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Legal aspects of gender equality and their legislative consolidation

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Abstract

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Presently, not only the equality of rights and freedoms is vital, but also the legal consolidation of equality between men and women in the ability to fully use all those rights and freedoms in various spheres of social life, which are guaranteed and ensured by the state. The purpose of this study was to investigate the terms “gender” and “gender equality” in the context of international regulatory documents and Ukrainian legislation on ensuring equal rights and opportunities for women and men as an integral part of the general rights of a person and a citizen. Among the key research methods were dialectical, logical-legal, and hermeneutic, which helped analyse the terms “gender” and “gender equality” and determine the regulatory framework of documents on ensuring and guaranteeing gender equality of both sexes. Using the comparative method, the compliance of Ukrainian legislation with international standards of gender policy was compared and analysed. This paper presents the results of the characterization and interpretation of the norms of legal documents and legislation regarding their compliance with the principles of gender equality. The essence of terms “gender” and “gender equality” was covered. The main areas of ensuring the equality of men and women, which are guaranteed by Ukrainian and international legislation,

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were outlined. The need to include in all state programs some measures that ensure gender equality and meet the Sustainable Development Goals was substantiated. It was proved that both at the state and regional levels, it is expedient to conduct various trainings that cover gender aspects and raise awareness among employees to develop a professional gender-sensitive culture of the working environment. Emphasis was placed on the importance of measures to prevent violations of human and citizen rights and freedoms, as well as to ensure gender equality between men and women under martial law. The importance of mandatory prosecution and punishment of the Russian military, guilty of violence against Ukrainian women and men, was emphasized. The results of the study can be used both by scientists who investigate issues of gender equality and discrimination based on gender, and by representatives of state bodies whose sphere of competence includes the implementation of gender equality policy, as well as by students and teachers of law schools, everyone who is interested in issues of gender and equality

Keywords: gender; social roles; gender equality; the principle of equality; human rights

Introduction

The key features of a developed society and a legal democratic state include the elimination of various forms of discrimination and overcoming any manifestations of gender inequality. In Ukraine, as in many other countries, gender imbalance continues to exist in various spheres of life. The lack of gender equality is an obstacle on the way towards social unity, leads to the emergence of destructive processes and stops sustainable development. Considering this, the regulatory consolidation of the principle of equality and non-discrimination of men and women will contribute to ensuring gender equality, as one of the key issues of the formation of the Ukrainian state.

In recent decades, the idea of gender equality has attracted the attention of various international organizations and most democratic legal states. Its legal regulation is at the stage of formation and development. Formation and consolidation of standards of gender equality, along with non-discrimination and parity democracy, takes place at the domestic and international levels. The legal consolidation of the principles of gender equality

in the regulatory and legal documents of international organizations and state legislation contributes to ensuring equal rights and opportunities for men and women in all spheres of human activity, the state and the international community.

Scientific literature, which examines the issues of gender equality and gender discrimination, shows that the problem of gender equality has become relevant since the middle of the 17th century, from the time when human and citizen rights began to be considered as values. This issue was investigated in sufficient detail by the author of this paper in previous scientific publications (Protosavitska, 2022). The modern scientific assessment of gender equality dates to the middle of the last century. Considering global achievements in gender issues by Ukrainian scientists began in the late 1980s.

The theoretical scientist O. Vasylenko (2017) is engaged in studies of the content of the principle of gender equality from the standpoint of the theory of the state and law. N. Anishchuk (2019), apart from highlighting the principles

of gender law, examines various gender aspects both in the European Union and in such countries as Switzerland, Turkey, India, Great Britain, Lithuania, and Hungary. A scientific study by I. Hrytsai (2018) covers the mechanism of ensuring gender equality in the parliament, in the army and in other areas. Researcher O. Kharytonova (2018) investigates gender policy in criminal law.

A. Kolodii (2013) studied the phenomena of equality and equality of the sexes in law, who noted in the study of civil society that the observance of the principle of equality, namely the equality of the sexes, is critical in ensuring and guaranteeing the rights and freedoms of a person and a citizen. This opinion was also supported by the authors of the textbook on the theory of the state and law (Tsvik & Petryshyn, 2009).

In the second half of the 20th century, many scientists were engaged in researching the concept of gender abroad. Among them are R.J. Stoller (1994), who highlighted the concepts of masculinity and feminism, and S. de Beauvoir (2015), who describes the differences between men and women, emphasizes the need for equality and equality between the sexes.

Today, the issue of gender and gender equality and non-discrimination has reached a new level. This is due to social development, which does not stand still. K. Rummery *et al.* (2021) raise quite relevant issues in their scientific works, trying to answer the question of what issues are related to care policy and gender equality. V. Kostyuchenko and L. Khoynatska (2021) investigated the economic and legal dimension of gender equality in Ukraine in their study. In times of digitization, when the world uses digital technologies increasingly more, cybersecurity and protection of different gender groups have become relevant. The study by G. Hacıyakupoglu and Y. Wong (2021) also covers these questions.

The COVID-19 pandemic has had a rather adverse impact on the position of women at work, affecting wages and increasing unemployment (UN Women, 2021). M. Haupt and V. Lind (2021) consider these and other issues of the impact of the pandemic on gender equality in their research.

A separate selection consists of research reports of various international organizations on gender in our time. Among such studies, we can name "The UN Policy and Program on Sexual Orientation, Self-Expression, Gender Identity and Sexual Characteristics" by A. Trithart (2021). The Institute for Women's Policy Research (2022) has also conducted its research on the gender pay gap and published its findings. The Council on Foreign Relations (2020) explored how gender equality in foreign policy is being promoted and published the findings.

Every year, the World Economic Forum takes place, which conducts a permanent collection of information about each country regarding politics, economy, culture, various social issues, including gender issues. According to the results of the forum's latest research on gender policy, in 2022 Ukraine ranked 81st (World Economic Forum, 2022).

Gender equality is one of the prominent issues of legal and social development of the country, it affects the level of democracy and national security of the state. That is why the study of legal aspects of gender equality, as well as the coverage and analysis of the regulatory component of gender policy at the international and domestic national levels, became the purpose of this study.

Materials and Methods

The study of gender and gender equality requires the use of a wide range of methods of scientific cognition. Among them, first of all, it is worth mentioning a group of theoretical methods that helped systematize knowledge about gender.

The leading among the methods was the general dialectical method, which covered the scientific cognition of legal phenomena, as well as their connection with the establishment of the main provisions of gender equality in international regulatory documents and in Ukrainian legislation. The logical-legal method helped characterize the provision of the principle of gender equality. The use of a hermeneutic approach helped objectively interpret international and Ukrainian legislation in the field of gender equality. The method of hermeneutics was also used to characterize and interpret the provisions of regulations regarding their compliance with the modern requirements of the principle of gender equality. The axiological approach helped determine the role and place of gender equality in the development of a democratic, legal state. Using a complex of empirical methods, both positive and negative experiences of gender activities were determined.

The use of an interdisciplinary approach in this study revealed that gender issues go far beyond law. Some aspects of gender relate to psychology, sociology, philosophy, etc. The method of generalization was used in the preparation of the conclusions of the conducted scientific research. The study of legal aspects of gender equality is impossible without a comprehensive approach, which allows applying the entire range of methods when considering issues related to equality and non-discrimination between men and women. Through the application of this approach, it is possible to consider gender relations as socially organized relations and review many legal approaches to equality and non-discrimination of both women and men.

Results and Discussion

Gender equality and equal rights as one of the key manifestations of democracy

Equality between people is the source of ensuring the fair distribution and use of public goods. Affirmation of social equality is the principal condition for the development of the rule of law and civil society. One of the types of equality is gender equality as the provision of equal rights and opportunities for men and women in all spheres of life.

Achieving gender equality is one of the most time-critical issues in the development of a democratic state and is considered one of the key issues in the protection of human rights and the establishment of the rule of law. The concept of gender equality currently has several definitions. Most of these concepts confirm the thesis that gender equality is based not only on the assertion of equal rights and equal opportunities for both men and women in all spheres of life. This equality implies the possibility for both men and women to enjoy the same social status; equal opportunities to make a personal contribution to the economic, political, or social development of the state and to fully and equally enjoy the results of this development; the opportunity to have the same conditions for the realization of all human and citizen rights.

Gender equality is a part of the concepts of equality and equal opportunities. A democratic state governed by the rule of law must provide equal opportunities for all men and women to participate in all spheres of life.

Since the 1980s, "gender" has been considered as an independent, culturally, and socially constructed characteristic of a person that is not determined by biological sex. People demonstrate this characteristic when interacting with other people in various life situations. Sexual orientation, gender identification, sexual characteristics, and self-expression are only a small part of the components that characterize gender (Trithart, 2021).

Thus, it is worth noting that gender and biological sex are different constructed characteristics that can be combined in a person arbitrarily, independently of each other. In the modern scientific world, it has long been customary to distinguish between transgender, gender-expansive, and intersex people (Davy, 2021).

Considering the above, we note that the term “gender” refers to the division of roles between the sexes in society. Gender is also an organized pattern of social relations between men and women. Gender relations are constantly changing, and with them the social, economic, political, and cultural environment at the international, national and local levels. The UN-Women structural unit understands the concept of “gender” as the attributes and opportunities associated with belonging to a woman and a man, as well as relations between women and men, boys and girls (Labadi, 2022).

As modern gender theories prove, social differences between women and men are acquired and not eternal prescriptions of society. Being a man now and two hundred years ago are entirely different things. Today, men and women can choose patterns of their behaviour depending on their capabilities and desires. Considering this, gender identity is constantly in construction (Martsenyuk, 2014).

When discussing gender, it is appropriate to address the differences between men and women, as well as the inequality and hierarchy of gender relations (Council on Foreign Relations, 2020).

Ensuring gender equality is one of the key tasks of both Ukrainian and international legislation and is inextricably linked to the provision and guarantee of basic human and citizen rights and freedoms (Constitution of Ukraine, 1996; Universal Declaration of Human Rights, 1948).

Human rights are a concept that defines the legal status of a person in relation to the state.

Human rights are an integral part of general human rights, and ensuring equal rights and opportunities for men and women is an important component of the legislative process (Kremliova, n.d.). A gender approach in the legislative process is a manifestation of democracy. To ensure social development, it is necessary for the gender approach to become an integral part of all strategically significant components of state policy. Gender equality is the subject of consideration of the most essential state programs and strategic vectors of the development of society, and the inclusion of the gender factor in the main principles of national policy contributes to considering the interests of both men and women as equal participants in the development process.

Therefore, ensuring gender equality and equal opportunities for women and men in the sphere of economic and social activity, in politics, as well as in the decision-making, in the sphere of employment, training and education, in matters of overcoming discrimination in all forms is closely related to the improvement of quality of human life. The issue of gender equality is vital for Ukraine’s cooperation with international organizations.

Analysis of international acts on the implementation of gender equality and non-discrimination between men and women

The development and implementation of gender policy as a basis for the formation of gender culture is a vital component of the formation and development of Ukraine as a democratic state. Gender policy affects not only the state, but also the entire civil society, the performance of Ukraine’s international obligations, according to which a suitable regulatory framework is formed with the purpose of the country entering the European and world community as an equal. Legal regulation of gender equality is at the stage of formation

and development. This happens both at the state and international levels.

Today, the concept of gender is interpreted as a social model of relations between women and men, which determines social relations in various spheres and in the main institutions of society. For women and men to be in the same conditions, for inequality to be eradicated, gender aspects are introduced in the formation of state legislation. Legal consolidation of the principle of gender equality is important, along with the creation of effective mechanisms for the implementation of these standards in all spheres of human activity, the state, and the world community. Among them, the issue of social justice, which ensures equal and sustainable human development, can be mentioned in the first place. The interests and experience of women and men are a criterion for developing a general concept and evaluating the directions of national gender policy in the social, economic, and political spheres.

The legislative process for ensuring equal rights and opportunities for women and men is an integral part of the general rights of a person and a citizen. Pursuant to the fundamental law of Ukraine – the Constitution (1996), the equality of rights and freedoms of a person and a citizen is guaranteed. Furthermore, the Constitution of Ukraine defined the main standards in the field of gender equality. All of them are indicated in such acts of international legislation as the Universal Declaration of Human Rights (1948), the Convention on the Elimination of All Forms of Discrimination against Women (1979) and a number of other international documents.

Notably, the idea of equality arose earlier than the term itself and the corresponding legal standards. Thus, Article 2 of the Universal Declaration of Human Rights (1948) prescribed the provision on the equality of all people regardless

of race, colour, language, religion, sex, political beliefs, national or social origin, property or other status. It is indicated that despite all the differences, specifically based on gender, people are equal in their rights and dignity.

In contrast to the general declaration on the rights of humans and citizens, such an international act as the Charter of the United Nations (1945) clearly established the principle of equality of men and women, equality of small and large nations. The Charter declares that there can be no restrictions on the rights of women and men to take part in any capacity and on equal parity terms in the main and auxiliary bodies of the organization. Statutory consolidation of the principle of gender equality of men and women was accompanied by the creation of a mechanism for implementing the ideas of gender equality in international legal practice. In 1946, a subcommission on the status of women began to function in the UN Economic and Social Council (ECOSOC) within the Commission on Human Rights. In 1979, the UN adopted the Convention on the Elimination of All Forms of Discrimination against Women (1979), which Ukraine ratified in 1980. This Convention is considered an international bill on women's rights. Countries that have ratified this convention are obliged to provide women with equal access to all the country's resources; the state is entrusted with the duty to ensure that there are no obstacles in the exercise of women's rights; measures taken by the state to protect the rights of women and men should ensure equality of results and strengthening of the position of women; the state reports every four years to the UN Committee on the Elimination of Discrimination on the implementation of this Convention in policy and practice in such areas as the political representation of women; the position of women in rural areas; eradication of sexism in the media;

changes in the legislation on ensuring the equality of men and women.

Another international document aimed at ensuring gender equality and improving the position of women was the Beijing Declaration and Platform for Action (1995). According to the norms of this convention, women should be actively involved in all spheres of public and private life. They are guaranteed comprehensive and equal participation in decision-making on economic, political, social, and cultural issues.

The position of women was further strengthened after women were involved in peace and security issues. The corresponding decision is contained in the United Nations Security Council Resolution 1325 (2000) "Women. Peace. Security" dated October 31, 2000. From that moment on, women began to take part equally and fully, on a par with men, in matters of peace and security, in the prevention and resolution of conflicts. Gender mainstreaming is implemented. The specific needs of girls and women, as well as their experiences and perspectives, began to be considered when making legal, political, and social decisions. This Decision called for measures to ensure protection for women and girls from sexual violence or other forms of violence during conflicts.

Since the adoption of Resolution 1325 (2000), some similar resolutions related to women, peace, and security have been adopted. Among them, it is worth mentioning United Nations Security Council Resolutions 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013), 2242 (2015).

Some provisions relating to gender equality are contained in the conventions of the International Labor Organization. These are conventions such as: Equal Remuneration Convention (No. 100) (1951), Maternity Protection Convention (No. 103) (1952), Discrimination (Employment and Occupation)

Convention (No. 111) (1958), Workers with Family Responsibilities Convention (No. 156) (1981).

Furthermore, Ukraine has joined the implementation of the obligations of Sustainable Development Goals for the period up to 2030 (Decree of the President of Ukraine..., 2019), goal No. 5 of which is to achieve gender equality.

Examining the issue of legislative provision of gender equality at the international level, it is worth noting that an organization such as the North Atlantic Treaty Organization (NATO), which was created with the purpose of promoting stable and durable peace, seeks to include the gender aspect in all stages of the operational process. In 2014, the "NATO Women's Professional Network" (NWPN) and "Mentoring" began to operate to promote the creation of a special corporate culture and provide women with opportunities for development, training and mentoring. After the implementation of this Program in NATO member countries, the number of women in the armed forces of these countries has increased considerably (Kaminska *et al.*, 2020).

The update of the Policy and Action Plans on Women, Peace, and Security took place in 1918, according to which gender equality of men and women is considered as an integral component of NATO policies, projects, and programs; NATO contributes to increasing the number of women both in the national Armed Forces of the member countries of the alliance and in NATO itself (Kaminska *et al.*, 2020).

Such an international body as the Organization for Security and Cooperation in Europe (OSCE) considers a number of economic, political, environmental, military issues related to security. The OSCE's tasks include confidence-building and security measures, arms control, human rights, national minorities, policing strategies, democratization, the fight against terrorism, and various

economic and environmental measures. The OSCE emphasizes that equal rights for men and women are important for ensuring peace, stable democracy and economic development. With this in mind, the OSCE is taking measures to ensure gender equality between men and women, as well as the integration of equal opportunities for women and men into the policies and practices of member states and into the OSCE organization itself. In particular, projects are being developed and implemented with the aim of expanding the opportunities of women. The OSCE cooperates with the authorities on legislative amendments and assists in the creation of national mechanisms for ensuring gender equality.

Implementation of gender equality in Ukrainian legislation

Characterizing Ukrainian legislation, starting with the Fundamental Law – the Constitution of Ukraine, some regulatory documents contain provisions related to gender equality. Article 24 of the Constitution of Ukraine (1996) states: "... the equality of the rights of men and women is ensured by providing women with opportunities equal to men in political, social, cultural activities, in obtaining education, professional training, work and remuneration for it...". Furthermore, Articles 3, 21, 51 of the Constitution of Ukraine establish and guarantee the equality of men and women in various spheres of life.

Some documents of Ukrainian legislation, which prescribe the fundamental principles of human rights security, also contain provisions that in a certain way ensure and guarantee gender equality and non-discrimination. Among them, apart from the Constitution of Ukraine, are the Criminal Code (2001) and Civil Code of Ukraine (2003), Family Code (2002) and Labour Code (1971), Laws of Ukraine "On Education" (2017),

"On Pension Provision" (1991), "On National Support to Families with Children" (1992), "On Labour Protection" (1992), Declaration on General Principles of the National Policy of Ukraine in Relation to Family and Women (Resolution of the Verkhovna Rada No. 475-XIV..., 1999), Fundamentals of the Legislation of Ukraine on Health Care (Law of Ukraine No. 2801-XII, 1992), "On the Concept of National Family Policy" (Resolution of the Verkhovna Rada of Ukraine No. 1063-XIV..., 1999).

Ukraine has developed an entire mechanism for analysing current legislation for compliance with international legal documents on the protection of human rights regarding the observance and realization of the rights of both women and men (Resolution of the Cabinet of Ministers of Ukraine No. 997 "Issues of Gender Legal Expertise", 2018). This task is assigned to the structural subdivisions of the Ministry of Justice.

Among the regulations that govern the issue of equality between men and women are the Decree of the President of Ukraine "On Improving the Work of Central and Local Executive Authorities to Ensure Equal Rights and Opportunities for Women and Men" (2005) and the Law of Ukraine No. 2866-IV "On Ensuring Equal Rights and Opportunities for Women and Men" (2005). This law aims to achieve parity for both men and women in various spheres of society. According to the provisions of the law, all current laws and even draft regulations must be subject to a gender-legal examination. The law defines the principal areas of gender policy of Ukraine, establishes which bodies are entrusted with the obligation to implement gender policy and which bodies are authorized to monitor gender policy in the state. The law states that all enterprises, institutions and organizations, as well as executive bodies, must have a gender coordinator. The Cabinet of Ministers is tasked with ensuring the implementation of the

national action plan for the implementation of gender equality. In cases of discrimination based on gender, complaints are sent to the Commissioner for Human Rights of the Verkhovna Rada of Ukraine. It was based on this law that Ukraine began to build a mechanism systematically for establishing gender equality between men and women.

The acts of Ukrainian legislation listed above, as well as the norms of international legislation, forbid, for instance, in job advertisements to make requirements regarding the age, gender, and appearance of the employee. This is prohibited except in cases of specific work that can only be performed by people of a certain gender. Furthermore, employers are not allowed to request information about the personal life and plans for having a child from potential employees. Employers must pay equal wages to men and women if they have the same qualifications under equal working conditions. However, according to Ukrainian law, mandatory conscription, as well as the difference in the retirement age for men and women, are not considered discrimination based on gender (Kremliova, n.d.).

The aforementioned law "On Ensuring Equal Rights and Opportunities for Women and Men" (2005) also regulates the gender issue in educational institutions. According to the provisions of the law, it is stipulated that every educational institution must provide support to those who study, and textbooks and teaching aids must not contain any stereotypical ideas about the role of men and women.

The law prescribes the creation of national gender policy structures. One of the considerable shortcomings of this law is that it does not contain sanctions for gender policy violations, without which the law is declarative.

Some other laws of Ukraine are also important in this area. Among them, it is worth

mentioning the Law of Ukraine "On Principles of Prevention and Combating Discrimination in Ukraine" (2012), which prohibits discrimination, specifically based on sex. Another law – the Law of Ukraine "On Preventing and Combating Domestic Violence" (2017) defines all types of domestic violence, including violence against women and girls.

The adoption of a number of sectoral, regional, and national plans has a powerful influence on state legislation. Thus, the National Action Plan for the Implementation of UN Security Council Resolution 1325 "Women, Peace and Security" for the period up to 2025 (Order of the Cabinet of Ministers of Ukraine No. 1544-r..., 2020) aims to comply with the principle of ensuring gender equality for women and men. The National Plan is one of the main documents for implementing and ensuring equal rights and opportunities for women and men in the security and defence sector.

Strategy for the Implementation of Gender Equality in Education until 2030 and Approval of the Operational Action Plan for 2022-2024 for its Implementation (Order of the Cabinet of Ministers of Ukraine No. 1163-r...) is of significant importance for the implementation of gender policy in Ukraine (2022). This program is aimed at strengthening the existing mechanisms for ensuring gender equality.

The National Action Plan for the Implementation of the Recommendations Set forth in the Concluding Remarks of the UN Committee on the Elimination of Discrimination Against Women to the Eighth Periodic Report of Ukraine on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women for the period until 2021 (Order of the Cabinet of Ministers of Ukraine No. 634-r..., 2018). According to this plan, the main purpose is to overcome all forms of discrimination against women and girls; reduction and prevention of all forms of gen-

der-based violence; timely assistance to victims of gender-based violence; raising legal awareness and improving girls' and women's access to medical, educational, social and legal services.

Based on the above, we can summarize and note that the formation of the Ukrainian national gender policy is formed based on international legal acts that Ukraine has ratified. In addition, the gender policy of Ukraine is regulated by national legal acts that ensure and guarantee equality between men and women. The development of gender policy is entrusted to civil servants. Such civil servants are appointed in their structural unit for submitting proposals related to gender development, or they perform these duties on behalf of the leadership of the structural unit (Kremliova, n.d.).

Apart from the legislative consolidation of some regulatory documents aimed at ensuring equal rights and opportunities for men and women, several regulations that legally affirmed gender inequality between men and women were cancelled in Ukraine. An example is the Order of the Ministry of Health of Ukraine No. 256 "On Approval of the List of Hard Work and Work with Harmful and Dangerous Working Conditions, Which Prohibits the Use of Women's Labour" (1993). This Order defined 450 professions that were prohibited for women. According to the provisions of this Order, women were prohibited from working as firefighters, bus drivers, and subway drivers. Women were not allowed to work in the engine room of the ship, in underground works. It was not possible to be a driver of some types of cargo and passenger transport. Revoking the provisions of this Order is an important stage in ensuring women's rights and non-discrimination based on gender in employment.

Quite interesting is the research done by E.L. Doran *et al.* (2019) on gender in the labour market and the role of equal opportunities, and

a scientific study by L. Samilyk *et al.* (2021), in which an analysis of the gender gap between men and women in Ukraine was carried out according to three indicators: accessibility, salary, and work experience. L. Samilyk *et al.* (2021) stated that Ukraine has very low indicators of women's economic and political activity among European countries. The number of women in local authorities and in the parliament, in executive positions, does not exceed 12%. E.L. Doran *et al.* (2019), based on a scientific study that highlighted the issue of gender in the labour market, established that graduates of the University of Chicago start their work with the same salary regardless of gender, but after 5 years the difference in salary between these individuals is 30 log points in favour of men. 10-16 years after graduation, this difference is 60 log points. Scientists prove that the difference in wages is caused by breaks in women's careers. This is mostly because it is women who most often go on parental leave to take care of a child. Furthermore, when accepting a certain job, women prefer the job where the employers implement a more loyal family policy. Women agree to lower wages in exchange for social benefits and various guarantees. Thus, the difference in pay between men and women is not due to gender discrimination.

In 2018, the Law of Ukraine "On Amendments to Certain Laws of Ukraine on Ensuring Equal Rights and Opportunities for Women and Men during Military Service in the Armed Forces of Ukraine and Other Military Formations" was adopted (Law of Ukraine No. 2523-VIII..., 2018).

This law allowed women to have equal opportunities with men in military service. Women gained equal access to military ranks and positions, as well as an equal amount of responsibility during military service. It is worth emphasizing that the provisions of this law are vital today,

when there is a war on the territory of Ukraine and women are defending our independence on an equal footing with men.

To implement the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men” (2005), the Government of Ukraine approved a draft law, which makes provision for amendments to some legislative acts. Pursuant to this law, amendments were made to the Labour Code of Ukraine (1971), specifically, a clause was added to Article 13, which deals with the collective agreement, guaranteeing equal rights and opportunities for men and women. An analogous amendment was made to the Law of Ukraine “On Collective Agreements” (1993), which states that the collective agreement or agreement contains provisions ensuring equal rights for men and women (Articles 7, 8); amendments were made to the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights” (1997), which gave the commissioner the right to monitor the observance of equal rights and opportunities for men and women (Articles 13, 18).

As of the end of 2022, according to the World Economic Forum (2022), Ukraine ranks 81st among the countries of the world in terms of the Global Gap. In 2021, Ukraine ranked 74th. Thus, during 2022, the rating of Ukraine decreased by 7 positions. The problem of gender inequality is not unique to Ukraine. The presence of women in public space is limited in many countries of the world. Therefore, state programs, which make provision for taking gender issues under special control, are aimed at ensuring equal rights, opportunities, and non-discrimination of both women and men. Every person regardless of gender has the same rights and freedoms (Constitution of Ukraine, 1996; Universal Declaration of Human Rights, 1948; Convention on the Elimination..., 1979).

Mechanisms for the implementation of the national gender policy, and along with it, the means of resolving contradictions that may occur in society, by resolving these contradictions and implementing consistent actions using effective management methods and resources, ensure the existence of an effective state system capable of effectively implementing the gender strategy. Among the main mechanisms capable of ensuring the implementation of the national gender policy, it is worth mentioning the economic, legal, political, infrastructural, and organizational ones (Zadoienko, 2019).

The main tasks of the mechanism for ensuring equal rights and opportunities in Ukraine include: forming legislation on gender equality and non-discrimination of men and women, as well as monitoring its implementation; effective provision of the activities of state institutions that monitor the implementation of the national gender policy; development and provision of various social programs and projects related to the implementation of gender equality and gender non-discrimination; conducting research and publishing the results of these studies to ensure equal rights and opportunities for both men and women. Measures related to informing about the implementation of gender programs in various spheres of social life should indicate which actions to ensure gender equality require greater efforts, and show in which spheres significant progress has been made in ensuring equal rights and freedoms for both men and for women, and if possible, apply the practices gained in those areas that require intervention and support either from the side of state bodies or other structures that aim to ensure gender equality.

One of the shortcomings of the Ukrainian legislation regarding the integration of equality is that, despite the clear establishment of the principles

of equality and non-discrimination of articles, institutional mechanisms do not control the practical application of the norms established by law.

Based on the analysis of international and Ukrainian legislation aimed at ensuring gender equality between men and women, it is necessary to expand cooperation aimed at ensuring the equality of both sexes.

All state programs, as well as national policies in general, should include measures to ensure gender equality.

Personnel of diverse types of state institutions, enterprises, institutions, and organizations should be provided with means and trainings that include gender aspects.

It is necessary to develop a professional, gender-sensitive culture of the working environment and management;

The efforts of states that achieve success in terms of gender equality should be recognized at the international level after monitoring by the relevant structural units, either the UN or the OSCE on gender issues. Such states should be supported by the world public and international organizations, whose task is to ensure the equality of men and women.

Priorities promoting gender equality between men and women should be officially recognized at the state level. These priorities and measures of action to ensure gender equality should be in line with the Sustainable Development Goals and the commitments that Ukraine undertook as a candidate for membership of the European Union. To achieve the sustainable development of society, it is necessary to conduct a gender analysis of the existing conditions, since society consists of men and women. The methods of the gender approach should be an integral part of all parts and directions of the policy, which ensures the sustainable development of society. The

thesis “no one can be discriminated against because of their gender” should become an axiom. Today, the gender dimension is becoming a part of all important areas of national policy. The inclusion of the gender factor in all areas of national policy is designed to consider the interests of both women and men, who are full participants in social development. Considering gender aspects in the formation of the legislation of our country aims to solve the problems of state administration bodies. Based on the above, it should be noted that the integration of gender issues into legislation should be ensured by a strategy that guarantees equal rights and opportunities for both sexes. Carrying out constant monitoring of the implementation of tasks defined by international organizations and states to ensure gender equality and promote the role of women in conflict prevention and peace restoration processes.

Since 2014, active hostilities have been taking place on the territory of Ukraine, and since 2022, a full-scale war has been ongoing, which is accompanied not only by mass murders, but also by the violation of human and civil rights by the Russian Federation. Considering this, it is necessary to take measures to prevent the violation of human and citizen rights and freedoms in general and to ensure gender equality among men and women in particular.

It is necessary to promote the implementation of the Istanbul Convention – Council of Europe Convention on preventing and combating violence against women and domestic violence (2011) because during the war, many Ukrainian women and girls suffered violence from the side of the Russian military. The culprits should be brought to justice and punished. Furthermore, it is necessary to take some measures to prevent and eradicate violence and prevent similar incidents in the future.

Development and renewal of the modern concept of gender must necessarily consider such aspects as the social roles of women and men; special social status of each gender group; a system of control over the behaviour of men and women.

Summarizing the above, we note that the results of the implementation of gender equality should be to consider the distinctive and special physical, economic, social characteristics, and life experience of different socio-demographic groups of boys and girls, men and women in all spheres of life as soon as possible. Implementation of gender equality should ensure equal treatment of all citizens regardless of gender or other characteristics, social, or other circumstances, equal access to state guarantees should be ensured. It is necessary to strive for gender equality to become a priority vector of politics, just like social or economic spheres. Its integration into all areas of activity of the authorities will strengthen the position of Ukraine as a democratic state governed by the rule of law.

However, it is also necessary to realize that legal mechanisms alone are not enough to implement gender policy. There is a tangible need for some measures aimed at overcoming the existing low level of gender culture of the population in society. It is necessary to create sufficient information and consultation network in all regions of the state, which would contribute to the implementation of national policy better and more oriented towards the creation of equal opportunities for both men and women. The national gender policy on ensuring equal rights and opportunities for men and women operates based on considering various international treaties in the agreements ratified by the Verkhovna Rada of Ukraine. Being a member of the United Nations and the Council of Europe, Ukraine is taking certain steps of gender transformation, recognizing

certain areas of the establishment of gender democracy and recognizing its place in the system of social democracy, entering the system of world gender technologies. Furthermore, we can add here the noticeable activation of the women's social movement, and along with it the creation of public organizations of male parents. In the economic sphere, we observe steady trends towards a decrease in the percentage of unemployed women and an increase in the number of women entrepreneurs. In general, state policy has become more oriented towards ensuring equal opportunities for men and women. It is worth striving for gender equality to become a priority direction, both economically and socially. It should be integrated into all areas of activity of authorities and strengthen the position of Ukraine as a social legal state. For this, state strategies should not only provide for, but also create a strong legal framework to ensure actual equality for men and women, and a mechanism for protection against discriminatory treatment regardless of gender should be implemented at the appropriate level. Gender activism of women and men, and with it, adaptation to the global conditions of gender democracy, is vital for Ukraine.

Conclusions

Therefore, the gender policy conducted both at the national and global levels is aimed at ensuring gender equality and non-discrimination of both women and men and establishing their equal status. The purpose that was set when authoring this scientific paper was achieved. The study analysed both the concepts of gender and gender equality and based on a thorough analysis of international and Ukrainian legislation, it was established which legal acts of Ukrainian and international legislation establish and guarantee gender equality and gender non-discrimination. Based on the conducted

research, it can be stated that thanks to the European and Ukrainian (state) legislation, it was possible to lay the foundations of the main legal opportunities of gender transformations; it was possible to considerably expand the gender component in various spheres of social life; it is observed that important gender approaches were implemented in law-making, law enforcement, and legal protection. Among such approaches, it is worth mentioning equality and non-discrimination based on gender; it has been established that the study of mutual practices in the adoption of various legal acts aimed at the formation and implementation of gender policy, as well as the generalization of various gender transformations and the expansion of various measures designed to ensure gender balance, has a positive effect not only on gender policy, and the level of legal culture of society.

The most effective tools for the implementation of gender policy include the legislative establishment of gender equality and non-discrimination at the state and global levels. However, it is necessary to emphasize the need to constantly conduct gender data statistics, as these data will allow identifying gaps, issues that require intervention. Today, there is a paucity of statistical research on

gender politics in some areas, so bridging this gap is worth further research and could be the subject of the next scholarly study. A detailed study of statistical data provided by the results of the World Economic Forum can shed light on the most pressing issues of gender equality and non-discrimination based on sex. Furthermore, the problem of gender discrimination, prevention, and eradication of gender-based violence in the conditions of war requires a separate scientific study. During the last year, active hostilities have been taking place in Ukraine, there is a full-scale war, as a result of which the rights and freedoms of a person and a citizen of a large part of the Ukrainian population, including both women and men, and sometimes children, are violated. It is worth investigating the most common cases of rights violations to develop measures aimed at preventing and not violating rights and freedoms in general and ensuring gender equality in particular.

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Conflict of Interests

None.

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Правові аспекти гендерної рівності та їх законодавче закріплення

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Анотація

Сьогодні дуже важлива не лише рівність прав та свобод, а також юридичне закріплення рівності між чоловіками й жінками в можливості повною мірою скористатися всіма тими правами й свободами в різних сферах суспільного життя, які гарантує і забезпечує держава. Мета статті – дослідити поняття «гендер» та «гендерна рівність» в контексті міжнародних нормативно-правових документів й українського законодавства щодо забезпечення рівних прав та можливостей жінок і чоловіків як невід’ємної частини загальних прав людини і громадянина. Серед ключових методів дослідження – діалектичний, логіко-юридичний та герменевтичний, які дали змогу здійснити аналіз понять «гендер» та «гендерна рівність» і визначити нормативну базу документів щодо забезпечення та гарантії гендерної рівності обох статей. За допомогою порівняльного методу здійснено зіставлення та аналіз відповідності українського законодавства міжнародним стандартам гендерної політики. У статті представлено результати характеристики та тлумачень норм правових документів і законодавства щодо їх відповідності принципам гендерної рівності. Розкрито суть понять «гендер» та «гендерна рівність». Визначено основні напрями забезпечення рівноправності чоловіків і жінок, які гарантуються українським і міжнародним законодавством. Обґрунтовано необхідність включити до всіх державних програм низку заходів, які забезпечують гендерну рівність і відповідають Цілям сталого розвитку. Доведено, що як на державному, так і на регіональному рівнях доцільно проводити різноманітні тренінги, які розкривають гендерні аспекти та підвищують обізнаність серед працівників з метою розвитку професійної гендерно чутливої культури робочого середовища. Акцентовано на важливості проведення заходів щодо запобігання порушенню прав і свобод людини та громадянина, а також щодо забезпечення гендерної рівності між чоловіками та жінками в умовах воєнного стану. Наголошено на важливості обов’язкового притягнення до відповідальності й покарання російських військових, винних у завданні насилля українським жінкам та чоловікам. Результати дослідження можуть використати як науковці, які досліджують питання рівноправності статей і дискримінації за гендерною ознакою, так і представники державних органів, до сфери компетенції яких входить реалізація політики гендерної рівності, а також студенти й викладачі юридичних вузів, усі, хто цікавиться проблемами гендеру та рівноправності

Ключові слова: гендер; соціальні ролі; рівноправність статей; принцип рівності; права людини
