



## **GENDER EQUALITY AS A LEGAL PRINCIPLE**

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### **Abstract:**

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The description of gender equality as the value of law in discourse of anthropological tendency is given in the article. Considered right to differences in the aspect of gender mainstreaming in law. The main components of gender equality are characterized.

**Keywords:** Sex, gender, gender equality, right to differences, gender's parity, gender mainstreaming, gender's

**FORMULATION OF THE PROBLEM.** In modern philosophical and legal thought, a new paradigm for the development of an anthropological approach to man and his subjective rights is being introduced, since human life, dignity, freedom, justice, equality are widely discussed values in modern scientific philosophical and legal literature. A person of the future is a person who is modernly educated, with high psychophysical, moral and intellectual qualities, has developed needs and interests, and recognizes universal human values, including gender equality. Trends of time indicate that the high-quality use of human potential, regardless of gender, leads the country to progress, since both women and men are comparable members of the construction of a developed society in which every person can realize himself, regardless of his gender, preferences, religious beliefs, skin color and age.

Therefore, in modern conditions of anthropological trends in introducing the priority of the individual, such a value as gender equality requires a systemic analysis.

**THE PURPOSE OF THE ARTICLE** is to clarify the anthropological approach to understanding gender equality; analyze the right to differences in the discourse of gender approach in the legal sphere; characterize the structural components of gender equality; explore gender equality as a value of law.

**STATE OF THE RESEARCH:** some problems of the topic of the scientific article are reflected in the works of A. Dashkovskaya, N. Onishchenko, E. Levchenko, A. Rudneva, T. Fuley, S. Khisanova and others.

**STATEMENT OF THE MAIN PROVISIONS.** Law (both natural and positive), according to its content and idea, is directed towards the highest value - man. The discussion about the nature of law is related to human nature [1, p. 52–91]. Next to the concept of "man", the concepts of "personality" and "individuality" are equivalent, characterizing, first of all, that special

thing that distinguishes a particular person as an individual and as a person from everyone else, including both natural, physical, mental and social properties, both inherited, and acquired, produced in the process of human development [2, p. 37].

An integral fundamental characteristic of a person, inextricably linked with his nature, is gender. Gender is a characteristic of a person that cannot be ignored. It is in gender that a person first feels his biological nature, its irremovability. But not only biological. Gender guides and determines, accentuates and persuades. It stores, protects, becomes a source of energy and inspiration [3, p. 113].

To determine the socio-sexual characteristics of gender, as opposed to the actual biological ones (genetic-morphological, anatomical, physiological), characterizing lifestyle, behavior, intentions and aspirations, etc., the concept of "gender" is used. Gender concerns not only men and women as individuals, but also characterizes the relationship between them as socio-demographic groups and gender relations in general - how gender socialization and personal identification occurs, taking into account gender roles and stereotypes.

Every time we talk about the concept of gender in modern conditions, we have to constantly overcome the existing stereotype of the "women's issue," thereby emphasizing that gender problems are, first of all, social problems, problems not only of women, but also of men, problems of the whole society, which are not limited to the relationship between the physiological sexes and the distribution of roles in population reproduction [4, p. 5].

Today, anthropological value orientations of the 21st century require filling public consciousness with new content, in particular the gender-sensitive mentality of society, i.e. conscious recognition, respect and promotion of the principle of equality of people regardless of gender. It is quite obvious that the issue of gender equality has acquired particular relevance today and is of considerable value for law.



A significant role in determining gender equality is played by the relationship between the concepts of legal and actual equality, equality of starting opportunities and equality of results. Legal equality presupposes the equality of subjects of law before the law, establishes equal legal means for the implementation of their subjective rights, equal protection and equal legal liability for their violation. It is formal in nature, since it does not create actual equality between subjects of law who differ significantly in their abilities, natural, physical and social capabilities, marital status, intellectual development, etc. Under such conditions, an equal right for unequal people becomes actually unequal, and in order to overcome such a disadvantage, the right "instead of being equal, must be unequal" [5, p. 134-135]. The term "gender equality" in the context of social and economic transformations is interpreted as a condition of equality before the law, equal opportunities (including equality in receiving remuneration for work of equal value, as well as in access to human resources) to express one's interests, regardless of a person's gender. That is, in this context, equality implies that men and women have the freedom to choose different (or similar) roles and different (or similar) end results - according to their intentions, goals, desires and preferences [4, p. 5]. Gender equality is an integral part of the general principle of equality as a principle of democratic society. Law is understood today as an equal measure of freedom for everyone - women and men. The construction of gender equality is revealed through the category of human rights as a universal standard that is the same for both sexes [6, p. 159-160].

According to representatives of feminist views, it is advisable to include the principle of bodily differences in legal theory. Only by perceiving and representing people as bodily personified beings can one understand how the processes of their thinking and decision-making occur and, accordingly, the motives for this or that behavior. Theorists of feminist jurisprudence emphasize the relationship between physicality and the differences associated with it, and therefore try to include in the law the specifics of the differences in bodily experience of representatives of different genders, races and ages [7, p. 11-12]. Thus, gender equality presupposes differences, since equality of the sexes in the philosophical and legal plane does not mean their biological identification.

Gender equality includes the right to differences between women and men. Differences should not negatively affect the living conditions of a person, both male and female, should not be the reason for their

discrimination, or lead to inequality. Differences concerning the reproductive sphere of women and men do not lead to inequality, which may arise under the influence of certain social factors, situations, actions (legal guarantees for the protection of the health of a pregnant woman). Physiological differences cannot be accepted or abolished by law, so a woman's ability to bear a child is a difference that does not change over time, and the fact of protection does not lead to inequality.

However, the right to differences should not become the basis for abuse and discrimination, since, as N. Isaeva notes, "stereotypical thinking about women's rights as a set of benefits due to the physiological characteristics of gender and reproductive function, while ignoring the principle of gender equality, leads to a violation of equal opportunities for men who find themselves in the same conditions in labor, family and other relationships" [8, p. 188]. Consequently, there is a fine line between the right to difference and discrimination, which the gender approach allows us not to cross. A gender approach in the legal sphere is impossible without reflecting the right to differences between men and women at the legislative level. The right to differences covers the biological characteristics of men and women, which should not be leveled out in legislation by creating privileges for men or women, but should be taken into account by ensuring an adequate attitude of society to the natural characteristics of men and women.

Gender equality is about the actual status quo, but is about human behavior and relationships. In the axiological dimension, gender equality has both an individual and a social component and covers many implications, namely:

- equality of rights is the legislative granting of equal rights to males and females in all spheres of life;
- equality of opportunity - ensuring (guarantees) in practice equal conditions for equal distribution, use of political, economic, social and cultural values, excluding discrimination and restrictions of any gender that negatively affect life and self-expression;
- ensuring equal conditions for the realization of rights and opportunities;
- gender symmetry - a state in which the principle of equal rights and opportunities for women and men is implemented in practice.

The category "gender symmetry" is inextricably linked with "gender parity", which is to ensure gender-balanced relations between the sexes, taking into account gender differences, promotes the



development of partnerships between men and women, their common responsibility in eliminating imbalances in the private and public spheres, affirmation of parity principles leading to rapprochement rather than separation of the sexes.

**CONCLUSIONS.** Today, one of the main values of law is the equality of men and women. The introduction of gender equality is not only a requirement of elementary social justice and a necessary component of democracy, but also the realization of the possibility of approaching the goal of sustainable human development, organizing social relations on the principles of justice, integrity and tolerance. Gender equality requires a fundamentally new way of thinking, one that views development as a process of expanding freedom of choice for both sexes. Gender equality as a value of law is a decisive step forward towards the development of a democratic, gender-oriented society.

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