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Reconciling Gender Equality and Diversity in Constitutional Law

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ABSTRACT

Gender equality, a cornerstone of democratic society, posits that everyone should be treated fairly and without prejudice. This principle has made significant strides in legal, social, and ethical dimensions; however, gaps remain, necessitating continuous reflection and action. One of those gaps concerns the legal position of gender-diverse individuals in constitutional law, particularly their protection under the principle of gender equality and non-discrimination. As this principle is based upon a binary understanding of sex and gender, that is, as if society only consists of women and men, it might inadvertently exclude people that do not identify as male or female, such as trans, non-binary, gender fluid, and agender individuals. This paper will examine the evolution and content of the principle of gender equality and non-discrimination, focusing on its practical application in constitutional law and its implications for gender-diverse individuals. It will underscore the pivotal role of the law in shaping attitudes and behaviours, emphasizing the need to foster an inclusive society where every individual, irrespective of gender identity or expression, enjoys equal opportunities and protections.

Keywords: gender diversity, gender equality, inclusivity, transgender

