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SOME THEORETICAL ISSUES OF THE ESSENCE AND MEANING OF HUMAN RIGHTS

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The article examines certain theoretical and legal aspects of the essence and meaning (content) of human rights as legal categories. In particular, the authors determine the nature of the legal nature of human rights with due regard for modern scientific approaches to their understanding, definition and classification, as well as the basic principles underlying the formation and implementation of their content. The authors elucidate the peculiarities of the temporal development of human rights in the context of sustainable development of cultural, political and economic values; the relevance of introducing effective systems of international diplomatic dialogues on ensuring the effectiveness of human rights practices in the field of conflict resolution and the challenges associated with the interpretation and application of human rights in order to achieve social consensus. The authors also analyze the role and significance of human rights in the modern world in the context of globalization, as well as in the context of the relationship with other legal categories. This study is based on the analysis of scientific literature, international and national legal acts, and is aimed at revealing certain theoretical aspects of the essence and significance of human rights in the modern social and legal context. The article also discusses the system of legal functions, which is not always the same and unchanged. Provided that a particular area of public life begins to gain a certain weight and is actively regulated by the rules of all branches of law, the question of the existence of the relevant function will be resolved. The authors have found out that if legal functions and the entire system of their organisation are properly used, the generally binding nature of laws, which is ensured by the law enforcement capacity of the State, not only suppresses the spiritual life of a person, but also creates favourable conditions for it, and realises and develops human rights. The creation of such a proper organisation is the best achievement of mankind in its political activity. Since law in the union of all functions is the most important property of human social existence, this requires a deeper study and rethinking of the functions of Ukrainian law, the use of legal science methods, and refraction of the functions of law through the prism of human rights and freedoms.

Key words: *human rights, essence of human rights, meaning of human rights, legal category, international protection of human rights, international law.*

Ліпій Євгенія, Стрілець Богдан, Кальян Олександр. ОКРЕМІ ТЕОРЕТИЧНІ ПИТАННЯ СУТНОСТІ І ЗМІСТУ ПРАВ ЛЮДИНИ

У статті досліджено окремі теоретико-правові аспекти щодо сутності та змісту прав людини, як правових категорій. Зокрема, визначено характер правової природи прав людини з урахуванням сучасних наукових підходів до їх розуміння, визначення та класифікації, а також основних принципів, що покладені в основу формування та забезпечення реалізації їх змісту. З'ясовано особливості темпорального розвитку прав людини в умовах сталого розвитку культурних, політичних і економічних цінностей; актуаль-

ності впровадження дієвих систем ведення міжнародних дипломатичних діалогів з питань забезпечення ефективності правозахисних практик у сфері подолання конфліктів та викликів, пов'язаних з інтерпретацією та застосуванням прав людини з метою досягнення досягнення суспільного консенсусу. Також проаналізовано роль та значення прав людини в сучасному світі в умовах глобалізації, а також в контексті взаємозв'язку з іншими правовими категоріями. Дане дослідження проведено на базі аналізу наукової літератури, міжнародних та національних актів правового регулювання та спрямоване на розкриття окремих теоретичних аспектів сутності та значення прав людини в сучасному суспільно-правовому контексті. Розглянуто систему юридичних функцій, яка не завжди однакова і незмінна. За умови, що та чи інша сфера суспільного життя почне набувати певної ваги і активно регулюватися нормами всіх галузей права, то питання про існування відповідної функції буде вирішене. З'ясовано, що при правильному використанні юридичних функцій і всієї системи їх організації загальнообов'язковий характер законів, що забезпечується правозастосовчою здатністю держави, не тільки пригнічує духовне життя людини, а й створює для нього сприятливі умови, реалізує і розвиває права людини. Створення такої правильної організації є найкращим досягненням людства в його політичній діяльності. Оскільки право в об'єднанні всіх функцій є найважливішою властивістю соціального існування людини, це вимагає більш глибокого вивчення і переосмислення функцій українського права, використання методів юридичної науки, переломлення функцій права через призму прав і свобод людини.

Ключові слова: *права людини, сутність прав людини, зміст прав людини, правова категорія, міжнародний захист прав людини, міжнародне право.*

Introduction. Human rights are an integral element of the system of regulation of social relations, since without their proper definition, it is impossible to ensure proper human rights protection at both the national and international levels. Understanding the essence and content of human rights contributes to improving the system of legal regulation in general, as well as creating effective mechanisms for their protection. In fact, human rights are the foundation of the legal order, and their realization is aimed at ensuring justice, equality and dignity of every person.

Materials and methods. With globalization and the development of cooperation in international relations, understanding the universality and cultural specificity of human rights is becoming an important aspect of achieving harmony and cooperation between countries. The study of these aspects allows us to identify common values and standards that are important to the international community, as well as to take into account different cultural and historical contexts.

Regardless of the level of social development of a state, human rights are violated, and therefore it is extremely important to conduct research to find new approaches and solutions for their effective protection. This applies not only to the development of new legal instruments, but also to improving the effectiveness of existing mechanisms for their legal protection.

Therefore, the study of the essence and content of human rights is an urgent task that is important for the further development of legal science and the formation of law enforcement practice in order to ensure justice and the formation of a system of effective human rights protection around the world.

For a considerable period of time, the issue of the essence and content of human rights has remained a relevant research topic for many scholars in the field of public administration and legal sciences. The relevance of research in this area is closely related to the fact that human rights are not only legal constructs, but also reflect the evolution of moral standards of social relations that are recognized and respected by society. The importance of social, economic and cultural factors in the formation and realization of human rights, as well as the need to ensure equal opportunities for all people, is undeniable. Such foreign researchers as Merrils J.G. [1], Peter Van N. [2], Steiner J. [3], as well as domestic scholars have devoted their works to the study of issues on the relevant issues: Zabzaliuk D. [4], Zagoruy I. [5], Lazur Y. [6], Nalyvaiko L., Stepanenko K. [7], Shershel O. [8], Shcherbay I. [9] and others.

The purpose of the article is to study certain theoretical issues of the essence and content of human rights in the current conditions of socio-legal realities, taking into account temporal changes.

To achieve this goal, the following tasks have been set:

– to clarify the essence of human rights as a legal category;

– to determine the conditions for temporal changes in the essential characteristics of the content of human rights in modern socio-legal realities;

– to characterize the role and importance of the category of human rights in the system of legal regulation of social relations.

The methodological basis of this study is formed by the application of general scientific and special methods of scientific cognition. In particular, the dogmatic method helped to reveal the essence of human rights in modern socio-legal conditions. The dialectical method made it possible to analyze such a concept as the con-

tent of human rights. The comparative legal method was used to study the foreign experience of scientific definition of human rights. The methods of deduction, analysis and generalization helped to determine the doctrinal provisions on the issue under study. With the help of the system-functional method, the authors analyze the available scientific sources covering the issues of formation of the human rights institution in national legal systems.

Discussion. Humanity must evolve in order for the category of human rights to become universally accepted. In order for human rights to be fully realized in the practice of individual states and the world community as a whole, it is not a declaration of commitment to human rights by a particular state that is necessary, but rather the «landing» of modern international human rights standards in specific historical conditions of social development.

Only under two conditions: on the one hand, human rights express the basic goals of all mankind (as a modern world community united by common interests, needs and contradictions), and on the other hand, they express the goals of each individual, generated by the relations characterizing the practical and legal position of an individual in each state, they can become a reality.

As early as 1968, when it was declared the International Year of Human Rights, UNESCO published a number of texts from different cultural traditions and periods of human history to demonstrate the universality of the human rights phenomenon. Since then, the range of views on the nature of human rights has been intellectually enriched [1, p. 8].

Already in the early 1980s, in the world's human rights literature, theorists made the first attempts to challenge the widespread belief that the Western liberal concept of human rights was universal, as it was then claimed. This led to a polemic between supporters of cultural relativism and universalism.

In contrast to the aforementioned position, it was argued that the empirical fact of cultural diversity in the modern world is the determinant that creates the need to find common universal values that can act as a unifying factor [2, p. 7–14]. This approach has evolved into one of the scientific trends that recognizes the existence of fundamentally common (universal) content in human rights systems.

Each of these concepts relates to the origin of human rights (the conditionality of this phenomenon by cultural and historical factors), the priority of certain rights (the possibility of establishing hierarchical relations between rights belonging to «different generations») and, most importantly, the ratio of universal and particular (special) features in the meaning of human rights. There are several options.

Let us briefly recall the historical background against which the most common arguments emerged.

The modern human rights movement on a global scale is the result of the fundamental institutional transformation of the international community after the end of World War II [3, p. 118], during which the question of transcendent values that could be expressed in a meaningful and stable way from the point of view of individual states and constitute a truly reliable basis for international relations was acutely raised. How to ensure order and stability that can act as a «tempering» element of the legal order, capable of embodying the principles of equality, tolerance and pluralism?

One of the solutions to this problem is the principle of respect and protection of human rights. In particular, the principle of «universal respect for and observance of human rights and fundamental freedoms for all» is stated in the seventh preambular paragraph of the Vienna Convention on the Law of Treaties (1969). It is a principle of international law and is reflected in the Charter of the United Nations. These principles of the UN Charter, which emphasize international respect for human rights, formed the basis for the progressive evolutionary development and codification of human rights [7, p. 26–27]. However, practice soon showed that this principle is not without contradictions in its interpretation and application.

It is important to note that ambiguities and conflicts around the interpretation and application of human rights often arise from differences in cultural, political and economic approaches between countries. These differences can lead to international tensions and require constant efforts to reach consensus. International diplomatic discussions and the use of monitoring mechanisms, such as reports by human rights organizations and UN assessment missions, are key to addressing these challenges.

In addition, regional international organizations, such as the European Court of Human Rights in Europe, the Inter-American Court of Human Rights in the Americas, and the African Court on Human and Peoples' Rights in Africa, have become important in strengthening human rights norms and practices at the regional level. These institutions not only promote the protection of human rights, but also contribute to their further codification and development.

In terms of doctrine, the search for answers to this question led to a discourse between representatives of different scientific disciplines, each of whom offered their own theoretical options for the origin and development of human rights institutions.

The period under consideration fell on the so-called Cold War era, in which human rights were one of the key points of criticism of the opposing side. During the

Cold War, the countries that were part of the Soviet bloc were often harshly criticized by the West for ignoring the political and civil rights of their citizens. In response, these countries criticized Western democracies for their failure to respect basic social and economic rights [10]. Therefore, the articulation of the importance of certain human rights groups meant that they gained ideological primacy. The development of this thesis leads to the long-standing alleged conflict, which, according to supporters of the relativistic approach, existed between «West and East», i.e. between the states of the socialist (communist) «camp» and countries with market economies. There was also a classification of countries into developed and developing («North and South») according to their level of economic development.

While ideological factors are important, they cannot be seen as the only determining factor in this matter. The reasons are more fundamental and lie, in our opinion, in the recognition of human rights as a decisive principle of the world order, which, being based on universally recognized principles, guarantees a certain degree of stability, order, coherence and predictability of behavior of all members of the world community.

In any case, it seems to us that the focus of the study of the relationship between the general (hereinafter referred to as G) and the particular (hereinafter referred to as P) in the content of human rights should be based on the main features of the modern concept of human rights.

Given these provisions, we believe that at the current stage of development of scientific knowledge, the issue of the relationship between G and P should be considered in the context of the human rights system as a whole. By this we mean not only the question of the relationship between the general and the particular in the content of human rights in relation to civil and political (classical) rights (the approach that dominates research on this issue), but also the analysis of the content of socio-economic and cultural human rights.

We hope that the new trends in the development of human rights institutions (the development of minimum humanitarian standards by the UN) and the Council of Europe will testify in favor of this fact.

Taking into account these and many other considerations, we propose to expand the scope of the discourse on human rights in human rights bodies as follows: a) Expanding the nomenclature of the types of human rights themselves. Thus, all groups of human rights should be subject to scientific study, not only socio-economic and cultural, but also personal and political; moreover, new realities necessitate the consolidation of the latest human rights, for example, recently the legal literature has been discussing the feasibility of introducing a new fundamental right to cybersecurity, and the need for such a new right is justified against the background of the existing fundamental right to security (Article 6 of the Charter of Fundamental Rights of the European Union) [11]; b) the issue of defining G and O in the content of rights Therefore, another point of research should be to identify the proportion of the general in the content of human rights as a result of the impact of many forms of international cooperation and coordination. Finally, an important aspect of methodological nature is the need to take into account the pluralism of approaches to the scientific understanding of human rights.

Therefore, one of the urgent tasks of modern science is to find out to what extent the arguments of defenders and opponents of the universality of the concept of human rights are based on rational grounds, and to what extent such arguments are not due to inadequate explanations and understanding of the phenomenon under study, denoted by the term «human rights»; such an approach is necessary to find out whether it is only a distorted reflection of the phenomenon under study.

The practical significance of this study lies in the fact that the issue of universality in the human rights system as a whole and of each human right affects the sphere of international cooperation of states in the field of human rights, which is realized in the form of adoption of certain standards relating to the legal status of individuals and the obligation of states to comply with these standards. The determination of the proportion of universal elements in the content of the human rights system thus means, as one of its consequences, a transition to the practical plane. In particular, this means the possibility of subjecting the state of human rights observance in a particular state to international scrutiny and criticism as part of legitimate subjects of international relations.

The demand for reliable and as accurate scientific knowledge as possible necessitates the study of the issue of the correlation between G and P in the phenomenon of human rights in several directions. First, a comparative legal analysis of international legal norms enshrining human rights, taking into account the cultural and historical conditions of a particular society, in order to determine to what extent variations of the substantive elements of human rights enshrined in such norms are allowed in the process of their implementation – that is, the normative and statistical method, guided by the principles (the main focus of this approach is to compare various international and regional human rights norms with each other, on the one hand, and with the human rights norms formulated by the UN Human Rights Council, on the other hand).

The next approach is doctrinal and theoretical. It is aimed at analyzing the scientific work of cultural and legal scholars who study the general patterns of existence and development of individual cultures, their

common and characteristic features, and, in turn, the possibility of adapting international human rights standards in such conditions. The third method integrates certain elements of the above-mentioned research tools, namely the method of practical application (studying human rights practices of international (global and regional) organizations). On the one hand, it overcomes the abstractness of the normative and statistical method in order to take into account the culturally specific (particular) features of the parties' claims, on the other hand, it abstracts from excessive specialization caused by the specific cultural conditions of a particular society and aims to identify universal values on the basis of pluralism and procedural equality.

In addition, when organizing a study, it is necessary to optimally combine a set of methods so that such a combination provides a variety of information [9, p. 117]. As noted by D. Zabzaliuk and R. Topolevsky, «as for the human rights sphere, the formation of a selection of research methods has its own characteristics. Depending on the approach to the methodological collection chosen by an author, the following dimensions can be distinguished among them: historical, philosophical and legal, international legal, theoretical and legal, and sectoral (legal and practical, pragmatic)» [4, p. 16]. In this context, it is also worth noting that since a person is a biosocial being, the methods of other social and natural sciences, not just legal ones, should be taken into account [8, p. 140].

The evolutionary development of human rights as a legal category shows significant progress in the recognition, protection and realization of human rights throughout history. Human rights are recognized as universal and inalienable, belonging to every person regardless of their race, gender, religion, social status or other characteristics.

Human rights as a legal category is constantly evolving and expanding, including new aspects of social and cultural development of society, such as the rights to digital privacy, the rights of the LGBT+ community, and others.

In recent years, there has been an increase in global awareness of human rights and their importance for society, which is reflected in broad public support for human rights movements and initiatives.

Despite the progress, there are still urgent issues to address challenges and problems in the field of human rights, such as discrimination, violence, authoritarianism, terrorism, corruption, etc.

Results. In the context of modern scientific research, it is important to note the universality of the concept of human rights and the arguments both for and against this universality. This approach allows us to determine the scientific validity of explanations and understanding of the essence of human rights as a legal phenomenon.

Understanding the degree of universality in the human rights system is important for international cooperation between states in the field of human rights. This applies to the procedures for adopting standards and determining the obligations of states to international organizations in the field of human rights protection.

Therefore, further research in this area is of great importance to ensure effective protection and exercise of human rights in both national and international contexts.

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