

THE PRACTICE OF PROTECTING WOMEN'S SOCIAL RIGHTS: THE EXPERIENCE OF ITALY

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Abstract

The article examines the history and evolution of Italian legislation aimed at ensuring equal rights for women and men, starting from 1902, when the first law was passed limiting the working hours of women and children and establishing mandatory maternity leave after childbirth. The article aims to review key cases brought before the European Court of Human Rights (ECtHR) regarding Italy's violations of women's social rights. These cases demonstrate that even with a developed legal framework, the Italian legal system often fails to provide effective protection for women's rights, leading to the intervention of the ECtHR to restore justice. The article analyzes Italy's progress in ensuring the protection of women's rights at the legislative level and guaranteeing equal social rights for women and men. It highlights that in recent decades, efforts have been made in the country to reduce the gender gap in the labor market and strengthen legislation against violence, including domestic violence against women. The article aims to assess the effectiveness of legislative and practical measures taken by the Italian authorities, analyze the impact of ECtHR case law on national legislation, and identify key challenges in the realization of women's social rights in Italy.

Keywords: women's social rights; European Court of Human Rights; gender inequality; domestic violence; Italian legislation.

Introduction

Currently, Italy ranks seventh in the number of cases brought against it before the European Court of Human Rights, as the national judicial system is often unable to fully protect the violated rights of women who file complaints. Women frequently face situations where the state directly ignores their complaints about existing violations or, during the appeal process, sides with the defendant, usually a man who committed the violation (the most striking example of this was the case of J.L. v. Italy (No. 5671/16)).

According to the statistical data of the European Court of Human Rights for 2023, a total of 52 applications were filed against Italy in the past year. The majority of these applications concerned violations of Article 1 of Protocol No. 1 to the European Convention on Human Rights, which protects the right to property, and Article 5 of the Convention, which guarantees the right to liberty and security of person (Statistical reports, 2024). Additionally, according to data from Statista (a global data and business analytics platform), there have been approximately 16,000 reports of stalking in Italy in recent years. About 74% of these crime reports were filed by women, with former partners being one of the most common perpetrators. In 2019, around 60% of femicides (the killing of women based on their gender) were committed by either a partner or a former partner, while in 22.5% of cases, the perpetrator was a relative of the victim (Topic:

Gender Violence in Italy, 2024). Furthermore, according to data from the European Institute for Gender Equality, published in 2022, Italy ranks 14th in the European Union in terms of the Gender Equality Index (Gender Equality Index | 2022 | IT | European Institute for Gender Equality, 2024).

The issue of protecting women's rights in Italy has often been the subject of discussion in academic circles. Among the researchers who have studied this topic, Francesca Capone, Giuseppina Sacco, Adriana Ostuni, Consuelo Corradi, and Camille Luci stand out. These authors have explored the topic of women's rights violations from a sociocultural perspective and the issue of violence against women in Italy. Italy was chosen for analysis due to its rich history and evolution of legislation aimed at protecting women's rights, as well as the contemporary challenges women face in the country. Italy is one of the countries where traditional patriarchal values still have a strong influence on society, making it an interesting subject for studying gender inequality and the protection of women's rights. Moreover, as a member of the European Union, Italy's legislation and practices are important to analyze in the context of European human rights standards. However, the aspect of protecting women's social rights in the European Court of Human Rights has not been previously studied, which forms the scientific novelty of this research.

The main problem faced by women in Italy is gender inequality, particularly discrimination in hiring and career advancement (which violates their right to work), as well as becoming victims of domestic and sexual violence, facing discrimination in various spheres of life, and having less influence on the political and economic life of the country.

This study aims to examine the current state of ensuring women's social rights in Italy, focusing on aspects of gender inequality and protection from violence. The study will identify key problems and challenges faced by women in Italy in realizing their social rights, assess the effectiveness of legislative and practical measures taken by the Italian authorities to ensure gender equality and prevent and combat domestic violence, evaluate the impact of ECtHR case law on the development of Italian legislation and practice in this area, and analyze ECtHR case law regarding cases of women's rights violations in Italy. This research will be of interest to scholars studying gender inequality and the protection of women's rights, as well as to human rights activists working in the field of women's rights protection. Additionally, the study may be useful for policymakers and legislators involved in developing and implementing laws aimed at ensuring equal rights for women and men.

Materials and Methods

This scientific article employs a comprehensive methodological approach, combining several analytical methods to ensure the completeness and reliability of the results regarding the practice of protecting women's social rights in Italy. The research is based on general scientific and specialized methods that allow for an assessment of the features and effectiveness of mechanisms for protecting women's social rights in Italy. The foundation of the research is the principles of gender equality, social justice, and human rights. A comparative legal method is used to analyze Italian legislation in the field of protecting women's social rights in comparison with international standards and practices of other European countries. Document analysis includes the study of international treaties, Italian legislative acts, court decisions, and reports from governmental and non-governmental organizations. The sociological method involves the analysis of statistical data on the social status of women in Italy, their access to social guarantees, and the effectiveness of state support programs. The case study method is used to examine specific cases of the application of legislation on the protection of women's social rights, including judicial practice and initiatives by civil society organizations. The historical method allows for tracing the evolution

of legislative norms and policies in the field of protecting women's social rights in Italy. The empirical part of the research is based on the analysis of official reports from the European Union, the Council of Europe, the National Institute of Statistics in Italy (ISTAT), as well as studies by international organizations such as the UN and the International Labour Organization (ILO). The article uses a combination of various general scientific and logical methods and techniques. For a comprehensive analysis of the research topic, statistical analysis was used to examine the general statistics on the number of applications to the European Court of Human Rights regarding violations of women's rights in Italy, analyze data on gender inequality in the labor market, the level of violence against women, and the level of women's participation in political and economic life, among other aspects. General logical methods of theoretical analysis, such as generalization and comparison, were used. Analytical methods, including interpretation, were applied to clarify the provisions of Italian legislation. Additionally, a systemic-structural, comprehensive, and holistic approach was applied to the work. The research allows for identifying the main trends and problems in the field of protecting women's social rights in Italy, assessing the effectiveness of legislative mechanisms, and developing recommendations for their improvement. Thus, the application of a comprehensive methodological approach ensures a thorough analysis of the problem and contributes to obtaining well-founded conclusions regarding the protection of women's social rights in Italy.

Results

Over the past decades, Italy has made significant progress in ensuring adequate protection of women's rights at the legislative level and guaranteeing equal social rights for women and men. In particular, at the state level, actions are being taken to reduce the gender gap in the labor market and strengthen legislation against violence, including domestic violence against women. However, the COVID-19 pandemic has exacerbated existing inequalities, leading to a sharp increase in domestic violence cases and economic hardships for women. According to recent data from the National Institute of Statistics in Italy (ISTAT), reports of domestic violence increased by 30% during the pandemic, highlighting the urgent need for more effective protective measures.

In light of this, it should be noted that Italian women suffer most from violations of the following social rights: the right to fair working conditions, the right to decent pay, the right to protection from gender-based discrimination in the workplace, the right to equal access to education, the right to social security, the right to respect for family life, and so on. In 2023, Italy adopted Law No. 168, which introduced significant amendments to the Criminal Code and the Code of Criminal Procedure, aimed at combating violence against women and domestic violence. This law established specialized magistrates to handle cases of violence against women and expanded preventive measures, such as restraining orders and the creation of safe spaces for victims. However, the implementation of these measures remains uneven across different regions, with rural areas often lacking the necessary infrastructure and resources.

The problem of violations of these rights is primarily related to the fact that Italy is a secular state, and the Catholic Church has long exerted a significant influence on the formation of Italian society and its values. Despite legislative progress, societal stereotypes about women's roles in the family and workplace persist, leading to discrimination and violence. For example, women in Italy still earn 12% less than men for the same work, and only 36.6% of leadership positions are held by women, according to a 2023 report by Deloitte Ukraine. The Church promoted the idea of a patriarchal society, supporting and emphasizing the correctness of the idea of women's subordination to men. Another factor that played a role in the formation of gender inequality in

Italian society is the historical influence of the Roman Empire and Roman law, which emphasized the idea of women's dependence on men. Roman law effectively limited girls' right to education, as they could only receive primary education.

The influence of these factors on modern society has led to the entrenchment of characteristic discrimination against women in various spheres of their lives solely based on gender in Italy and the existence of the problem of physical or sexual violence against women, which women have suffered and continue to suffer from throughout their lives.

Indeed, analyzing Italian legislation that promotes equal rights for women and men, it should be noted that the process of establishing this equality began in 1902 with the adoption of Law No. 242, which prohibited work for children under 12, established a maximum working day of 12 hours for women and children, and mandated a mandatory maternity leave of 4 weeks after childbirth. At the same time, despite the legislative requirement for mandatory maternity leave as a social right for women, this leave was unpaid and in practice often led to women being dismissed from their jobs (*Le leggi per le donne che hanno cambiato l'Italia*).

The decline in the status of women's rights in Italy became particularly noticeable during the period when the fascists came to power in the 1920s. This period was characterized by the adoption of laws that prohibited women from teaching in middle and high schools (1923) (Stato, 1923b), banned women from teaching philosophy, history, and economics in high schools (1926) (§ 57.7.1 - R.D. 9 Dicembre 1926, N. 2480. Regolamento per I Concorsi a Cattedre Nei Regi Istituti Medi D'istruzione E per Le Abilitazioni All'esercizio Professionale Dell'insegnamento Medio), reduced women's salaries by half (1927), and allowed state administration to discriminate against women's social rights in hiring and set a maximum quota (no more than 10%) for the total number of women in a company (1938) (Stato, 1938).

Subsequently, a key factor in the development of women's rights in Italy was the country's accession to a number of international legal treaties regulating the protection of women's rights, including the Universal Declaration of Human Rights (1948), the Charter of Fundamental Rights of the European Union (2000), the United Nations Convention on the Elimination of All Forms of Discrimination against Women (1979), and others. These international treaties served as a catalyst for the adoption of new Italian laws on women's rights, which fundamentally changed the position of women in Italian society by ensuring the proper recognition of internationally guaranteed rights and freedoms.

Analyzing Italian legislation, it should be noted that in the period following the proclamation of the Universal Declaration of Human Rights, the Italian government adopted more than 80 legislative acts related to ensuring women's social rights in Italy. Among the most important of these are Law No. 860 (1950) on the physical and economic protection of working mothers (*Gazzetta Ufficiale*, 1950), which guaranteed women financial assistance during maternity leave, provided necessary medical care after childbirth, and prohibited the exploitation of pregnant women in dangerous or strenuous work; Law No. 66 (1963) (*Gazzetta Ufficiale*, 1963), which recognized women's right to access all professions, positions, and career opportunities, promoting their professional development; Law No. 151 (1975) on the reform of family law (*Gazzetta Ufficiale*, 1975), which equalized the rights of men and women in matters of marriage and family; and Law No. 194 (1978) (*Gazzetta Ufficiale*, 1978), which established methods for women to access abortion on demand, among others.

Italian society remains heavily influenced by traditional patriarchal values, which complicates the implementation of legislation aimed at protecting women's rights. For example, societal stereotypes about women's roles in the family and workplace often lead to women facing discrimination and violence, despite the existence of relevant laws.

The analysis of ECtHR cases related to violations of women's rights in Italy demonstrates that even with a developed legal framework, the Italian legal system often fails to provide effective protection for women's rights. In particular, one of the cases brought against Italy was *LANDI v. Italy* (No. 10929/19), which concerned the state's negligence in protecting the applicant and her son from domestic violence, leading to the murder of her one-year-old son and an attempt on the applicant's life.

The facts presented in the case indicate that the applicant and her children suffered from domestic violence at the hands of her partner between 2015 and 2018, which was reported to Italian authorities. In September 2018, the partner, irritated by noise and a phone call from the applicant, grabbed a knife and attacked. As a result, he stabbed the one-year-old son multiple times, killing him, and attempted to kill the applicant and her daughter.

The court's decision in this case was a finding of a violation of Article 2 (right to life) of the European Convention on Human Rights. The court ruled that by blatantly ignoring a wide range of protective measures directly available to the authorities, which could have taken protective actions, such as warning social-psychological services and placing the applicant and her children in a women's shelter, the authorities showed little diligence in preventing violence against the applicant and her children, which led to the attempted murder of the applicant and the actual murder of her son. As also recognized by GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence) during its review of the compliance of the national legal framework with the provisions of Article 55(1) of the Istanbul Convention (Council of Europe Convention on preventing and combating violence against women and domestic violence, 2011), the aforementioned measures could and should have been taken by the authorities in accordance with Italian law, regardless of whether complaints were filed or the perception of risk by the victim changed. Under these circumstances, it cannot be considered that the authorities showed the necessary diligence. Thus, they failed to fulfill their positive obligation under Article 2 to protect the lives of the applicant and her son (ECtHR. no 10929/19. 7 April 2022).

Another case worth noting is *J.L. v. Italy* (No. 5671/16), which concerned a situation where seven men committed sexual violence against the applicant. In the context of the actions of national authorities, it should be noted that the applicant won the first trial, and in January 2013, six of the seven men were found guilty of inducing a person in a state of physical and psychological weakness to engage in sexual acts (a crime punishable under Article 609-1 in conjunction with Article 609-octies of the Criminal Code) (ECtHR. no 5671/16, 27 May 2021).

However, after the defendants filed an appeal, all charges against them were dropped. It should be noted that when the applicant attempted to file a cassation appeal, the Italian prosecutor's office refused to process her request, and as a result, the appellate court's decision became final.

In reviewing this case, the European Court of Human Rights conducted a detailed analysis of all the facts presented (including the fact that the applicant was in a state of alcohol intoxication and was unable to make conscious decisions) and ruled that there had been a violation of Article 8 of the European Convention on Human Rights, namely the right to respect for private and family life. The court recognized that the national authorities in this case had attempted to ensure that the investigation and trial were conducted in a manner consistent with their positive obligations under Article 8 of the Convention. In this case, the court concluded that the applicant's rights and interests under this article of the Convention had not been adequately protected, taking into account the wording of the appellate court's decision. It followed that the national authorities had failed to protect the applicant from secondary victimization throughout the proceedings, in which the wording of the court's decision played an extremely important role, especially given its public nature (ECtHR. no 5671/16, 27 May

2021).

In the case of *M.S. v. Italy*, decided on July 7, 2022 (No. 32715/19), the European Court of Human Rights ruled that there had been a violation of Article 3 of the Convention (prohibition of inhuman or degrading treatment) due to the Italian authorities' inability to protect the woman from repeated threats and violence inflicted by her husband (Raimondi A., 2023).

In this case, the applicant had repeatedly filed complaints against her husband, who had subjected her to violence and stalking. He was first convicted in 2008, and a preventive measure was imposed, but in 2014, when the statute of limitations expired, he was acquitted. The key point in this case is that it began in 2004, when the applicant started filing regular complaints against her husband, but it was not until 2020 that the court sentenced her husband to three years in prison for stalking. In this case, the European Court of Human Rights found a violation of Article 3 of the Convention in its substantive aspect and stated that «the applicant had been a victim of violence on several occasions, and the authorities were aware of these facts and conducted several investigations. Therefore, the Court concludes that the shortcomings complained of in this case, which were the result of the passivity of the authorities, while certainly deserving of condemnation and contrary to Article 3 of the Convention, cannot in themselves be considered as evidence of discriminatory treatment by the authorities» (Raimondi A., 2023).

Discussion

Italian women most often file applications with the ECtHR concerning the state's failure to adequately protect their right to be free from violence at the hands of their husbands. In particular, among these cases are *M.S. v. Italy* (No. 32715/19), *De Giorgi v. Italy* (No. 23735/19), *Talpis v. Italy* (No. 41237/14), *Landi v. Italy* (No. 10929/19), and many others. Despite the significant number of precedents related to domestic violence cases, it was only in 2023 that the Italian parliament passed Law No. 168, which contains «Provisions on combating violence against women and domestic violence.»

This law aimed to introduce amendments to the Criminal Code, the Code of Criminal Procedure, and legislation on preventive measures and victim support. Article 5 of the law provided for changes in the organization of the prosecutor's office to ensure that crimes committed against women and within the household are handled by specialized magistrates.

Additionally, the law strengthened preventive measures to protect women and expanded the list of circumstances indicating potential danger, explicitly regulating the prohibition of dangerous individuals from approaching within 500 meters of places frequented by those in need of protection, among other provisions.

However, despite the adoption of this law by the Italian parliament, it should be noted that the situation regarding the protection of women's social rights remains unsatisfactory. Women in Italy still face unequal pay compared to men for the same work, become victims of domestic and physical violence without receiving adequate protection from the state and its judicial bodies, and face gender-based discrimination. According to a report by Deloitte Ukraine, only 36.6% of women in Italy hold leadership positions, further confirming the existing problem of gender imbalance in the country («Women in Leadership»: Much work remains to be done to support women at the top of companies).

The issue of domestic violence is particularly pressing, as in many cases, Italian law enforcement agencies fail to provide adequate protection to women even after they have filed complaints with the courts. For example, in the case of *Talpis v. Italy*, the ECtHR found that the Italian authorities had failed to adequately respond to the applicant's repeated complaints about violence by her husband, ultimately leading to a fatal outcome. This highlights serious gaps in the implementation of legislative

norms in practice.

Moreover, the issue of the gender pay gap remains a significant challenge. Although Italy has Law No. 162/2021 aimed at eliminating discrimination and increasing pay transparency, in practice, women continue to earn lower wages for the same work. According to data from the National Institute of Statistics in Italy (ISTAT), the gender pay gap in Italy is around 12%, which is higher than the European average of 10%.

Another significant issue is the lack of sufficient state programs to support working mothers. In many regions of Italy, there is a shortage of childcare facilities, forcing many women to temporarily or permanently leave the workforce. This further exacerbates social inequality and contributes to women's economic dependence on men, which can make it more difficult for them to escape situations of domestic violence.

In light of these issues, it is important to consider the recommendations of international organizations for improving the situation. For example, the UN Committee on the Elimination of Discrimination against Women (CEDAW) has repeatedly called on Italy to implement stricter mechanisms for protecting women's rights and to increase funding for crisis centers for victims of violence. One positive example in this regard is Spain, which, after implementing a comprehensive program to combat gender-based violence in 2004, significantly reduced the number of domestic violence cases through rapid judicial response and the establishment of specialized courts for cases of violence against women.

In this regard, Italy should more actively adapt the successful experiences of other European countries and implement additional measures to ensure the effective protection of women's social rights. This could include strengthening accountability for non-compliance with court orders to protect victims of violence, expanding state programs to support women in business, and promoting equal access for women to leadership positions.

In conclusion, despite significant progress in the legislative framework, the issue of effectively implementing women's social rights in Italy remains unresolved. Addressing this problem requires a comprehensive approach that includes both improving legislation and enhancing its practical application through effective legal protection mechanisms.

Conclusions

Ensuring women's social rights in Italy, focusing on aspects of gender inequality and protection from violence, remains a relevant topic, the study of which has both theoretical and practical value. Women face gender inequality in the labor market, primarily in the context of receiving lower pay for the same work as men. Domestic and sexual violence, as well as stalking, remain serious problems in Italy. The authorities do not always take sufficient measures to protect women's rights, leading to impunity for perpetrators and repeated violence. The practice of the European Court of Human Rights plays an important role in the development of legislation and practice in Italy regarding the protection of women's rights. ECtHR decisions encourage the Italian authorities to take measures to address violations of women's rights and improve their situation in society. In summary, it is worth noting that ensuring women's social rights in Italy requires comprehensive measures aimed at eliminating gender inequality, protecting women from violence and discrimination, and improving their position in society. An important role in this process is played not only by legislation but also by its practical application, as well as the active stance of women themselves.

While Italy has made significant strides in protecting women's rights, much work remains to be done. The adoption of new laws, such as Law No. 168/2023, is a positive step, but their practical implementation requires greater commitment and resources. Addressing the root causes of gender inequality, such as societal stereotypes and

economic disparities, will be essential for achieving true equality. The active involvement of civil society organizations and the continued oversight of international bodies like the ECtHR will be crucial in this process.

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