

Human Rights: Universality and Cultural Diversity of the World

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Abstract – The article considers the problem of human rights in the aspect of their universality and cultural diversity of the world through the prism of established traditions. The problem of universality and universalization of human rights becomes the most acute in conjunction with the sustainable development strategy in a situation of increasing integration of the economies and societies. Based on methodological approaches to the problem of human rights, the transformation of the meaning of human rights is revealed, human rights are examined through the prism of traditional ideas about a person and his rights. The research base was taken by the Anglo-Saxon legal family, Russia, Islam, and Christianity, based on the traditions established within their framework, the development of the idea of human rights to its normative consolidation at the international and national levels is shown. The purpose of the study is identifying the prevailing traditions in individual cultures and on their basis, understanding the transformation of approaches in understanding and normative consolidation of human rights. Close attention is paid to traditions in human rights issues as representations that have developed as socio-cultural landmarks in incorporating the idea of human rights into the modern concept of universal human rights.

Keywords – *human rights, Christian tradition, Muslim tradition, Anglo-Saxon tradition, Russian liberal tradition.*

I. INTRODUCTION

Human rights are a multidimensional concept, in which the dignity of a person and his claim to possessing opportunities to achieve a decent life, the fundamental freedom and equality of each person, the “person – state” relationship and the restriction of the state’s power over a person are recorded. If we talk about the historical design of the concept of human rights, it was formed over a long period of time, receiving

normative consolidation in a number of documents: the US Declaration of Independence (1776), the Declaration of Human and Citizen Rights (1789), the Universal Declaration of Human Rights (1948), included along with the International Covenant on Civil and Political Rights with a special optional protocol (1966) in the International Bill of Human Rights.

In its development, the concept of human rights went through several stages, the so-called generations of human rights: the first generation – personal or negative rights (the right to life, liberty, property, a fair court, the right to elect and be elected, the right to information and freedom of speech); the second generation – socio-economic and cultural (the right to education, work, medical care, social security); the third generation – collective rights (the right of nations to self-determination). It should be noted that each generation of human rights at the foundation has a theoretical and ideological foundation. Thus, the first generation of human rights is based on the concept of natural law, and the ideology of liberalism, the second and third generations of human rights are based on the ideology of social democracy. In the legal and regulatory aspect, human rights record the interconnection of subjective and objective human rights, for example, human freedom, choice and responsibility, duties, duty, order.

Considering human rights as a system, the main elements – a person, and his rights. A person in the aggregate of individual and social characteristics is revealed in the system of interactions, manifesting himself in the needs, interests that coexist along with the needs and interests of other people, therefore human rights are not only specific social opportunities (a form of human rights) but also a social need (a form of duties).

To recognize the universal nature of the rights and freedoms of man and citizen, the adoption and entry into force of critical international legal documents were of utmost importance:

- International Bill of Human Rights – the totality of a number of international documents [1];
- The Universal Declaration of Human Rights (adopted by resolution 217 A (III) of the UN General Assembly of 12/10/1948) [2];
- The International Covenant on Economic, Social and Cultural Rights (adopted by resolution 2200 A (XXI) of the UN General Assembly of 12.16.1966) [3];
- The International Covenant on Civil and Political Rights (adopted by resolution 2200 A (XXI) of the UN General Assembly of 12.16.1966) [4];
- The first optional protocol to the International Covenant on Civil and Political Rights (adopted by resolution 2200 A (XXI) of the UN General Assembly of 16.12.1966);
- The Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the abolition of the death penalty (adopted by UN General Assembly resolution 44/128 of 12/15/1989);
- Convention for the Protection of Human Rights and Fundamental Freedoms ETS No. 005 (Rome, 11/04/1950) [5].

In modern philosophy, human rights are treated as a sophisticated form of universal design of the real-life of people.

The purpose of the study is to consider human rights in the aspect of the Anglo-Saxon, Christian, Muslim, Russian liberal traditions, which is necessary to understand their universal, universal character in a globalizing world.

Methodology – the study of human rights in the aspect of the Anglo-Saxon, Christian, Muslim, Russian liberal traditions in the philosophical analysis of human being is based on the following theoretical and methodological principles:

Firstly, a conceptual approach based on philosophical analytics of human being made it possible to determine the general direction of the study of human rights;

Secondly, the historical approach to identifying the prerequisites and considering human rights through the prism of traditions that have developed in different societies and are represented in philosophical analytics;

Thirdly, a system-functional approach, which allowed to study human rights as a system;

Fourth, a formal legal approach in understanding the processes of the birth of normative acts in the field of human rights based on traditions, social realities, and the characteristics of the historical and cultural development of states.

Fifthly, the understanding of human rights through the prism of established traditions in modern societies with their inherent capabilities and features was, at the same time, a justification for the universal, universal nature of human rights.

II. HUMAN RIGHTS AND THE TRADITION OF CHRISTIANITY

In European civilization, Christianity emerged as a religion of freedom, playing a significant role in the development of human rights. Man, not out of a fear of God, but out of love for God. Man has got the opportunity to choose between good and evil. It is the path of self-improvement. Christianity contributed to the transformation of attitudes toward work – from forced labor, it becomes a compelling way of human existence, a manifestation of virtue.

From Judaist thought, Christianity adopted the "golden rule" – "in everything, as you want people to do with you, so do you with them," which implies a universal and equal norm of behavior for all people, anticipates the legal equality of people in all spheres of human relationship. In the New Testament, then in the political and legal teachings of Augustine [6], T. Aquinas [7–9], the principle of equality is further developed. T. Aquinas in the doctrine of natural law instructed all people to strive to search for the true God, respect for the dignity of each person, introducing the ideas about the natural right of each person to respect his dignity in the concept of inalienable human rights.

If in early Judaism the problem of attitude to God was considered in the context of "God is the people", which reflected the prevailing principles of collective thinking, then with the differentiation of social forms of life and the isolation of the individual, this idea is transformed into the idea of personal retribution and salvation. Christianity, therefore, overcomes the limitations of Judaism by its national framework, for personal salvation does not correspond to an unselected people, but a righteous person as an "elementary particle" of the vast Christian world, regardless of belonging to any people. N. Berdyaev expressed the idea that the recognition of the existence of God is the "Charter of Liberties" of man, an internal justification of man in the struggle with nature and society for freedom [10]. Christianity not only gave rise to the idea of the equality of all people before God, it in its essence prepared the public consciousness for the idea of freedom and, at the same time, responsibility for their actions.

During the Middle Ages, the denial of a person's individuality "mortified" the Christian faith: a person's claim to freedom was possible on the condition of a transition from theocentric to the principles of freedom, equality, and justice. Nevertheless, the person-centered principle in Christianity was a contribution to the development of European civilization and the establishment of human rights.

At the same time, Christianity cannot be directly connected with the creation of prerequisites for the development of the idea of human rights, since, with all the importance of Christianity, European civilization is determined by philosophy, culture, people's way of life and many other factors. Nevertheless, between Christian ideas about human

rights and human rights of the modern era, there is undoubtedly a specific connection.

III. HUMAN RIGHTS AND TRADITION OF MUSLIM LAW

During the formation of Sharia, slavery was a recognized and legalized institution, and individual rights could be spoken about within the framework of the dominant religion. Until the 19th century, Sharia justified and justified a hostile attitude towards non-Muslims before the use of force against them; the superiority of men over women; civil rights as a privilege of Muslim men. Significant and indeed implemented by Sharia in a historical context is the mitigation of the brutal consequences of slavery, discrimination based on religion and gender.

In modern Islamic states, human rights are prescribed by divine law (Sharia), is the privilege of legal persons; those who have reached adulthood and profess the Muslim faith [11]. The non-Muslim population of Islamic states was partially protected by law, but more often their legal capacity was not considered. Changes were made to the protection of the rights of Muslim women in terms of civil and commercial law: women received the right to own and dispose of property, to accept civil obligations or to refuse them. However, in these areas, women did not have the full rights inherent in men.

If we compare the Sharia with the modern concept of human rights, then there is discrimination based on religion and gender. Non-Muslims in Islamic states must obtain Zimm status – the status of non-Muslim peoples, or the status of Aman, which gives non-Muslims temporarily in the Islamic state guarantees of personal and property security. Some Sharia rules that testify to discrimination in the field of personal and private law on the basis of faith: Muslims – both women and men – are forbidden to marry unbelievers, those who do not believe in the texts of Divine revelation; a difference in religion is a restriction on the right of inheritance (a Muslim cannot inherit the property of a non-Muslim or leave him an inheritance).

Civil and family law contain norms that testify to discrimination on the basis of sex, for example, a Muslim man can have four wives at the same time, and a Muslim woman can have one husband; a Muslim man can divorce his wife by deciding on a divorce unilaterally and without giving any reason, and a Muslim woman can get a divorce only with the consent of her husband or by a court decision subject to a number of conditions (the husband cannot or does not want to contain wife).

Recognizing slavery, Sharia contradicts fundamental and universal human rights: slavery in the Islamic world is not recognized by secular law, but is not denied by religion. Sharia, discriminating against the rights of people on the grounds of religion and gender, does not recognize universal human rights.

Religious discrimination causes of many international conflicts related to the fact that countries, supporting non-Muslim minorities in Islamic states, advocate for victims of religious discrimination. The attitude of modern Islam to human rights is twofold. On the one hand, Islamic leaders sign

the international human rights instruments and thereby recognize them, and, on the other hand, the influence of Sharia on the legal system of Islamic states is so significant that human rights adopted by the international community are not realized.

An example is the participation of Egypt in the International Convention on the Elimination of All Forms of Discrimination against Women (1979), which formulated provisions on the elimination of discrimination against women in the political and social life, education, healthcare, employment. However, Egypt ratified this convention on issues of equality of men and women in family relations, taking into account the rules of Sharia. Modern Islamic law relies heavily on the texts of the Qur'an and Sunna; therefore, the possibilities to avoid violations of fundamental and universal human rights are minimal.

In the XIX–XX centuries, fundamentalism and the Islamic revival began to develop, focusing on the substantiation of human rights based on the values of Islam. A statement unites them: a culture of respect for human rights comes from the Qur'an, and practice proves the correctness of the Islamic vision of human rights. The position of fundamentalists – the modern concept of human rights is incompatible with Islamic law, and supporters of the Islamic Renaissance believe that Islam includes human rights contained in international documents. Therefore, the integration of human rights based on Islamic values into the international concept of human rights is necessary. Representatives of the "new wave," who consider a new interpretation of Islamic fundamental religious texts, are trying to resolve the existing contradictions between these trends.

IV. ANGLO-SAXON TRADITION IN THE IMPLEMENTATION OF HUMAN RIGHTS

The implementation of human rights in the Anglo-Saxon tradition is associated with many factors that determined by the peculiarity of the England legal traditions and legal culture and the countries included in this family of law. The Anglo-Saxon legal system relies heavily on the traditions, social, and cultural heritage of previous generations to the new generation, preserved in society. As a tradition, individual social attitudes, norms of behavior, values, ideas, and customs are made.

The Anglo-Saxon legal family includes the law of England, Northern Ireland, the USA, Canada, Australia, New Zealand, and other countries following the model of English law. Although legal autonomy is taking place in the USA, Canada, and Australia, nevertheless, the nature of the legal activity, the type of legal thinking, remains common within the Anglo-Saxon legal family.

The Anglo-Saxon tradition in the understanding of human rights refers to the Western tradition of legal understanding. Legislative human rights were enshrined in England in the Magna Carta (1215), where the inviolability of the property of a free man, the right to protection from the arbitrary rule of officials, and the right to resist oppression was recognized as unshakable, inalienable liberties, freedoms. The Magna Carta

was the first and significant step towards establishing a more respectful attitude of society towards the individual.

The ideas outlined in the Charter defined the vector for the subsequent development of views on human rights. The formation of personal and political human and civil rights in England was particularly intense during the period of antifeudal revolutions (1640–1649, 1688) with the dominant idea of natural, inalienable, human rights from birth – the right to life, property, freedom of movement, religion, thoughts, the right of the people to revolt against the government, encroaching on the rights of citizens. Thus, the Act on Better Ensuring the Freedom of a Subject and on Preventing Imprisonment overseas (1679) became a kind of "legal shield" of personal inviolability, limiting lawlessness and arbitrariness of the authorities, prohibiting secret reprisals against objectionable, providing for bail procedures and release on bail. The Bill of Rights (1689) recognized previously recognized human rights and freedoms and contained a new idea about the possibility of any subject to appeal to the monarch [12].

Вопрос о политических правах граждан и, прежде всего, избирательного права возник после изменений в социальной системе Англии. At the end of the XIX century. Suffrage becomes free from property qualification, acquires the status of universal, equal, since men and women had the right to vote. J. Locke (1632–1704) consistently upheld the inviolability and guarantee of human rights by the state and the law. In case of violation of inalienable rights – the right to private property, the right to life and personal freedom – the people should have the right to open rebellion against the government, J. Locke believed [13].

J. Locke's scientifically based views on human rights have received support and further development in progressive societies. A significant turn in the views on human rights occurred at the end of the XVIII century. The Declaration of Independence in the USA (1776) was a peculiar expression of the doctrine of the independence of the American people. The main ideas of the document: all people have the same inalienable rights – the right to life, freedom, the pursuit of happiness, while the government should be the guarantor of human rights. Moreover, people have the right to revolt and abolish the government if they fail to fulfill their duties.

The Declaration, continuing the tradition begun in England, is irrefutable evidence of the continuity of the Anglo-Saxon tradition in the field of human rights. The US Constitution (1787), developed by D. Madison and A. Hamilton, did not meet the expectations of the public due to the lack of inalienable human rights and individual freedoms in it. As a result, D. Madison and A. Hamilton developed the Bill of Rights as part of the Constitution as amended with human rights in the spirit of the Anglo-Saxon tradition – the consolidation of human rights and their guarantees.

During the period of bourgeois revolutions in England, the USA, and the Netherlands, the foundations of the first generation of human rights are laid, personal (civil) and political, human rights are formed: the right to life, freedom of thought, conscience and religion; the right to participate in

government; the right to personal integrity and security, freedom from arbitrary arrest, detention and exile; the right to a public hearing of the case by an impartial, independent court. All these rights exercised "negative" freedom, obliging the state not to interfere in personal life, the sphere of personal self-determination of a person (hence their name is negative).

In England, the USA and other countries of the Anglo-Saxon legal family, a natural-legal concept of the origin of human rights has spread, according to which rights belonging to a person from birth are a prerequisite for the existence and effectiveness of modern legislation. In the XX century human rights in countries belonging to the Anglo-Saxon legal family have become an integral part of state doctrine, part of the domestic system [14].

V. HUMAN RIGHTS AND THE RUSSIAN LIBERAL TRADITION

The liberal tradition in Russia began to take shape in the 18th century. With the transformations begun by Peter I and Catherine II. The liberal idea of novelty was expressed in the transformation of all spheres of society, first of all, economic and educational spheres. The liberal tradition was formed in Russia at several levels: as a style of progressive, radical thinking; in the form of an orientation of Russian society towards familiarization with the world philosophical, legal and political culture; as a social movement and a tendency towards transformation as the basis of legal constitutionalism [15, 16]. Specific liberal ideas (about parliament, human rights, separation of powers, the enlightenment of the people) that developed in Russian thought and political practice of the era of Peter I, Catherine II, were systematized by M.M. Speransky in 1809.

Conservative and liberal traditions in Russian society developed as polar styles of thinking and directions of thought, politics: on the one hand, the government and the people (conservative tradition), on the other, liberal ideas in literature, philosophical and legal, political thought (liberal tradition). The ideas of the Western liberal tradition underwent a particular transformation by Russian thinkers under the influence of patriarchal culture and paternalistic ideology, so the liberal system of values was adopted selectively.

The Russian liberal tradition was formed in several stages. At the end of the XVIII – the first quarter of the XIX centuries. "enlightening" liberalism was formed, the main features of which were the affirmation of the natural-legal approach to the problems of man, society, and the state, the increment of right ideas of the West European liberal tradition. In the era of Nicholas I, conservative liberalism developed, formed by B. N. Chicherin, K. D. Kavelin, M. M. Speransky, Westerners.

The radical reforms of Alexander II changed all spheres of life in Russian society, in the process of creating such institutions as the Zemstvo, the jury, the bar, local government, paved the way for the development of the liberal tradition and its foundation – the idea of human rights. The imperial period of the reign of Alexander III and until the end of the reign of Nicholas II – this time was an era of radical democratic liberalism, imbued with the spirit of democratic

reforms and freedoms, "revived natural law", coinciding in a number of respects with radicalism.

VI. CONCLUSION

Human rights and freedoms have become the center of a political project of our time and have acquired a modern meaning: human rights are such subjective rights that every person can possess, which characterizes them as universal. The universality of human rights is determined by the general recognition of the content of human rights, regardless of national or regional specifics, and international documents and national laws guarantee the equality of human rights and freedoms.

In the process of forming the modern concept of human rights, the idea of the equal rights of all cultures, their actual value, was postulated. In modern conditions, human rights issues are a matter of concern for all states, and recognition of their universality and universality means that the human rights problem is not an internal affair of any one or several states; the value of human rights and the need to respect and protect them are fixed at the level of constitutions of states that guarantee the elimination of arbitrariness and the dominance of the principle of justice in human rights issues.

Human rights in the context of globalization of the modern world play a unique role [17–20]. All processes of world, regional and national development, political and economic relations in this situation are focused on the development of achievements in the field of human rights as a fundamental value of the entire history of human development. The space of human rights gives a person the possibility of self-development, self-realization, but at the same time, human rights are interconnected with his obligations concerning macro- and microsocial, which is reflected in the modern concept of human rights based on the interaction of traditions of different cultures.

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