

The Place of Women in the Armed Forces: Legislation and State Compliance with Gender Equality Policies

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ABSTRACT

The purpose of this comparative study is to analyse the challenges and problems faced by women during military service based on the state of gender equality in different countries. The study analysed international law and international judicial practise, which are the driving forces behind making adjustments and changes to the legislation of different countries. The main research method was to compare the existing doctrinal approaches to the study of gender inequality in the armed forces of different countries, to display quantitative indicators of women's military service in those countries, as well as to analyse and compare the nature of the challenges faced by women during their military service. The study also conducted a thorough analysis of the works of scholars in this area, which confirmed the existence of this problem of gender inequality in the armed forces. It was concluded that the authorised bodies of states should allocate significant resources and efforts to implement measures to ensure the rights of women in the armed forces.

Keywords: gender equality, gender inequality, discrimination, military service, armed forces

INTRODUCTION

Military service is a rather interesting object of research and is relevant in terms of regulating legal relations within and between nations. Historical experience shows that in their internal lives, states have been guided by a generally uniform definition of the conditions and rules of military service. They could also borrow the experience of other states, for example, during armed confrontations and wars. The period of the 20th and 21st centuries was a turning point when public opinion began to influence the regulation of the conditions of military service. The 20th and 21st centuries also marked progress in the protection of women's rights, including a significant expansion of women's right to defend peace and order, sovereignty, and the territorial integrity of their homeland. Military service in a range of armed forces became a way of providing such protection.

In the 21st century, there is still stereotyping regarding the role and place of women in the army and during combat operations. The study by Letendre (2016) shows that many people still tend to believe that the primary mission of servicewomen is not to participate in combat operations as soldiers but to provide quality support and care of servicemen, primarily medical care of them. However, this stereotype does not meet the realities of today, when women can serve in the military on an equal footing with men and fulfill their duty to the state.

The first mention of women serving in the army on an equal footing with men without any restrictions was in 1895 in Canada. Women served in combat units as fully-fledged soldiers. Women were also granted a certain social status as military personnel. This tradition continues to this day in several states. Gender equality has always been a topic of much debate and controversy and this includes the issue of access to military service, including the debate about the role of women during the Second World War which is still ongoing. Globally, discussions continue on the issue of women's involvement in difficult and dangerous combat missions and participation in missions; the issue of increasing the number of women in the army and the possibility of their career growth in leadership positions in the armed forces are key issues.

In Western Europe, even during the First World War, women joined the armed forces to defend their country. The 1970s marked a transition to voluntary recruitment, which led to an increase in the number of women in the

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armed forces. Bangladesh, Nicaragua, Northern Macedonia, France, Spain, Zimbabwe, the Maldives, Switzerland, Denmark, Austria, North Sudan, Suriname, Belgium, Togo, Montenegro, South Africa, Canada, and Germany are among the nations that have had women as Ministers of Defense (Tenkov, 2022). It is perhaps remarkable that over the past three years, women have led their defence ministries in the majority of states. This demonstrates the rise of certain forms of liberal equality in contemporary society.

In this current study, the main research methods used were the comparative method and methods of analysis and synthesis. These methods were used to analyse in detail the situation with gender equality in the armed forces of different countries and to correlate such situations with the challenges faced by both women servicewomen and the authorities. These methods were also used to compare scientific research in this area, i.e., how the mission and role of women are perceived in different parts of the world and whether their service in the army is possible at all. Statistical method was used to determine the quantitative indicators of women's service in the army. The problems faced by women in real life and in the army and the measures taken by the authorised bodies to eliminate such problems were investigated. The empirical basis of the study focuses on international legal acts, and some specific legislative acts of the countries of the world.

The purpose of this study is to conduct detailed research on the problems faced by women during military service based on the state of gender equality in the armies of different countries which is determined by several reasons. Undoubtedly, military service is a crucial process that takes place in every country, as it has a direct impact on the country's defence capability, national security, and the protection of its citizens. Where women serve in the military on an equal footing with men, it is imperative to ensure and properly protect their rights and interests. Moreover, the study of the problems faced by women during their service will not only help to eliminate these problems in the future but also become a catalyst for the implementation of policy of ensuring equal conditions for all military personnel without exception, regardless of gender. At the same time, the implementation of such a policy at the state level could reduce the well-evidenced and level of stereotypes and discrimination that currently exist within the military sphere. This, in turn, affects the overall effectiveness of the armed forces by broadening the range of useful skills and encouraging innovation, originality, and resourcefulness in the conduct of combat operations. More broadly, the study of this topic has a global social impact since it could increase public attention in the needs and rights of women in the army, encourage dialogue, and contribute to a change in military gender norms and stereotypes.

MODERN REALITIES OF MILITARY SERVICE BY WOMEN

An analysis of research on gender equality in the armed forces of different countries gives us grounds to note the following complications faced by women during their military service which is predicated on the model of the male soldier:

1. Physiological differences related to the specificities of the female body: these include issues such as being responsive to the different medical needs of women over men;
2. The physiological ability of a woman to become pregnant (for example, according to the US Department of Defence, the rate of unplanned pregnancy among servicewomen is almost twice as high as among the civilian population (Naclerio, 2015);
3. Sexual violence against women, which is several times higher than against men, and the consequences of such violence can affect both the mental state of women (depression, stress, various mental stresses) and their physical health. For example, according to the UK Criminal Justice Service, which provided data for the period of 2020, it was noted that criminal offences committed against women in general (sexual harassment, sexual violence) accounted for 76%, and the remaining 24% were committed directly against women in the armed forces (UK Parliament, 2021).

The military command and the military environment in general can create the very conditions for the spread of sexual harassment and discrimination in the army, and the increase in cases of harassment, bullying and violence against women. A number of measures should be taken to address the problem in this regard. First of all, a proactive zero-tolerance policy should be fully implemented to record cases of sexual violence and harassment, with appropriate sanctions imposed on offenders and bringing them to justice. Secondly, various trainings and educational events should be conducted on a regular basis to raise the legal awareness of military personnel for the purposes of preventing sexual harassment and violence (Meger, 2016).

It is important to create and implement mechanisms to support victims of sexual violence through providing 24-hour access to support, assistance and protection services. In the event of confirmed cases of violence, regardless of the rank and position of those involved, there should be an active investigation by independent and impartial bodies, which should include both men and women (Simic, 2010). It is also important to establish mechanisms for monitoring and evaluating the effectiveness of measures aimed at combating sexual harassment

in the army. In turn, this will help to identify weaknesses and ensure continuous improvement of the system of combating sexual violence in the army.

Furthermore, there are limited opportunities for career advancement and promotion in special ranks. This is generally evident in states with military dictatorships or where men dominate parliamentary positions. Such an autocratic policy of not allowing women to hold high positions and be promoted is also typical of states that are actively involved in ongoing military conflicts, as they are guided by the misguided, outdated and historical assumption that women in such circumstances will be a burden and are not capable of performing supposedly serious tasks or being brave and courageous due to their emotional state. The stereotypical and patriarchal image of women as family carers and mothers, is the exact opposite of the main task in the army that constructs men as rational, and women as emotional.

There are gendered problems with military recruitment, which is a prerequisite for increasing the number of women in military structures. Often, all advertising for recruitment represents and promotes only the male body as the ideal soldier, associating them with certain markers of combat. At the same time, the male voiceover of the adverts is also being adjusted (Brown, 2012). Rarely in such circumstances is a woman's body depicted in a military uniform, thus reducing any connection between war and women. In addition to this, the portrayal of women in traditional stereotypical roles is quite common, for example, in the medical field. At the subconscious level, this creates inappropriate associations and reduces the number of women joining the army and their further career development by simply excluding them from representation (Speck, 2020).

By imposing physical activity and physical standards that are the same for both men and women, prospective recruits are excluded because of the implication that these are standards developed for men, and women simply have to follow them. In some western countries, the term 'gender neutrality' in the passing of physical standards has been introduced, meaning that such standards are developed which take into account the physiological characteristics of both women and men, but in accordance with specific expected combat tasks and not taking sufficiently into account age, gender, or other indicators.

It is worth noting that the issue of physical activity and the physical capabilities of women in the army in general has historically been subject to a number of discussions regarding women's participation in combat missions (Newby and Sebag, 2021). However, nowadays most processes and weapons are modernised and robotic. Therefore, the latest technologies correspondingly reduce the requirements for ground combat, automatically placing a more significant burden on the mental capacity of soldiers and their ability to use the available technical capabilities. These arguments undermine patriarchal perceptions of women's participation in the army, and therefore can serve as a basis for further integration of women in large-scale combat missions (Letendre, 2016). There is no doubt that under such conditions, women's military service can be much more effective and have a number of advantages over men's service.

There are also problems with military uniforms, which in many countries of the world are designed in accordance with the physiological characteristics of men, and for women they are uncomfortable both during regular military service and during combat missions. In more westernised countries, this problem has long been addressed but many other countries lag behind in this respect.

Countries which do support the rights of women in the army face a number of challenges, such as eliminating sexual harassment and violence, ending bullying, eliminating the use of outdated methods for training male soldiers in the context of training women, eradication of stereotypical ideas about the role of women in society, taking into account the physiological needs of women during their military service, provision of equal opportunities for promotion and assignment of ranks, and other issues. It is worth noting that the issue of women's participation in military companies is not particularly new. In general, women performed auxiliary functions in these companies, taking care of the economic, social, supportive and medical needs of the army. Their main functions were limited to domestic, menial duties such as cooking, laundry, and cleaning. A small percentage of women did participate in military companies with arms in hand, but this was not given much importance at the time, and their basic needs as women were ignored.

Noticeable changes were seen during and after the Second World War, when the issue of gender equality in general and in the armed forces in particular was raised at the international level (Campbell, 1993; Polishchuk *et al.*, 2019; Böcker, 2020). These shifts began to take place when the discussion of securing the status of women in the armed forces was put on the agenda of international institutions and organisations. The first legal document that was subsequently ratified by many states was Convention (III) relative to the Treatment of Prisoners of War (Diplomatic Conference of Geneva, 1949), which in Article 14 stated, 'Women prisoners of war shall be treated with the same favours as men prisoners of war, with due respect for their sex.' Article 29 stated that appropriate sanitary facilities should be provided in prisoner of war camps to meet the needs of women. Moreover, Article 108 provided that if a woman prisoner of war is serving a sentence, she should be allocated a separate bunk and should be supervised by female personnel only. Along with the 1949 Geneva Convention on the Treatment of Prisoners of War, it is worth mentioning other international legal documents that cover the issue of equality between men

and women. These include, first of all, the Convention on the Elimination of All Forms of Discrimination against Women (United Nations General Assembly, 1979). This Convention provides for equality in the enjoyment of civil, cultural, political, social and economic rights regardless of gender and marital status. Moreover, the Convention requires the state to take all necessary measures to adopt and/or improve legislation to combat discrimination on the basis of sex.

In turn, the Beijing Declaration (Fourth World Conference on Women, 1995) contains provisions on the undisputed equality of women and their full participation in all spheres of public life, including in the management of public affairs and in general government. Paragraph 18 of this document states that achieving peace at both local and global levels is achieved, among other things, by ensuring equality for women, as they are a driving force in leadership and contribute to conflict resolution and peace. UN Security Council Resolution 1325 (Security Council, 2000) on Women, Peace and Security is the basis for addressing the promising issues of gender equality at the international level, establishing international security and conflict resolution, as well as operating successful peacekeeping missions and military missions. The provisions of the Resolution can be seen as patronising, intended to reassure the public that the role of women in the military is important in resolving conflicts where peaceful and military objectives intersect, as supposedly women can easily find the line between them. This does reproduce existing stereotypes of women as somehow ‘nicer’ than men and restricted to the caring role.

To date, the issue of women’s limited access to leadership positions, significantly lower salaries compared to men in similar positions, and less frequent access to professional development and training remains ongoing. As noted, this is a consequence of well-established customs, the culture of particular regions, or the political orientation in certain countries. Gender stereotypes formed in this way can have a significant negative impact on women’s lives. When a woman claims a so-called male position this can result in an aggressive backlash (Krook and O’Brien, 2012; McSally, 2011).

Cultural and religious gender norms have a strong influence on the development of public opinion regarding the role of women in the military. Even the issue of gender equality and the ways to achieve it will differ from region to region due to cultural differences. There are also many traditionalists who oppose gender equality in the military. The conservative Indian researcher P. Chowdhry (2010) argues that fighting and rivalry are male activities, as are combat missions and warfare. At the same time, it can be seen that women in the military are changing the usual way of life and establishing gender norms in Indian society. Although women have begun to actively serve in the Indian army in recent years, the experience of ongoing gender inequality continues to flourish.

The USA researcher M. H. Mackenzie (2012), in contrast to the above position, argues for the mandatory admission of women to military service on an equal footing with men and their active participation in military campaigns and operations. This researcher points out that being guided by stereotypes about the role of women in the army is to be taking the wrong path that will ultimately not service the modern army well. It is possible to find the confirmation of such a position in the monograph by Colonel Paul Grosskruger, who learned firsthand about the professionalism of servicewomen. The researcher’s work ‘Women LEADERS in combat: One commander’s perspective’ represents a gender critical examination of roles, responsibilities, and the contributions of servicewomen. Paul Grosskruger describes his eyewitness observations of women combat leaders and dispels popular myths regarding the employment of women in combat situations by providing examples of their great feats in complex and dangerous circumstances over a year-long deployment. The author concludes, ‘...effective leadership is based upon a number of factors – not one of them being gender’ (Grosskruger, 2008). The views of these representatives of two different countries demonstrates differentiated approaches to the issue of gender equality in the armed forces, as well as to the definition of the role of women in society in general.

Although there may be binding norms and standards for preventing gender discrimination and inequality, women in different regions of the world still face violations of their rights due to their environment and discriminatory legislation. Rather, nations should adopt and implement policies that promote gender-neutral standards that are designed specifically for the military and defensive tasks at hand (Ables, 2019; Haltsova *et al.*, 2021).

EMPOWERMENT OF WOMEN WITHIN THE REALM OF MILITARY SERVICE

The article now will turn to the appointment of women servicewomen to leadership positions in the armed forces and their promotion up through the ranks, which are generally carried out in states with a high percentage of women already represented in parliament or the presidency, suggesting that these are already nations that have widespread and embedded attitudes on gender equality. This is particularly evident in peacekeeping states, where such positions are gaining new importance (Barnes and O’Brien, 2018). Another significant factor is that the appointment of women to leadership positions in the armed forces is a consequence of conscious awareness and acceptance of liberal feminist tenets in western nations (Bashevkin, 2014; Koch and Fulton, 2011).

There are two principal ways to staff the armed forces:

1. Contracts signed on a voluntary basis (in practise, a significant percentage are generally men);
2. Compulsory military service for citizens who have reached the age of majority or a specific age.

In general, women are actively involved in military service in the global north countries such as the United Kingdom, Switzerland, Canada, the United States, the Netherlands, France, Sweden, Ukraine, Germany, etc. At the same time, there are a number of countries that require all men and women, without exception, to perform military service. These include Israel, Norway, Taiwan, Peru, and others. However, in these latter examples sometimes women generally perform support functions either in communications or medical units.

In the twenty-first century the percentage of women in the U. S. Army is 16%, or 200,000 women. But this data is only for recent years. In 1948, the Women's Integration into the Armed Forces Act was passed, the provisions of which set certain restrictions. These restrictions included, first and foremost, a ban on serving on warships and various types of aircraft that were directly necessary for missions and combat missions. However, this law granted women the right to participate in ground operations. At the same time, only 2% of the total number of military personnel were women, and 10% were allocated for female officers (U. S. Congress, 1948). Clearly, mandatory military service affects the percentage of women in the country's armed forces.

The end of the 20th century in the United States was marked by mass movements for women's rights in all spheres of society, and the percentage of women in the military increased significantly. This trend was also driven by a shortage of male recruits. The case 'Struck v. Secretary of Defence' in 1972, where the applicant was a servicewoman, caused a great stir. She was forcibly dismissed from service because she was pregnant. The court ordered the plaintiff's superiors to reinstate her and revise their policy on involuntary discharges for pregnancy accordingly (Powell, 1972).

In contrast, U.S. Congress decided to re-establish male military registration to facilitate recruitment for the first time after the Vietnam War in 1980. Note that this was only for men, not women. Later, the U.S. Supreme Court (1981) made a decision in the case of *Rostker v. Goldberg*, which stated that such actions did not contradict the Fifth Amendment of 1981 (*Rostker v. Goldberg*, 1981). At the same time, the US Department of Defence adopted a kind of 'risk rule', which provided for the removal of women from combat missions that could result in direct enemy fire or capture. In 1993, a Congressional special law was issued that prohibited women from serving on warships. Already in 1994, the above-mentioned 'risk rule' was abolished, but a policy of significant restrictions on women in the armed forces was introduced. Women were only allowed to serve in units that were not directly involved in combat.

The year 2011 marked a number of changes in the USA. These changes were associated with the passage of the National Defence Authorisation Act for Fiscal Year 2011 (NDAA). This law obliged the armed forces to revise their rules and regulations regarding women in the military to ensure that they complied with the principles of equality and non-discrimination. This was done to ensure fair competition in the armed forces. That is why, in 2016, the US Northern Command (NORTHCOM) and the North American Aerospace Defence Command (NORAD) were headed by Air Force General Lori Robinson. She became the first woman to reach this level in the armed forces. Another striking example was the fact that women can already serve in the Marines. 2017 was the first year that the US Marine Corps Women's Reserve was formed (Task and Purpose, 2017).

Changes in the physical standards for women have made a significant contribution to gender equality. Changes were also made on US warships, as women need separate amenities to men (Osiejewicz *et al.*, 2022) which was a considerable financial investment, perhaps demonstrating the US military's commitment to gender diversity.

In the UK in 2000, a specific study was conducted that showed that the presence of women on combat missions could have a negative impact on unit cohesion and the division of functions. It was also argued that women could not physically perform combat tasks and were not properly trained, claiming that the involvement of women in operations reduces the possible success of a combat mission (Bryce, 2017; Abrahám *et al.*, 2018). Many retired colonels are also of the biased opinion that women do not belong in the army due to the physical strain and fragile emotional state. They believe that the standard should be raised, not lowered (National Army Museum, 2016). The presence of such studies reflects the ongoing sexism in military structures. Despite the results of such studies, the number of women in the UK military is steadily increasing. In 2016, David Cameron, the then Prime Minister of the country, led Parliament to gradually abolish the exclusion of women from the army. In the same year, women were able to receive specialised military education and join the UK Royal Armoured Corps. Two years later, women were able to serve in the British Royal Marines, Infantry and the Royal Air Force Regiment. In 2019, women were granted access to all branches of the armed forces, with the exception of the unit, the Gurkhas (Ministry of Defence, 2020). As a result of these actions, in 2021, women accounted for 11% of the total number of personnel in the UK army (Ministry of Defence, 2021).

It is important to note that women have access to all military ranks without restrictions in Canada. The percentage of women among all military personnel was 15.3% in 2008 (Park, 2008), and 4.3% of them held military positions in the infantry, and artillery (Government of Canada, 2022). As for Ukraine, it is safe to say that the role

of women in state defence remains significant, especially after 2014 when active hostilities with Russia and the war started. A large number of people, including women and foreigners, joined the army on a voluntary basis in 2014. The number of servicewomen in 2018 was 22.4% or 25,000. They have occupied and continue to occupy various positions, including officer positions (Torop, 2018). In 2021, the number of women in the army increased to 31,757, of whom 4,810 were officers, 2,780 were privates, sergeants, and non-commissioned officers, and 1,162 were cadets (Mosiondz, 2021).

CONCLUSION

The basic argument for the need, efficiency and expediency of gender equality at any level, including military service, is key to the presence of women's leadership qualities. These qualities allow them to build a career in the field of state security policy, as well as in other related areas. In addition to having a wide range of leadership qualities, women have a high level of physical fitness, which is a key factor in their selection for combat missions and operations (Guliyeva *et al.*, 2018). It is thanks to broader gender equality and its promotion in the military that women have significantly expanded their rights and freedom to choose their place of work, and field of activity, and this now includes access to military careers. We argue that the differences that exist between men and women cannot justify in any way or contribute to the narrowing of women's rights, and the reduction of the overall number of women at all levels of the military.

In addition to a high level of physical fitness, women have enduring psychological qualities. Taken together, this serves as a basis for expanding opportunities to find non-standard solutions to military issues and better achieve goals. Accordingly, such actions also have an impact on increasing the number of women in the military, which in turn replenishes the human resource, knowledge, skills and capabilities of the state's defence forces. It should also be remembered that women are more likely to find a common language with women in the local population, who may sometimes, due to their religious beliefs or established traditions, feel that they cannot communicate with men. The intellectual abilities of women in the military can contribute to the improvement of strategy in military operations and the development of various plans for the advancement of troops, including protection plans. Women should not be stereotypically associated with weakness and the inability to perform military service. In our opinion, the equality enshrined in international legal documents should be a priority for women's rights and full access to military service. Moreover, this applies to the choice of occupation and profession in general.

The information provided shows that the number of women in the military and women in leadership positions in the army is gradually increasing. However, many countries still adhere to traditional, biased systems of gender order, where a man defends his country and a woman defends her children and home. The prejudice against women in the military in such countries remains quite significant. It is important to note that scientific developments and research on this issue should continue, as it is of significant public interest and it is a significant area of development in legal and military science.

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