online advocacy and petitions" (Hodzic and Bijelic 2014, 9) or advocate in intergovernmental fora either through civil society engagement or via domestic policymakers. Seven years later, in 2021, the Matic report exhibited the same mechanics of anti-gender mobilisation and the use of digital technologies' to influence political processes.

Social media takes the form of a popularity contest, and traditionalist discourses flourish online. Consistent with the populist narrative the names (e.g. the French anti marriage-equality group *Manif pour Tous*) as well as the social media presence of many anti-gender actors often projects this image, with references to representing the opinion of the silent societal majority, juxtaposed with the corrupt elite. Social media bubbles are demonstrably linked to increasing political polarisation (Quattrociocchi 2017; Sinderman et al. 2020; Barbera 2020). It also fits the trend of rejecting institutionalised sources of knowledge and the authority of universities as legitimate sites of knowledge production (Geva 2019; Verloo 2018). In line with this, key to anti-gender advocacy is the rapid spreading of misinformation via social media and private messaging platforms. As one example, the depiction of LGBTQI* people as paedophiles, a common occurrence on conservative social media, supports the discursive framing of LGBTQI* people as an inherent threat to children's safety (Strand and Svensson 2021). Both the EU and the CoE have been attacked by serious disinformation social media campaigns due to their efforts to provide comprehensive sexuality education in schools for promoting gender ideology, propagating homosexuality, or sexualising children, despite substantial

105 An analysis of Facebook posts on gender ideology over the course of a decade in Italy suggesting a strong connection between the narratives of anti-gender actors and the social media presence of right-wing populist politicians (Righetti 2021). Social media is particularly beneficial for populist, right-wing, and anti-gender messaging due to its reliance on projecting grassroots mobilisation, misinformation and disinformation, fostering moral panic, and polarisation.

104 Fake grassroots organising, see (Datta 2021).

evidence that CSE is essential for the full enjoyment of children's rights and preventing gender-based violence (Commissioner for Human Rights 2020; *ibid*). During the discussions on the EU Pay Transparency Directive to eliminate the gender pay gap, social media narratives were deployed to argue that the Directive would be discriminatory against men, accusing those in favour of the text of hate speech against men and asking why there is no directive on preventing violence against men.¹⁰⁶ Progressive civil society is often attacked in this way as well: during the #DefundIPPF disinformation campaign, European Dignity Watch falsely accused IPPF of misappropriating EU funds. In another incident, anti-gender actors mobilised 63 MEPs to write a letter to the EP President in 2020, calling for IPPF to be banned from organising events at the EP and for its staff to be removed from the Transparency Register and the organisation to be banned from EU funding based on false allegations about IPPF US illegally trading in body parts (European Parliament 2015).

Anti-gender actors are constructing a false reality through social media, creating an impression that gender equality, SRHR, and LGBTQI* rights are widely contested issues, with many people disagreeing with these rights being human rights. These impressions do not need to be true or verifiable *per se*, they just need to create and exploit confusion: it suffices to "flood the zone"¹⁰⁷ around an issue and project popular support to achieve deep polarisation to influence policy discussions at the domestic and multilateral levels (Starr 2020). While this messaging may neither sway firm supporters nor staunch opponents of gender and sexuality equality policies, it can significantly impact policymakers and delegates who are undecided. Since the salience of the issue is often lower for these policymakers, and morality politics displays significant complexity, in the absence of systematic public opinion gender and sexuality polling on gender equality and LGBTQI* rights or a coordinated progressive counter-campaign to argue the progressive view on the debate, forceful displays of mass opposition or polarisation can create a fear of constituent backlash from the policymaker's electorate or domestic constituency. At best, this could cause abstentions but at worst this could cause a policymaker to vote against progressive legislation or agreements. The extent the targets of this type of

106 Interview No. 20; 06.05.2022.

107 In reference to a 2018 quote by former Donald Trump strategist and Breitbart news editor, Steve Bannon.

advocacy are vulnerable to disinformation depends on the institutional framework and capacity to challenge or question the information, although research establishing the link between disinformation aimed at policymakers and hate crimes is sparse (Strand and Svensson 2021, 21).

4.3.1.2. Astroturf: Off-line

Anti-gender mobilisation also displays astroturfing when mobilising off-line. A textbook example can be seen in the anti-gender actors' use of the European Citizens Initiative (ECI) mechanism. Established in April 2012, ECI was created as a mechanism of directly connecting the citizens of the European Union with the EC, providing a clear, transparent way to organise at the grassroots level and advocate for policy change by gathering at least one million signatures in at least seven different member states. The ECI obliges the Commission to consider the request, and act accordingly if the request is approved (EU n.d.)

Launched in May 2012, "One of Us" was one of the first ECI submitted (Hodzic and Bijelic 2014). By late 2013, "One of Us" had successfully collected the requisite 1 million signatures in at least seven EU member states (EPF 2013), making it the second ECI ever to reach this goal. Its focal point was the director of the ECJ, who is well-connected to the French *Manif pour Tous* (EPF 2013, 4). The initiative had two main requests: the ban of EU funding for human embryonic stem cells research and a ban of EU funding for NGOs providing sexual and reproductive health and rights (SRHR) services in developing countries built on slander and linked to demands of the #DefundIPPF campaign (Zacharenko 2020; EPF 2013). "One of Us" received broad support from high profile Catholic figures including the Pope, and COMECE also threw its weight behind the initiative (EPF 2013). They made use of official support structures offered by EU institutions and member states governments (Del Pino 2020, 26).

Calls for signatures were quickly disseminated through local churches and anti-choice groups, rapidly amassing the signatures required. It is atypical in that it collected most of the requisite signature on paper, rather than online (Del Pino 2020, 25).

It is relevant to note that “One of Us” used misleading communication towards their own supporters, in “portraying “One of Us” as an initiative to ban human cloning, forced or coercive abortions and gendercide” (EPF 2013, 4) they obfuscated their attack on EU policies targeting maternal mortality through key SRH services.

The EC eventually rejected the initiative in 2014 following a public debate in the EP, as well as by the ECJ which rejected the appeal in 2019. The ECJ argued that the “censorship power held by the Commission [was] the crux of the problem”, accusing the EC of denying the right of the citizens to have their voices heard (Foltzenlogel 2019).

It is noteworthy that then Italian MEP Carlo Casini from the EPP was the originator of the initiative, who together with Jaime Mayor Oreja, then Spanish MEP, and their respective organisations *Fundazione Vita Nova* and *Fundacion Valores Y Sociedad*, also contributed 96% of the initiative’s EUR 160.000 budget. Having been rejected under ECI, “One of Us” transformed itself into a pan-European federation for anti-gender advocacy, holding its second annual forum in Budapest in 2017 in cooperation with the World Congress of Families and under the patronage of Hungarian President Viktor Orban. With the amount of money invested into the signature collection, the direct participation and endorsement of the Vatican, and the fact that the two people who essentially financed the campaign themselves were also MEPs at the time, “One of Us” was far from a grassroots, citizen’s initiative (Zacharenko 2020; Hodzic and Bijelic 2014; EPF 2013). Instead, it perfectly demonstrates the way anti-gender campaigns portray themselves as speaking on behalf of the majority and coming from the grassroots, while, in fact, being controlled top-down by deeply entrenched elites using misinformation and capitalising on well-intentioned religious sentiment to gain substantive support on policy issues.

Astroturfing on- and off-line illustrates how institutional pathways for civil society participation in multilateral fora are being flooded by actors purporting to speak on behalf of the grassroots, advocating for the rights of the marginalised while seeking to implement a strategic goal of entrenching international norms exclusive of fundamental rights for women and LGBTQI* people. In the next section, we discuss

how anti-gender actors also seek to limit the access of feminist civil society in policy spaces and examine the challenge of responding to these developments: ensuring civil society participation while developing structures to understand the intent, financing, and networks behind actors advocating in multilateral spaces.

4.3.2 Limiting institutional space, disinformation, and harassment

Other strategies of anti-gender actors include the depoliticisation or dismissal of a norm promotion effort by a progressive actor based on an extremely narrow reading of the rules of procedure. By dismissing the issue’s relevance, thereby creating a hostile environment for the promotion and advancement of progressive norms. They also demonstrate a skilled use of misinformation and disinformation as a strategic tool in forming or influencing public opinion through simple messaging reliant on simplified juxtapositions, fear, and othering framed in “absolutes, often using general principles of family values that are attractive to most people, but which are then adjusted to the [anti-gender] agenda” (Hodzic and Bijelic 2014, 10).

One way that this is done is contesting human rights in technical terms: a mechanism of depoliticising anti-gender opposition that can be linked to the socialisation of anti-gender actors to the modes of operating in multilateral spaces. Rather than involving open conflict by contesting the norm itself such approaches implicitly challenge the norm’s meanings, aims, or grounds for being (Elomäki and Ylöstalo 2021; Drubel and Mende 2022) through references to jurisdiction, competence or issue relevance, or framing norms as driving a hidden agenda, thereby constructing the norm as functional means to an end rather than a valid norm in itself (Sanders and Jenkins 2022). It can also simply mean the dismantling of the implementation mechanisms associated with norms, effectively emptying gender policies of impact and practical relevance (Roggeband 2018, 14). It often relies on a very narrow reading of the regulation and constitutes a misuse of procedural rules to stifle

debate as well as harass and silence progressive voices.

Following the Commission's rejection of the "One of Us" ECI, representatives of the initiative constructed a narrative that the decision was political and not grounded in legal facts (Mos 2018, 334), laying the groundwork to (unsuccessfully) appeal the decision at the ECJ. At OSCE, for instance, gender issues are routinely dismissed using the frame of protecting the mandate of the organisation and the principle of consensual decision-making: gender issues are then constructed as ideological/forced and/or unimportant. Whenever SRHR topics come up in the European Union, anti-gender actors invoke the principle of subsidiarity, which limits the EU's legislative competence in healthcare, incorrectly interpreting this to also mean that the EP should not even be able to discuss the right to abortion (Zacharenko 2020, 61). Such objections often make use of blue-card interventions, a mechanism established to make plenary debates livelier. They are often misused by anti-gender MEPs to express opposition to the term 'gender', argue violation of the principle of subsidiarity¹⁰⁸, as well as to harass women and feminist MEPs. The latter is a function of the decision by the ECJ to protect the right to express offensive views in blue-card interventions in the name of freedom of expression (Kantola & Lombardi 2021b). Outside of the blue-card mechanism, we can observe coordination among anti-gender MEPs to use the function of parliamentary questions to the Commission to exert pressure: during the smear campaign against IPPF, over the course of three months in 2015, 13 MEPs raised seven separate but functionally identical parliamentary questions concerning the EU's development funding going to the organisation.

Social media is also a channel for direct attacks and harassment. Pro-choice MEPs, and particularly women, are often compared to Nazis or targeted with homophobic attacks by the anti-gender movement (Zacharenko 2020, 40). One MEP interviewed for this study reported that she sees these attacks as attempts to silence her and intimidate and scare her to leave public office, elaborating that whenever she posts anything related to gender in the broadest sense, her comment section is almost always flooded with hateful comments, insults, and sometimes

even direct threats.¹⁰⁹ Even though these attacks were entirely fabricated based on false information, they still spread rapidly through social media, and as we have argued before, once these narratives are out, they make their way into mainstream discourse where it becomes extremely difficult to counter them with facts in a post-truth world (EUDisinfoLab 2021; Karaman 2022).

Ways forward - the FEMM Committee

MEPs can usually be full members of only one Committee and substitute members in a second one. Committees must also reflect the overall political makeup of the EP. The FEMM Committee having neutralised status means that MEPs can be a full member in FEMM, in addition to being a full member in a second committee and a substitute member in a third one. Consequently, it also does not have to directly reflect the political makeup of the EP as a whole - the political leaning of the FEMM membership is slightly further to the left compared to the EP overall (Ahrens 2022). However, it should be noted that, while many of the members are gender equality champions, many conservative and anti-gender MEPs join highly motivated to influence discussions (Ruzza 2015).

Nevertheless, the FEMM committee, along with the LGBTI Intergroup has been one of the driving forces behind the Parliament's progress on gender equality. In a power analysis of the EP, Ahrens et al (2022) find the FEMM Committee has power to set the terms of the debate on gender equality but lacks power to push its conclusions through due to limited salience of the topic. Populist and conservative actors have sought to suppress the FEMM committee in the past, though it appears that these efforts have ceased for now. However, the more conservative forces within the committee have obstructed the traditionally to stable reciprocal relationship between the FEMM Committee and progressive civil society, pushing progressive actors to innovate and adapt – much of the exchange now takes place in informal settings which also means that anti-gender voices can be excluded.

108 Interview No. 21; 11.05.2022.

The example of the FEMM committee illustrates that when the anti-gender threat is taken seriously, there are mechanisms available for informal coalition building between progressive delegates/MEPs and pro-gender civil society through engagement in informal spaces. However, the need to resort to such mechanisms underlines the impact anti-gender non-state actors have had on civil society participation in multilateral spaces. This raises the question of how to ensure civil society access while limiting disingenuous participation seeking to undermine the principles multilateral institutions are meant to protect. The following section explores this question.

4.3.3. Ensuring access vs limiting disingenuous participation

When these groups are perceived as holding equally valid viewpoints, multilateral institutions are vulnerable to fragmentation and, eventually, fracture. The example of the impact of such contestation on the Human Rights Council is illustrative. While the challenge applies to all institutions – it holds especially true for human rights bodies, which rely on expert and civil society input. We highlight above that human rights frameworks are constantly evolving and being re-shaped. Ultimately, the outcome will depend on how resilient these institutions are to anti-democratic and anti-universalist ideas of human rights. If they are to maintain their dynamic, leading role in human rights norm development, they must be permeable, open, engage with civil society, and listen to the social movements. Indeed, closing off participation to fend off anti-gender interventions risks slowing down the evolution of human rights protections.¹¹⁰ There are practical challenges to the tension between maintaining robust mechanisms for civil society input not contingent on member states in a context of shrinking space for civil society and avoiding institutional fracture by preventing anti-democratic sentiment. Firstly, blanket bans and excluding anti-gender actors is both inefficient and conceptually flawed – it could

be argued it is even anti-democratic in itself. Giving powers to a bureaucratic body to decide which interest groups are allowed to advocate is potentially dangerous and arguably anti-democratic in itself. In the words of an MEP interviewed for this study, we: “fight them with legal tools. Blanket bans on anti-gender actors without a legal basis is not just inefficient, it will have the contrary effect - they are experts on using the tools of democracy to attack democracy”.¹¹¹

Anti-gender actors are particularly difficult to identify not least because of the intentional self-framing as defenders of democracy through references to representing the majority and the inclusion of terms such as freedom or rights.¹¹² Increasing research efforts have been made to map the networks and alliances to which these actors belong to identify anti-gender lobbying efforts and clear through intentional obfuscation. For instance, European Dignity Watch is an organisation accredited to the EU and a driving force in organising letters sent to EU officials and MEPs to protest SRHR and pro-LGBTQI* initiatives at the EU level (European Humanist Federation, n.d.). Their website, however, reveals nothing of their mission, with a brief description of the human rights framework and a listing of their partners, which include online casinos and “Ukraine brides agency” (European Dignity Watch, n.d.). Currently, progressive actors are limited to anecdotal evidence in most cases. One respondent’s rule of thumb to determine if a civil society organisation at OSCE is an anti-gender actor is to check if it is supported by the Holy See.¹¹³

The EP has a Transparency Register, requiring transparency on interests pursued, by whom, and with which budget. The CoE Conference of INGOs has a Code of Conduct requiring adherence to the values of the CoE and prohibiting sexist and discriminatory behaviour (Conference of INGOs 2019). Bureaucrats in multilateral institutions must be able to recognise the intentions of civil society actors wishing to enter and influence policy discourse, and they need to develop the expertise to see through the appropriation of human rights nomenclature. Often, this is not the case, and there is reliance on progressive civil society to act as a warning system.

111 Interview No. 19; 06.05.2022.

112 Interview No. 11; 07.04.2022.

113 Interview No. 18; 05.05.2022.

110 Interview No. 11; 07.04.2022.

However, resource-strapped progressive civil society cannot always react because it is unable to keep up and consistently, systematically monitor anti-gender actors, not least because they have direct connections with policymakers or are supported by member states in multilateral institutions, making formal mechanisms of access only part of the issue. “People who tend to approach [progressive MEPs] tend to be on the side of inclusivity, so that is who we usually talk to. During the Catholic Church’s campaign [against the Estrela report] they did not go to the women in the FEMM committee, they went to [conservative] party leaders”.¹¹⁴

An analysis of attendance and messaging in the various official fora available to civil society in the European multilateral space would likely reveal a pattern of the same organisations sharing the same anti-gender messages. Looking at the budget and sources of funding of the different lobby organisations would also help illuminate both their networks and purpose. While some of this data is available, it is not easily accessible and anti-gender actors benefit from the fragmented landscape of NGO financing transparency regulations in Europe (Datta 2021, 30). Even for large actors such as Transparency International, it is difficult enough to collect and process data to track lobbying activities at the EU level, separating out private sector and NGO interests; it would take much more time to break civil society further down into categories to provide disaggregated data on specific policy orientations and interests. However, with the proper mandate, training, and funding, it can be done.¹¹⁵

Complicating things further, in line with their anti-democratic tendencies, anti-gender actors often choose misleading names that conceal both their objectives and background, or their key agents work disguised as representatives of various CSOs, foundations, or businesses (Hodzic and Bijelic 2014, 10). Family Watch International operates as the Global Helping to Advance Women and Children for the purposes of its ECOSOC Consultative Status at the UN (Shameem 2021, 117). Poland nominated Ordo Iuris vice-president Tymoteusz Zych to the European Social and Economic Committee¹¹⁶ listed as a representative of a different organisation. Following civil society warnings, the LGBTI Intergroup at the EP re-

acted¹¹⁷ and 34 MEPs signed a letter to the EESC Diversity group regarding the nomination. While an inquiry was launched, there seems to have been no result. The nomination of members to the EESC remains a competence of member states, and thus he remains to this day a member. Another joint MEP letter was sent to the EC in 2020, requesting that Ordo Iuris be removed from the EU Transparency Register for violations of the Code of Conduct by obscuring “both its links to malicious foreign actors, as well as its true goals and activities” (Mycielski 2020). At the time of writing, Ordo Iuris continue to enjoy the privileges of their registration in the EU Transparency Register and are systematically active in EC consultations on gender issues, and lobbying Members of the EP.

As discussed in Chapter 3, unlike most other multilateral bodies in Europe, the CoE is values-based in the sense that its values are legally enforceable. There are clearly established mechanisms for civil society participation through the conference of INGOs currently consisting of over 300 organisations. INGOs wishing to participate in the processes of the CoE must adhere to the minimum standards of the Council as well as the requirements set out by the Conference of INGOs. Among other things they must “reinforce gender equality mainstreaming in the work of the Conference of INGO with respect and implementation of the Strategy of Equality 2018-2023 of the CoE (Conference of INGOs of the Council of Europe 2018). Such references to gender equality make the CoE stand out from other multilaterals. Perhaps surprisingly, relative to the geographic area its mandate covers, there is little engagement by civil society with CoE structures. This could partially be due to the lack of knowledge on the CoE among civil society; its focus on developing international law and the required legal knowledge to participate constitutes a barrier of entry.¹¹⁸ Moreover, the Conference of INGOs only admits organisations that are active in at least five member states. We discuss above the way anti-gender actors often use misleading names or obfuscate their true activities and intentions and many conservative actors cannot be immediately seen as violating the CoE’s standards as they do not appear to act against gender equality or LGBTQI* rights. They use loopholes and exploit capacity gaps to position themselves to participate and influence

114 Interview No. 25; 14.06.2022.

115 Interview No. 29; 12.10.2022.

116 Interview No. 19; 06.05.2022.

117 Interview No. 2; 18.03.2022.

118 Interview No. 7; 25.03.2022.

the Council.

In sum, anti-gender actors, through the massive polarisation of discourse and systematic opposition of the inclusion of 'gender' or LGBTQI* rights in documents and debates at the multilateral level have caused an increased tendency by progressive actors to either self-censor or resort to strategic ambiguity in order to move negotiations along. We discuss in the beginning of this chapter how dangerous this is for protecting the rights of marginalised groups, which depend disproportionately on multilateral norms to be able to claim rights at the national level. We also find evidence of increasing delegitimisation of expert bodies and international courts, using the example of the ECtHR. It is a similar mechanism of dismantling protections since jurisprudence by international bodies is an essential element for pushing states further towards realising human rights for all. Finally, anti-gender non-state actors have fundamentally redefined the role and mechanisms for participation for civil society in multilateral fora. They have used pathways traditionally used by advocates for the rights and positions of the politically marginalised to advocate for the interests of those already in power, i.e. for patriarchal values. They claim mass support for their positions, yet they are disconnected from the grassroots, meaning they engage in astroturfing. They use misleading names which capture human rights and democratic language and terminology. All of this raises serious questions about how to maintain civil society participation as a necessary element of multilateral norm development while ensuring that decisionmakers in these spaces are adequately informed as to the interests and alliances of actors seeking to dismantle fundamental protections for women and LGBTQI* people.

5. CONCLUSIONS

With an evident shift away from human rights, norms, and rule-based global governance towards a much more realist system of “managed competition” between states (Lupel 2019), multilateralism is in crisis. Consider nations such as the USA, Russia, or China ignoring global commitments to collaboratively address the climate crisis (Sandler & Goetz 2020) or the swathe of withdrawals from the Istanbul convention. Challenges over responding to forced migration flows, the Covid-19 pandemic, a secretive EU Council, and growing Euroscepticism are raising questions about the resilience of the European project. Concurrently, anti-gender actors actively seek to empty the meaning of existing norms on gender equality and LGBTQI* rights or advance alternative conceptualisations that justify the marginalisation of women and sexual minorities. Multilateralism is a cornerstone for the protection of the rights of marginalised groups since it is an essential backbone for civil society advocacy at the domestic level and provides a crucial ally to advocates for pressuring states to acknowledge and defend human rights for all. Mounting rejection of its rule-based international order has effects beyond discourse and symbolism. It gives states the space to ignore commitments they have acceded to and abandon obligations to ensure fundamental rights to their citizens. Equal rights for women and LGBTQI* persons are being curtailed domestically and internationally as democratic oversight and participatory institutions are being dismantled with real-life, material effects across the European context.

Multilateral institutions in Europe, as elsewhere, are a product of their time in two ways. Firstly, they are (structurally) constrained by the geopolitical context that created them. OSCE is currently paralysed due to its consensus voting rule. The United Nations system, and the human rights framework, in particular, continue to reflect colonial knowledge production, which insufficiently integrates perspectives from the Global South. It also reflects the Cold War era’s divergent focus on civil and political rights by the North/West and social and economic rights by the South/East and less a focus on human rights for all. The EU does not have legal means to enforce or oper-

ationalise its fundamental values among its member states because it was assumed that this is a matter to be dealt with in pre-accession negotiations and not expected to be a problem after accession. This structural set-up has increasingly translated to challenges in the EU’s ability to enforce respect for human rights for all across its member states. Secondly, multilateral institutions are responsive to political dynamics, liable to change, towards or away from a more robust, universal understanding of human rights. Progress is not teleological. With the sustainability of progressive feminist policy gains being in question globally, multilateral spaces can be venues for reversing norms if anti-gender actors dominate the discussion (Sandler & Goetz 2020). The UNHRC is increasingly adopting resolutions displaying mutually incompatible understandings of human rights. The EP has been seen as a gender champion but increasing contestation has questioned this reputation. The 2024 EP election is likely to be more politicised than any before as anti-gender, exclusionary populist, Eurosceptic forces make inroads in domestic politics across the EU.

Anti-gender actors are everywhere in the multilateral system, as state representatives or MEPs as a result of the growing anti-gender mobilisation in Europe, or non-state anti-gender actors. There are anti-gender policymakers disproportionately facilitating or actively espousing the “gender is imposed on states by international organisations or a minority of actors” narrative. Then there is the high degree of engagement by anti-gender state and non-state actors alike whenever gender or LGBTQI* issues come up. These forceful displays of mass opposition or polarisation simultaneously exploit pre-existing societal beliefs and exaggerate the degree of contestation of the issue. Within communities, across many contexts in Europe these issues are not so contested – the majority of Europeans are in favour of the right to abortion, for example (Pew Research Center 2018) - but they are also not necessarily understood. Skilfully using disinformation and purporting to be grassroots, anti-gender mobilisation is made starker by its catch-all opposition to ‘gender ideology’, making gender equality and LGBTQI* rights ‘feel foreign’.

They are adept at venue shopping both horizontally and vertically and use the multi-polar European multilateral space to advance their policy agenda. As a result, when it comes to delegates who may lack knowledge on the issue or the understanding of its relevance, the anti-gender opposition causes intimidation or confusion and causes them to at best abstain, and at worst vote against progressive legislation or agreements. Even for progressive actors in policy spaces, the determined opposition results in fatigue and self-censorship. We discussed how policy areas not traditionally associated with gender issues, such as trade, migration, or culture exhibit a higher degree of successful roll-back of language compared to policy fields where the delegates and staff have a stronger background in gender issues. At the same time, multiple respondents for the study suggested that there is a need to find a way to be principled in the defence of equality but also to be less confrontational and more nuanced.

These developments also impact the staff in the secretariats, which can go in both directions. On the one hand, there is anecdotal evidence of progressive language being blocked by heads of departments or managers to pre-empt contestation or given the importance of political correctness in these spaces, there is fear of using the wrong terminology. On the other, actors from secretariats who are principled in their support of equality do use the space within their mandates to defend gender equality and LGBTQI* rights but are often limited to 'holding the line' and can only advance gender equality when there are no cost implications to the measures. When secretariats attempt to push a more progressive agenda, they face backlash and are framed as the enemy. We also observe this with UN agencies delegitimised by their association-by-funding from the West, particularly as they promote SRHR and comprehensive sexuality education.¹¹⁹ Budget negotiations are used as a strategic tool by anti-gender actors to circumscribe the agenda and mandate of multilateral insti-

119 UN agencies are frequently lumped together with Western donor nations and NGOs as actors feeling "compelled to press their enlightened views on the rest of the world" (Melton and Mdivo 2021; FWI 2021) and said to be part of a group systematically pursuing an agenda, primarily accomplished through CEDAW and the Convention on the Rights of the Child (Black 2019). The purported agenda seeks "to dismantle the traditional family [and] promote sexuality to children" (Allen 2020), in conflict with local cultures (Melton and Mdivo 2021) as the UN agencies increasingly advocate a more inclusive approach to gender and sexuality.

tutions, bearing a significant impact on whether and how gender equality and LGBTQI* rights can be addressed.

The socialisation of anti-gender non-state actors into the European multilateral arena allows us to draw on approaches to understanding civil society activism in such spaces and analyse their impact. Anti-gender non-state actors require a rethinking of how the role of civil society in multilateral fora is understood. While civil society activism in policy spaces has traditionally advocated for the interests of the politically marginalised, anti-gender actors, as part of a top-down, organised, strategic movement, using astroturfing to claim a connection to the grassroots and framing cis-het-patriarchal values as the underdog, fundamentally represent conservative interests have always had representation in top political circles. This development poses a serious challenge, especially if demands for rights representation by marginalised groups continue to be seen as identity politics instead of a question of human rights.

We need to secure robust mechanisms for civil society to participate in multilateral institutions, in line both with the relevance of multilateral norms for protecting the rights of marginalised populations and with a view of the shrinking space for civil society in domestic policy arenas globally. However, if multilateral discussions on human rights are to function, there cannot be assumed moral equivalence between anti-gender and human rights for all positionalities. Anti-democratic forces which are in opposition to the core principles of the multilateral institutions, often participate in bad faith. Responding to this challenge is exceedingly difficult without risking violating freedom of expression, conscience, or association. Clear principles, more awareness raising, and background research on civil society are needed. Exacerbating the challenge further, anti-gender actors often use misleading names or obfuscate their true activities and intentions consistent with their surface-level adoption of freedom, democracy, and human rights discourse. Many anti-gender actors are not immediately visible as such. Even when there is a demonstrable violation of regulations, enforcement mechanisms leave much room for improvement, as demonstrated by the example of the continued inclusion of Ordo Iuris in the EU Transparency Register. Enforcing objective requirements such as transparency as to the funding and intentions of organisa-

tions wishing to influence policymaking must be strengthened.

Crises can be a catalyst for change. To use these junctures to advance human rights for all, governments who have this goal must rethink how they engage in the multilateral arena. Gender, instead of a sectoral issue, must be treated as an essential part of democracy. Democracy is a solid ally for feminism, while feminism is essential to a robust democracy. Gender equality, LGBTQI* rights, SRHR, and CSE, are often very salient and complex issues and they resonate with deeply held societal beliefs about patriarchal gender roles. Through the discursive linkage to the preservation of culture and national identity, anti-gender actors successfully mobilise the public against such societal progress.

The situation is serious, but the outlook is not necessarily bleak. Instances like the majority acceptance of the mandate for the IE-SOGI three times in a row demonstrate the ongoing support of universal human rights and the role of multilateral agencies (Kirby 2021). The EU's Gender Equality Strategy and LGBTI Equality Strategy are encouraging signs. In the absence of Russia, the CoE is finally able to advance within the main budget of the Organisation, its work on LGBT and intersex issues. The contestation of the Istanbul convention is mobilising feminist alliances for gender equality across the CoE region. By engaging meaningfully, states and political actors who passively or instrumentally reject the advancement of women's rights and LGBTQI* rights can be swayed. Addressing thematic challenges from a Southern perspective in UN for a is one important step in this direction (Rathgeber 2013).

This study's top-level recommendation for governments aiming to promote human rights for all is to develop strategic intent in responding to anti-gender actors seeking to promote exclusionary conceptualisations of human rights and take bold political action to realise this intent. This entails recentring civil society in norm development, strengthening technical bodies, mainstreaming human rights and gender equality, developing proactive communication campaigns, rebuilding trust in multilateralism by being consistent and holistic, and filling critical knowledge gaps on anti-gender contestation in other fora as well as societal attitudes and reasons for supporting the exclusion of women and LGBTQI* persons.

Finally, a message of encouragement to civil society: Feminist activism is critically underfunded. Issues that divide feminist movements are exploited and instrumentalised by anti-gender actors posing serious challenges to building solidarity. Continuous processes of exclusion and harassment can lead to understandable feelings of dejection and fatigue. But feminist civil society is not outnumbered. It speaks on behalf of the majority, the marginalised and oppressed. If those advocating for human rights for all withdraw from multilateral spaces, anti-gender narratives can dominate the discussion. Policymakers and delegates are then more likely to misjudge and underestimate the vital importance of intersectional approaches to policy development.

6. RECOMMENDATIONS

While this study has discussed the impacts of anti-gender actors on domestic political discourse, intergovernmental negotiations, multilateral secretariats, and civil society participation, it is governments who have the responsibility to protect and advance human rights. They have ultimate decision-making power and the funds to make meaningful changes. Feminist civil society can and should do its part in advocating for a robust human rights framework. However, it cannot be relied on to fill the gap and singlehandedly maintain the integrity of the human rights framework with governments not living up to their responsibility. This is not sustainable. Therefore, the following section of recommendations is targeted at governments seeking to stand in defence of human rights for all. Some of the below recommendations are overarching and apply to all multilateral institutions, while others are institution specific.

The top-level recommendation for governments aiming to promote human rights for all is to:

Develop strategic intent in responding to anti-gender actors seeking to promote exclusionary conceptualisations of human rights and take bold political action to realise this.

Governments committed to human rights for all should cooperate with feminist civil society in world-building and develop a sustainable vision of the future that demonstrates serious engagement with all aspects of human rights and human development, not just recognising rights on paper. This requires developing long-term strategies to operationalise this vision. This includes, but is not limited to, recentering civil society and supporting their participation in policy processes; strengthening secre-

tariats as well as monitoring bodies and institutional safeguards; mainstreaming human rights and gender equality throughout the foreign and diplomatic service; engaging in clear and consistent communication to counter disinformation and polarisation; rebuilding trust in multilateralism and strengthening its rule-based nature; and filling critical knowledge gaps on anti-gender contestation in other fora, societal attitudes and reasons for supporting the exclusion of women and LGBTQI* persons, and the funding and networks advancing anti-gender ideas.

1. Strengthen secretariats and bolster monitoring and institutional mechanisms ensuring adherence to fundamental principles

Monitoring mechanisms with no enforcement power facilitate the violation of fundamental principles with a sense of impunity. This can encourage further erosion of the implementation of non-discrimination legislation based on gender and sexual orientation, as well as more general democratic backsliding and rolling back the rule of law. Strengthening secretariats enables them to act as bulwarks in the defence of the founding values and principles of the organisations.

■ Advocate for the European Commission to have more robust mechanisms to respond to member states' violation of fundamental values such as the Conditionality regulation suspending payments or issuing financial corrections to protect the EU budget (European Commission 2022, EUCrim 2022);

■ Advance negotiations on the proposed horizontal equality directive to ensure equalisation of applying the non-discrimination principle across all grounds;

- At the EU level, in line with calls by the EP, support the establishment of a monitoring procedure of member states' compliance with Article 2 TEU through the Agency for Fundamental Rights (FRA) or a 'Copenhagen Commission';
- Review political party financing rules at the EU level to ensure that political parties in opposition to Article 2 TEU are not able to receive funds;
- Similarly, support EC staff to develop capacities to identify recipients of EU funding who are anti-gender actors and who may violate the fundamental principles of the EU and ensure a transparent and rules-based approach in the response;
- At the CoE, support an increasingly robust monitoring procedure in case of serious concerns about democracy, human rights, and the rule of law by the Parliamentary Assembly (PACE) (Ailincai 2021)
- Support calls by the EP and CJEU to lift make the deliberations in the EU Council more transparent to the citizens to address perceptions of democratic deficit and respond to Eurosceptic narratives;¹²⁰
- At the EC, encourage and support the capacity building of Commission staff on fundamental rights and how they can be impacted in concrete cases, to support them in identifying member state practice that violates non-discrimination guidelines;
- Encourage and support expert bodies in the multilateral system to develop more in-house capacity on gender and intersectionality. This may also take the form of seconding gender experts to these bodies. Make use of all extrabudgetary mechanisms available, such as voluntary contributions or seconded positions, to achieve this.

2. Mainstream gender equality and human rights throughout the foreign and diplomatic service

¹²⁰ See also the EP, CJEU and civil society organisations such as Transparency International calling for more openness in Council deliberations (Schumann et al. 2020).

Intergovernmental bodies such as the Council of the European Union, COHOM, or OSCE are more susceptible to polarising anti-gender narratives. This carries the risk of iteratively redefining the human rights framework as exclusive of fundamental rights for women and LGBTQI* people. Protecting sexual and reproductive health rights (SRHR), LGBTQI rights, or gender equality unequivocally fall within the framework of human rights law and nothing new is being invented or promoted. Institutionalising gender mainstreaming and internalising the key tenets of the human rights framework would firmly embed this knowledge among diplomats and support staff, facilitate the defence and advancement of human rights for all.

- Institutionally mainstream human rights and gender equality on all levels of the foreign and diplomatic service, beyond the specific units traditionally responsible for these topics. This requires:
 - Training of all staff and delegates, along the entire institutional hierarchy and horizontally across policy areas, to understand the vital importance of maintaining agreed language on gender equality as a vital part of democracy, and
 - Ensuring at a minimum a foundational understanding of gender sensitive language with an eye towards developing staff training on the benefits of gender transformative approaches;
 - In cooperation with feminist civil society, develop toolkits or accessible language guides on agreed language to respond to key frames by anti-gender actors, similar to what anti-gender actors such as Family Watch International have done on countering CSE (FWI 2021);
 - Seek to understand in what ways negotiations in fora not accessible to civil society and the public, such as the Council of the European Union, reflect anti-gender narratives and develop strategies to counter them;
 - Advocate for reforming the OECD DAC mark-

ers towards a stronger intersectional framework to prevent them from becoming a box-ticking exercise and ensure that development funds are allocated to truly gender-transformative projects.

3. Engage in proactive, clear, and consistent political communication, countering disinformation

The extent the targets of polarising disinformation are vulnerable depends on the institutional framework and capacity to challenge or question the information. In line with the strategy of anti-gender actors to flood the discourse with confusing misconceptions about the nature of gender equality, SRHR, CSE or LGBTQI* rights policies, actors seeking to advance human rights for all need to respond appropriately and consistently. Building on the previous two clusters of recommendations, proactive, clear, and consistent communication can dispel myths and disrupt misinformation.

- Develop holistic, all-of-society campaigns on the relevance of gender equality and the human rights framework;

- Proactively engage with civil society and support training to communicators and grassroots organisations to counter misleading narratives and develop a better understanding of what ‘gender’ truly entails: social hierarchies and inequality are not natural and immutable (Sosa 2021);

- Learn from the examples of the Estrella and Matic reports at the EP and engage in consistent preparation of the supporters, whether in the EP or intergovernmental fora. There is likely to be harassment and disinformation surrounding landmark texts on gender equality, SRHR, and LGBTQI* rights, and preparation makes a significant difference. This could take the form of crisis management plans, gender fact sheets, online gender-based violence and

harassment action plans, and communications strategies. Utilise cross-learning and institutional sharing.

- Learning the example from the CoE on the Istanbul Convention, develop strategic communication plans to explain the contents of treaties and conventions.

4. Rebuild trust in multilateralism, and build new, broader alliances

Anti-gender actors have exploited the challenges of operating in a multilingual, multilateral framework to frame human rights for all as a radical, foreign agenda. Moreover, the agenda of anti-gender actors to restrict and roll back the rights of women and LGBTQI* people at the multilateral level capitalise on pre-existing tensions of the multilateral framework. A consistent, holistic approach to the rule-based multilateral order is needed to strengthen it and ensure human rights for all.

- Be consistent with applying the human rights framework and be prepared to call-in states when they fall short, regardless of geopolitical considerations, seeking deeper conversations of how better cooperation could be established;

- At the same time, avoid inconsistent instrumentalisation of human rights and the perception that they are something to be called upon in “other” places - e.g. the EU response to Hungary and Poland as compared to calls for Middle Eastern countries to respect human rights and gender equality;

- Ensure that definitions are provided to concepts such as gender equality or LGBTQI* rights, which specify that these are not new notions in the existing framework, during negotiations and in finally agreed texts. Pre-empt the misuse of multilingualism to oppose human rights for all through finding culturally responsive ways to do this advocacy. This can be achieved by conscious engagement with the understandings different cultures have of gender equality

and LGBTQI* identities, embedding advocacy for human rights for all in context-specific frames;

- Support the indivisibility principle of human rights and maintain equal focus on economic, social, and cultural rights as on civil and political rights. A holistic approach to the rights agenda, as in the SDGs suggests that states, which usually engage reticently in human rights for all like Russia or the G77, may be more likely to be involved;

- As part of engaging with states ‘on the fence’, engage in strategic conversations with all delegations on all resolutions at the UN Human Rights Council and General Assembly. Make every effort to ensure that members of all regional groups are systematically consulted (Agostini 2022). This supports the drafting of texts with a broader support base;

- Advocate for the EU to rethink its strategies as an actor in its own right in the multilateral arenas such as the UN, which may facilitate the building of new, larger coalitions to stabilise the multilateral order.

5. Support the filling of crucial knowledge gaps.

Understanding the dynamics and background of the contestation of women’s rights, SRHR, CSE, and LGBTQI* rights at the multilateral level are crucial to advancing human rights for all. Grassroots activists and civil society have extensive networks that can fill these knowledge gaps relying on their extensive networks and experience. Governments seeking to promote human rights for all should fund and support further, more comprehensive, research efforts that:

- Analyse voting patterns at the Human Rights Council and UN General Assembly to determine which formulations in resolutions and treaties of advancing human rights for all encounter resistance and why. As an example, see the analysis of voting behaviour of the Africa Group at the HRC by Agos-

tini (2022). Such an analysis is a crucial step to developing strategies to engage with potential allies in advancing human rights for all;

- Conduct a comprehensive analysis of the different bodies and agencies of the United Nations system to determine the impact of exclusionary narratives. A detailed analysis of all elements of the UN system is beyond the scope of this study. However, understanding the impact of anti-gender actors, in particular on agencies whose mandate does not explicitly deal with ‘gender’ is essential, considering the strategy of venue-shopping and referring to regressive language established in more permeable institutions;

- Continuously monitor all multilateral institutions (resolutions, reports, submissions by NGOs) for key frames used by the anti-gender movement, such as: ‘LGBTQI* rights are an external imposition’ or ‘the right to abortion is incompatible with the right to life’. This will allow for better tracking of the impact of anti-gender actors in real time and facilitate a more rapid, strategic response;

- Understand how norm development in other regional bodies such as the OAS, African Union, or ASEAN is being affected and through comparative analysis, draw conclusions as to the factors which facilitate or inhibit anti-gender contestation;

- Build on the breadth of comparative knowledge to understand the differential behaviour of individual states in different multilateral fora on similar policy issues. This can improve understanding which states passively support or oppose SRHR, CSE, and LGBTQI* rights and may be open to changing positions;

- Investigate why certain human rights treaties such as CEDAW have had a more substantial demonstrable effect on improving state behaviour than others and apply these findings when formulating future agreements;

- An analysis of attendance and messaging in the various official fora available to civil society in

the European multilateral space would likely reveal a pattern of the same organisations sharing the same anti-gender messages. Investigate the sources of funding of the different anti-gender lobby organisations to illuminate both their networks and purpose. This will provide a clearer overview as to who is participating in discussions and shaping policy, and on whose behalf;

■ Understand societal attitudes on the national level - what concerns and misconceptions drive people to oppose gender equality, SRHR, CSE, and LGBTQI* rights? To what extent are they related to valid socio-economic concerns? With a view of the relevance of domestic politics, this knowledge can support the development of policies and communication campaigns that respond to the real needs of people, removing some of the appeal of populist, catch-all narratives.

6. Recentre civil society input in policy processes and support their participation

Feminist civil society has been instrumental in developing norms to protect human rights for all and strengthening the human rights framework with their advocacy and expertise. Yet, it remains chronically underfunded¹²¹ and faces restricted access to meaningful consultation and advocacy venues, either formally or informally (see Chapter 4). Issues that divide feminist movements are exploited and instrumentalised by anti-gender actors posing severe challenges to building solidarity. If feminist civil society cannot engage, anti-gender actors will be the only non-state voice in multilateral discussion on gender equality and LGBTQI* rights.

■ Proactively organise informal spaces for con-

¹²¹ According to AWID and ILGA-Europe, 48% of women's rights organisations globally were operating on annual budgets of less than USD 30,000 in 2020 and nearly third of 287 LGBTQI* organisations surveyed in Europe and Central Asia did not have any access to external funding in 2018 (Denkovski and Kreitlow 2021, 6-7).

sultation with feminist civil society and compensate activists for their time and expertise as a short-term measure;

■ Provide space for feminist civil society input in intergovernmental meetings and compensate activists for their time and expertise as a short-term measure;

■ Develop long-term and easy-to-administer mechanisms to fund feminist civil society, ensuring sufficient resources to match the participation of anti-gender non-state actors in multilateral fora as a long-term measure;

■ Specifically, fund efforts by feminist civil society to build broad, intersectional coalitions to counter the instrumentalisation of internal divisions within the feminist movement by anti-gender actors. This includes efforts of gender mainstreaming in human rights and democracy civil society organisations;

■ Secure robust mechanisms for feminist civil society participation in multilateral fora as a long-term measure. This entails advocating for broad consultative grassroots CSO fora with meaningful mechanisms for input in negotiations, without other non-state actors such as the private sector, philanthropy, and private foundations with CSOs;

■ Develop institutional guidelines for including representatives of feminist civil society as part of delegations and negotiating teams as a long-term measure;

■ Make legal analysis and international jurisprudence more accessible to non-legal oriented civil society by supporting increased knowledge and accessibility of judicial and monitoring bodies such as the ECtHR or CEDAW Committee. For now, for instance, Ireland is the only country funding ECtHR webcasts (DFA n.d.).

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8. LIST OF RESPONDENTS

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