PRINCIPLE OF GENDER EQUALITY: CONCEPTS AND RELATIONSHIPS WITH RELATED CATEGORIES

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УДК 340.12 : 342.7+305
DOI:10.32782/NP.2020.1.33

The article considers the conceptual and categorical apparatus of the theory of gender equality. It is emphasized that the formation of knowledge and skills development to ensure gender balance requires a thorough understanding and improvement of basic concepts in this area. It has been determined that equality presupposes the provision of equal conditions and opportunities for everyone. Equality of rights is a component of human equality which exists within the legal field, and is formalized in current legislation. Gender, as a legal phenomenon, is mediated by moral, ethical, social, political content. In terms of the relationship, the terms "gender" and "sex" should be understood as complementary.

The concept of "gender equality" has a deep interdisciplinary content and cannot be part of one science only. Gender equality is a kind of social equality. The peculiarity of gender equality is that it is an element of legal, economic, political, cultural, informational and other types of equality that exist in the society and state. That is, gender equality is an integrative phenomenon. Gender equality should be considered as a legal category, as an idea, as a principle of law. The definition of "gender equality" has been proposed. Gender equality involves the creation and use of common legal means for all participants in public relations – women and men.

It is highlighted that the principle of gender equality in the course of historical development has undergone essential, meaningful and formal filling and transformation. The principle of gender equality should be recognized as one of the basic principles of law. An important function of the principle of gender equality is information and orientation, which provides acquaintance of all subjects of legal relations with the basic principles of gender equality and legal regulation in this area. The interaction and interdependence of the principle of gender equality with other fundamental principles of law – the principle of the rule of law, the principle of legality, etc. have been stated. The principle of gender equality is a complex systemic social phenomenon based on legal, political, social, economic, ethnic, cultural and other factors.

Key words: equality, gender, sex, principle of gender equality, principle of the rule of law, the principle of legality.

Building a democratic state governed by the rule of law is based on guaranteeing equality of human rights. The peculiarity of the constitutional principle of equality of human rights and freedoms is to ensure their legal balance, balancing the needs and interests of individuals, social groups and society as a whole, developing mechanisms to prevent possible conflicts of interest and resolve them in case of occurrence. Ensuring equal rights and opportunities for women and men is one of the priority issues in the development of Ukrainian society. After all, the lack of gender equality causes the emergence of destructive processes in society, creates obstacles and restrictions on the path to social unity and slows down sustainable human development.

The formation of knowledge and development of skills to ensure gender balance requires

a thorough understanding and improvement of basic concepts in this area, filling them with modern content, taking into account practical experience and international standards. Currently, the theoretical and applied meaning of the day of the national legal system is the terminological characteristics of such concepts as "gender equality" and "principle of gender equality".

Studies of the conceptual and categorical apparatus in the field of gender theory have been carried out by S. Aivazova, O. Anikieieva, N. Anishchuk, S. Bobrovnyk, O. Wenger, E. Vozniuk, F. Gardiner, T. Hanzytska, G. Herasymenko, I. Hrabovska, E. Giddens, N. Hrytsiak, G. Daudova, O. Dashkovska, T. Demetradze, J. Ecker, L. Yerokhina, Y. Ivchenko, O. Katan, L. Kobelianska, L. Kormych, T. Krasnopolska, I. Kresina, M. Krochuk, K. Levchenko, D. Lomber, O. Lukasheva, E. Maccoby, K. March, T. Melnyk, L. Nalyvaiko, N. Onishchenko, O. Petryshyn, O. Pyshchulina, O. Rudnieva, B. Friedman, M. Walt, D. Harris, G. Hristova, M. Schuler, O. Yarosh and many others.

The primary concepts in the studied issues are "equality" and "gender". According to O. Rudnieva, human equality is a de facto, real equality of their social opportunities not only in the exercise of their rights, but also in the performance of duties. Given the objective inequality of individual traits, capabilities of each person and the uniqueness of individual living conditions, social inequality, as an inevitable result of such inequality, can be partially reduced by special measures of the state and society [1, p. 56-57]. O. Dashkovska, adhering to a similar opinion regarding equality, emphasizes that people are not equal in their physical and mental abilities, etc. Rights may be different for different groups of people, but they must be equal within the group for all its members. The researcher interprets equality of rights as belonging to each person the same legal opportunities necessary for their existence and development in specific historical conditions, which are objectively determined by the level of development achieved by mankind [2, p. 118-119]. A. Mordovets also understands equality of rights as equal opportunities for subjects to realize human rights; human equality, according to the author, is a political, moral and social phenomenon, but not a legal category; it is an ideal, universal value, guarantee of social order, etc. [3, p. 216]. Thus, scientists determine only legal possibilities as the basis of equality of rights.

In contrast to the above positions on equality of rights, L. Voievodin defined this category as multifaceted, which means that: the state provides each member of society, along with other members, with equal legal opportunities; the law imposes equal obligations on them; the exercise of rights and responsibilities is provided to them on an equal basis [4, p. 68]. The categories "human equality" and "equality of rights" are not identical, according to I. Polkhovska. Human equality is a multifaceted phenomenon that can be considered in philosophical, political, legal and other aspects, equality of rights is inherent only in the legal sphere; people are not equal as humans, but equal in their rights [5, p. 61, 63]. Thus, the author understands human equality as a broader phenomenon that includes, in particular, equality of rights.

V. Patiulin defined quality of rights as a fixed principle of equality of citizens before the law, i.e., legally enshrined equality of opportunity and the absence in the laws of any restrictions (privileges) on certain categories of citizens, on one or another socially significant basis; under human equality the author understands the actual presence of equal social opportunities for people to meet their needs and interests [6, p. 66]. O. Tsybulevska and T. Milusheva believe that equality is a broader concept than equality, because not all elements of social equality are enshrined in law [7, p. 84]. T. Demetradze believes that the categories of "human equality" and "equality of rights" are single-order, but not identical. Human equality is an equal legal status of women and men before the law; equality of rights is presence of the scope of rights only [8, p. 123]. In this case, the author defines a narrow framework for understanding the concepts under consideration. Probably, this approach can be explained by the author's desire to disclose the content of these categories only within the framework of jurisprudence.

Given the above, it should be noted that human equality is the creation of equal opportunities for all. Human equality is a broader category than equality of rights. Human equality

is being established consistently, and equality of rights is one of its components, which operates within the legal field and is formalized in current legislation. In legal terminology, it is more appropriate to use the term "gender equality", which has a deep interdisciplinary content and cannot be part of one science.

The concept of gender became a universally recognized achievement of the Western feminist movement of the 1960s and 1970s [9, p. 9]. Domestic researchers began to use this term in various scientific fields in the early 1990s, and today this concept is widely used, but does not always have a single meaning.

Distinguishing between the concepts of "sex" and "gender", researchers believe that, in contrast to sex, gender does not refer to biological characteristics, which differ men and women, and socially formed behavioural programmes and socio-role identity of biological sex [10, p . 61; 11, p. 146-147]. T. Martseniuk emphasized that one of the biggest methodological errors is the interpretation of the gender approach as one that is identified with the gender-role: each sex has its own role to be played by a man or a woman [12, p. 7]. Sex is a natural fact, gender is formed under the influence of socio-cultural factors [13, p. 4]. Gender is a subject of social reality that encompasses a number of aspects of a physical, cultural and psychological nature. The concept of "gender" has a wide range of applications both in science and in various social spheres. Sex is a biological aspect of human life, gender has a social character, which involves a particular behaviour for women and men, inherent in a particular society. These phenomena are inseparable and in a complex reproduce the specifics of a society, taking into account the interrelated levels of expression of each individual.

Gender equality is one of the most important principles of human rights, the foundation of civil society and the rule of law, as well as the international community. Empowerment of women and men is a necessary overcoming of manifestations of professional and sexual discrimination, gender segregation of labor, unequal pay, gender-based violence, etc. [14, p. 102].

The study of the concept of "gender equality" requires first of all to refer to the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men" of September 8, 2005, which formulates this phenomenon as equal legal status of women and men and equal opportunities for its implementation, which allows persons of both sexes to participate equally in all spheres of public life [15]. This definition can be described as concise and covers the basic principles of gender equality. Also, if it is conditionally divided into components: equal legal status; equal opportunities; equal participation in all spheres of public life, it is the last element that raises some doubts, namely the expediency of "equal participation" and the possibility of its broad interpretation. Since from the very beginning of life each person has individual physical and intellectual abilities and, accordingly, makes different contributions to the development of society, it is therefore correct to speak of equal participation of women and men in all spheres.

V. Chvykalov under the category of "gender equality" proposes to understand the principle-idea that enshrines the legal and de facto equality of rights of men and women and opportunities for their implementation [16, p. 35]. N. Romanov interprets gender equality as a basic legal principle that should be considered in two interrelated and complementary areas: normative, which provides an analysis of legislative activity and mechanisms for its implementation in practice, as well as the results of such activities of legislators in achieving gender equality, expansion the rights and opportunities of women and men; in the plane of public awareness and perception of the state policy in the field of gender equality [17, p. 74]. Gender equality, according to O. Nechaieva, is an equal legal status of women and men and equal opportunities for its implementation which allow persons of both sexes to freely develop their potential, develop skills and abilities to participate in political, economic, social and cultural development and master their achievements [18, p. 12-13]. There are a number of other definitions of gender equality, based on equal rights and opportunities for men and women in every sphere of life. It should be noted that domestic and foreign scholars specify the concept of "gender equality" somewhat more broadly in relation to the legislative definition of this term and some other author's interpretations.

We emphasize that in some definitions of gender equality researchers highlight equality in achieving results as its additional element: gender equality as a civilizational value (not in the legal, but in a broader sense) includes equality before the law, opportunities and results [19, p. 20]; when it comes to gender equality as an ideal of socio-political development, this concept can be understood as: formal equality (enshrined in law); equality of opportunity (giving a legally established advantage to a certain social group to create the same conditions as other groups); equality of results (purposeful provision of elimination of obstacles for competing parties, which may be due to previous discrimination) [13, p. 5].

Equality of results is a requirement according to which individuals after the distribution procedure must find themselves in the same conditions [20, p. 596]; this is the idea, the meaning of which is that society and the state must guarantee equality through the redistribution of social benefits or the introduction of so-called positive discrimination. This type of equality is possible only if the restriction of free competition, which is the basis of equal opportunities [2, p. 113]. Ensuring equality of results, society establishes additional guarantees for the implementation of the principle of gender equality, but at the same time there is a high probability of leveling the characteristics of each individual.

In support of this position should be cited the opinion of O. Dashkovskaya, who believes that because the material and mental abilities of people, conditions and circumstances in which they develop, are unequal, so the results of their activities can not be the same. The law only establishes an equal measure of conduct for all. At the same time, the eradication of power in a person's sense of individuality can give rise to total equality, but equality is not freedom but slavery [2, p. 104].

Gender equality is a process of fair treatment of women and men. To ensure fairness, criteria often have to compensate for historical and social barriers that prevent women and men from living on equal terms [21, p. 3]. They should enjoy the same social status, have the same conditions for the realization of all human rights, the opportunity to contribute to the development of the state, as well as equally enjoy the results of development [22, p. 142-143]. In this case, it is a question of justice, for example, a certain contribution of women and men to social development and the receipt of certain dividends or anything else in return.

Gender justice is the fair treatment of people, taking into account the gender specifics of the sexes. To ensure justice, special measures are often needed to compensate for historical and social omissions that prevent women and men from taking equal positions [23, p. 3]. Gender justice leads to equality [24, p. 69]. This means that women and men have the same status (position) in society.

Thus, gender equality can be considered as a legal category, as an idea, as a principle of law. The term "gender equality" should be understood as the equal legal status of women and men (rights, freedoms and responsibilities) and the creation of conditions for the realization of the abilities and capabilities of everyone in all spheres of life.

Despite the fact that after several decades of research in the field of gender equality by various domestic and foreign scholars, most of them do not single out the principle of gender equality as one of the basic principles of law, gender equality is one of the fundamental principles of civil society and the rule of law.

Any principles, including the principles of law, are the result of human activity. They are social phenomena both in source and content, and their emergence is due to the needs of social development, they reflect the laws of social life [1, p. 86]. Each principle of law is an independent social phenomenon, but its highest effectiveness is manifested only in interaction with other principles of law, when they begin to act as a holistic entity and in harmony.

Today, various terms are used in science, including the principle of gender equality, the principle of gender equality, the principle of equality between women and men, and others. However, we can note in fact the only content of these phenomena. According to the analysis of the terms "human equality" and "equality of rights" conducted at the beginning, the application of the category "principle of gender equality" is the most correct.

The principle of human equality is a prerequisite for stability in society and the basis for

the development of human potential. In the process of society development, certain rules, values and stereotypes have been formed. Such rules served for human survival and creating comfortable living conditions [25, p. 111]. The principle of gender equality implies that economic, political and social resources should be distributed between men and women in general evenly, without significant disparities, unequal conditions in access to social resources [26, p. 134; 27, p. 36].

The principle of gender equality requires accepting and assessing the inherent differences between women and men and the different roles they play in society, which is related to the belonging of men and women to a particular class, their political views, religion, ethnic group, etc. [24, p. 64, 67]. The principle of gender equality should serve as a basis for ensuring equal rights and opportunities for women and men, and on the other hand – should not in any way violate the moral principles of society [28, p. 192]. Therefore, the principle of gender equality should be recognized as one of the basic principles of law. Now it is filled with new theoretical and legal content; is the foundation of human rights and freedoms and is intended to implement primarily the methodological function – to provide tools and methods for effective implementation of human rights. An important function of the principle of gender equality is information and orientation, which provides acquaintance of all subjects of legal relations with the basic principles of gender equality and legal regulation in this area.

The analysis of the conceptual and categorical apparatus of the theory of gender equality provides grounds to draw the following conclusions.

1. The concept of "human equality" is a constantly changing, dynamic phenomenon that takes into account the peculiarities of social development, the needs and interests of its members. Human equality presupposes equal conditions and opportunities for everyone. Equality of rights is a component of human equality which exists within the legal field and is formalized in current legislation. The range of understanding of the category "gender" is quite wide. Gender as a legal phenomenon is mediated by moral, ethical, social, political content. Today, this concept is used in almost all spheres of life and does not always have a single meaning. The term "sex" means the biological aspect of human life, the term "gender" has a social character, which implies a particular behaviour for women and men, specific to a particular society. In terms of the relationship, these phenomena should be understood as complementary. Together, they reproduce the specifics of a particular society, taking into account the interrelated levels of expression of each individual.

2. The concept of "gender equality" has a deep interdisciplinary content and cannot be part of one science. Gender equality is a kind of social equality. The peculiarity of gender equality is that it is an element of legal, economic, political, cultural, informational and other types of equality that exist in society and the state. That is, gender equality is an integrative phenomenon. Gender equality should be considered as a legal category, as an idea, as a principle of law. The term "gender equality" can be understood as the equal legal status of women and men (equality of rights, freedoms and responsibilities) and the creation of conditions for the realization of the abilities and capabilities of each person in all spheres of private, public and state life. In modern domestic realities we have the opportunity to distinguish between "formal and legal gender equality" (equality before the law and procedural equality, equal opportunities for each person) and "actual gender equality" (the real state of gender equality in society and the state). Gender equality involves the creation and use of common legal means for all participants in public relations – women and men; it is possible to provide a system of exceptions for individual cases (positive discrimination); guaranteeing organizational and procedural means for the realization of the rights and responsibilities of women and men.

3. The principle of gender equality should be understood as a set of basic ideas and provisions conditioned by specific historical social development, which objectify the legal values of establishing gender justice in all spheres of private, public and state life and ensure the development of the rule of law and civil society. The principle of gender equality serves as a goal that must be taken into account in law-

making and law enforcement. The principle of gender equality is intended to implement primarily the methodological function – to provide tools and methods for effective implementation of human rights. The analysis of the content of the principle of gender equality provides an opportunity to state its interaction and interdependence with other fundamental principles of law – the rule of law, the principle of legality and others, which only together can properly eradicate the imbalance in rights, opportunities and responsibilities of women and men and establish gender parity. The principle of gender equality is a complex systemic social phenomenon based on legal, political, social, economic, ethnic, cultural and other factors. Revealing the legal nature of the phenomenon of gender, it should be emphasized on the axiological, ontological and epistemological basis of the principle of gender equality. The semantic components of the principle of gender equality are freedom, justice, rule of law and legality.

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ПРИНЦИП ГЕНДЕРНОЇ РІВНОСТІ: ПОНЯТТЯ ТА ВІДНОСИНИ З ПОВ'ЯЗАНИМИ КАТЕГОРІЯМИ

У статті розглянуто понятєво-категоріальний апарат теорії гендерної рівності. Наголошено, що формування знань та розвитку навичок щодо забезпечення гендерного збалансування вимагає ґрунтовного осмислення та удосконалення основоположних понять у цій сфері. Визначено, що рівність передбачає забезпечення однакових умов та можливостей для кожного. Рівноправність є складовою рівності та існує в рамках правового поля, формалізуючись у чинному законодавстві. Гендер як правове явище опосередковується моральним, етичним, соціальним, політичним змістом. В аспекті співвідношення терміни «гендер» та «стать» доречно розуміти як взаємодоповнюючі.

Поняття «гендерна рівність» має глибоке міждисциплінарне наповнення й не може виступати лише частиною однієї науки. Гендерна рівність є різновидом соціальної рівності. Особливістю гендерної рівності є те, що вона виступає елементом правової, економічної, політичної, культурної, інформаційної та інших видів рівності, які існують у суспільстві та державі. Тобто гендерна рівність є інтегруючим явищем. Гендерну рівність слід розглядати як правову категорію, як ідею, як принцип права. Запропоновано визначення поняття «гендерна рівність». Гендерна рівність передбачає створення та використання єдиних правових засобів для всіх учасників суспільних відносин – жінок та чоловіків.

Підкреслено, що принцип гендерної рівності у ході історичного розвитку пройшов сутнісне, змістовне і формальне наповнення і трансформацію. Принцип гендерної рівності має визнаватися одним із базових принципів права. Важливою функцією принципу гендерної рівності є інформаційно-орієнтаційна, що передбачає ознайомлення всіх суб'єктів правовідносин з основоположними засадами гендерної рівності та правового регулювання у цій сфері. Констатовано взаємовплив та взаємозалежність принципу гендерної рівності з іншими фундаментальними принципами права – принципом верховенства права, принципом законності та ін. Принцип гендерної рівності є складним системним суспільним явищем, в основі якого лежать правові, політичні, соціальні, економічні, етнічні, культурологічні й інші чинники.

Ключові слова: рівність, гендер, стать, принцип гендерної рівності, принцип верховенства права, принцип законності.