The Principle on Equality Before the Law, Its Connection and Interrelation With Legal Benefits

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Իրավական հավասարության սկզբունքը, դրա կապը և փոխհարաբերակցությունը իրավական առավելությունների հետ

Հովհաննիսյան Աշոտ Գ.
ՀՀ ԳԱԱ Փիլիսոփայության, սոցիոլոգիայի և իրավունքի ինստիտուտի հայցորդ,
ՀՀ Արդարադատության նախարարության իրավական ակտերի փորձաքննության գործակալության դատաիրավական օրենսդրության փորձաքննության բաժնի պետ (Երևան, ՀՀ)

Ամփոփագիր. Պետության և հասարակության զարգացման պատմական բոլոր փուլերում, մինչև նորագույն ժամանակների սկիզբը, առավելություններով օժտված էին բացառապես պետական, հասարակական կամ ֆինանսական որոշակի դիրք զբաղեցնող անձինք, որոնք այդ առավելությունները ծառայեցնում էին ոչ թե պետական և հասարակական, այլ զուտ անձնական շահերին: Այդ առավելությունների հիմնական նպատակը և փաստացի գործառույթը կայանում էր առավելությամբ օժտված սուբյեկտի և հասարակ քաղաքացու անհավասար լինելու փաստը ընդգծելու մեջ: Այդ առավելություններն օգնում էին ազնվականների հարուստ դասին ճնշել աղքատների՝ շահագործվողների, դիմադրությունը: 19-րդ դարում սկիզբ առած իրավաքաղաքական մտքի շարունակական զարգացումը հանգեցրեց առավելությունների նորովի ընկալմանը և արժևորմանը, որի արդյունքում պարզ դարձավ, որ իրավական առավելությունները, որոնք ամրագրված են օրենքով և հետապնդում են իրավաչափ և հանրօգուտ նպատակ, ոչ միայն չեն հակասում իրավական հավասարության սկզբունքին, այլև նպաստում են դրա հաստատմանը: Իրավահավասարությունը նշանակում է առավելությունների արգելում, իսկ փաստացի սուբյեկտիվ իրավունքների մեջ անձանց հավասարեցումը հնարավոր է իրականացնել միայն առավելությունների տրամադրելու միջոցով:
Իրավական հավասարությունը և իրավական առավելությունները ունեն պատմական խորը արմատներ և անցել են պատմական զարգացման և կատարելագործման բավականին երկար ուղղի: Սույն հետազոտության մեջ հեղինակը հետազոտել է «Իրավական հավասարությունը» և «Առավելությունները»՝ որպես իրավական կատեգորիաներ և իրավական առավելությունները դասակարգել ըստ հետևյալ տեսակների՝ արտոնություններ, առանձնաշնորհություններ և անձեռնմխելիություններ: Բացի վերոգրյալը՝ հեղինակը անդրադարձել է նաև իրավական առավելությունների և իրավական հավասարության սկզբունքի միջև կապին և փոխհարաբերակցությունը:
Ամփոփելով հեղինակի կողմից իրականացված հետազոտական աշխատանքը՝ գտնում ենք, որ «իրավական հավասարության» և «առավելությունների»՝ որպես իրավական կատեգորիաների, բացահայտումը և մանրակրկիտ ուսումնասիրությունը կնպաստի հայրենական իրավաբանական գրականության մեջ այդ տերմինների ճիշտ և տեղին օգտագործմանը և իրավաստեղծ պրակտիկայում առավելությունների համաչափ սահմանմանը՝ ելնելով դրանց նպատակներից, չխախտելով առավելությունների և իրավահավասարության սկզբունքի միջև առկա փխրուն հավասարակշռությունը:
Հանգուցաբառեր և բառակապակցություններ՝ իրավական հավասարություն, իրավահավասարություն, իրավունք, արտոնություններ, իրավական արտոնություններ, անձեռնմխելիություն, իմունիտետ, առանձնաշնորհություն, առավելություն

Принцип правового равенства, связь и взаимоотношение с правовыми льготами

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Аннотация. На всех исторических стадиях развития государства и общества, до начала новейшей эры, льготы пользовались исключительно лица, занимающие определенное положение в государственной, общественной или финансовой сфере, а они использовали данные льготы не в государственных или общественных, а исключительно в личных целях. Основной целью и фактической функцией данных льготы являлось обозначение факта неравенства привилегированного субъекта и простого гражданина. Льготы помогали представителям высшего класса подавлять сопротивление низшего класса. Постоянное развитие правополитической идеи, возникшее в 19-ом веке, привело к переосмыслению и оцениванию льгот, в результате чего прояснилось, что правовые льготы, установленные законом и преследующие правомерную и благотворную цель, не только не противоречат принципу правового равенства, но и способствуют его утверждению. Правовое равенство означает запрет льгот, а уравнивание лиц в фактически субъективных правах возможно только путем предоставления льгот.

Правовое равенство и правовые льготы имеют глубокие исторические корни и прошли довольно долгий путь исторического развития и усовершенствования. В настоящем анализе автор исследовал “Правовое равенство” и “Льготы” как правовые категории, а правовые льготы классифицировал по следующим видам: льготы, привилегий и неприкосновенность. Помимо вышеизложенного, автор исследовал также связь и взаимоотношения между правовыми льготами и принципом правового равенства.

Обобщая выполненную автором исследовательскую работу, считаем, что раскрытие и подробное исследование “правового равенства” и “ льготы” в качестве правовых категорий поможет точному и уместному применению данных терминов в отечественной юридической литературе и равномерному определению привилегий в законодательной практике исходя из их целей, не нарушая при этом хрупкое равновесие льгот и равноправия.

Ключевые слова и словосочетания: правовое равенство, равноправие, право, льготы, правовые льготы, неприкосновенность, иммунитет, привилегии, преимущества

Introduction

The relevance, theoretical and practical significance of this topic lies in the fact that in Armenian legal literature, “Equality before the law” and “Benefits” as legal categories have been insufficiently studied, and the connection and interrelation between these legal categories have also been insufficiently examined. Benefits are still perceived by broad segments of our society as a negative phenomenon, which is conditioned by the insufficient study of legal benefits, particularly the purposes and functions of benefits in law. Therefore, the study of this topic will lead to the disclosure of the socially beneficial purposes and functions of legal benefits, thereby shedding light on one of the controversial, yet extremely important and necessary means of legal regulation – legal benefits.

The purpose of the research is to reveal the historical preconditions and stages of development of legal equality and legal benefits, their purposes and functions, the types and subtypes of legal benefits, as well as their similarities and differences, in addition to the connection and interrelation between legal benefits and the principle of legal equality.

Theoretical and Methodological Bases, Research Methods

The theoretical basis of the work consists of various works of a number of Armenian and foreign scholars, as well as international and domestic legislation. The informational basis of the work consists of several internet websites and other sources of information.

The methodological basis of this work consists of both general scientific methods – materialistic, systemic-structural, comparative-legal, sociological methods – and logical methods, namely synthesis, analysis, analogy, induction, deduction, and several other methods.

The Principle of Equality before the Law, Its Connection and Interrelation with Legal Benefits

The ideas of equality trace their roots deep into history. They constitute the object of study not only of jurisprudence, but also of other social and humanitarian sciences, particularly philosophy, sociology, and other disciplines. The issues of equality are addressed by all civil and legal doctrines.

The analysis of scientific literature devoted to the study of equality allows us to conclude that this issue belongs to the classical themes of social, political, legal, and moral philosophy. Its subject matter encompasses the corresponding spheres of public worldview, the normative-value regulation of human behavior, and social practice. Equality is viewed both as the ideal of a harmoniously structured society and as a fundamental and inseparable principle underlying the formation and functioning of normative systems regulating human activity. In jurisprudence, the issue of legal equality belongs to the category of traditional problems. Society is not a homogeneous, diffuse mass; it has always contained distinguishing features, which are quite numerous and may be revealed on different grounds, demonstrating both their positive and negative functions.

Equality is inseparable and organically connected with the essence of law, with its internal and external forms of existence. The constant interest of legal science in legal equality is conditioned not only by the stable connection of

this phenomenon with the global aspects of the subject matter of jurisprudence, but also by its participation in the establishment of specific state-legal institutions, which is no less important. "*The recognition and implementation of one fundamental political and legal principle (such as equality before the law*)," writes V.N. Kudryavtsev, "in turn leads to the construction of other legal norms and institutions accordingly."

The concept of "equality" is the result of the generalization of equalized phenomena закрепված with the help of social norms and means. If equality acquires its normative form of existence through legal law, then it should be regarded as legal equality, whereas if this function is performed by ethical norms, then moral equality exists. However, regardless of the type of social equality subjected to analysis, in all cases it appears as the result of equalizing two or more phenomena on a common basis. In this sense, it may always be perceived as identity. Therefore, it may be asserted that legal equality always exists as a normative-legal expression of generalized abstraction in the relations of identity of socially significant interests and aspirations of individuals and social groups.

Legal equality constitutes a complex legal phenomenon. It corresponds to the level of development of society and the state and is implemented in practice in such volumes and under such conditions as are determined by the existing normative-legal basis, the peculiarities of legal systems, as well as the established traditions, customs, and national legal mentality of the people. Complete equality does not exist. A society in which "everyone is entirely equal to everyone" is a myth that cannot become reality in practice. This is confirmed by utopian doctrines of factual equality. The formation of the universal nature of positive law led to the elimination of estate and class privileges and advantages, the establishment of formal equality of all people before the law, and the advancement of human rights and freedoms to more primary positions within the legal system.

The legislation of the Republic of Armenia, recognizing the principles of international law, establishes and protects identical rights, freedoms, legitimate interests, and obligations for the greatest possible number of subjects of law. This constitutes the principle of legal equality.

The concept of "equality" as a legal category has undergone a long path of formation and development. In antiquity, there existed an understanding of the universal law of the cosmos, the balance of society, and the environment [**22**, p. 18]. Therefore, equality was regarded as a means of restoring the violated order established from above. Later, Christian thinkers consolidated the idea of equality with the thesis that "all people are equal before God." Addressing wealthy people who had servants under their authority, Apostle Paul urged them not to treat their servants excessively harshly, reminding them that for both the rich and the poor "there is God in heaven, who is impartial." Aristotle, Marcus Aurelius, and Thomas Aquinas asserted the necessity of achieving the "common good," emphasizing that welfare is "equally just for all" [**21**, p. 92].

As the principle of talion (equivalent retribution for a crime), the category of equality may already be observed in the Pentateuch of Moses, the Laws of Hammurabi, and the Laws of Manu. In Ancient Rome, law was presented as the "art of truth and justice." The principle of legal equality of Roman citizens in Ancient Rome is evidenced by the well-known Latin expression "Primus inter pares," which is translated as "First among equals." According to one version, the Romans thus referred to and glorified Julius Caesar as the first among Roman citizens, while according to another version, this was the form of address used toward the first Roman emperor, Octavian Augustus, who had been granted the great honor of speaking first at Senate sessions. This Latin expression emphasized the principle of equality among the citizens of Ancient Rome and thereby affirmed the possibility and right of each of them to become Caesar. The further development of law proceeded along the path of establishing formal equal freedom (formal equality) between men and women, representatives of different races, nationalities, religions, and others. Legal equality in law was finally formed and officially consolidated in the 1789 "Declaration of the Rights of Man and of the Citizen," adopted as a result of the French bourgeois revolution, as well as in the earlier constitutions of the United States and France and later bourgeois constitutions.

In modern times, the equality of all individuals from the perspective of law was consolidated as a value. Thus, the principle of legal equality was finally formed in law.

It should be noted that equality has been considered and consolidated in law as a means of achieving justice. During the Renaissance, the "image of justice" emerged: a blindfolded woman holding a sword and scales (Themis). This symbolizes impartiality and the equality of people before the law and the court.

Modern legal science asserts the idea of legal equality in law. P.I. Novgorodtsev states that law is based upon a certain equality; it cannot be perceived without elements of equality, even in their most modest expression [**13**, p. 70].

Some scholars distinguish between the categories of "legal" and "juridical" equality. Legal equality is attributed to the social reality formed within society, whereas juridical equality is attributed to the content of normative-legal acts [**18**, p. 172].

It is important to understand that juridical equality is a category of a formal nature and does not imply the absolute equality of all members of society. It merely provides everyone with a single basis, identical legal capacity, and equal opportunities for acquiring and exercising the rights and freedoms granted to all [**15**, p. 20]. In reality, a subject does not always realize all available opportunities, and therefore, ultimately, the status of different individuals becomes unequal.

It is impossible to achieve absolute equality, and as many legal scholars believe, it is not even necessary. "The aspiration to achieve equality leads to the abolition of formal legal equality, upon which law is based."

As for responsibility, it may be viewed not only as a regulatory institution for the protection of legal relations, but also as a means of ensuring the equality of all subjects before the law. Legal equality itself, under certain conditions, transforms responsibility into an institution for equalizing subjects. For violators, the legislator establishes legal responsibility irrespective of their will and desires. The law and the court must treat both the ordinary citizen and the official impartially. Legal responsibility arises for any subject only in the case of committing a violation, and in this regard the gender, nationality, social status, and other circumstances of the offender are irrelevant. Thus, legal responsibility contributes to the establishment of the foundations of legality and legal order in society, the cultivation of respect toward law and its values, as well as to the legal development of society and the individual. By implementing its legal function, responsibility objectively relies upon juridical equality and, through it, forms a unified and equal standard of conduct for people. In turn, legal equality, by establishing for each individual a unified standard of freedom and justice, is inseparable from legal responsibility. Responsibility in law makes it possible to define the content of legal equality as a standard of freedom and justice from the perspective of legal protection. Consequently, legal responsibility constitutes the socio-legal basis of juridical equality. The equality of all before the law also carries a positive meaning, that is, equality in this case also means equal protection of all by law. In other words, for the law to be legal (in conformity with law, or, which is the same, to ensure the principle of the rule of law), it is necessary for the given law to ensure the rights and freedoms of all people and citizens, as well as associations of persons, economic entities, and others, in the same manner and without any discrimination. Such an understanding simultaneously implies the necessity of the consistent implementation of the principle of the inevitability of punishment; otherwise, in the case of the same violation, people will find themselves in unequal legal conditions, and victims of similar violations will be protected unequally.

According to V.S. Nersesyants, legal equality represents the unity of three interrelated essential characteristics of law: the standard of universal equal regulation, justice, and freedom. Thus, legal equality constitutes a general equal standard of regulation and a universal measure of freedom and justice inherent in law, which underlie the lawful conduct of individuals, and in the event of their violation, objectively gives rise to equal and unified responsibility for all. Consequently, responsibility is an equal standard for the regulation of social relations. The interrelation and semantic unity of these three components of legal equality consist in the following: legal relations between people are those relations regulated by a unified abstract-universal standard and by equal measures of permissibility, prohibitions, compensations, and the like.

This type of interrelation between people includes:

1. The legal equality of the participants in the given type of relations (factually different people are equalized by a unified standard and in a common form),

2. Their freedom (formal independence from one another and, at the same time, subordination to a unified equal standard and acting according to unified common forms and rules),

3. Justice in their interrelations (an abstract-universal and equally identical standard and form of permissibility for all).

Legal equality is determined by freedom and justice, while freedom is determined by the existence of equal standards and justice, and justice is determined by the existence of equal standards and freedom. This means that these interrelated qualitative characteristics of law complement one another and cannot exist independently of each other. In the event of deviation from the trinity of these qualitative characteristics, equal and unified responsibility for all objectively arises. Thus, legal equality appears as an equal standard of freedom, justice, and responsibility within society.

The legal regulation of people's behavior in society is based upon recognizing each individual as an independent and free member of society who is capable of acting and bearing responsibility for

his or her actions. For the purpose of comprehensive, integral, and harmonious regulation of social relations, the formation of legal institutions and phenomena is carried out on the basis of the principle of perceiving every person in society as an equal value. However, under conditions of factual inequality among people, such a legal approach may be implemented only through legal equality by granting individuals equal opportunities for the exercise of their rights and obligations.

For the purpose of achieving justice, the legislator establishes exceptions to that rule in the form of restrictions and privileges (advantages). These exceptions are intended to satisfy the interests of society in the best possible manner [**9**, p. 75].

Restriction is interpreted as a boundary, limit, border, restraint within certain known frameworks or limits, a rule restricting any right or action, restriction by corresponding conditions, and so forth [**3**, pp. 647-648; **4**, p. 305; **5**, p. 357].

According to F. Selznick's conception, justice in society is achieved primarily not through equality, but through the establishment of restrictions. In order to establish order, authority employs restrictive justice [**20**, p. 93].

History demonstrates that even in primitive communal society, the system of legal regulation was primarily directed toward restrictions.

The emergence of "taboo" norms (prohibitions, frameworks of behavior) was explained by the necessity of restraining people's biological instincts [**16**, pp. 244, 316]. Subsequently, society always sought to закрепить the existing order as law "and those restrictions which were provided by customs and traditions" [**12**, p. 356].

Another exception to the principle of equality consists of legal advantages. In particular, the conducted studies demonstrate that legal advantages may be classified into the following types:

- benefits
- privileges
- inviolabilities

A benefit, as a type of advantage, is the granting of advantages or partial exemption from the performance of obligations, or the facilitation of the conditions for their performance [**11**, p. 66].

Privileges, as a type of advantage, constitute one of the varieties of legal benefits.

In any society possessing authority, there arises the necessity of legally "distinguishing" persons exercising powers in the interests of society [**11**, p. 69]. For the proper performance of their official duties, it is necessary to establish advantages called privileges.

Privileges are the maximum advantages granted to bodies of authority and officials, characterizing their social and individual status.

S.V. Miroshnik notes that privileges constitute an important incentive for the effective work of state servants. However, the principles of legality and justice must always underlie them [**14**, p. 16].

The difference between benefits and privileges lies in the fact that the former apply to a broad range of persons and have a wide sphere of application, whereas the latter constitute specific benefits and an exclusion of exceptions. Their difference also lies in the fact that benefits are aimed at facilitating the condition of various "weak" subjects, whereas privileges support the political elite of the "strong."

Privileges should not be excessive; otherwise, they will lose their significance, become a rule rather than an exception, self-evident rather than stimulating. Violation of reasonable proportions will lead to the destabilization of systems, and therefore this must not be permitted [**19**, p. 78].

At present, legal equality is considered one of the primary principles of law. It stands alongside justice, legality, and other important universal legal principles [**20**, p. 94].

International law contains numerous norms consolidating the principle of legal equality. For example, the CIS Convention recognizes the equality of all persons before the law and the court, and it frequently employs such generalizing words as "all," "everyone," "no one," and so forth [**10**, pp. 7-8]. The Convention against Torture emphasizes the equality and indivisibility of the rights of "all members of the human family" [**17**, p. 1].

The Armenian, Russian, and foreign understanding of equality has undergone changes over time. During the Soviet period, public opinion presumed that equality meant the absence of rich and poor. The communist postulate was widely known: "From each according to his abilities, to each according to his needs." This implied factual equality. As a result of the conducted studies, contemporary scholars currently find that equality is expressed in equal rights, equality before the law, and the absence of discrimination on the grounds of sex, race, nationality, and religious beliefs [**7**, p. 79].

The current Constitutions of the Republic of Armenia and the Russian Federation enshrine universal equality before the law and the court. Moreover, the state guarantees its implementation and also establishes the prohibition of any form of discrimination based on social characteristics,

namely sex, race, nationality, religion, property or official status, origin, and other circumstances.

In particular:

1. Article 28 of the Constitution of the Republic of Armenia amended in 2015 enshrines the principle of general equality before the law, which states the following: "Everyone shall be equal before the law." This is a key general right-principle that corresponds to the wording of Part 1 of Article 14.1 of the Constitution of the Republic of Armenia in the 2005 edition. The regulation of the amended Constitution differs only in that Part 2 of Article 14.1 of the Constitution in the 2005 edition, which established the prohibition of discrimination, was separated into Article 29. Article 28 enshrines the general principle of equality, while the subsequent Articles 29 and 30 concern special equality rights. The general provision on equality is subsidiary in relation to the special equality rights. Like all equality rights, the general right to equality also differs in its structure from the rights of freedom. Unlike the rights of freedom, the general right to equality is not limited to any specific sphere and applies universally. In addition, the general right to equality necessarily requires comparison with other persons.

The concept "are equal" contained in Article 28 of the Constitution of the Republic of Armenia means not equality in general, in every respect, but only equality before the law. In other words, in this case it is obvious that we are dealing with the manifestation of formal or legal equality, or, what is the same, legal equality. Moreover, formal (legal) equality of people means that people are equal only as free persons, when they are equal in terms of the rights and freedoms they possess in general.

The provision expressed in Article 28 of the Constitution of the Republic of Armenia is, in general, the foundation and essential condition for the construction, development, and functioning of any legal and democratic state.

The legal equality of different individuals, the equality of constitutional rights and freedoms, means for them factually different possibilities for the realization of their equal rights and freedoms. It should also be noted that the concept of "law" used in Article 28 should be understood not only in the strict sense of statute, but also as any legal act of universally binding significance, including the Constitution of the Republic of Armenia as the Fundamental Law, as well as decisions of state and local self-government bodies and officials.

Such a constitutional understanding of equality before the law, as well as the prohibition of discrimination under Article 29 of the Constitution of the Republic of Armenia, corresponds to international legal standards reflected in the Universal Declaration of Human Rights (Articles 2, 7), the International Covenant on Civil and Political Rights (Articles 2, 26), the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 14), and numerous other documents.

The principle of equality before the law applies not only to the rights and freedoms of individuals, but also to their obligations [**1**, pp. 171-172].

2. Article 29 of the Constitution of the Republic of Armenia amended in 2015 enshrines the prohibition of discrimination, stating the following: "Discrimination based on sex, race, skin color, ethnic or social origin, genetic characteristics, language, religion, worldview, political or other views, belonging to a national minority, property status, birth, disability, age, or other personal or social circumstances shall be prohibited." For the interpretation of Article 29 of the Constitution of the Republic of Armenia, the clarification of the concept of "discrimination" is of essential importance. Discrimination is the restriction or deprivation of the rights of certain persons, organizations, or states on the basis of racial, national, gender, or state affiliation, as well as property status, political and religious beliefs, and so forth. One of the widespread forms of discrimination is racial discrimination — the restriction or deprivation of human rights on the basis of racial affiliation, national discrimination, antisemitism, and others [**1**, p. 173].

The prohibition of discrimination supplements the general right to equality. The regulation of general equality and discrimination as separate principles also corresponds to Articles 20 and 21 of the Charter of Fundamental Rights of the European Union and Article 1 of Protocol No. 12 to the European Convention on Human Rights. Such an approach emphasizes the special role and significance of the prohibition of discrimination. The amended Constitution, in accordance with approaches recognized in international documents, enumerates the forms of discrimination prohibited at the constitutional level. Other possible cases of discrimination should be interpreted and assessed in judicial practice within the framework of Article 28 on general equality. In substantive terms, the provisions concerning forms of discrimination have not undergone changes compared with the Constitution in the 2005 edition.

3. The Constitution of the Republic of Armenia amended in 2015 also enshrines the principle of legal equality between men and women, which is reflected in Article 30 of the Constitution of the Republic of Armenia, stating the following: "Women and men shall be legally equal." By enshrining the general principle of

equality, as well as the prohibition of discrimination, the Constitution amended in 2015, in accordance with the Charter of Fundamental Rights of the European Union, for the first time separately enshrines a specific type of equality in a distinct article, namely the legal equality of women and men. This article establishes a subjective right to legal equality. At the same time, with the purpose of integrating the principle of legal equality between women and men into all spheres of state policy and activity and promoting measures aimed at ensuring the factual legal equality of women and men, Point 4 of Article 86 of the Constitution establishes it as a goal of the state [**2**, pp. 51-52].

The principle of equality of citizens before the law and the court presupposes justice in accordance with unified legislation identical for all. Moreover, this concerns not only substantive legislation, but also procedural legislation. Any citizen and any legal entity has the right to protect their rights in court without any restriction established by law. In addition, every natural and legal person is obliged to comply with the law, and no one may be exempted from this obligation, even by judicial procedure. The principle of equality of all before the court manifests itself in such a combination of substantive and procedural approaches as to ensure the legal equality of all participants involved with the court.

The principle of equality of citizens before the law and the court, in addition to the Constitution of the Republic of Armenia, is also enshrined in a number of domestic normative legal acts. In particular, this principle is directly enshrined in Article 8 of the Criminal Procedure Code of the Republic of Armenia, which states the following: "*Everyone shall be equal before the law and the court* /.../"; in Article 11 of the Civil Procedure Code of the Republic of Armenia, which states: "Civil proceedings shall be conducted on the basis of the principle of equality before the law and the court of all persons participating in the case /.../"; in Article 6 of the Administrative Procedure Code of the Republic of Armenia, which states: "The court is obliged to ensure that the parties have equal opportunities throughout the examination of the case, including granting each party a full opportunity to present its position regarding the case under examination /.../"; in Article 34 of the Constitutional Law of the Republic of Armenia "On the Constitutional Court," which states: "*The Constitutional Court shall ensure that the parties have equal opportunities throughout the examination of the case, including granting each party a full opportunity to present its position regarding the case under examination* /.../"; in Part 2 of Article 6 of the Law of the Republic of Armenia "*On the Fundamentals of Administration and Administrative Proceedings*," which states: "*When exercising discretionary powers, the administrative body shall be guided by the necessity of protecting the rights and freedoms of a person and citizen enshrined in the Constitution of the Republic of Armenia, the principles of their legal equality, proportionality in the exercise of administration, and the prohibition of arbitrariness, as well as pursue other objectives predetermined by law*," and in a number of other legal acts.

The principle of equality of citizens before the law and the court derives not only from the principle of general equality before the law enshrined in Article 28 of the Constitution of the Republic of Armenia, but also from the right of every person to effective judicial protection of their rights and freedoms enshrined in Article 61 of the Constitution of the Republic of Armenia, since it is precisely an effective and impartial judicial system that ensures the restoration and protection of violated human rights, also relying upon the principle of excluding discrimination on any ground enshrined in Article 29 of the Constitution of the Republic of Armenia.

The principle of equality before the law essentially applies to the entire legal system and to all branches of law without exception and, consequently, presupposes the necessity of developing the required structures (mechanisms) for the implementation of this constitutional requirement in accordance with the peculiarities of a specific branch of law. The entire concept of the constitutional status of a person and citizen is built upon this principle, and, in fact, all the rights and freedoms of a person and citizen provided for in Chapter Two of the Constitution of the Republic of Armenia are established in accordance with this principle. This circumstance demonstrates that this constitutional requirement becomes a constitutional criterion for evaluating both specific rights and the legislative regulation of the entire system and thereby serves as a means for assessing the constitutionality of legal acts regulating various spheres of social relations.

A vivid example of privileges is the establishment of a special procedure for bringing certain officials to criminal responsibility. Compared to other citizens, the Constitution of the Republic of Armenia establishes different standards of inviolability (immunity) for certain subjects — the President of the Republic, deputies, judges, and members of the Constitutional Court. The purpose of such differentiation (inequality) is not to grant benefits to citizens holding these positions, but to ensure the performance of the duties of these officials, namely to ensure, within the scope of their

powers, the constitutional rights and freedoms of people and citizens, as well as the establishment of equality of all before the law. In particular, the purpose of judicial inviolability is the protection of public interests and, first of all, the interests of justice. At the same time, these subjects, as a rule, may be held responsible for unlawful actions unrelated to their status.

These peculiarities are explained by the important social role played by the above-mentioned officials of our state. The establishment of additional rights is necessary to ensure the proper fulfillment of the powers entrusted to them. The rules enshrined by law do not grant them any advantages in the administration of justice. They do not acquire additional privileges before the law and the court in connection with their official status. In this regard, legal scholars note that this procedure in no way contradicts the principle of legal equality [**8**, p. 68].

Some scholars, however, argue that the mentioned privileges are excessive and should be abolished for the sake of the triumph of "true equality" before the law [**6**, p. 18].

Thus, legal equality is characterized not only by the legislative consolidation of the corresponding rights and freedoms, but also by the existence of state guarantees and certain mechanisms for their protection and implementation.

Legal equality does not mean factual equality. The factual equality of subjects is always unattainable and, moreover, does not correspond to the interests of society.

In any legal system, restrictions, benefits, and privileges exist in order to ensure justice in law in the best possible manner. Moreover, exceptions to the principle of legal equality are not always present, since it bears a formal nature. It is necessary to distinguish the establishment of special rights and freedoms for separate categories of subjects of law by virtue of characteristics of discrimination established by international and domestic norms (that is, exceptions to the rule) and by virtue of other grounds specified in those norms (characteristics that do not constitute exceptions established by legislation but are taken into account in the given situations). In this regard, the application of the principle of positive discrimination, the purpose of which is to establish separate benefits and advantages for certain groups of people and categories of persons, cannot be regarded as a deviation from the constitutional requirement of equality before the law, especially since they derive from the constitutional provision of the social state and correspond to the requirements for the implementation of the social and economic rights and freedoms enshrined in the Constitution [**1**, p. 175].

In general, any manifestation of discrimination contradicts the principle of equality before the law, since it фактически becomes a basis for distinguishing certain people from others. The principle of equality of all before the law becomes a requirement for the elimination of all forms of discrimination, which presupposes that the law cannot contain any possibilities of distinction, exception, or preference based on gender, racial, ethnic, or other characteristics, because such an approach leads to the abolition or violation of equality in the legal opportunities of a person and citizen.

Restrictions, benefits, and privileges constitute positive means of legal regulation of social relations. They help best ensure the needs of society and protect its interests.

However, it is necessary to maintain proportionality between the rule and the exceptions. Restrictions, benefits, and privileges must not be excessive; otherwise, it may be asserted that equality does not exist, even in the legal sense.

Thus, the principle of legal equality does not exclude the possibility of establishing different legal statuses for certain categories of persons if it serves the interests of society. For this reason, Armenian and foreign legislation permit the application of different approaches in determining the legal capacity of separate subjects of law.

Results Obtained

Summarizing the results of this research, we find that legal equality and the types of legal advantages have deep historical roots and have undergone a rather long path of historical development and improvement. In this research, we classified legal advantages according to the following types: benefits, privileges, and inviolabilities, and also addressed the connection and interrelation between legal advantages and their types and the principle of legal equality.

Conclusion

Juridical equality is a category bearing a formal nature and does not imply the absolute equality of all members of society. It merely provides everyone with a single basis, identical legal capacity, and equal opportunities for the acquisition and exercise of the rights and freedoms granted to all. In reality, a subject does not always realize all available opportunities, and therefore, ultimately, the status of different individuals becomes unequal. In any legal system, restrictions, benefits, and privileges exist in order to ensure justice in law in the best possible manner. Thus, the principle of legal equality does not exclude the possibility of establishing different legal statuses

for certain categories of persons if it serves the interests of society. For this reason, Armenian and foreign legislation permit the application of different approaches in determining the legal capacity of separate subjects of law.

Unfortunately, it should be noted that the normative legal acts of the Republic of Armenia establishing benefits, privileges, and inviolabilities for one or another category of subjects lack a direct reference to the purposes of granting legal advantages to those subjects. However, as may be concluded, this is rather an issue of legal technique than any other motivation. Therefore, we propose making corresponding amendments to those normative legal acts and enshrining the specific purposes of granting certain subjects benefits, privileges, and inviolabilities, as a result of which the socially beneficial objectives pursued by those exceptions to the principle of legal equality will become clear to society.

At the same time, we consider it necessary to note that the legal possibility for implementing the above-mentioned proposal currently exists as well. In particular, according to Part 1 of Article 13 of the Law "On Normative Legal Acts," "A normative legal act may contain a preamble defining the purposes and reasons for the adoption of the legal act. The preamble shall not be set forth as a separate article, shall not be numbered, and shall not be divided into articles (points). No normative provisions shall be established by the preamble" [Law "On Normative Legal Acts"].

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