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NATURAL LEGAL UNDERSTANDING AND HUMAN RIGHTS

Abstract. *The article delves into the intricate relationship between natural legal understanding and human rights, emphasizing the necessity of a scholarly approach for comprehensive worldview formation. Utilizing a methodology grounded in monographic works and peer-reviewed articles by leading Ukrainian scholars in the field of human rights, the paper explores vital rights and freedoms as reflections of human biosocial needs. It challenges existing paradigms by introducing a new classification and interpretation schema for these rights, thereby making a substantial contribution to the academic discourse on the subject.*

Keywords: *natural law understanding, human rights, biosocial needs, methodological aspects of human rights research*

In the modern world, there is no society where the concept of law is not utilized. Therefore, a proper understanding of the phenomena it reflects gains an immediate worldview significance. Indeed, the worldview of a person cannot be complete, perfect, if it lacks knowledge concerning the essence of human rights and freedoms. However,

contributing to the formation of a worldview is not the only practical significance of the concepts outlined in this topic of the guidebook. There is probably no person who in their daily life has never used such words as: «law», «rights», «freedom», «duty».

Indeed, these terms (or more accurately – the concepts they represent) are referred to when there is a need to prove the validity of our demands, expectations, to justify our actions, deeds. The persuasiveness, the effectiveness of using these concepts and terms in such cases is noticeably strengthened if their understanding is based on scientific conclusions, arguments, and propositions.

They – by their nature and purpose – are inherently vital because they ensure the very existence of a person as a biosocial being [1]. In other words, without the realization, use, and implementation of such rights, human survival and activity in society are generally impossible. This substantiates the term used to denote the respective part of human rights and distinguishes it from the entire complex of human rights. (However, vital rights and freedoms are often also denoted by such terms as «fundamental», «basic», «essential», «natural», so they can all be considered, in one way or another, synonyms).

The principle seems crucial to state that any human activity is always, essentially, nothing more than a process of satisfying a person's numerous diverse needs. Therefore, one can define that vital rights and freedoms are certain opportunities for a person which are necessary for satisfying biological and social needs of their existence and development in specific historical conditions, objectively determined by the reached level of societal development, and ensured by the obligations of other subjects. So let's outline the main properties of this phenomenon, some of which previously received academic interest in the works. The research was based on monographic works, professional scientific articles, and other publications of leading Ukrainian scholars in the field of human rights – P. Rabinovych, S. Dobriansky, O. Dashkovska, O. Uvarova, V. Smorodynsky and others.

Firstly, it's about certain opportunities for a person to act in a certain way or refrain from certain actions – with the aim of ensuring one's proper existence and development, as well

as satisfying those needs that have formed in a particular society. And by 'fundamental rights', we mean those opportunities without which a person cannot maintain a normal existence. But what does 'normal' mean? The answer to this question is determined by the biological and social substantiation of human needs. It's worth emphasizing that these needs, being a result of the historical-natural and social development of humanity, are not static.

Secondly, the content and scope of human opportunities largely depend on the opportunities of the entire society, primarily on its level of economic development. In this sense, human's fundamental rights are social phenomena: they are predominantly brought about by society, based on a human's biological traits and anthropic potential. Even when we talk about satisfying purely biological needs, their real substance, scope, forms, and means of satisfaction for a person are historically specific, usually determined by societal development [2].

Thirdly, these opportunities, based on their fundamental, 'starting' indicators, their initial 'doses', should be equal for all people. Only then will they be considered rights (from words like 'correct', 'fair', 'righteous', 'justified', and 'legitimate').

Fourthly, they cannot be taken away, alienated, or separated from a person, nor can they be considered a «gift» from the state or any other organization or individual.

Lastly, fifthly, for the characterized human capacities not to be merely declaratory or promised, but truly real and actualized, it is absolutely necessary to impose on some other subjects the duty to facilitate their realization or, at least, not to obstruct their use. Otherwise, such human potentials may turn out to be fictitious, unrealistic, not guaranteed by anything or anyone. In other words, the interdependence of fundamental human rights and freedoms and the corresponding obligations of other participants in social life is an objective socio-natural regularity, a necessity [3]. The outlined interpretation of the fundamental rights and freedoms of a human being is based on the «natural» understanding of law as one of the types of non-positivist, non-normativist understanding of law, which was mentioned in the introductory part of the course.

In various documents, legal acts (including international laws and in national legislation), in scientific and journalistic literature, the term

«human rights and freedoms» is often used. However, the distinction between rights and freedoms as social phenomena, as well as between the corresponding concepts (unless they are considered identical), has not been conclusively clarified even on a general theoretical level. Therefore, the terms «rights» and «freedoms» are often used synonymously. If the content of the concept of human rights is revealed through the philosophical category of «possibilities», then such an interpretation will surely cover the concept of human freedom as well.

The understanding of human rights as certain capabilities can be found, in one way or another, in the works of various lawyers, and other social scientists. As for other interpretations in modern scientific literature of the concept in question, they can, for the most part, be generalized to the following:

- 1) Human rights are a certain form of regulated freedom;
- 2) Human rights are a certain type (mode of expression) of morality;
- 3) Human rights are certain needs or interests of an individual;
- 4) Human rights are goods or values (whether material, spiritual, or purely social) that satisfy their needs and interests;
- 5) Human rights are goods in themselves, her demands for certain benefits addressed to society or the state.

All the approaches mentioned above represent possible aspects, facets of existential rights and freedoms; however, only the category of capability allows for the most accurate reflection of their inherent nature.

Considering that we just used the phrase «inherent nature» (phenomena), it seems appropriate to explain how exactly one should understand the essence of any social phenomena, what it entails[4]. So let's note that the social essence of phenomena is their ability to serve as a means of satisfying the needs of subjects of society.

Therefore, to reveal the essence of a social phenomenon, it is necessary to determine: a) The needs of which subjects (i.e., whose needs) the examined phenomenon satisfies: whether it meets the needs of individual individuals, their communities, associations, or society as a whole, and b) What types of their needs it satisfies.

The interpretation of the overall concept of existential human rights, as defined above, is grounded, essentially, on a socio-need-

based approach. Indeed, the existence and development of every individual usually only occur in the process of satisfying their various needs; this process, understandably, is largely mediated by tools that are the natural historical consequences of the activities of other entities, namely the results of past and present societal production (both material and spiritual) [5][6]. This process takes place solely thanks to relations, interactions, and connections that this individual has with other people and their groups – socially obligated subjects of society.

Therefore, this understanding of existential human rights can be briefly expressed as follows: any human right is a right to satisfy certain needs. This is where the humanistic aspect of the needs-based interpretation of existential rights (and freedoms) is manifested, and it is arguably its most significant advantage.

It seems evident that the role of various human needs – and hence, the process of satisfying them – in the existence and development of a person within society is ambiguous. Considering such a role, among all human needs, the ones considered primary are those without whose satisfaction human life becomes impossible. These typically include needs for food, clothing, and housing. (By the way, this principle is enshrined in Article 48 of the Constitution of Ukraine).

It is stated that «Everyone has the right to an adequate standard of living for themselves and their family, which includes adequate food, clothing, and housing». In light of this, the mentioned three types of needs can be justifiably considered basic, i.e., foundational, fundamental, principal – in one word, existential.

So, based on the presented arguments, it seems reasonable to conclude that – from the perspective of a needs-based approach – the essential rights and freedoms of an individual should be considered those that affirm their ability to satisfy vital needs. Human rights, like any other phenomenon, are characterized by certain qualitative and quantitative indicators. The qualitative attributes are primarily revealed through the content of human rights, while the quantitative ones are represented by the scope of such rights.

The notion of the content and the extent of human rights are enshrined, for example, in Article 22 of the Constitution of Ukraine. Specifically, section 3 of this Article determines that when adopting new

laws or amending existing ones, it is impermissible to narrow the content and range of existing rights and freedoms. This provision is very important as it addresses the issue of restricting human rights: indeed, the narrowing of content and the reduction of the scope of human rights are the primary consequences of such restrictions [7]. Therefore, to correctly apply the aforementioned constitutional rule (which, by the way, is frequently used by the Constitutional Court of Ukraine), it is necessary to accurately understand the concepts it refers to.

When characterizing the content of human rights, one must start with the philosophical category of content. According to the latter, content is a certain orderly collection of elements and processes of the phenomenon that creates it. With a change in the organization of elements, the content of the object fundamentally changes along with its properties. So, what elements can we identify in such a phenomenon as the essential human rights?

From the understanding mentioned above, it becomes clear that the central, core element of such rights are certain human capabilities – the ability to act in a certain way or refrain from certain actions to satisfy certain needs and interests. As known from the general theory of activity, any human activity is characterized by certain constituent elements, properties [8]. These primarily include: the goal, the subject (object) of activity, conditions of activity, methods (forms) of activity, means of activity, results of activity. The most important among them are the conditions and means of activity, as they determine the reality of using the capabilities of the subject, their actualization.

Therefore, it can be determined that the essence of human rights and freedoms is their qualitative characteristic, which is reflected by the conditions and means of activity that create the human possibilities necessary for satisfying the needs of her existence and development. Thus, the essence of the right to higher education is characterized by the conditions for admission to educational institutions, conditions of studying in them [9], and also the means (tools) that can be used in the learning process [10]. Quantitative indicators of human rights are reflected by the concept of the scope of human rights.

Quantity is a defined aspect of a phenomenon that characterizes its multiplicity, magnitude, intensity, degree of manifestation of one

or another of its properties. The scale of a phenomenon is determined through certain units of measurement (for example, the number of possible variants of a particular behavior, the amount of time, the number of goods, the size of benefits). Thus, the scope of human rights and freedoms is their quantitative characteristic, which is reflected by indicators of the limits of relevant possibilities, expressed in certain units of measurement. Units of measurement of the 'quantity' (scope) of human rights cannot be universal, unambiguous, homogeneous for all and any existential human rights. The nature of such units of measurement is determined primarily by the content of possibilities reflected in the corresponding rights and freedoms, as well as by the peculiarities of the bearers (subjects) of the rights and the specificity of the objects of these rights and freedoms (i.e. different types of goods). For example, the scope of the recently mentioned human right to receive higher education is characterized, in particular, by the number of higher educational institutions where it can be obtained, as well as by the number of specialties for which they train corresponding specialists.

Existential human rights, their realization, and usage – as follows from their essence and purpose – are intended to ensure, i.e. to guarantee, the minimally necessary (under certain historical circumstances) conditions for a person's existence in any society. Such conditions must be provided to each member of the respective society, and ultimately to each person, wherever they may be. Therefore, the equality, sameness of such existential conditions – at least, in their minimal life-support dimension – is one of the most convincing manifestations of the principles of humanity, fairness, justice in the functioning of any modern society.

One of the main means of ensuring such a social state is a certain unification, standardization of these human rights and freedoms, i.e. the establishment of universal (worldwide) patterns, standards – the so-called standards to which human rights and freedoms should correspond, wherever and whenever a person exists, and also ensuring their realism, actualization by various social instruments (so-called guarantees) [11]. For relevant organizations (states, interstate associations, international bodies, etc.), these standards usually become either formally (legally) binding, or at least desirable, recommended.

Guarantees of future human rights and freedoms are social means by which to ensure:

a) promotion of their implementation (use),
b) protection, and c) in case of their violation – defense of such rights and freedoms. Among these guarantees, means of the international level have gained extremely important significance.

They include:

a) International legal acts that contain principles and rules of action, formulate rights and duties of relevant subjects (conventions, pacts, agreements, treaties, etc.), as well as international documents that, although they do not formulate mandatory rules of action, at least, secure, declare, and name human rights and freedoms (for example, declarations, statements, memoranda, etc.);

b) Activities of international bodies observing and controlling the observance of essential human rights and freedoms (commissions, committees, councils, commissioners, etc.) and protecting these rights (international courts, tribunals). The first type of guarantees can be called documentary, and the second – active.

These documentary guarantees often lay down international standards for essential human rights and freedoms. These standards have the following key features:

The first lies in that these standards fix minimum indicators: a) of certain content, or b) of certain size, or c) both content and size of essential human rights. The second feature is that various states are obliged or encouraged to reach these indicators. The third lies in that standardization may also refer to legal means of ensuring essential human rights (judicial, extrajudicial, etc.). The fourth lies in potential means of international influence on states that violate the aforementioned standards: regarding legally binding standards, these means could be various forms of coercive influence on the violator state, while regarding recommended standards – different forms of purely political influence.

And finally, the fifth characteristic of the mentioned standards lies in their substantive universality, which must organically be combined with a certain dependency of their implementation on specific historical conditions and circumstances in different human civilizations, regions, and sometimes even in countries. This feature

is directly stated in some important international documents (for example, the UN Human Rights Committee noted that the right to family life may vary depending on socio-economic and cultural conditions; and the European Court of Human Rights adopted the «margin of appreciation» doctrine, which includes, in particular, interpretation of the European Convention on Human Rights and Fundamental Freedoms.

Conclusions. Therefore, considering all the above-mentioned features of the standards considered, the following definition of their general concept can be proposed: International standards of vital human rights and freedoms are principles and norms enshrined in international acts or documents, textually unified and functionally universal (for certain international associations of states), which record the minimum necessary or desired content and/or scope of such rights, dictated by the achieved level of societal development, as well as establish state obligations regarding their provision, protection, and defense and provide negative consequences of a legal or political nature for their violation. The classification of such standards can be carried out according to different criteria.

Specifically:

- According to their ontological (existential) status – nominal (in other words, terminological or textual), which include only the names of human rights and freedoms used in international acts, and factual (substantive), which record in the specified sources substantive and volumetric indicators of such rights and freedoms;
- By deontological status – obligatory, the embodiment of which is formally necessary for the respective states and can be ensured even by the application of international political-legal sanctions, and recommended, which, although they do not have formal obligation, are also secured by international political (moral-political) sanctions;
- Based on the area (territory) of their application – global (universal, global) and regional (in particular, continental, a vivid example of which is the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950));
- By their target audience – general (applicable to all people) and specialized (addressed to members of certain social communities, groups, for example: children, women, refugees);

• By the establishing entity – standards of the UN, UNESCO, Council of Europe, European Union, etc.

Overall, it should be noted again that various classifications of human rights and freedom standards are designed to reflect their specific characteristics; and these distinctions must undoubtedly be taken into account when constructing and using legal tools for ensuring (that is, promoting the implementation, protection and defense) the fundamental rights and freedoms of individuals.

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Мирицало П. Р.

Природне праворозуміння та права людини

***Анотація.** В даній статті досліджується глибинна концепція природного праворозуміння та прав людини. Ключова теза, яка представляється для обговорення, полягає в тому, що оскільки ці поняття прямо впливають на світогляд окремої особистості та на її взаємодії в суспільстві, вони мають бути вивчені та ґрунтовно проаналізовані. Особливу увагу в статті приділено розгляду прав людини, які вважаються безпосереднім відображенням її біосоціальних потреб. Автор ретельно досліджує цей аспект, аналізує їх корені та значення, щоб краще зрозуміти, як вони функціонують в межах нашої суспільної структури. Написана стаття має на меті здійснити цінний внесок в наукове розуміння важливості природного праворозуміння та прав людини, сподіваючись, що це знання сприятиме подальшому прогресу в їх розвитку і захисту.*

У статті надається наукове визначення життєво важливих прав і свобод як можливостей, необхідних для задоволення біологічних і соціальних потреб особистості. Автор підкреслює, що ці потреби є динамічними

і змінюються в часі під впливом історичних і соціальних факторів. Основні характеристики цього явища були раніше висвітлені в академічних дослідженнях, однак стаття пропонує новий підхід до їх класифікації та інтерпретації, що дозволяє глибше зрозуміти їх природу і значення.

Дослідження розширює розуміння природного праворозуміння та прав людини, підкреслюючи їх важливість для забезпечення гідного життя та розвитку особистості в суспільстві. Зроблено значний внесок у формування наукового підходу до аналізу цих понять, надаючи нові теоретичні та методологічні інструменти. Вона може служити основою для подальших досліджень в даній області, сприяючи подальшому розвитку наукової думки про природу та значення природного праворозуміння та прав людини.

Ключові слова: природне праворозуміння, права людини, біосоціальні потреби, методологічні аспекти дослідження прав людини.