

International legal endorsement of gender equality principle and its contribution to the democratic society development

Міжнародно-правове забезпечення принципу гендерної рівності та його роль у формуванні демократичного суспільства

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gender equality, principal of gender equality, democratic society, civil society, sustainable development, economic growth, human rights.

Ключові слова:

гендерна рівність, принцип гендерної рівності, демократичне суспільство, громадянське суспільство, сталий розвиток, економічне зростання, права людини.

Actuality. Equal rights and opportunities for men and women are recognized as one of the priorities for the majority of the democratic states governments. Internationally, gender equality is considered as a common value, which should be promoted in order to achieve justice and sustainable social and economic development.

The current state of international relations requires a qualitative deepening of the international legal regulation of the human rights and fundamental freedoms into the national legislation through the universal acceptance of the international standards of equality and women's rights. Thus, the socially oriented structure of these international standards on equality and women's rights will help to effectively implement the international legal norms at the internal level.

At the present stage of state formation, Ukraine needs the special additional measures for the development of women in the scopes of international standards, in particular, giving them the capacity to live under the conditions of gender equality. Such measures should take into account the social construction of female, which is the obstacle to the implementation of gender equality because of women childbearing functions, the physiological characteristics of their body, and to cope with stereotypes about social roles of men and women.

Problem formulation. The new social conditions make the adjustments of the views about the role of woman in the society. Women's social responsibilities have gone far beyond just "family duties", radically changing their place and role in the society and the state, especially, it considers active participation of women in the political life and economic activities.

Despite the existence of the large amount of the international instruments in the field of women's rights (only the UN has more than 100), the principle of gender equality, which is followed by the social changes and constant contributions to its legal content, still remains a problem.

The gender aspect is a subject of various scientific fields studies: sociology, pedagogics, psychology, history, culture and more. However, according to economist Ejaz Ghani, state's economic growth cannot be completed without social progress and gender equality¹.

In December 2014 the World Economic Forum prepared and published the rating of gender equality 'The Global Gender Gap Report 2014'. This rating evaluates gender equality in 142 countries around the world, based on their involvement in the economy, politics, education and health. Ukraine takes the 56 place in this rating. Therefore, experts from the Organization for Security and Cooperation in Europe has advised to increase the women representation in politics.

¹ Ghani E. Is Growth Incomplete without Social Progress? Project Syndicate: The World's opinion page, 2011 / E. Ghani [Electronic resource]. – Access mode : <https://www.project-syndicate.org/commentary/is-growth-incomplete-without-social-progress?barrier=true>.

Insufficient representation of women in the government and administrative public and private institutions, leads to social problems move away. Some researches, involving psychologists, sociologists and doctors, have shown that female manager is more clearly aware of the social problems, and their approach to solving them (unlike purely pragmatic men) are the most effective. For example, women mostly contribute the gender equality and discrimination against women problems are discussed at the national and even international levels. The lack of targeted public policies promoting gender equality leads to the increased socioeconomic differentiation of the population by gender, the disparity in the real opportunities for men and women, which are declared in the Constitution of Ukraine as the part of the guidelines for the democratic society. Moreover, the existence of gender inequality slows the economic growth, weakens the governmental performance and reduces the effectiveness of the development strategies.

Moreover, in the conditions of the hybrid war, which is waged today in Donetsk and Lugansk regions of Ukraine, the role of women in maintaining the defense of our country is worth noting. Today, women in anti-terrorist operation region (ATO) act as snipers, spotters, trainers, etc., holding the official positions of cooks, clerks, accountants. At the same time, they receive salaries several times lower than men. This unacceptable situation became the subject of discussion within Ukraine's cooperation with the North Atlantic Treaty Organization (NATO). At the insistence of the latter, the Defense Minister Counselor of Ukraine on gender issues was appointed and the National Action Plan for the implementation of the UN Security Council Resolution 1325 "Women, peace and security" for the period until 2020 was adopted. During the meeting with the leadership of the Ukraine Armed Forces, Special Representative of the NATO Secretary General on Women, Peace and Security Ambassador Mariyet Shuurman noted that the empowerment of women in the Army would significantly increase the defense capability of the country and lead to more effective and speedy carrying out modernization of the Ukraine's Armed Forces². Despite the recent steps in the field of promoting gender equality in the ranks of the Armed Forces, a number of issues remain resolved only on paper.

The main aim of the article is to define the role, place and impact of the gender equality principle, including its main components, in the social, political and economic transformation of the state and civil society building.

In Ukraine some aspects of this problem was studied by M. Buromensky, O. Vinglovska, N. Grytsak, K. Levchenko, N. Onishchenko, N. Plahotniuk, A. Slatvytska, etc.

Yet, the legal support of the gender equality principle and its practice is not thoroughly investigated in the domestic legal doctrine. Preferably, most studies refer to the overall protection of women's rights, neglecting the context of the principle of gender equality and its main components.

In Russia this topic was studied by: S. Aivazova, S. Polyenina, A. Chebotarev, N. Shapovalova etc.

Moreover, a number of foreign scientists such as D. Gomien (2000), David A. Cotter, J.M. Hermsen and R. Vanneman (2004), K. Gerson (2009), R. Max Jackson (2012) made a great impact in development of the theory gender equality and problem of gender inequality in society.

Presenting main material. The emergence of the human rights is a natural phenomenon and the result of the social development. At the same time, women needed centuries to force society recognize the existence of the problems in the women's human rights area. The status of women was constantly changing at the different historical stages, in particular, matriarchy was replaced by patriarchy and vice versa. Feminism as an ideology or the idea of legal equality (from the Latin word "femina" – woman)³ received official recognition only in the late XIX century. The recognition of woman as an independent social entity and her right to self-determination became the unifying factors for the emergence of the feminism. It is believed that the French Revolution (1789) gave impetus to women around the world to fight for their rights ("Declaration of the Rights of Man and of the Citizen" allowed divorce by mutual consent, and the "Declaration of the rights of women and the citizen" written that year by Olympe de Gouges challenged the patriarchal structure of society)⁴.

² Removing barriers to women in the Ukrainian armed forces [Electronic resource]. – Access mode : http://www.nato.int/cps/en/natohq/news_131563.htm?selectedLocale=en.

³ Young W. A New Latin-English Dictionary: To Which Is Prefixed an English-Latin Dictionary / W. Young (2015) [Electronic resource]. – Access mode : <https://www.amazon.com/New-Latin-English-Dictionary-Prefixed-English-Latin/dp/129551141X>.

⁴ Olympe_de_Gouges // [Electronic resource]. – Access mode : http://fr.wikipedia.org/wiki/Olympe_de_Gouges.

As a manifestation of the basic needs of every human being, human rights are determined by the level and nature of the particular state-educated society and human civilization as a whole. Understanding how gender affects human life in the specific situations is a necessary step in solving many problems. This analysis does not focus on women or men but rather on relationships and trends that can be traced between them – their different roles, responsibilities, opportunities and needs.

Regardless the form of government, the issue of women's rights and their protection has always been a subject for discussion in all states. Even in the last century P. Bezobrazov argued that "a strong society – is a society that is built on the principles of justice, on the basis of equality; a society, in which the weak and poor should not be excluded. Deprivation of the basic human rights means the protest against progress, slower historical development, and total misunderstanding of the time requirements"⁵.

Moreover, it is hard to disagree with the idea of modern Russian political scientist S. Aivazova who states that the study of women's problems does not only "makes it possible to better understand modern women, but also allows to assess the ability of a society to renewal, modernization, in particular, the transition of the traditional system to a modern liberal democracy. Women's rights are the integral part of human rights – one of the main parameters of modernization"⁶.

Analyses the problems that women face every day due to their biosocial differences with men leads to the conclusion that all challenges are the result of women's biological characteristics, in particular, their ability to give births. According to the chief supporters of feminism, reproductive abilities of women are their major "punishment". Thus, women cannot devote their time to work because the childbirth and a large array of family responsibilities. Therefore, the top positions are given to men who have no need to retire from public life and work because of childbirth and childcare. That, in turn, leads to the fact that women sometimes have to choose between family and career, which eventually, according to psychologists, leads to mental disorders and reduces the life expectancy of women.

S. Hrysanova supports the same opinion and notes that "Women create social group that has characteristic features – reproductive ability and interruption of professional activity. Such group also has its specific values. According to the author, children and procreation have the primary place in the structure of such values. Consequently, the period from 16 to 55 years for women is less attractive than for men in terms of economic, social and political activity, as the birth and education of children not only violates the continuity of the process, but also destroys their professional activities.

In addition, it is important to note that the integral part of the principle of gender equality is to ensure women their reproductive rights, which includes access to family planning services, thus, reducing the overall birth rate (which affects the global demographic situation that today is catastrophic because of the rapid growth of the world population), the number of unplanned pregnancies and the number of risky pregnancies, reducing the threat of maternal mortality and morbidity in the long run. Access to family planning leads to more optimal allocation of births, which in turn, improves overall maternal health and reduces the chances of developing the syndrome of the female body exhaustion and the threat of premature birth and complications.

Family planning is a basic human right, which is desired by women and men of all ages worldwide. It is a question of equality and social justice. The ability to decide whether to have children, when and how much – is a reflection of equal rights and opportunities⁷. The international community recognizes the existence of problems in this area (Programme of Action of the International Conference on Population and Development (ICPD) was adopted in 1994)⁸, but there are still countries where women do not have the "right to their own body".

However, according to data of the World Health Organization, one of three women in their lifetime are the subject of physical or sexual abuse by their partner. Gender-motivated violence is a violation of human rights.

⁵ Безобразов П.В. О правах женщины / П.В. Безобразов. – М., 1895. – С. 39.

⁶ Айвазова С.Г. Русские женщины в лабиринте равноправия. Очерки политической теории и истории: док. материалы / С.Г. Айвазова. – М., 1998. – С. 5.

⁷ Гончарова Ю.А. Некоторые аспекты международно-правовой защиты репродуктивных прав женщин / Ю.А. Гончарова // 36. матеріалів Міжнародної науково-практичної конференції «Юридична наука та практика: виклики сучасних євроінтеграційних процесів» (27–28 листопада 2015 р. м. Братислава (Словацька Республіка)). – К., 2015. – С. 227.

⁸ Report of the International Conference on Population and Development [Electronic resource]. – Access mode : https://www.unfpa.org/webdav/site/global/shared/documents/publications/2004/icpd_rus.pdf.

It also increases the risk of contracting AIDS⁹. Experts of the Joint UN Programme to Fight HIV/AIDS (UNAIDS) found that each hour virus infected 50 young women worldwide. Most of them are victims of violence¹⁰. Furthermore, most cases of violence occur at home. Analyses of the global practice to combat violence against women, shows that in many cases violence happens under the guise of cultural or religious peculiarities of this or that country. However, the right to live free from violence and discrimination is a natural human right and cannot be regulated by specific social norms of the particular culture.

Gender-based violence puts women in a more vulnerable position. It is followed by the abortion, forced sterilization, which in turn, limits the right of women to plan their families. Today, the issue of abortion ban has created many debates. Women from France, Spain, Poland, Italy came to the streets, in order to protect the "right to their body". In most countries abortion is forbidden by the church, although, there are exceptions for such ban, in particular, if the pregnancy was caused by violence, or if some abnormality of fetus appeared. Analyzing the statistics, it should be noted that such a prohibition leads to clandestine clinics or "black" doctors who perform such procedures in unsanitary (domestic) conditions, which increases the mortality rates of women and results in their inability to have children in the future.

In addition, despite the large amount of the international instruments in the field of gender equality, women around the world face discrimination and need varying degrees of protection of their rights. International instruments and mechanism for implementing women's rights are ineffective due to the several reasons.

Firstly, the existence of the universal legal instruments for the women's rights protection is impossible due to the religious and other kinds of differences. Mostly, there is the list of countries where religious norms are the main rules of conduct and, a priori, countries cannot be members of the universal instruments that reinforce gender equality.

Secondly, the low level of economic development where women do not have access to information (education) affects the way women ensure their rights and protect them.

Thirdly, the majority of international instruments for the women's rights protection lack the mechanisms for monitoring compliance with the provisions of these documents by the subjects of international law, since it can be regarded as interference in the internal affairs of states. Obviously, there are some exceptions, such as the Convention on the Elimination of Discrimination against Women (1979)¹¹, which established the Committee of the same name, which serves as the supervisory body for the implementation of its provisions by the states. In practice, its action still faces a number of obstacles.

Fourthly, there is often discrepancy between domestic law of participating countries and the adopted legal acts. Moreover, there are cases when the actually existing internal regulations contradict the international norms. According to the statistics presented in the World Bank report in September 2015 for states that are parties of the Beijing Declaration on Gender Equality (1995)¹², women in 32 states do not have the right to obtain a passport without the consent of her husband; in 22 countries married women have no right to decide which citizenship give to their children; finally, women in 18 countries cannot work without the consent of men. There are still states where women have no right to vote (Saudi Arabia, the Vatican), or this right is limited (for example, women need to have a primary or higher education (Brunei, Lebanon, UAE)).

Finally, the absence or insufficient number of relevant legal precedents lead to the fact that women do not believe in justice and do not seek protection of their rights.

In September 2015, in context of the 70th UN General Assembly session in New York, the UN Summit for adoption of the agenda for development beyond 2015 was held. The international community has recognized this event historically significant. Summit covered the problems of all aspects of socio-economic development, national competitiveness, environmental and energy security and a global partnership for development. The volume of detailed preparatory work had no precedent in history.

⁹ The report on the state of health care in the world, 2013 [Electronic resource]. – Access mode : http://apps.who.int/iris/bitstream/10665/85761/1/9789240690868_rus.pdf.

¹⁰ UNAIDS Report, 2012 [Electronic resource]. – Access mode : http://www.unaids.org/en/media/unaids/contentassets/documents/epidemiology/2012/gr2012/JC2434_WorldAIDSday_results_en.pdf.

¹¹ The United Nations Convention on the Elimination of All Forms of Discrimination against Women on December 18, 1979 [Electronic resource]. – Access mode : <http://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>.

¹² The Beijing Declaration and Platform for Action. A / CONF.177 / 20 (1995) and A / CONF.177 / 20 / Add.1 (1995).

The UN member states faced the new tasks, determined by global goals after the Summit. It identified 17 key goals and priorities, in particular, the 5th goal identified – “Ensuring gender equality and the empowerment of all women and girls”. Moreover, it was determined that the level of social development can be measured by different criteria, but one of the most universal one is promotion of equal opportunities for men and women in decision-making process¹³.

Thus, education for girls and women can be considered as one of the most effective tools to combat poverty. Investment in education contributes significantly to improvement of health, increase household income and reduce infants’ mortality.

Conclusions. Despite the fact that during the last century considerable progress has been achieved in gender equality ensuring, true equality in the workplace remains an elusive goal. Big gap between women and men remains at all levels of the economy: the representation of the labor market, salaries and quality of work, the balance between work and family responsibilities, division of household chores, self-determination and social protection. There are also obstacles for women in the process of decision-making and management. Increasing the number of women in parliament, government and other administrative structures of public and private nature, may contribute to a sharp focus on social issues, which in turn, is positive for their rapid and effective solution.

Ukraine is not the exception, since women make up more than half of Ukraine’s population. Thus, the transition to a democratic society and market economy requires equal representation in their life.

The biggest mistake of the states authorities is that they are delaying the reforms which they consider the “second stage”, in particular, higher level of education, health and gender equality. Economic and other kinds of reforms in the country should be carried out systematically. Development strategy that puts economic growth on the first place, neglecting the poverty, is not viable. Strategy, designed to better income redistribution, should not inhibit economic growth. Today, the social unrest in the world and numerous conflicts challenged the capacity of the states to create jobs and promote equality, provide youth education and create effective social protection programs. In order to cope with these challenges, we must understand how economic opportunities can be extended to eradicate poverty, promote human development and stimulate economic growth, which would integrate gender equality. Greater gender equality can contribute to the economic growth and sustainable development. At the same time, the initiatives to empower women can transform the whole society.

Moreover, considering the gender perspective in the working sphere, including providing the conditions for the maternal leave and caring for children in the conditions social and working environment, can be a separate incentive for women, and as a result for the economy of the state.

It is about the possibility of equipping children’s rooms, amending the schedule of working women etc. Moreover, the right to leave work for child care is given for fathers in 78 countries. In 70 of them this leave is followed by the special payments. For example, in Australia and Norway men have the right to stay in this vacation 14 weeks, receiving their wages. Therefore, it is necessary not only to legally confirm such leave but also to motivate males in order to overcome gender stereotypes.

Additionally, the creation of gender-enabling jobs, providing quality education, medicine and effective gender-based social programs is the key to the sustainable economic growth. In order to understand how economic opportunities can be extended to eradicate poverty, promote human development and stimulate economic growth, we must provide the gender equality. Higher level of equality can contribute to the economic growth and development.

Summary

Equal rights and opportunities for men and women are recognized as one of the priorities for the majority of the democratic states’ governments. Internationally, gender equality is considered as a common value, which should be promoted in order to achieve justice and sustainable social and economic development.

¹³ Sustainable development goals [Electronic resource]. – Access mode : <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>.

Анотація

Забезпечення рівних прав і можливостей для жінок та чоловіків визнано одним із пріоритетних напрямів діяльності урядів більшості демократичних держав світу. Гендерна рівність визнається міжнародною спільнотою як цінність, якої слід досягнути задля справедливості та сталого суспільного й економічного розвитку.

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