

THE GENDER PRINCIPLE IN LAW AS A GUARANTEE OF EQUALITY IN  
LEGAL REGULATIONO PRINCÍPIO DE GÊNERO NO DIREITO COMO GARANTIA DE  
IGUALDADE NA REGULAÇÃO LEGAL

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**Abstract:** The development of modern Ukraine on the basis of the new forms of social relations between the sexes must be carried out in accordance with world universal standards of human rights and equality between the sexes. Article defines the need for a more specific view of gender equality. Using the historical approach and different theoretical methods, article attempts to systematize knowledge about feminism, gender, transgender, human rights and opportunities of people. The article contains an analysis of gender discrimination and violence and defines ways of overcoming them. The study focuses on the legal aspects of equal rights and opportunities in both international legal acts and Ukrainian legislation. The article studied how a gender approach in politics, economics and social spheres was being developed. Measures taken to ensure the equal distribution of family responsibilities, ensuring a reduction in the gender pay gap, were analyzed. The main areas of gender equality guaranteed by international and domestic law were identified as follows: equal access to management positions, access to labor market participation, elimination of occupational segregation, violence and discrimination based on gender, unpaid time off, etc. The priorities of the state gender policy for the last 5 years were investigated.

**KEYWORDS:** Equality, Feminism, Gender Binary, Human Rights, Sex Discrimination.

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**RESUMO:** O desenvolvimento da Ucrânia moderna com base em novas formas de relações sociais entre os sexos deve ser realizado de acordo com os padrões universais mundiais de direitos humanos e igualdade entre os sexos. O artigo define a necessidade de uma visão mais específica da igualdade de gênero. Usando a abordagem histórica e diferentes métodos teóricos, o artigo tenta sistematizar o conhecimento sobre feminismo, gênero, transgênero, direitos humanos e oportunidades das pessoas. O artigo contém uma análise da discriminação de gênero e da violência e define formas de superá-las. O estudo enfoca os aspectos legais de igualdade de direitos e oportunidades tanto em atos legais internacionais quanto na legislação ucraniana. O artigo estudou como uma abordagem de gênero na política, economia e esferas sociais estava sendo desenvolvida. Foram analisadas medidas tomadas para garantir a distribuição igualitária de responsabilidades familiares e para garantir uma redução na diferença salarial entre os sexos. As principais áreas de igualdade de gênero garantidas por leis internacionais e domésticas foram identificadas, como: acesso igualitário a posições de gestão, acesso à participação no mercado de trabalho, eliminação da segregação ocupacional, violência e discriminação com base no gênero, licença remunerada, entre outros. As prioridades da política de gênero do estado nos últimos 5 anos foram investigadas.

**PALAVRAS-CHAVE:** Igualdade, Feminismo, Binarismo de Gênero, Direitos Humanos, Discriminação Sexual.

## 1 INTRODUCTION

The guarantee of equal rights of all citizens is an integral sign of the social progress of humanity. According to the principle of equality of citizens, equal rights and opportunities for everyone without exception are ensured and guaranteed by various organizational and legal means. The equality of rights and opportunities is realized through the provision of equal opportunities for women in economic, political, cultural and other activities, creating conditions that combine work with motherhood, material maternity support, paid leave for pregnant women and mothers.

The problem of gender is an attempt to explain men and women as representatives of biological sexes. According to one of the versions of the origin of the term "gender", the term was first used by psychoanalyst and sociologist Robert Stoller in 1968. He points out that the concept of "gender" is derived from the concept of "sex", society created images of men and women, giving them signs of "masculinity" and "femininity". This universal social construct is called "gender". The scientist noted that gender identity was manifested in a person when he/she (the person) consciously

or unconsciously classifies himself/herself as male or female (Stoller, 1968).

When talking about gender, we should also keep in mind concepts such as femininity and masculinity, which largely reflect the gender identity. The masculinity in the traditional binary gender paradigm is associated with strength, endurance, courage, power and success. At the same time, the femininity is endowed with such traits as sensitivity, emotionality, weakness and dependence. The femininity and masculinity are formed from the moment of the connection between a person and society. However, feminine and masculine traits are not permanent. They may vary depending on the specific stage of socialization.

The division of biological sexes into men and women is called gender binary. In a binary gender system, society divides people into men and women who must respond and act according to these gender roles. Gender roles impose various aspects of self-expression and restrictions on people regarding clothing, behavior and a choice of profession. From a school age, the gender is perceived by children as a binary category. Gender roles are crucial in the gender binary. Gender roles affect both aspects of self-expression and people's life experiences. It should be emphasized that masculinity or femininity is not universal and has no natural basis. They are constructed by society and depend on the cultural and political context.

V. Bryson (2011, p. 25) emphasizes that "most existing differences between men and women are a social issue based on gender, not the natural quality of gender". The researcher claims that to some extent this affects the reflection of their modern roles, rather than innate behaviors. Thus, women are able to perform "men's work", and men can learn "feminine qualities" such as patience and versatility. Some scholars deny the gender binary code and emphasize the arbitrariness of the gender binary, quite often there are errors in the expectation of binary behavior among both men and women.

Nevertheless, there are exceptions in the binary gender system. For example, inter-sex people cannot be considered both male and female. A. Fausto-Sterling (2000), in her work "Five Articles: Why Men and Women Are Not Enough", proves the existence of intersex categories among people who have a combination of both female and male sexual characteristics. These people are considered abnormal and undergo forced surgery to comply with the bisexual system. The very existence of such people

is a challenge to gender binary standards. A. Fausto-Sterling (2000) emphasizes that modern practice today encourages and supports the idea that gender is a cultural construct and points to the fact that the world is gradually moving from an era of binary code sexual deformity to an era other than number 2.

Regarding the research on current understanding of gender and issues of gender discrimination, an example of how this issue is approached in different countries should be given. This information can not only be retrieved from academic articles and regulatory frameworks. For example, in the Republic of Poland, there are a large number of widely available sites where everyone can learn not only about gender equality issues, but also to get useful information on gender discrimination in different spheres of life (Leśniak, 2022; Wright, 2022). Such sites quite often contain contacts of the relevant services, which will provide highly qualified assistance in case of discrimination.

As for gender research in Ukraine, it was launched through the efforts of enthusiasts - domestic teachers and teachers of higher education. The gender approach in the analysis of the situation of women and men, as well as intersex relations and the role of each sex in civil society was first published in independent Ukraine in 1999 as part of the Gender in Development project of the United Nations Development Program (UNDP). Society” (Melnyk et al., 1999). At the current stage, the problem of gender is addressed in their research by Yu.A. Goncharova (2017), O. Vodianikov (2021), and O.V. Kharitonova (2020). These scientists determine the need for research and analysis of the gender principle in law, which acts as a guarantee of equality in legal regulation.

## 2 METHODOLOGICAL FRAMEWORK

The research methodology, which is based on history, contributes to the definition of gender in modern conditions. Systematization of knowledge about gender allowed to the need to identify areas of development and different trends in gender studies. The leading approach to the study of gender is the use of a wide range of different methods of scientific knowledge, such as the theoretical method, which

organizes knowledge about gender, which is based on the principle of logical construction of a holistic concept.

The historical-genetic method should be regarded as a gender dimension of the historical process. Gender assessment of historical processes significantly expands the awareness and understanding of the hierarchy of power, property, etc.

The research process uses analyzes qualitative and quantitative data based on the analysis of various literature sources and statistical data. When analyzing the concept of gender, official statistics on women and men is explored. It provides an overview of four indicators of inequality between men and women: economic participation, education, political representation and health.

The sociological method allows to determine different gender parameters and compare them with social characteristics. It is with the help of the sociological method that the authors analyze family relationships, professional activities and employment of both sexes. The socio-psychological method allowed to study socially constructed female and male roles, relations between the sexes, sexual characteristics, identity of persons and their psychological characteristics.

A scientific study of equality of sexes is impossible without the application of a gender approach, which suggests a new task - instead of considering the problem of equality/difference of sexes, the phenomenon of diversity and the multiplication of differences between indicators should be considered. At the same time, difference should not be seen as a deviation from the norm to be overcome, but as a diversity that has a right to exist and that brings new alternative values to the culture.

It is impossible to study the gender principle in law without an integrated approach. An integrated approach has made it possible to apply the whole set of methods when considering gender issues of equality between men and women. A comprehensive approach allows to consider gender relations as socially oriented relationships of inequality and gender. Due to gender, a person's value orientations change, many legal approaches and deeply rooted beliefs are revised. The prognostic method allowed to determine the prospects of gender development in the country given the current gender situation.

### 3 RESULTS AND DISCUSSION

#### 3.1 FEMINISM AS A HISTORICAL PRECONDITION FOR ADDRESSING GENDER ISSUES: THE STRUGGLE FOR EQUAL RIGHTS AND OPPORTUNITIES FOR WOMEN AND MEN

Gender has been under close scrutiny for the past 20-30 years, as it appeals to the most significant division of humanity by gender, it began to be used in defining legal relations and norms governing various political strategies of state and society, in regulating transformations in various spheres of life.

Feminism was a historical precondition for addressing gender issues. The ideas of feminism have deep roots. The so-called "Protofeminism" dates back to the XV century. In 1405, the work of Christina of Pisa "The Book of Women's Hail" was published, which describes in detail the ideal city as a refuge for women who have suffered oppression and injustice from society.

The word "feminism" was first used by the French scientist Francois Marie Charles Fourier in 1837. In his opinion, the condition of social progress is the empowerment of women. John Stuart Mill (2001) argues that "legislative support for the subjugation of one sex to another is harmful and one of the main obstacles to universal improvement". The paper points out the dependent position of women compared to men, but emphasizes one exception - the right to the royal throne, which belongs to all members of the royal family without exception, regardless of gender (Mill, 2001). In 1867, Mill submitted a petition to the British Parliament in favor of women's suffrage. This marked the beginning of the struggle for women's suffrage in Britain. Only in 1918 did the women of this country receive the right to vote from the age of thirty.

Examining the development of feminism, as well as the theory of gender, it is worth mentioning the work of Simone de Beauvoir "The Second Sex". The researcher emphasizes that men rule the world, and women are destined to dedicate their entire lives to marriage and children. In addition, education and upbringing are structured in such a way as to reinforce in girls the idea that girls have worse abilities than boys.

The famous feminist also points out that marriage and children are a trap for a woman, emphasizing that a woman's domestic responsibilities are much greater than man's, which often leads to a lack of time and opportunity to realize themselves outside the home.

De Beauvoir points out that if a woman's position in the world changes, not only women but also men will benefit, because in that case a woman will become more independent and will be less of a financial burden for a man. Simone de Beauvoir concludes that the liberation of women will become a reality," says the writer, "only when it is a collective affair and its necessary condition is the final triumph of economic independence" (de Beauvoir, 2017).

Postmodernism provided the most complete understanding of the position of women in society. In the late 60's of the twentieth century, the approach to the role of women in society is changing in the feminist movement. Feminism is a concept that was formed in response to women's social needs, which are reduced to three main questions as follows: recognition of the ability to interpret a woman's life experience; dissatisfaction with the situation in which there is institutional inequality of women; and the desire to end this inequality.

During the second wave of feminism, questions were raised about women's entry into the labor market, about decent wages, social support from the state, and unpaid domestic work. The issues of domestic violence in the family and in the work environment turned out to be quite painful. The wife of the second President of the United States Abigail Adams is among the famous American feminists. She stated: "We will not begin to obey the laws in which we did not participate, and the government that does not represent our interests" (Training Course..., 2021). In general, the right to vote for women was the first in the world in 1893, granted by New Zealand, a year later it was done by Australia. Among European countries, women's suffrage was first granted in Finland in 1905. Note that the doors of European universities for women were first opened in the late nineteenth century. In the United States, at the end of 1960 the number of women in economic, legal and medical universities the number of female students ranged from 5 to 8%.

The feminist movement is not over today. So far, women in not all countries of

the world have the right to education. Today we have the following types of feminism: Muslim, Latin American, "black" feminism, ecofeminism and third world feminism. Feminism is a social theory and critique of patriarchy that fights injustice and overcomes gender discrimination. Feminism is a struggle for equal rights for both men and women. S. de Beauvoir, K. Miller, and K. Fireson are convinced that equality between women and men should not be achieved, as this will lead to women adopting standards of behavior and traditional masculine values. They highlight the special value of the female essence and advocate for the development of a separate female culture (Kirichenko, 2009). Differences in views between representatives of different feminist movements dispel the forces of the feminist movement. Perhaps that is why none of these alternatives have achieved striking results in overcoming inequalities between the sexes.

A way out of a deadlock for feminism regarding gender equality and diversity is found in gender theory. Feminism and the feminist movement became the basis on which gender emerged and was formed. Although feminism does not answer the question of the origins of gender differences, it has significantly changed the gender system in the Western world. This changed the legislation on abortion and divorce; a stable share of women in the parliaments of the world's leading countries has been established. In addition, gender identification has been transformed.

### 3.2 GENDER AND HUMAN RIGHTS

Gender is a system of values, characteristics and characteristics of male and female behavior, way of thinking and lifestyle, attitudes and roles of men and women, acquired by them in the process of socialization, determined by economic, political, cultural and social contexts of life, which are supported by social institutions and fix the notion of man and woman depending on gender (Fundamentals of Gender Theory, 2004). In the scientific literature, the term "gender" is used in several senses.

Since ancient times, mankind has been trying to consolidate the social differences between men and women in the following forms, such as myths, religion, rites and traditions. The principles of binary gradation are clearly traced back to ancient



Greece. One of Aristotle's works states: "it is better when the higher principle is separated from the lower. Therefore, if possible and where possible, the male is separated from the female" (Harding & Hintikka, 1983). The scientist argued that "the only meaning of the division of the sexes is the birth of children, and the only purpose of a woman is to bear children. In the process of conception, a woman gives a child a body and a man a soul. Hence a man is superior to a woman" (Aristotle, 2012).

Quite often when talking about gender, first of all, the attention is paid to different types of inequality, and not only to the differences that exist between women and men. The so-called gender theory aims to ensure gender equality. In any democratic society, both men and women are guaranteed equal opportunities to participate in all spheres of life. If there is gender discrimination in one or another sphere of social life, it must be addressed at the state level.

The gender equality is the equal legal status of men and women and equal opportunities to achieve them. Similarly, gender equality implies equal access for men and women to resources, their fair distribution (Strategy, 2018). When considering the issue of gender equality, mistakes are often made when identifying the gender approach with gender role.

"Gender" and "sex" are two different concepts. The term "sex" is used to denote the atomistic, biological and physiological differences between the female and male body, which are expressed by the different participation of women and men in the reproductive process, a different set of chromosomes and different genitals. A biological sex is determined in a person from birth. In today's world, gender is a social, symbolic construct of gender. Gender is a system modeled by society and supported by various social institutions of values, characteristics and norms of female and male behavior acquired by them in the process of socialization, determined by social, political, economic and cultural contexts of life.

Today, the issue of ensuring gender equality is in the field of view of the world community. Every year, the World Economic Forum prepares the Global Gender Gap Report. This report identifies four indicators of inequality between men and women: economic participation, education, political representation and health. According to the World Economic Forum, in 2021 Ukraine occupied 74th place among 156 countries.

As can be seen from the table, the worst indicator is the 103rd place in the world in terms of political representation (Table 1).

**Table 1.** Data from the Global Gender Gap Report 2021 for Ukraine

Characteristic	Ukraine
Place (among 156 countries studied)	74
The overall value of the global gender gap index (0.00 - inequality, 1.00 - equality)	0.714
Economic participation (place / value)	44/ 0.732
Education level (place / value)	27/ 1.000
Empowerment (place / importance)	103 / 0.147
Health and survival (place / value)	41/ 0.978

Source: World Economic Forum, 2021.

In order to expand political rights and opportunities in Ukraine, gender quotas in politics are conducted. Today in Ukraine there is a formal equality of the right to vote and the right to vote. Unfortunately, formal equality between men and women is not the key to realizing this equality in real life. There are a number of informal barriers to women's entry into big politics in Ukraine. Therefore, gender quotas are a mechanism to ensure gender equality in politics, a tool to ensure the fair representation of women in government and parliament. Thus, quotas are a tool that guarantees an increase in the representation of women in politics.

As the experience of the Scandinavian countries shows, there is a direct link between the country's well-being and the high level of women's participation in political life. Thus, Morten Enberg, Head of the Election and Governance Project, Coordinator of various OSCE projects in Ukraine, said that Sweden's experience was useful in researching the country's efforts to address women's participation in politics. Thus, when the share of women in parliament is 20%, then the parliament develops many bills related to children, and if their share increases to 30%, then the parliament increases the consideration of bills related to women's interests.

Gender identity is not immutable, it can change. Only constant support and

appropriate gender behavior enables this behavior to exist. Thus, gender is what people generate through their actions. According to the current gender and hierarchical categories that underlie traditional political thought, men continue to be seen as a model of humanity (Engeli & Mazur, 2018). If women want to become independent in society, receive appropriate material rewards, and have a political voice, they must accept and act within the male model of behavior.

The gender research highlights various economic, political, cultural and legal aspects of welfare (4 constitutional dimensions of social life) (Novakova, 2017). In 2022, in most countries of the world, ordinary citizens felt a decline in welfare. Ukraine did not become an exception. The media has been increasingly emphasizing that the financial situation of households is deteriorating. Military aggression by the Russian Federation and external occupation of a number of regions of Ukraine along with war-related problems in socio-economic, financial and other spheres has led to a deep socio-economic crisis. While a large part of the male population of Ukraine was mobilized to the Armed Forces of Ukraine or other units created on a voluntary basis (territorial defense units), care for the family and its welfare became the responsibility of women. Seven months of active fighting in Ukraine has led to a sharp decline in the living standards of both individuals and entire households. Hundreds of thousands of people were forced to leave their destroyed homes. The data in Figure 1 show the deterioration of the welfare of Ukrainians.

<p><b>Socio-economic/financial dimension</b></p> <ul style="list-style-type: none"> <li>✓ The large part of the enterprises in the zone of active fighting and in the regions that were occupied by Russian troops during a certain period of time was destroyed</li> <li>✓ Macroeconomic indicators have decreased, investments have decreased considerably</li> <li>✓ The state budget deficit has increased, a large part of the state budget funds are directed at the needs of the Armed Forces of Ukraine and the liquidation of the consequences of military actions</li> <li>✓ The tension in the energy sector has increased due to the cessation of gas trade and the banking business</li> <li>✓ The inflation has increased significantly, and the exchange rate of the national currency (the hryvnia) continues to fall steadily</li> <li>✓ Large part of Ukrainian business was forced to move their enterprises from combat zones to safer regions, and some enterprises stopped their existence</li> </ul>	<p><b>Socio-political/legal dimension</b></p> <ul style="list-style-type: none"> <li>✓ The special state bodies work in the enhanced regime and identify violators among volunteers who are engaged in volunteer activities for obtaining profit</li> <li>✓ The law enforcement agencies, together with the State Service of Ukraine for Emergencies, are working in the enhanced regime and operating in accordance with the conditions of military time</li> <li>✓ The local self-government bodies work in the enhanced regime with different state bodies conditions of the military situation</li> </ul>
<p><b>Socio-cultural dimension/dimension of welfare</b></p> <ul style="list-style-type: none"> <li>✓ Today, the pension payments remain at the pre-war level, despite the fact that the country constantly experiences a rise in prices for goods of a wide range of consumption</li> <li>✓ The health sector is functioning in the enhanced regime, caused by the military aggression of the Russian Federation, as well as by the COVID-19 pandemic</li> <li>✓ Large part of the budget funds and charitable assistance are provided to the categories of forced migrants, who have been affected by military actions</li> <li>✓ Large number of educational institutions, due to the absence of bomb attacks, are forced to provide educational services in a remote format</li> </ul>	<p><b>Socio-ecological dimension</b></p> <ul style="list-style-type: none"> <li>✓ The State Service of Ukraine for Emergencies together with law enforcement and local self-government bodies eliminate the negative consequences of local technological disasters and environmental problems caused by the fighting</li> <li>✓ Public utilities operate in the enhanced regime in a military situation, ensuring energy stability</li> <li>✓ Large part of the land fund of Ukraine is temporarily unsuitable for use because of mining</li> </ul>

*This information is not supported by any official statistics. The given information is intended only to inform about the situation in Ukraine in conditions of military aggression from the Russian Federation from the end of February till the end of September 2022*

**Figure 1.** Indicators of social quality in Ukraine during the end of February-September 2022

Along with the deterioration of the welfare of Ukrainians, as evidenced by indicators of social quality, the gender issue has become more acute. Thus, women often need not only material support from the state, but also protection from law enforcement bodies, various kinds of psychological assistance and support in cases when they are victims of sexual violence or other discrimination by military officers of the Russian Federation.

In 2022, the world has not yet been able to overcome the COVID-19 pandemic.

Therefore, in Ukraine, it exists alongside the military aggression of the Russian Federation. COVID-19 infects people regardless of sex, but its impact is gender. Women constitute the main part of health workers in the world. They are subject to double risk of being infected at work and at home. In some countries of the world, the number of COVID-19-infected female health workers is several times higher than that of male health workers (Malik & Naeem, 2020).

The official website of UN-Women (2022) reports on the impact of the COVID-19 pandemic. Along with various health interventions, many governments adopted a method of social isolation and distancing to combat the pandemic more effectively. In such conditions, distance and social isolation increases the risk of violence against women. There are many cases of cruel treatment, neglect and exploitation. Malik, S., & Naeem, K. in their study of the impact of COVID-19 pandemic on women, the outbreak of the pandemic has a different impact on women and men in their daily activities. At a time when the number of patients on COVID-19 is growing, women are more vulnerable to risks due to the gender nature of health care workers. Women who fight against the disease are subject to limited work and economic opportunities

The gender pay and the absence of promotion on the career ladder, which leads to the economic independence of women. For women quarantine restrictions, and as a result restrictions on access to social infrastructure such as schools and kindergartens, have led to an increase in unpaid care homework. Under quarantine conditions, when all family members were forced to stay at home, women began to spend more time on household chores than men (Ukrainian Women's Fund, 2021). In addition, the number of women victims of mental and physical violence at home has increased during this time. In this regard, a number of measures have been taken in Ukraine to increase the level of measures to provide assistance to victims of domestic violence (Gender aspects..., 2021).

Thus, in the context of the COVID-19 pandemic, gender discrimination against women is particularly acute. Women, compared to men, bear a disproportionate burden of the adverse effects of the pandemic. Policymakers and governments should support women, as the pandemic has increased the risk of folding down the significant

successes that women achieved in official working power for decades (Nanthini & Nair, 2020).

When considering different aspects of gender and feminism, attention should be paid to the allocation of resources. Considering time as a resource, V. Bryson (2011) points out that time is a scarce resource that is unevenly distributed between men and women. Inequality in the use of time and its evaluation dooms many women to economic dependence and vulnerability to exploitation and domestic violence. Lack of free time makes it impossible to gain one's own political voice, experience in civic activities and change the state of affairs. According to her, gender and feminist policies should not only expose and deny the current distribution of both paid and unpaid work, but also of leisure time. The researcher is convinced that the gender movement should defend the idea that unpaid work, such as caring for others, should be properly valued and rewarded as being of paramount importance to the well-being of society.

At some point in their lives, they will spend a lot of time caring for their children, cleaning the house, and will spend much less time on paid work than their own husbands. These different types of work are rewarded differently. Thus, those who spend a lot of time caring for others are financially vulnerable. Given this, such people will have much less political weight. Although men and women are politically equal, women can now compete with men in various fields, but they do so on the terms created by men.

Examining the labor market in Ukraine in 2020, it is noted that 79.2% of men and 68.9% of women are economically active out of the total working age population (State Statistics Service of Ukraine, 2020). These statistics are typical for EU countries, while Ukrainian women are forced to leave paid work due to the need to do unpaid homework (Gender Aspect, 2021).

In addition, we should note that the labor market of Ukraine is characterized by a stratification of activities for men and women. In addition, there is a vertical segregation. This in turn means a hierarchy of positions (Kozin et al., 2020). Thus, 71% of men work in forestry, fisheries and agriculture. As for women, their percentage is much lower compared to men in management and executive positions, but is much higher in clerical and support work. Such a division in the labor market inevitably leads

to a gender pay gap. Thus, the average wage of women compared to men is 3/4 of wages (State Statistics Service of Ukraine, 2020).

The Gender Equality Indicator in Ukraine shows that the most noticeable gender disparity is observed not only in the lower representation of women in politics, but also in the indicators of participation in the labor force of men and women (Samilyk et al., 2021). The above indicators show that compared to men, women have a high gender gap in health care and education. However, in economic and political life, this gap is quite significant. The documents, which develop the state strategy for bridging the gender gap, define the role of gender stereotypes in shaping the perspective of what work should be done by both men and women and distributing unpaid domestic work between men and women.

### 3.3. GENDER-BASED DISCRIMINATION AND VIOLENCE, WAYS TO OVERCOME IT

In today's bipolar society, much attention is paid to the status of women. There are many cases of discrimination against men. If women are subject to restrictions in the professional and public sphere, then men are subjected to such harassment and sometimes even discrimination when mastering the private sphere.

When men are willing to exercise their right to care for a child, it may provoke opposition from certain government agencies. It should be noted that in Ukraine there are very few hospitals that have specially equipped wards in which a father with a sick child could stay. Usually hospital wards are designed to stay in the hospital with a sick child of the mother. This can be seen as a manifestation of discrimination against men.

In Ukraine, there are several other examples of discrimination against men. For example, we can name the establishment of custody of a child. With regard to child custody, no legal act in Ukraine provides for the enshrined privileges under which women were given the preemptive right to children. In the vast majority of cases, the court decides to leave the children with the mother in case of divorce. Most often the judge takes into account the case law and decisions of the plenums of the Supreme Court, where decisions in cases are usually made in favor of the woman. In addition,

the gender stereotype "a woman should take care of children" plays a significant role.

Men may also be discriminated against in the case of leave. Thus, according to the Law of Ukraine women who have two or more children under the age of 15 or a disabled child can take "at will" in the summer, leave. As for a man, he can take such leave only if the institution does not want women with two children or a disabled child to take leave at this time." Ukrainian legislation contains laws that discriminate against men. For example, if a man and a woman committed the same crime under the same conditions, the punishment for this crime should be the same. However, according to Article 66 of the Criminal Code, a woman's pregnancy when convicted of a crime is considered a mitigating circumstance. The inability of men to have a child does not allow men to take advantage of the provisions of Article 66 of the Criminal Code.

The situation abroad is not better. According to an experiment conducted by the Universities of Linköping and California, there are many cases of discrimination against men who want to get a job that is considered predominantly female (BBC NEWS/Ukraine, 2021). Discrimination was found in a number of professions, which are usually dominated by women. Men have restricted access to such professions as a nurse, a kindergarten teacher and a cleaner. It should be noted that this experiment was conducted in Sweden, where social protection is one of the highest in the world. However, in this country we also see manifestations of discrimination on the grounds of sex. Therefore, achieving gender equality regardless of gender still has to overcome a number of obstacles that are to some extent related to the mentality of members of society.

Gender labeling is also a form of discrimination. Each of us has encountered gender labeling at least once in his life. It is everywhere and is an aggressive ideological force that affects the formation of our thoughts, the way we act, as well as the amount of money we spend on certain goods. The availability of a variety of goods that we constantly buy due to one need or another contains gender labeling. The very fact of the existence of gender labeling of goods constantly reminds us that much depends on our gender.

In some cases, the presence of gender-labeled goods contains information that men and women should play unequal roles in human society. Many gender-labeled



goods indicate, for example, that a girl is a princess and a boy is a king. Here we observe the determination of the dependent or lower position of the female sex on the basis of gender. Gender labeling of goods also affects the value of goods. The gender labeling of these goods also includes appropriate colored toys for boys and pink toys for girls. Quite often "male" and "female" products have different prices.

According to a study conducted in the state of California, the United States women spend 2044 dollars more than men (Feminist Workshop, 2021). This money could be spent on food, education or recreation. When women are forced to pay more, it is detrimental to their financial stability and independence, as well as lowering their quality of life. Based on the above, we can say that gender labeling is a marketing step to sell as many products as possible to a particular target audience, but it is quite negative and exacerbates the problem of gender equality.

In today's gender-marked society, the number of transgender people has increased significantly. This community has grown in number, become more visible and audible. Today, transgender people do not dissolve in a cisgender society and are not forced to undergo surgery to forever establish their gender identity with a male or female part of society.

In the process of empowering transgender people, many questions arise about the access or stay of transgender people in gender-labeled spaces. There are discussions about the fact that the basis for access to male or female space is the gender, gender, genitals, which determine gender identity, indicated in the identity card (passport).

Some countries try to take into account the needs of transgender people when addressing gender. In Italy, for example, a transgender prison in Pozzallo was created in 2010. In India, a separate prison block for transgender people has been opened at Viyur Prison in Kerala. It should be noted that in India, transhumans belong to the Hijra caste, which is often called the third sex. An appropriate unit for gay and transgender prisoners exists in the Los Angeles Prison. In this prison, prisoners were able to create a special environment of support in which they are free in gender. Since 2017, the Los Angeles Police Department has introduced a policy for trans prisoners, according to which they should be addressed with the appropriate pronoun and the desired name.

In addition, this department was prohibited from disclosing certain details of a person's transgender status (Exclusive, 2017).

In New Zealand, there are rules for the treatment of trans prisoners that ensure their dignity, security and privacy, as well as support for their gender identity. Transgender people are given the opportunity to dress and look according to their gender identity. Prison staff address trans prisoners by their desired name and gender. Such prisoners may undergo legal recognition of gender. In addition, transgender prisoners are held in double cells with access to a common prison space accessible to all prisoners. However, not all prisons meet these standards, even in New Zealand (Gender in detail, 2021).

Violence should also be addressed when talking about gender discrimination. Thus, a number of measures have been taken in Ukraine to address the issue of gender-based violence. Gender-based violence is a violation of the rights of both women and men, as well as an obstacle to achieving gender equality. Data from the Ukrainian national hotline show that domestic violence is most common against women. Thus, about 22% of women between the ages of 15 and 50 experience at least one form of sexual or physical violence (Gender Aspect, 2021). Violence against women is seen as a violation of women's human rights, as well as a major obstacle to gender equality.

Each country has its own gender regime, which includes discourses, practices, values, family forms, separation of powers, and power relations. Thus, taxation and family benefits in countries such as Spain, Italy and Germany determine that in the family, the one who takes care of the children is the mother, and the one who has to earn money is the father. However, women in these countries try to work part-time. (Bittman et al., 2005) The governments of these countries encourage mothers of young children to stay at home and care for their children. In the Netherlands, the government aims to encourage the spread of a dual family model based on a combination of domestic and paid work. (Pascall & Lewis, 2004).

Thus, in the process of implementing the gender program, each state must legally regulate working conditions and provide conditions of support for women or male guardians, and citizens must pay taxes. This regime is formed by the state, but it is

able to influence what the state can do in the field of gender equality. Thus, social policies and taxation can help shape gender identity.

### 3.4. LEGAL ASPECTS OF ENSURING EQUAL RIGHTS AND OPPORTUNITIES IN LEGISLATION OF UKRAINE

Ukraine has a certain feature of gender relations due to the Soviet past. In the Soviet era, women were obliged to work, and they were not exempt from housework and childcare.

During the second half of the twentieth century, Ukraine ratified a number of international treaties and agreements that ensure and guarantee gender equality as follows: the Convention on Equal Remuneration for Men and Women Workers for Equal Work (1951), the Convention on Equal Treatment and equal opportunities for working men and women: workers with family responsibilities (1981) and a number of other international treaties and agreements.

With regard to domestic law, which guarantees equal rights and opportunities, Art. 24 of the Constitution of Ukraine should be mentioned. In addition, in 2005 the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men" was adopted. This law ensures the parity of men and women in various spheres of society, as well as defines the main directions of state gender policy, formed a national mechanism that provides equal rights and opportunities for both men and women, and prohibits sex discrimination. It should be noted that some provisions of this law are purely declarative and do not provide for any effective sanctions in case of violation of the law.

Control over the observance of the rights and opportunities of women and men in Ukraine is exercised in accordance with the Law of Ukraine "On the Commissioner of the Verkhovna Rada of Ukraine for Human Rights". In 2008 the Code of Labor Laws was amended according to which a collective agreement on production should ensure equal rights for both men and women. In 2012, the Law of Ukraine "On Principles of Preventing and Combating Discrimination in Ukraine" came into force, according to which discrimination on the grounds of sex is prohibited.

State policy to ensure equal rights and opportunities for women and men in Ukraine is aimed at achieving gender equality, preventing and preventing discrimination on the grounds of sex, combating gender-based violence, ensuring equal opportunities to combine professional activities and family responsibilities to ensure equal participation of men and women in making important public decisions, promoting tolerance and a culture of gender equality among the population (CMU, 2018). In addition, gender equality affects the level of legal culture of both society and the state. Ensuring gender equality indicates the appropriate level of development not only of the rule of law, but also of the legal culture (Kachur et al., 2020). The above provisions of the law indicate the existence of a strong legal framework in Ukraine, which ensures the regulation of equal rights and opportunities for women and men, as well as combating and preventing discrimination on the grounds of sex.

But military aggression by the Russian Federation against Ukraine is extremely challenging for different categories of women and men, as well as children. Forced displacement, loss of work or income and as a result of increased risk of poverty; sexual violence associated with military aggression in territories temporarily occupied by the Russian Federation; and the risk of human trafficking are some of such problems.

According to the gender assessment conducted by the UN Gender Equality and Empowerment Structure in Ukraine, resources that provided convenient accommodation for women, children and men from the regions of active hostilities have exhausted very quickly in the relatively safe regions of Ukraine. Today there is a limited opportunity to provide care for children of preschool age. This in turn affects the fact that women with such children are not able to work productively. Access to education and health care for such women is limited (CMU, 2022).

It should be noted that the means for existence are provided by social support from the government, as well as humanitarian aid. This is particularly noticeable in the private sector. As of April 2022, 72% of recipients of social assistance were women (CMU, 2022). There are risks of human trafficking on temporarily occupied territories of Ukraine. Human rights defenders and representatives of vulnerable groups such as women with disabilities often face an increased risk of violence on these territories.

In view of the above mentioned, it is important to secure equal rights of men and women. Apart from that, the integration of a gender approach to all programs and strategies of state development should be ensured in order to facilitate the restoration and development of Ukraine, to overcome the problems that take place in the conditions of military aggression of the Russian Federation against Ukraine.

#### 4 CONCLUSION AND RECOMMENDATIONS

In Ukraine, as well as in other countries of the world, men and women are those categories of society that work in various industries, in cultural, social, political and other spheres. Regardless of gender, they play an important role in the management of natural resources and in the production of a wide variety of products. Therefore, ensuring gender equality in all spheres of life is the key to prosperity and harmonious development of any progressive society.

Ensuring equal rights and opportunities for men and women is the basis of gender policy and is grounded on achieving parity for both men and women in all spheres of society. It can be achieved by legally ensuring equal rights and opportunities for men and women, eliminating gender discrimination and the application of a number of special measures to secure equal rights and opportunities guaranteed by both domestic law and international law ratified in Ukraine.

Highlighting certain aspects of gender policy, this article sets a perspective for a further analysis of interrelated gender issues. In view of the above, it should be noted that for the successful implementation of gender policy in Ukraine there are a further guarantee of the implementation of the national program to ensure equal rights and opportunities for men and women; the improvement of domestic legislation, which would guarantee a 30% quota to party lists in elections to both the parliament and regional and district councils; the adherence to the principle of gender equality in the recruitment and promotion of women in the civil service; the rational use of the potential of women with higher education; the support for women's leadership in all spheres of public life at various levels, and the support for women in military conditions and provision of qualified medical care and psychological support to those women and girls

who have suffered sexual violence or other forms of discrimination by military officers of the Russian Federation during military invasion of Ukraine. It will be useful to finance the participation of national experts in international events on gender policy. When planning various programs and projects, the specific needs of men and women should be taken into account. Men should be involved in promoting ideas against violence against women and promoting gender equality.

These priorities will help to address the disparity and promote gender equality, as well as focus on those aspects that have not received the attention of the world community. The materials of this article can be useful not only for researchers and teachers of higher education institutions engaged in gender studies, but also for government agencies whose tasks include the implementation of gender policy.

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