HUMAN RIGHTS: THE GLOBALIZATION DIMENSION

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The monograph highlights a comparative scientific analysis of the problem of human rights transformation in the context of globalization, since the focus of the world community on global processes and problems of modern times stimulated the transformation of the whole system of scientific social sciences, significantly influenced the formation changes in the legal knowledge system. The book contains an analysis of the philosophical-legal, theoretical-legal, administrative-legal and procedural-legal doctrine of human rights. It further enriches the study of human rights understanding through the lens of canonical and pedagogical knowledge.

It's recommended for scholars, students, postgraduate students of the Faculty of Law, and the general public, anyone interested in human rights issues.

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Introduction

On a global scale, the strategic direction of transformation is linked by a variety of economic, financial, political, legal, information, and cultural change processes. Most of the phenomena that occur in the world, in no time become transnational, common and global. Globalization has become the most powerful and influential reality, which fundamentally changes interethnic relations, organizes in a new way the lifeworld of mankind in general and person in particular.

Human rights, as a central legal phenomenon, are subject to changes in relation to national and global political and legal contemporary processes. In raising the level of organization of society in the conditions of globalization, the degree of its management, in eliminating asymmetric threats - intensifying of the dangerous tendency of viewing national borders beyond the norms of international law, proliferation of weapons of mass destruction, international terrorism, cross-border organized crime, illegal migration, piracy, escalation of inter-State and international conflicts, drug trafficking, illegal arms and nuclear trafficking, trafficking of human beings, cyber threats, in general - in solving problems and contradictions that threaten the existence of civilization, the role of law is growing significantly.

The urgency of considering human rights in the context of globalization is due to two factors, first, the scientific necessity to study more thoroughly the processes and mechanisms of legal globalization, since this process is viewed rather superficially in the social sciences, legal globalistics as a legal category, unfortunately, is not fully understood in modern jurisprudence; secondly, it is an applied issue, since the further vector of the development of statehood depends on the ideological direction of human rights, the adaptability of the individual, his/her socio-legal role, lawfulness, proactive behavior.

The aforementioned causes the urgent need to research the transformations of the legal system, determine the directions and consequences of the impact of globalization on the legal system, protection of human rights and freedoms. However, research of a complementary nature is of particular relevance in the scientific sense,

so the presented monograph contains an analysis of philosophical-legal, theoretical-legal, administrative-legal and procedural-legal doctrine of human rights. It further enriches the study of human rights understanding through the lens of canonical and pedagogical knowledge.

The monograph was prepared by researchers of the Institute of Law and Psychology of Lviv Polytechnic National University. The monograph consists of five parts. The first part contains an analysis of the philosophical and legal significance of human rights, in particular showing the ontological sources of human rights, their metaphysical nature, philosophical aspects of the European human rights tradition. The second one deals with the notion of the role of person in the legal reality, the interaction of person and society, and the importance of human rights as the main determinants in the interaction between the state, law and person. The third part contains study of administrative and legal protection of human rights in the current conditions of reformation of administrative law. The fourth part focuses on the transformation of law enforcement sphere, and the fifth focuses on the canonical and pedagogical guarantee of human rights.

CHAPTER 1
PHILOSOPHICAL AND LEGAL MEANING OF HUMAN RIGHTS

1.1 Ontological sources of human rights

Researchers have always been interested in sources of any scientific problem and scientific information; human rights, which have always been in the field of different sciences, are not the exception. The philosophy of law is one of the best opportunities to come closer to the sources of human rights not in a positivist, but in a natural, ontological sense. It is clear that the ontological sources of human rights are contained in the person itself. Let`s conduct some epistemological studies.

«Human is the only living being for which it is impossible to make the final consideration. The reason is the openness of human spirit. Animals have completed the process of creation, at the same time people haven`t. The incompleteness of human nature as a cosmopolitan phenomenon stems from the fact that it is born with an open project, that is a designing creature, a conceived program of life that a person must perform in earthly» [1, p. 150]. In other words, the unfinished creation of man includes the ontological fulfillment of mandatory plans in earthly. For performing ontological plans, certain powers are required, which in practical terms are called human rights. These rights provide conditions for coronation, possession of the earthly world.

The most complete ontological sources of human rights are reflected in the definitions, so some of them relating to the philosophy of law need to be considered.

Human rights are «guaranteed by legislation possibilities of a full-fledged social existence, using all possible benefits of individualized cohabitation» [2, p. 236]; «opportunities, powers, potentials of human actions in certain, specified field of law» [2, p. 675]; «a number of fundamental moral and legal norms that form principles of the relationship between idividuals and society» [3, p. 506]; «the legal capacity of a person to carry out certain actions to satisfy spiritual and material interests, to ensure the existence and development of processes that have a specificity associated with peculiarities of globalization» [4, p. 603].

In these and others definitions there are key determinants and indications which point to the main sources of ontological human rights. Since it is believed that the essence of human rights is established with the formation of certain groups of a set of determinants with common features, we give their classification. Thus, the classification of human rights determinants can have such a gradation (a sequence from the present to the desired future): *natural resources, personal dignity, social dignity, «happy» dignity*, which contains classified human rights sources that have ontological imperative power.

Natural resources include: the dominance (domination) of man over nature, which have the main determinants: permissible opportunities that act as a guarantor and a natural prescription for all earthly life. This means that a special source of human rights is a precept of the natural law of human coronation, of its power over terrestrial objects and all processes. Having free will, a human has rights to all the earthly things. It goes without saying, that the danger lies in such unimaginable (at first glance) human rights. What can happen to the world and society if a person does whatever he or she wants?

Actually, the discretion of a person and person`s mind is a restriction of own rights. The primary source of human rights is a source of a prudent person. The rights must be exercised according to the discretion. These concepts should accompany a person throughout his or her life. Therefore, the phrase «do what you want» is not deprived of intelligence, that is the intended restriction. Such a restriction is taken with a sense of beauty, balance in the manifestations of human rights in the rule of man.

The following sources of human rights are related to dignity, which is understood as «one of the main positive features of man as a person; «self-value and social significance of a person, determined by the existing levels of social relations, general social representations of freedom, justice, equality and it is the source of human rights and freedoms» [4, p. 143]; «rights, freedoms, spirit, expression of personal values of a person, which are carried out by some people» [5, p. 144]. In other words, a worthy person should realize that it has been granted ontological rights

as an incentive, and in accordance to the acquisition of the value, to carry out a vital process. According to the ontological hierarchy dignity has its own classification.

Personal dignity produces human rights in the form of enforcing moral law. In fact, people have created morals for themselves, for the realization of their dignity. In this case, for expression of person`s dignity, an assessment of another person is important. This requires a certain scale of assessment, which are moral and legal standards.

Human rights arising from personal dignity have the force of an internal imperative. So, personal dignity manifests itself under the force of an internal imperative and under the control of conscience. It makes human rights ontologically effective. Thanks to the personal dignity, human rights often come into realization. Then a person feels like he or she is the master or the rules on earth, who must confirm the surroundings according to the scale of moral assessment. The moral assessment of personal dignity subconsciously determines the scope of human rights. After all, a person with a high level of personal dignity will never cross the limits of moral and legal law. The dignity of a person is manifested as actions; it is the subject of human rights. Therefore, we often resort to thinking: a man has shown his rights and received a certain subject of the act, according to which one can judge weather he has done a decent deal. Using such reflections on personal dignity, a person realizes and improves oneself. So, it is important to identify the object (action) in the sources of morality of action that determines personal dignity.

B. Mondin defines «three key points concerning the primary of the subject among other sources of morality: 1) morality is already inserted into the subject of action: it is the very subject that its own moral righteousness or has a moral «flaw»; it is the very thing that is good or bad. For example, the gift itself is good, and the theft is bad; to give life – good, to kill – bad. There is no intention that can affect someone`s basic morality or immorality. The subject itself is internally moral or internally immoral; 2) the measure which determines the morality of the desired object is not something out of man, but it is the man himself, his intrinsic nature: it is the realization of a project in relation to a rational creature. The good thing is what

useful for realization of the certain humanity project; the bad thing is what impedes such implementation. Such a project is God`s image. The good thing is what contributes to the realization of God`s plan; the bad thing is what hinders the implementation of such plan; 3) the universality of morality can guarantee the primacy of the subject over other sources of morality. The intentions are, in fact, subjective and can hide mane traps, at the same time, the circumstances are completely volatile. The only permanent and definite thing, that is always valid for everyone, is the subject: the inner goodness or evil cannot be changed by any good intentions. Moral objectivity and universality are guaranteed by the subject. If we abandon this solid and certain foundation, then we will necessarily fall into moral relativism and subjectivism. » [6, p. 78].

Consequently, the discussed key points in relation to the primacy of the subject(subjects) in moral actions prove that one of the sources of human rights is its dignity. There is an ambiguity between moral action and intrinsic dignity: personal dignity affects the accomplishment of a moral act, and a moral act enhances personal dignity with new components. Human rights are formed on a basis of this ambiguity, which will be internally substantiated, morally tested and universally normalized. In other words, there is a binding between dignity, deed and rights. One thing without another has no imperative power and is not truthful.

Social dignity reflects the external value of a person, the place occupied in society, its social status. It does not take into account merits, but a sense of self-importance within a society, not pride, but an understanding of whether a person justified the expectations of others, whether person`s main actions are encouraged or not, etc. Thus, social dignity reflects the responsibility of a person to society.

«In the psychological sense, the person`s awareness of dignity implies the sense of personality epicenter with perceptions of the human essence, the sense of life autonomy, equality - due to the difference – with other people, one`s right to a special life position and deeds» [7, p. 44]. Of course, the social dignity of man is not aimed at obtaining personal benefit, but in order to provide the common good by accumulating material and spiritual values. And from the set of common goods it is necessary to

choose the accordant rights of society members.

An integrity person is directed towards the ultimate goal of God`s bliss, so that the purpose of the community coincides with the individual`s purpose. According to the above mentioned, we can notice that the ultimate goal of a group, assembled in society, is not life according to virtue, but through godly life to come to the bliss of God. It can be argued that the basis of the relationship between man and society, in the context of the common good, is: 1) the principle of subordination; 2) the primacy of the individual, that is the principle of freedom. On the one hand, the individual belongs to the whole world so that a person cannot be free from contribution and own life. On the other hand, there is a primacy of relationship with God, which establishes the superiority of a free and responsible person over all the structures of society. It is not easy to combine the results of these principle statements in practice, but it is important that the thesis is understood and incorporated in the basis of any social design.» [6, p. 167].

In other words, social dignity forms such rights of the rank of society, so that a person could understand the hierarchy of values. If humanity, having sufficient rights, tries to create material values first, and then spiritual values, such a society will be doomed to failure and there will not be any common good.

Consequently, the spiritual and material state of a society form the corresponding social consciousness of each member, from which the corresponding powers, that is, rights appear. Social dignity, as a precondition of human rights in the realm of creating a common good, leads to a similar hierarchy of values: in order to be material, it is necessary to create a spiritual one.

Happy dignity is the ontological goal of man, and all the human rights are directed towards this.

«A daily life of a person is full of various practical concerns and aspirations. A person is in a relationship with other people, lives in the world and tries to secure own place in it, talks, feels, speaks, thinks, etc. But the whole connected world in which a person is involved, and all actions are only a large apparatus, which must contain its essential issues, inextricably linked with its existence, namely: «What am

I? » and «Who am I? ». A person cannot avoid these issues. Among all the worries of life there is a concern for one`s own being and something that a person constantly reminds of this, and again and again it forces a person to flee from that world: it is fear, inevitably connected with its very existence. Therefore, deep life is life in truth. It is spiritual life. » [8, p. 5–6], which is the highest good , and therefore happiness.

We believe that «happiness is a meta-legal humanization of the image of God in the process of achieving God`s likenessщастя » [9, p. 172]. So, we can conclude that happy dignity has two meanings: to be worthy to humanize the image of God and to be worthy to acquire the likeness of God.

It is not possible to everyone to humanize the image of God, because not every person realizes the availability of this image, besides a person might not know what to do with the image of God. Obtaining the image of God is given by nature, from which follows the high dignity of a person, and the rights are unlimited.

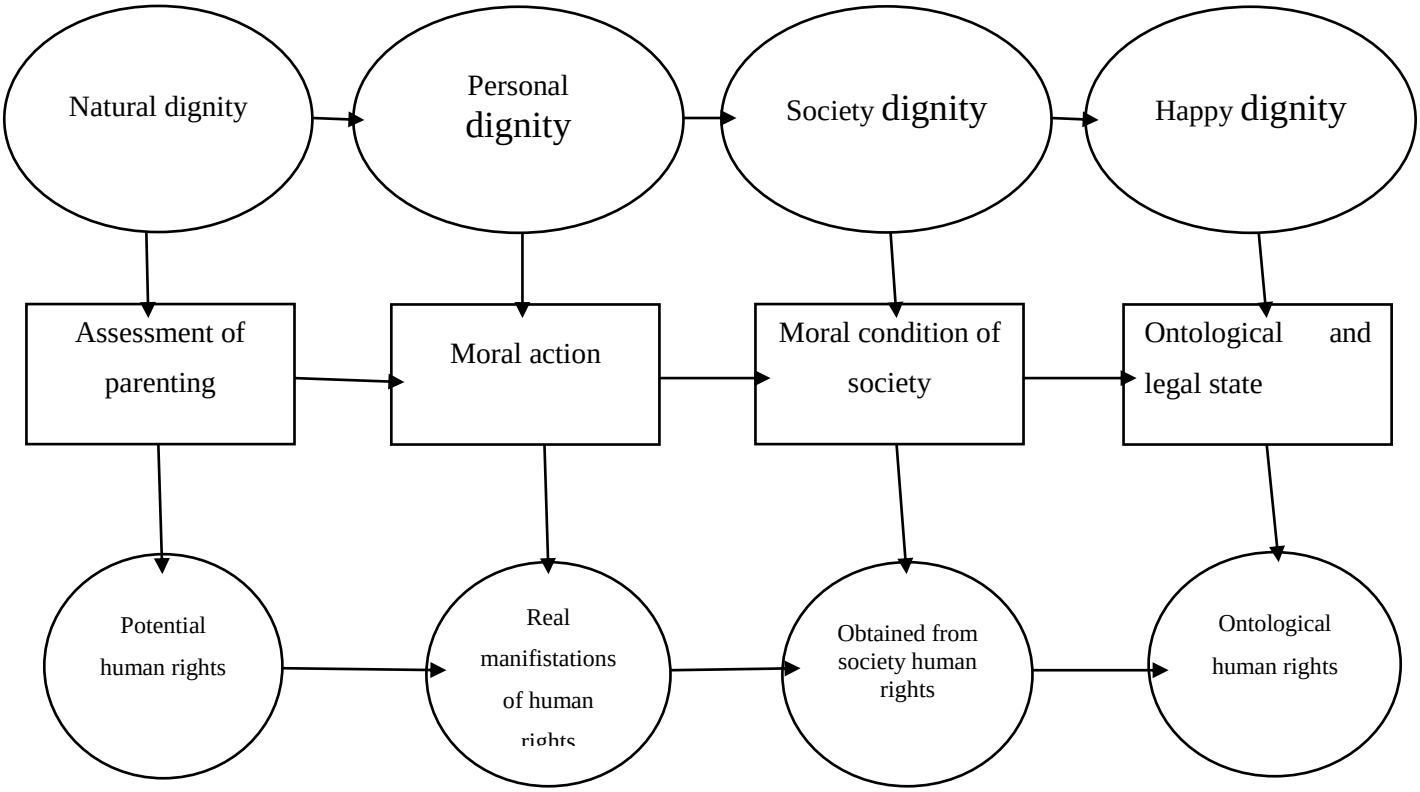
During a life time, for some negative reasons, a person may reduce own ontological properties. This happens by lowering the imperative of the spirit, the imperative of the soul, characterizing the person by indifference. Then performing ontological tasks – the creation of goodness, approaching the maximum goodness\happiness – is passive. This means that human dignity is gaining less weight, and human rights are beginning to decrease, becoming less effective. The avoidance of this situation should be sought in negative reasons, analyzed, given a philosophical and legal justification of the situation, and organized the process of humanization.

The mystery of the humanization process is due to the fact that he person is a microcosm, that contains all the elements of the world. The fall of the human dignity, which entails a reduction of rights, is damage to some trace elements. This malware is associated with an evil that somehow damaged trace elements. Therefore, it is necessary to replace evil with goodness – and the degree of human dignity will be restored. Such humanization brought happiness to a man –a person ceased to torment some kind of miracle that did not allow to live calmly. If such a replacement of evil with goodness is made regularly, happy dignity will increase – a person will become

happy and therefore it will acquire the maximum properties of the mind of God.

Considered process of humanization and maintenance of the signs of God`s image means the acquisition of the God`s likeness. After all, the image and likeness are different things; the image must follow the likeness, which is a great way of life. In a case of maximum approximation, which leads to coincidence (unambiguous coincidence never happens), a person`s complete happiness comes. Then a person processes high human dignity, which was in the process of its creation, that is ontological plan. Therefore, you can always find yourself in the path of happy dignity, carry out a meta-legal (super-legal and legal) analysis, and give yourself an estimate of your humanization, and, therefore, identify the basis for the implementation of certain rights. After all, people often complain about humiliation of their rights and freedoms without thinking about the natural law of their meaning.

The considered grading of human rights determinants is shown below.



Pic. 1. Scheme of graduation of human rights determinants
(the dynamics of human rights sources)

The proposed scheme of the human rights dynamics points to the duty of a person to cultivate and standardize own life in the spiritual dimension. The mistake (ontological wandering), when a person sees carrying out material cultivation as primary responsibility – is the mistake (ontological wandering), since a person degrades own spiritual dignity and puts it on second place. If we raise spiritual dignity, and in parallel think about improvement in accordance to material conditions, the natural reward will be fulfillment of earthly human plans. In the opposite case, it creates a foolish animal.

«A person because of intelligent activity, is obliged to improve oneself according to the self-chosen purpose.» [10, p. 336]. Improvement will be the acquisition of happy dignity through the ontological, self-elevating of own dignity through the fulfilment of the earthly duty, for which society and, therefore the state is waiting for its fulfilment.

A person, using natural abilities and talent, is obliged to profit, spiritually, not only to oneself but also to others. It is necessary to start with education, which is full of moral actions primary property. However, a moral act brings a great deal of benefit when it is committed with an internal imperative, using own talents. Such a personal dignity makes a positive contribution to improving the moral state of society. Although the moral state is formed synergetically (nonlinearly, dynamically), similar to natural chaotic ordering, but the social dignity of each member contributes to the formation of such a solid foundation of constitutional state. Nongovernmental states should not exist, since they have some disasters and misfortunes, they humiliate human dignity, humiliate people`s rights, excite society for mass «explosions». Various state programs, neontological research, unnatural upbringing of youth and other factors in the positive development of mankind will not bring success. It is necessary to build a state that would be legal for all ontological, natural features, where the spiritual precedes the material, and the human factor is contained in human dignity.

So, human rights begin with potential ambushes. In other words, it is necessary to consider where there is a potential right to one or another person to have the rights

to something. The solution to this question does not belong to a person, however for own estimation, such analysis is useful.

1.2 Metaphysical essence of human rights

A person occasionally thinks about the fact that his or her rights have a metaphysical nature. Even if such information is accepted by a person, there may be doubt about its effectiveness. After all, metaphysics, as a philosophical category in science, was also previously perceived ambiguously.

«Metaphysics(from the Greek – after physics) – the philosophical doctrine of supersensory principles and the basis of being. Aristotle called the science outlined in the treatises, «being in itself», «the first philosophy», «the science of the deity» («theology»), or simply «wisdom». The theoretical nature of this science was opposed to the field of practical experience, which confirms the supreme value of metaphysics. Aristotle distinguishes the «first philosophy» from the «second physics» and thus establishes the status of higher knowledge about the root causes of being, knowledge that exists as the goal of human life and the source of pleasure in metaphysics. Medieval philosophy considered metaphysics to be the highest formula of rational cognition of being, but the one that is the subject to revelation. Metaphysics of the New age overcomes the limits of theology. Experienced a significant influence of the natural philosophical ideas of the Renaissance, metaphysics is full of natural and scientific themes and at the same time actualizes the issue of epistemology in its problem body. This issue is devoted to the work of many philosophers in Europe. But modern philosophical discourse leaves behind metaphysics the situation of human existence in the world. » [3, p. 372–373].

The human right is a metaphysical object that needs to be investigated irrationally. Although human rights are a category of law philosophy, however the completeness of this science study is not enough. The mysterious depths of human existence, its supersensitive principles and other factors require theological science, which make it possible to distinguish the metaphysics of human rights from the

metaphysics of nature and to find in these concepts the common, general essence that derives from the very first principle of the universe.

In particular, the metaphysical judgment of human rights stems from the anti-dialectical method or method of investigation. Although there is no special method in metaphysics. The answer to the metaphysical question is given by the belief; thinking outside the possible experience contained in the irrational vision of the world, where an abstract picture of the world is comprehended. In other words, we must answer the question: why does the universe need human rights? The answer could be found with help of canon law, which proves the natural and legal nature of human rights, and helps to commit to the creation of a second nature. The world will never be in harmony without existence of human rights. Any restriction of human rights affects the fulfilment of this ontological task of the Creator. Therefore, the metaphysical need of a person, endowed with a «component» of natural rights, is always relevant, but metaphysical. In this case, the metaphysics of human rights has its transcendental dialectic, which provides metaphysical structures for each period of human development.

Nowadays there is a natural tendency to return to metaphysics – the establishment of a new spiritual rebirth of mankind. Transcendental dialectic makes it possible, in the synergetic development, to find the decisive role of human rights, which don`t provide the metaphysics of knowledge, but the metaphysics of human existence. This is a main focus of metaphysics issue - a metaphysical way of understanding human rights. Metaphysics language proves the absolute universal principles of being, which require effective human rights. As a result, the need of human rights exists.

«People have no choice; they are endowed with human rights simply with the fact of their being, simply because they fall into the category of "man", and even the scope of their rights must be derived from the idea of absolute human dignity. The mentioned theory is, firstly, based on the notion of a species, secondly, historical, and thirdly, depending on the metaphysical or theological assumption of the absolute value of human`s mind, which is not completely acceptable by many people "[11, p.

72]. In other words, there is a category of people who do not perceive the absolute value of human rights for the existence of the universe. The state executives have only a practical mind, aimed at multiplying or appropriating material values. And the essence of human rights is metaphysical properties. Being a person first of all means necessarily implementing the rights given by the Creator.

«Nature pointed a person to a special place, or in other words, initiated a nonexistent direction of development and demanded to create a new principle of organization. It belongs to the fact that a person within own existence finds the task that the existence becomes the task and, in other words: it is a great achievement to survive the next year, and to accomplish such a feat all the abilities must be used» [10, p. 398]. A person with certain abilities is intended to use ontological tasks. To realize these abilities and rights, natural permissions are required. Therefore, it becomes clear that the permissions are metaphysical and those who restrict the permissions violate the laws of nature, balance the very nature without realizing that this is a violation of transcendental processes.

«The idea of human rights is satisfied with what makes a person possible as a person; in conscious anthropological modesty, it focuses on the initial conditions, the elements that, in fact, make a possible person as a person. Because of this human rights deserve the following qualification: the components that are essensial and inalienable for a person. Since it refers to the conditions of opportunity (the possibility of being and human capacity), it seems appropriate to use the term, which has been in existence since the time of Kant; the mentioned term shows the transcendental elements of anthropology or relatively transcendental interests.» [11, p. 36]. The rights given to a person contain transcendental interests, attention to a human and human`s place in the universe. Such attention is caused by: conditions of ability and ability of a person; the natural normalization of human anthropology by society and the state; recognition of human and human society by the state; the formation of a person with normative notions.

Conditions of the possibility of human existence reveal the essence of potential natural rights. With the list of specific individual rights, a person must live in such a

way that life has little value for the universe in a transcendental dimension. In other words, individual human rights are in the complex natural-legal system of the universe. Of course, the universe expects these rights to be realized. Proper implementation of ontological human rights blocks negative spiritual influences on the Universe, extends its existence, which is transcendental interest.

The conditions of the human existence capacity are created by man himself. Capacity is determined by person`s ability to realize the granted rights for creation transcendental interest. Granting of rights is carried out by taking into account the capacity itself: the greater capacity, the bigger number of natural rights are granted, and vice versa. However, the conditions for the realization of natural capacity are created by human. Therefore, the granted rights may be implemented fully or partially, which constitutes an adequate transcendental interest.

The natural normalization of human anthropology by society and the state relates to permissions and prohibitions for the body, soul and spirit. It is clear that bodily injunctions and permissions have apparent justification, therefore some of them need to be limited in connection with the manifestation of the public danger of the rights granted. However, for society it is more difficult to standardize spiritual and spiritual impulses. It requires a proper mindset, a spiritual culture of human management. In the majority, the adequacy of such regulation can be carried out by the clergy

The recognition of humane by a society and a state in transcendental interests means obtaining valuable results of the actions and rights. After all, a humane is already the highest value of being with a complete manifestation of rights. Anyone who would like to affirm human rights in the relevant notion is at risk, because only a humane is taken into account; the inhuman person is denied the fundamental rights [11, p. 35]. Such legitimation of human rights is compulsory, since it forms the preconditions of transcendental interests.

«The formation of a person with normative notion means searching for the conditions of the Niamapim implementation. Indeed, in the concept of rights the view on the natural law is reproduced, according to which we refer to the requirements that

from the theoretical and legitimate position are the primary requirements. » [11, p. 34-35]. In other words, the normative existence of a person does not contradict the natural law, but this must be observed by the state, which is not an easy task.

Consequently, the metaphysical essence of human rights includes the transcendental exchange in the area of common interests of natural and positive law. It meast that human rights are derived from natural law, but legitimized by positive law, since a person lives in a state in which such an exchange should be carried out.

1.3 Philosophical aspects of the European human rights tradition

European traditions of human rights are the results and processes of folk cultural activities. They are subconsciously focused on solving all global problems of state institutions, as it is a multifaceted, dialogical assimilation of ontological foundations of man. The globalization processes of modern times have led to Ukraine's European choice, intensive innovation activities in the field of human rights. In fact, the process of European integration has begun, which requires a European outlook, European quality marks, which means updating the philosophical foundation of the human rights doctrine.

Ukraine has chosen the way to join the European Union, the European direction of human rights. That is, the social goal of the state, society, a person who needs and changes in cultural activity, a breakthrough of the old tradition, which was saturated with slavery, restriction of human rights and freedoms, has changed. The new European tradition offers a high social development of the dialogue of all cultures, a civilized, spiritual and moral choice of the implementation of cultural studies of human rights.

We believe that *the culturology of human rights in the European tradition is a logical development of the system of philosophical and legal doctrine of ensuring the conditions for human existence in a single spiritual and moral space.*

Due to the formulated definition of cultural studies of human rights in the European tradition appears the following basic components: *causality, renewed doctrine, conditions of existence, unified rationing*.

«Causality is of the elements of universal objects and phenomena bindings, which consists in the formation or the creation of some objects and phenomena - the causes - of others - the consequences. Investigation of causality is carried out in two ways: natural science and human studies» [3, p. 523]; «everything is connected in the world, the causal connection grows into a universal world interconnection» [7, p. 169]; «the concept of reason leads to the emergence of the notion of strength as the ability to cause things to something, that is, to create a change as a result of its activities» [5, p. 362]. Therefore, human life, its activities depend on nature, from the laws of synergetic development of society, therefore, without reason, nothing happens. Accordingly, the European tradition is causal, that is, the natural connection of causes and actions. If other states recognize such causality, then the natural forces that necessarily exist in this pattern lead them to a social European recognition, union, European Union. Ukraine has been a European tradition since the times of Kievan Rus. Therefore, now the direction of state-building has naturally received a European vector, which cannot be changed by any force - neither internal nor external. In other words, Ukraine's pursuit of the European Union has its own causality, which is naturally justified. But the path to the European Union needs a cultural revolution in our country, in particular a renewed doctrine of human rights.

The content of the updated human rights doctrine is that the existing national concepts of human rights are revised from the standpoint of European culturology and a new, cultured, civilized concept of human rights is emerging. It revived ontological values, in particular correlations between rights and obligations, rights and freedoms, as well as a new structure of human rights. «The moral requirement insists on the definition of a certain action where the action is carried out subject to reaction. Since human rights are based on demand, they are by no means either a reciprocal gift, or a gift of sympathy, compassion, or request. It is an action that can take place only in response to a response; Human rights can be legitimized on the basis of reciprocity - exchange. The person who puts on oneself the person who accepts certain other services is performed only if the services are in response; and vice versa, he has a human right, since he provides a service that is provided only if

the service is responded. Therefore, a person is limited where the transcendental moment is associated with a certain social moment, that is, where there is an inborn reciprocity or inherent sociality» [11, p. 38–39]. That is, the realization of their rights obliges to respond in response to the implementation of the duty: to respect the rights of another person and to help, promote in their manifestations. In each state, national human rights are not harmonized with duties that require European correlation.

If human rights are more determined by moral and legal norms, then freedom is spiritually legal. In fact, for the sake of freedom, take into account existences and transcendental rights and the ability of man to dispose of them. Of course, for the realization of rights, a person must obtain permission from the state, and for the realization of freedoms - the conditions, the absence of obstacles. However, freedom requires activity of the spiritual action of man.

There is a human rights structure in the European Union. It is noted, in particular, that "not all rights are human rights. Human rights differ from other rights by five grounds: universality, moral significance, fundamental character, priority and abstractness "[11, p. 174]. This means that, besides human rights, there are rights of other living beings who have the right to be in the world. Therefore, it is not surprising that a person cares about animals, creating appropriate conditions for them, including adopting regulatory acts that are directed at their protection. But human rights are of higher value and are characterized by relevant European features.

The versatility of the media is that human rights are rights that belong to all people. This definition of the carrier circle causes three problems. The first follows from the concept of man. The clearest range of carriers is determined when we resort to the biological concept of a person. The second problem is due to the fact that in accordance to the above definition of the circle of human rights carriers, they can only be individuals. The third problem is that human rights, although rights belong to all (some of human rights), however, are not always meaningful for all. So, only those who need help, or only a child in need of education, or only someone who needs protection, may require the provision of appropriate rules. Moral significance reflects moral rights. Moral law is associated with the existence of a significant moral

norm, which it ensures. Fundamental character is another constructive feature of human rights, which is defined by the subject of rights, is the protection and satisfaction of fundamental interests and needs. The priority is determined in relation to the positive law. The weak priority is that non-positive law is a criterion for the content of human rights, and human rights are a criterion for the content of positive law. Human rights are abstract rights of various degrees and dimensions of abstraction: abstraction from addressees, morality of the subject of law, boundaries of law, universality of the subject of law, the existence of declarations, covenants and various catalogs of human rights "[11, p. 174-180]. It is clear that such an updated teaching needs cultural studies of scientific achievements.

A component of cultural studies of human rights is the conditions of being. It is mostly about the cultural activity of the state. After all, the cultivated human rights require a dialogue of culture. That is, for normal conditions of being in human activity must dominate almost all kinds of cultures. Man must be able to consume the maximum number of types of cultural achievements. This means that the state that goes to the EU should prepare its people so that "upon arrival" in Europe could, from all cultural achievements, take away the most civilized, necessary for their homeland.

«Culture is the responsibility of man to himself and others. Although a person acts of violence against nature, but at the same time develops innate possibilities, cultivates natural forces. These natural forces are not limited to intellectual and spiritual abilities, but also cover the physical strength of a person. The development of culture comes to the edge of the constitution, defined in accordance to the concept of human rights, in the overall sophistication of customs and intellectual qualities, and not the individual, but the entire political community. As a result, "culmination" becomes a "civilization". Actually civilization emphasizes culture in how much it inclines a person to enter the public» [12, p. 221]. Therefore, the culturology of human rights demands from the state creation of such conditions of being, that it would be possible to realize oneself in society in order to preserve national unity and to enter the European integrity with civilized spiritual and material luggage. The

unification of people is carried out in culture and civilization, understanding the ontological meaning of life and thinking in the world.

To realize human rights in the European Union, it is essential to its existence in a single spiritual and moral space. By the way, both the right of the European Union and international law and other similar norms are confident in protecting human rights. However, the very national moral and spiritual norms are the origins of European positive law.

«Human rights are based on morality. Ancestral rights are not "natural" properties of people. They are as attributed to an individual by just requirements-designs created by humans, and this attribution can be tried to reconstruct, that is to cure. Morality can be defined first of all as a system of obligations, while not mentioning rights in general. The fact that the object of moral attitude we are obliged to can also attribute rights is not simply another description of the same state of affairs, but is associated with a number of moments that reflect the further development of morality.» [11, p. 24, 77–78]. That is, it can be argued that a person has created moral norms in the culturological area for the rights realization. A person felt a need to create conditions to have the right for performing own duties. At the same time, these norms apply equally to the person himself, and others. But moral standards are fulfilled with different imperatives: external and internal. Practically both imperatives are necessary, but valuable for the universe are internal imperatives of morality.

External imperatives of morality regulate human actions, and internal ones - feelings and thoughts. These are existences and transcendentalisms, which are a kind of connecting "material". Each negative feeling, negative thought destroy the subtle structures of the universe than action. Therefore, human rights play a greater role in virtue than morals. Part of the virtues a person receives at the time of birth, but for the full realization of rights, people must acquire as many virtues as possible, which form their own concept. This concept is a moral value, since it affects external imperatives in such a way that they automatically become internal. Such a situation with changes in imperatives can be called meta-culture.

The only spiritual and moral space is metacultural. It contains ontological, existential and transcendental rules that are ontological for any person, and therefore they are unique. Active stay in the European Union requires the development of precisely meta-cultural efforts to acquire a large number of human rights.

Consequently, the philosophical and legal justification of human rights originates from ontological sources, develops a metaphysical set and strengthens the value of European tradition. For Ukraine, such an algorithm helps to uncover the causes of metacultural unbalance and indicates a list of tasks that need to be done to protect rights in the European Union.

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CHAPTER 2
THEORETICAL AND LEGAL GUSTIFICATION OF HUMAN RIGHTS IN THE CONTEXT OF GLOBALIZATION

2.1. Dual legal nature of human rights

Human rights are a fundamental legal institution and a primary anthropological pattern. However, we should talk about their constant change in connection with globalization factors. The individual's legal possibilities are important for his/her existence and proper functioning of his/her family. Human rights express the ontological value of such opportunities.

A characteristic feature of the modern world is the interpenetration of cultures and principles of law, which can be described by such concepts as: convergence, integration, assimilation, and creative interaction. The dynamic processes outlined by these concepts, on the one hand, contribute to the formation of a united world community, and on the other hand, they are accompanied by opposite processes aimed at defining cultural identity, legal autonomy and generate a number of theoretical and practically important issues [1, p.1].

First of all, we emphasize the duality of the legal nature of human rights. It is enshrined both at the international and national levels of a democratic state. Ideally, there should be no opposing determinants between external and internal attachment of rights.

However, the dual nature of human rights generates an internal struggle in its mechanism. The legal rights of man in the modern historical epoch of statehood development have "nonterritorial, moreover – overterritorial nature. The content of overterritoriality and extraterritoriality lies in the fact that rights exist and operate regardless of their formal attachment at the level of individual states or a separate normative source of law, and their protection takes place at the international and highest level."[2, p.18] International standards establish the basis for the consolidation, attachment and protection of rights, but it is the national level that determines their scope.

In general, human rights should be recognized as natural, and therefore do not depend on the state, its policy or the vector of authority's ideological development. However, this paradigm exists as a general anthropological constant, though it is the state that provides and allows a set of legal and de jure attached opportunities. In order to illustrate this, the most acceptable, in our opinion, are the social rights of the person. The state can declare the right to a decent standard of living, free medicine, education, etc., but it is the economic development of the state that determines the real level of the possibility of realizing these rights.

Therefore, at the present stage of human development, it is important to emphasize the democratic nature of the state. The purpose of society is the state of law, and thus, which is trying, and primary – is able to protect and safeguard human rights and freedoms in the best possible manner in accordance with international standards.

Historical development is manifested in the fact that human rights under the influence of the international community develop and extend to the whole society, almost in every state. The importance of international control in the field of human rights, and here the characteristic feature is that, regardless of the features of the state, its policies, it is the international institutions as high-level instances involved in ensuring the right of a citizen of an individual state.

According to B. Kuhti, "the human factor in politics is a set of basic socio-political qualities (characteristics) of people - their value orientations, moral principles, norms of behavior in society, political education and awareness, socio-political skills, attitudes, motivations, interests and needs, ideas about the personally important elements of social and political life - political ideals and justice, human rights and freedoms, civic duty, political progress, attitude to the internal and foreign policy of a certain government and state, belonging to certain political traditions, etc."[3, c.39]

Today it becomes increasingly clear that society itself defines the goals, in particular political, parameters of its state, the limits of its administrative intervention in the affairs of society, and the modern state is called to protect and maximize not

individual (private) good, but general (public) goods, the main of which is the creation and protection of the conditions of spiritual and material development of a person. It is impossible to achieve an increase in the efficiency of state activity only by improving certain institutions of public authority, leaving systemic links from society to state unchanged [4, p.81].

However, the nature of human rights lies not only in their consolidation. The realization of rights is a significant, and perhaps also a priority part of the concept of the rights and freedoms of citizens. We emphasize the fact that civil society creates a state in which the legal status of a person can be guaranteed as much as possible. Civil society, in turn, needs an active, politically conscious and right-informed subject.

"Person is not born as a subject, but becomes it in the process of long-term political socialization, constant ties, and certain social relations with other subjects of politics. In this process, the social precondition of state authority is manifested. In accordance with the fact that the primary subject of policy is an individual, the problem of subject-object relations is considered in the context of the analysis of three main aspects of the problem of personality: 1) a person as an individual having psycho-physiological uniqueness; 2) the person as a representative of the group: status, professional, socio-ethnic, etc.; in this regard, the person is considered as a specific subject of power; 3) a person as a relatively independent, active participant in power-political and public life."[5, c.194]

In this context, especially in countries with economies in transition, civil society cannot act independently and should support the creation of national institutions for the protection of human rights. As intermediary bodies, these institutions can fully fulfill their role only if they enjoy full autonomy in relation to the state and act in close cooperation with civil society. They should be the place where you can hear the voice of society, and the limitations facing the state can be expressed to:

• consolidate constitutional guarantees of human rights;

• adopt and implement an integrated national strategy to fight the violation of the law;

• develop and implement state policy in the field of justice, security and law enforcement, education and ensure active involvement of all components of society;

• strengthen control over the constitutionality of laws and autonomous regulatory acts coming from the authorities;

• provision of advisory functions for public authorities.

2.2. Modernization of the theory of human rights

Modernization is a process aimed at raising the quality of life of the society, the state of the socio-economic system, the condition of person, the state-legal organization of society and the activities of the institutions of the state, in general, to raise the whole life of the people and the country to the level of the highest world standards[6, c.206].

The adoption of democratic standards in the state in political and legal life is inextricably linked with the modernization of the legal system and the modernization of the mechanism for the consolidation and implementation of human rights. The above said primarily relates to the individual. First of all, through the rights and freedoms of an individual, there is a proper interconnection of the rule of law and social development.

The rights and freedoms in a state of law play a key role. The historical development of social reality has led to the need for today claim not only on the implementation of human rights and freedoms, but also need to update the system of rights and freedoms.

Why is the law, the legal system and human rights in our country changing? The answer is – due to the presence of three interacting factors.

First, the development of human rights, as any social phenomenon and legal institute, is conditioned by the progressive historical development of humanity. This is an ordinary historical variable process. Civilized nations, once understanding the value of the individual, develop rights in the direction of perfection in order to ensure the best existence of person and society. So public request is changing under the influence of historical factors - human rights are changing.

In the process of the genesis and evolution of the system of human and civil rights and freedoms, there are several stages, characterizing the generation of human rights. Based on the historical stages of development, rights are classically divided into three generations.

The first generation - generated by the ideas of humanism and liberalism formed in the personal and political rights of a person, based on the doctrine of the undeniable value of person, its life. These include: the right to equality of rights and citizens before the law; interaction of a citizen and a state on the principle of equality of these subjects; personal human rights, among which the main ones providing for her life, freedom and security; human right to defense in court; presumption of innocence of the person, freedom of speech and religion.

These rights belong to the citizens and the state should not limit them or infringe upon them. The functions of the state are reduced to their provision. State non-interference is the position that has been declared for this generation of human rights.

The second generation is the socio-economic and cultural values for a person who the state, unlike the previous ones, is obliged to establish, provide, and protect by all available institutional, organizational and legal means. Only a positive obligation of the state, ensuring the principle of an active function of the state can contribute to the realization of this human rights group. These include: the right to work, to fair and favorable working conditions, to protection against unemployment, to rest, to education, etc. The specified historical period is characterized by the development of the rights of certain segments of the population, among which socially unprotected: invalids, women, children, the poor, etc. As a result, the rights of the second generation were originally enshrined in the Universal Declaration of Human Rights (Article 17 - the right to property, Article 22 - on social security, Article 23 - for work and decent pay for its work, Article 24 - for rest, Article 25 - to a decent standard of living, etc.), and then in a special act - the International Covenant on Economic, Social and Cultural Rights.

The third generation of rights is the newest understanding of human rights, broader and more profound. The peculiarity of these rights lies in the fact that they

are based on solidarity. The rights of the third generation are also called the rights of people, nations, national minorities, communities and associations. The bottom line is that they are collective. Mankind understands that combating the challenges of historical development can be done only combined.

The right to development, peace, independence, self-determination, territorial integrity, sovereignty, liberation from colonial oppression; the right to a decent life, to a healthy environment, to a common heritage of mankind.

The first global universal international legal act that contained the foundations of human rights was the UN Charter; a vivid example is the original article - art.1 "Right of people to self-determination". It is also stated that the main purpose of this global organization is to deprive future generations of poverty, war and reaffirm faith in fundamental human rights. A special act was passed in this direction later - the International Covenant on Civil and Political Rights.

Society cannot but develop. The progressive development is inherent in the ontological basis of human-being. The latest trends of changes in legal reality are due to the emergence of modernist social factors that have a significant impact on social relations and not fragmentary, but sometimes even radically change them.[7]

Secondly, there’s a change of the ideological vector of Ukraine's development. Not so long ago our state was under the full influence of the communist ideology, the content of which consists in the unity of political life, collectivist perception of rights and freedoms, the lack of diversity in any sphere. Therefore, in such an ideological atmosphere, the real exercise of rights and freedoms remained an unrealizable dream, a legal fiction. As pointed out by S. Gusarev and I. Motyl, "the identification of the peculiarities of the present stage of development of the internal functions of the Ukrainian state is possible in the context of a comparative analysis of the functions of the state with the previous stage. Functions of the Soviet and modern democratic state are characterized by similarities: they are objective; is a necessary factor in the existence and development of the state and society; reflect the features of the social role of the state in a certain historical period of its existence. At the same time, there are significant differences between them, which are conditioned by a change in social

guidelines of state activity, transformation of the state into a socio-political institution of civil society."[8, p.25]

However, it should be noted that the stated ideology for a long time was significant in the social reality of Ukraine. Despite the fact that for almost thirty years the state has been trying to change the established historical patterns, the command and administrative state and legal ideology is losing momentum at very slow pace.

As A. Selivanov points out, "there are good reasons to argue that constitutionalism in modern democratic states is a condition of the legal consciousness of society and the stability of the existence of the state system and the political regime in which the ideas of the primordial power of the people are undeniably dominated. It is in the context of constitutionalism, which the state must confess as an ideology of democratic rule; the right manifests itself in the highest sense - to ensure the achievement of the main idea - the construction of civil society".[9, p. 13]

The Ukrainian people are undergoing a difficult stage in the formation of legal values. The revolution on granite, the Orange Revolution, the Revolution of Dignity – are all the manifestations of people's dissatisfaction and the desire to change not only the current power, but the direction of development of state ideology. Recently (February 2019), the direction to the European integration of the state was recognized at the constitutional level. This is a significant step in recognizing at the highest level the aspirations of the citizens of our state, since, as A. Georgitza defined, constitutionalism is "the connection of state power with the right, when the Constitution acts as a form of fundamental legalization of the legal nature of the organization and functioning of power in its relations with the subjects of civil society"[10, p.9].

"Citizenship is the legal basis for the person to enjoy the legal rights, freedoms and fulfill the obligations established by law, that is, the basis of the legal status of the individual." The rights and freedoms are directly related to citizenship, therefore, their realization, provision, protection and preservation is only possible at the state level. Of course, there are international institutions that play a significant role in

establishing the rule of law standards, but all the work in this direction should be carried out by the competent public authorities.

"Considering the connection between rights and individuals in modern theoretical studies, the focus is on the problem of the rights and freedoms enshrined and guaranteed by the state, on their protection and implementation. Such studies reflect the relation on the state-society-personality, where the state acts as the dominant player as the subject of law, which establishes and protects rights, guarantees their provision.

Humanization of theoretical jurisprudence leads to a gradual change in legal science relations between the state and the individual, attributing the dominant role to a person as a subject, which in one way or another determines the legal development of the whole society. Modern conditions of state formation and law-making require from a person to be not so much an object of positive law, but an active social subject protecting the law, which in turn is an embodiment of the principles of humanism, justice and freedom" [11, p.5-6].

Thirdly, the general globalization modification. Changes in social reality lead to changes in consciousness, form new paradigmatic variables for legal consciousness and legal culture. This process does not exist in isolation. Legal globalization requires closer interconnection, mutual assistance in the legal field with international organizations, specialized institutions, and foreign states. However, such cooperation should not detract from the mental interests of an individual nation, nor devalue its legal traditions and national moral rules of conduct [12].

"The current modernization differs from previous ones occurring in the context of global shift. Even in societies that did not have time to complete the preliminary stage of industrialization, the post-industrial context is taken into account: nobody can deviate from global planetary tendencies [13, p.3-4]"

The development of technology, science, and social reality has led to a globalization crisis. Today there are a lot of new problems arising from the manifestations of globalization. Also, legal issues that usually have a classical solution and approval require modification. For example, since the Roman law

principles of hereditary law have been known, but the development of biomedicine and biotechnology has begun new scientific and legal discussions. In particular, posthumous reproduction is possible now, since biological material can be stored frozen for many years after the death of a potential father, and even a mother. Therefore, there is a need for clarification in the legal regulation of the institution of inheritance, namely the resolution of the issue of the right of children conceived and born after the death of their parents to be their heirs. Also, there is a question about ensuring parents' will to posthumous reproduction and preventing abuse of this right through ulterior motives by others.

Surrogacy as a mean of procreation also brings its challenges. The mother of a child has always been considered the woman who gave birth to her, but the possibilities of the newest reproductive technologies have led to the need for a specific legal regulation of this sphere, since the mother can be recognized as a surrogate mother (for example, her prior right is recognized in the Russian Federation), a woman from whom the genetic material was taken, or a generally different woman who is the customer of the specified surrogate services.

New legal issues also arise regarding the legal status of a human embryo (fetus). Considering the new medical capabilities, namely the early intervention, the ability to maintain a child's life and birth after the death of his/her mother, etc., an updated approach is required to the recognition of the human fetus as a patient. Discussions on the right of the embryo (fetus) to be born have been conducted for a long time; there is a problem in the struggle between two rights - the right to birth and the right of women to privacy, in particular the right to decide whether to carry out a legal abortion in term without medical indications.

Discussions cause somatic rights related to the field of transplantology. In particular, posthumous reproduction calls for guidance in life, on a bequest or a prohibition of the organ donation will after death. Also, a clear resolution requires the decision to implement a system of medical privately authorized person, that is, a person who would be authorized to resolve all questions about the human body after her death.

However, in vivo transplantology has a number of unresolved issues - the possibility of legalizing these actions, whether or not these actions are remunerated, the health of patients, and the issue of information consent.

A separate sphere of consideration is the rights of the LGBD community. Both state power and civil society, religious communities should decide on relation to this group of persons. Human rights are a vital need for self-expression. Only the possession of rights and basic freedoms makes a person a unique individual capable of self-development and self-determination, the subject of historical processes. In human rights, legal and moral values are organically intertwined, combined, thus forming a complex of social norms of increased significance, aimed at satisfying these values.

The need to recognize the dignity of every person, the fight against discrimination, including gender and sex, today is determined as one of the main tasks of the legal system. Recognition of such a paradigm raises a number of challenges for law - a legal mechanism for protecting the lives of people with special orientation, the possibility of their social, political, educational and work activity, overcoming the problems of infringing the representatives of the LGBD community. Particular challenges also exist in the family sphere, in particular the right to marry, living together, and the possibility of adoption of children.

Persons with impaired gender identity, including transsexuals, also need legal rights to change sex or recognition of their official status; the problem arises from an early age, therefore the latest trends of civilized peoples are the determination of the possibility for children to recognize their gender at their mature age, and by this time an indication of it as a "third", uncertain sex.

And as a result, it should be emphasized that the legal reality cannot stand apart from the problems created by the consequences of globalization. The lack of legal regulation does not solve the problem, but only silences it. Here one should agree with N. Onischenko that in describing the modern model of law, she states that "a person becomes a full-fledged subject of law and a full-fledged person, and the

perfection of legislation is determined by the extent to which human rights are legally regulated in it [14, p.53]".

2.3. Human rights of the new generation

The transformation of social reality, environmental issues, terrorism, the new "great relocation of peoples", information warfare and other factors derived from globalization – predetermine the need for rethinking all social phenomena, the manifestation and social regulation of such phenomena and processes. Human right as the fundamental institution, which is practically the foundation of law, the legal system and the legislation system, is also subject to transformation. Its peculiarity is that it has a synergistic character. Humanity in the abstract sense, as well as individual nations, cannot determine the direction of changes in social reality. Almost with a geometric progression there are changes in the legal reality and in human rights. Therefore, today it is possible to state the emergence of new rights generation, that is, the "fourth".

Historically, most of the issues that arose before human civilization could be settled by means of legal norms. If there was a new legal relationship, then under the impossibility of solving the problem with the help of the rapid rule-making process – it was used the method of analogy of law and the analogy of the legislation.

The new generation of human rights is unique. It is impossible to solve a problem in the system of analogy only, because analogies as such do not exist, there are no social relations with similar characteristics.

The problem is also exacerbated by the fact that, in the event of certain contradictory circumstances, the state could turn to the positive practice of foreign countries, recognized international standards and benchmarks, and, eventually, the principles of law. Such a matrix does not work for the human rights of the new generation. It is not always possible to find international experience, which is not well-formed and monitored, international law is usually delayed. The question of the role of general principles of law in general is unique. For example – there’s universally recognized principle of law - the principle of equality. However, the

question of the application of this principle to the newest relations is debatable; in particular, whether it can be used as the basis for legal regulation in the state, in relations, let's assume the right to marry for non-traditional sexual orientation or their right to procreation.

It is also impossible to apply the principle of equality between a surrogate mother and potential parents. Anyway one of the parties should be given prerogative.

So, we do not argue about the ineffectiveness of the principles of law for the younger generation, but we point out that it is not always possible to use them for the newest legal relationships. We also insist that today all human rights should be considered in the system structure. Globalization has therefore led to a complete transformation of human rights. Classical rights are also subject to changes that are manifested in the latest methods and means of their implementation. An example is the right to choose a representative of power, introduced by new means of its implementation through the system of electronic elections; the right to apply to the authorities is also reflected in an electronic request, petition or complaint.

Therefore, today it is necessary not only to assert the emergence of new rights that are conditioned by the globalization of social reality, today it should be argued about the transformation of the whole system of human rights.

The emergence of a new generation of human rights is conditioned by technological progress. It is most clearly manifested in informational, technological and biomedical spheres. "The profound and impressive impact of the deployment of the potential of science and technology affects all aspects of social life. Not only the meaning of labor changes, significant transformations take place throughout the whole system of culture and modern civilization. Technological innovations affect the social structure of society. In essence, a new civilization system is born, before us there is a new pattern of our lives. In historical activity, people and society as a whole, implement progressive changes in each of the spheres of life, achieve concrete results that determine the level of progress in this sphere" [15, p.115].

The rights of the "fourth" generation are the human potential based on the development of technical progress. These should include two groups of rights - somatic and information. Let's consider them more substantially.

Somatic rights - these rights are due to the development of biomedicine and biotechnology, which provide a wider range of opportunities for individuals related to its body. I. Maryuk believes that "somatic rights are mostly personal non-property rights of a person, aimed at the protection and realization of the right of a person to any actions with his/her body, but those actions which are not prohibited by law. Other rights constituting the content of somatic rights, by their nature, are not of a purely legal type, but are more subjective-appraisal right, and not objectively-appraisal, that is, the subjective right of an individual [16, c.41]".

Somatic rights have a broadly branched structure, and include, in particular, the right of a person to death, including the right to medical euthanasia; the right to decide the fate of their organs and body after death (posthumous transplantation, cryonitisation, etc.); reproductive rights (right to use reproductive technologies, right to motherhood/parentage, right to abortion, right to sterilization); gender rights (the right to change sex, the right to change appearance); "the right to virtual simulation," in the sense of full adoption (duplication) of him/herself in a non-metric form of objective existence" [17, p. 43]; sexual rights, which scientists believe "include the ability to seek, receive and impart information related to sexuality, sexual education, marriage, partner choice, the ability to decide whether to be sexually active or not, etc." [18, p.25]

Although, there is a denial of the need for the existence of these rights. The motivation is that "this sphere of life should not be regulated by the state; moreover, in the event of violations of certain rules of conduct in this area, if they are fixed at the legislative level, state coercion and interference of state bodies which we consider to be inappropriate and hopeless in this area" [19, p.39]. In general, we are somewhat confused about the conviction of the authors of the cited position that the existence of human rights should be dependent on the prospect of legal provision. With this success, we can talk about the hopelessness of legal consolidation of the right to life

in conditions of armed conflict, the right to an adequate level of health during an ecological disaster, the right to work at a high level of unemployment, the right to a decent standard of living at a low level of the state economy, etc.

Information rights - human potential in the information sector, which are caused by informational progress of humanity.

It is necessary to agree with the authors, who emphasize the fact that the right to information can be considered an earlier right, but the ways of access to this right were interpreted in a new way in connection with the possibility of widespread use of the Internet, the latest technical resources. "On the rights of an individual, such a concept of information makes this the primarily object of the right to information (the right to freely collect, store, use and disseminate information) included by art.302 of CCU to personal non-property rights that ensure the social existence of an individual. From this standpoint, the right to information, as compared to other civil rights, can be regarded as up to date, so it is often attributed to the latest generations of human rights. However, informational nature is inherent in many rights, which are already defined by civil law that belong to earlier generations of human rights. Legal regulation of information opportunities of a person has not only much longer and richer history than the mere right to information in the narrow sense, but also the broad perspectives caused by information progress [20, p.105]"

An international document that gave the countdown to a new perception of information rights was the Okinawan Charter of the global information society, which was signed at the turn of the millennium. It facilitated the free exchange of information and knowledge. Subsequently (2003), within the framework of the 32nd General Conference of UNESCO, a recommendation was made to replace the term "information society" with the term "knowledge society". Specialists in IT technologies say that "every state will try to regulate the Internet ... all countries - from the most democratic to authoritarian - are trying to design laws from the real world to the virtual world" [21, p. 91].

It is important for the legal regulation and legal enforcement of the implementation of information rights to apply a comprehensive approach with a

combination of classical methods and approaches, since the accumulation of information space requires generative factors of their manifestation.

We emphasize that the Internet network requires an analysis of the wide range of new opportunities and their regulation at the state level. Legal policy in this direction should be facilitated: first, the preservation of the private secrets of the individual (that is, the issue of the prerogative of the right of information accessibility or privacy should be resolved); secondly, ensuring the authenticity of information, since technical means make it easy to submit false information (this is quite often used as a factor in the latest method of warfare); thirdly, the creation of opportunities for free creative activity, the results of which, in the event of their promulgation, replenish the information space, turning into certain public knowledge; fourthly, the right to qualitative information, that is, to provide for the members of society necessary and timely information (this right is being updated in the aspect of environmental safety or the right of access to public information concerning the functioning of public authorities). Researchers criticize the position of the domestic lawmaker in this area. They indicate the need for a comprehensive regulatory act, namely the Information Code. "It is worth noting that our legislator - according to Yu. Yudkin - followed an intentionally false path. Without creating the foundation for the right regulation of this sphere, relations on the Internet were given away to specialized laws and regulations, devoted to narrow issues, as well as customs. Since in Ukraine there is no case law, such a provision cannot be called satisfactory [22, p.203].

We identify only the main problems that are currently in need of proper legal regulation: Internet commerce, that is, the provision of proper legal regulation of the trading of online stores; Internet publication as a new type of media; implementation of international legal norms in the national law of Ukraine in the field of combating child pornography on the Internet; cyberbullying, especially in children's and youth environment; protection of personal data on the Internet; functioning of the website of the authority in the network; legal regulation of advertising activity on the Internet; Internet Trading Relationships; library internet resources; protection of copyright and

related rights in the network; provision of security through legal means of public authorities websites; provision of administrative services using technical means; issue and use of electronic money, which are made through the system of Internet payments; legal grounds for the protection of minors from the negative impact of information on the Internet; counteracting information wars and attacks by legal means and many others.

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CHAPTER 3
ADMINISTRATIVE-LEGAL PROTECTION OF HUMAN RIGHTS IN THE MODERN CONDITIONS OF TRANSFORMATION OF ADMINISTRATIVE LAW

3.1 Modern trends in the development of administrative law

In recent years, administrative law has been transformed, undergoing constant changes due to transformations of social, economic, political, and value nature.

Modern administrative-legal regulations are the reflection of the state's response to the challenges and threats in modern society. The greatest influence on administrative-legal regulations is made by the general social changes connected with the diversification of social ties, the emergence of new or increased threats. Among the latest threats are: socio-demographic, economic, military. For example, the threats of inflicting damage to the interests of the state, society, individual citizens, through military and aggressive actions of the other countries – are particularly relevant.

According to I.V. Bolokan, the security and administrative-legal relations are increasingly being transformed, which determines the direction of improving the legal acts of most states. The administrative-legal component of this "security" sphere plays a significant role [1, p. 122-130].

At the same time, social transformations of a value nature are equally important. They are a significant factor due to the European integration process in many post-Soviet states, which definitely affects the development of administrative law and the change of administrative-legal regulations. In particular, modern society increasingly requires the introduction of a human centered idea in all management processes in the state. In accordance with the existing public request, the bodies of public administration are transformed from a "classical" subject of power in the subject of public service activities, responsible for serving the interests of certain individuals. Increasingly in legal practice, the term "public order" is used instead of the established "civil order". The change of the term "civil order" into "public order" is due to the process of changing of social values, stereotypes of the state's interaction

with society. It is important that the poly-structure, the multicultural character of the society of our state, the establishment of human centered principles in the activities of public administration entities – encourage the rejection of the term "civil order" that was used earlier and put into circulation the concept of "public order". The change of the definition is not formal but reflects a change in the concept of organizing the process of implementing the empowerment of an individual in a society, the interaction of social institutions, the realization of human opportunities through the strengthening of communicative ties in society, deepening the socialization, improving comfort and expanding the list of objects of the public space. The policy of multiculturalism has led to the fact that the state is no longer perceived as an institution with the domination of the interests of citizens, but a social formation, the most important task of which is to reconcile the interests of all representatives of this social community. This process is accompanied by a qualitative transformation of administrative-legal acts that regulate the procedure for ensuring the security of the use of social infrastructure, staying in public places, and counteracting illegal activities in the public order.

Also, the value transformations relate to the "effectiveness" of the administrative-legal regulations. The need to take into account "quality", "positive efficiency" of legal regulation as a fundamental condition for the transformation of legislation is actively supported in society. It is achieved through the prism of the correlation of the objectives of legislative regulation and the real positive result from the adoption of rules of law [2, p. 54; 3, p. 5-9; 1, p. 122-130]. The experience of lawmaking in Switzerland indicates the expediency of compulsory data to be obtained before adopting an administrative legal act, to consider calculations of the financial implications of the introduction of new legal mechanisms for the settlement of relations, to identify sources of cost recovery and their relationship with the process of planning the financing of events by the state, the impact on the financial resources of the regions, the ratio of the benefits of financing the costs associated with the implementation of the planned activities and the effectiveness of their introduction, achieving the "desired effect" [3, p. 5-9].

In order to increase the efficiency of legislative regulation, the tendency towards fragmentation and, at the same time, consolidation of the legislative framework for the settlement of various spheres of social relations is observed in the world. In particular, in France such trends have led to the adoption of numerous codes, each of which is aimed to regulate a relatively narrow sphere of social relations. Sometimes in certain areas of social relations there are a number of codes that specify the status of their subjects, procedural aspects of their interaction, etc. This is especially true in the administrative-legal sphere. For example, in France there are more than twenty-three codes which content concerns the sphere of public-legal relations [4, p. 132].

In Ukraine, there is a need to update and expand the list of codified acts, which content concerns the administrative-legal protection of human rights. It is clear, there is a need to adopt a new Code of Ukraine on Administrative Offenses (CUAO), since the provisions of the current Code were adopted during the Soviet period and do not reflect the human centered approach of the doctrine of administrative law, modern approaches to the functioning of public-legal institutions in the state. Despite this, the scholars also repeatedly emphasize the need for the adoption of the Administrative-Procedural Code, which provisions would allow regulating the relations between the authorities of the state and citizens, ensure transparency of the activities of public administration bodies, and enhance people's ability to be involved in the decision-making of administrative bodies [5, p. 201]. Indeed, the normative basis of the general standards for the protection of the rights and legitimate interests of a person in Ukraine should be a codified legal act, which provides detailed administrative procedures of the authorities to protect the rights of citizens, in particular regarding the consideration of applications and complaints about the protection of legal opportunities to appeal decisions, actions and inactions of subjects of authorities. The purpose of its adoption should be to overcome subjectivity in the consideration of administrative cases, ambiguous application of the rules of substantive law. That is why the adoption of the Administrative-Procedural Code of Ukraine today is extremely relevant [6, p. 25-29; 7, p. 337-340].

At the same time, the idea of creating a unified Administrative Code of Ukraine is not deprived of rational content in the long-term perspective. It is proposed to be formed as a result of the comprehensive systematization of administrative-legal regulations. The key to this is the idea of uniting in it Code of Ukraine on Administrative Offenses, Administrative Procedure Code of Ukraine, Administrative-Procedural (Procedural) Code, Code of General Rules of Conduct of Civil Servants, and other normative legal acts. Such comprehensive changes in administrative law will serve to strengthen the protection of human rights in the state, however, as E. Hetman correctly notes, are possible only after the completion of the administrative reform, the adoption of a significant amount of legislative acts [8, p. 97-98, 100].

Administrative law is changing due to the general tendencies of the formation of the European Administrative Space (EAS). These trends are due to the Euro-integration aspirations of Ukraine and the countries of Central and Eastern Europe. The concept of the EAS has been strengthened in the administrative and regulatory circle since the publication of the SIGMA Program in 1998 [9] and holding of a series of conferences by the European Group on Public Administration (EGPA) [10; 11; 12].

Today, the scientific community, in particular V. Averyanov, V. Derets, A. Pukhtets'ka, O. Orzhel and others, actively insists on the decisive significance of the concept of the development of the formation of the European administrative space for the development of the management system of most post-Soviet countries and Ukraine in particular [13, p. 43-50; 14, p. 65-73].

Its essence is in the formation of a unified regulatory framework for the work of public administration bodies throughout the European space, the creation of mutually integrated, by linear and vertical principles, administrative structures on a unified basis of functional and organizational closeness to those operating in the European Union. According to O. Orzhel, the main characteristic of the EAS is multiplicity and polycentricity, since it covers supranational, national, regional, local and personal levels, and has a number of centers for policy-making and the adoption of mandatory

legislative acts. The latter include the European Council, the European Commission, the EU Council and separate states [14, p. 66].

The supranational level of the legal regulation of the activities of the public administration bodies in the European Union has been formed at the expense of legal acts adopted at the level of the European Union (for example, the Charter of Fundamental Rights of the European Union, the European Code of Good Administrative Behavior). The most important of them is the Treaty on European Union of February 7, 1992, as well as orders, regulations, directives, decisions that form a part of the national law of the EU member states and enjoy the function of immediate direct action [15].

It is they who create the foundation for changing the national administrative legislation not only of the EU member states, but also of the Central and Eastern European countries, with the aim of acquiring such status. EU sectoral legislation defines certain administrative procedures, provides institutional reforms that are funded by the EU, and documents financial obligations for this.

Similar tendencies accompany the reformation of Ukrainian administrative law and have a significant impact on the Ukrainian human rights area. Among the factors affecting the EAS's influence on the national legal systems, legislation and the organization of public administration, are the following: rule-making of the EU, the work of the ECHR and the establishment of common principles of EU law, activation of the search for the latest forms of governance on its basis.

Scientists are increasingly pointing out that the post-Soviet space is strengthening the foundations of European principles for building a public administration, in particular the principle of decentralization, deconcentration, unity and indivisibility. At the same time, it is important to take into account the principles of implementation of administrative procedures that are successfully implemented in the EU. Among such requirements are the timely response to the requests of individuals, their ability to be heard before the decision of an individual nature is made by the public authority, to participate in the adoption of non-regulatory decisions, the requirements for simplicity, publicity and accessibility for the

perception of individual administrative decisions, general obligations, etc. [16, p. 110-113].

The European standards provided in the White Paper on European Governance of the European Commission of July 25, 2001, are of great importance for the reform of administrative law. In it, the Commission proposes that the EU review its governance methods, use less vertical approaches to overcome problems, while complementing existing policy instruments with non-legislative instruments. The basis for reforming of this sphere was recognized as the better involvement of the public and greater openness [17]. In order to implement such principles, special centers for the dissemination of electronic operational information, and information services were established in European countries; special programs were introduced, in particular the "Friendly Administration" (Republic of Poland); special laws were adopted on the work of public administration; access of the population to the information resources of the authorities (Estonia, Bulgaria) [18, p. 336-339].

It is necessary to recognize the appropriateness of the assertion that administrative reform in Ukraine should equally be a reflection of both European experience and our own traditions of law-making. V. Galunko, referring to relevant foreign studies, argues that the key to the process of implementing administrative reform is to take into account the principles laid down in the basis of the development strategy of the EU Member States. Among them, the formation of new levels of government with the growing role of local self-government bodies and the maximum involvement of citizens in this process; subsidiarity and decentralization, implemented through the transfer of a number of functions to executive bodies of a lower level; efficiency, transparency, openness, accountability, and flexibility [19; 5, p. 199-200].

Modern trends in the development of administrative law are closely linked to the field of human rights protection. They are reflected in the state of the administrative law, which is one of the most effective tools for the restoration of violated rights, the fight against the offense or the illegal activities of public administration bodies.

3.2 Protection of human rights by means of administrative law

Administrative-legal means are an important tool for protecting of human rights. Theoretical studies of the category of administrative law allowed them to be defined not only as an abstract legal category, but as real existing regulatory phenomena, legal instruments that form specific mechanisms and regimes, enshrine the specifics of the influence of law at various stages of legal regulation [20, p. 18]. The system of such means distinguish norms, principles of law, implementation procedures, treaties, legal facts, subjective rights, legal obligations, prohibitions, privileges, incentive measures, penalties, acts of realization of rights and obligations, etc. [21, p. 54-56], separate types of activities that reflect the feasible variants of behavior of subjects of legal relationships [22, p. 70-72].

The most successful is the definition of the category of legal means in the context of the instrumental theory of law. In particular, the most widespread such an approach was found in the writings of O. Onufrienko and T. Pashuk [23, p. 15; 24, p. 167].

This approach makes it possible to determine the administrative-legal means of protecting human rights through the prism of the possibility of applying legal phenomena of different nature, in particular substantive and activity phenomena of a legal nature, in order to ensure the satisfaction of the need for protection [24, p. 76-77]. If the latter have the form of material and procedural administrative-legal regulations in relation to counteracting human rights violations, restoration of legal possibilities, normative legal acts; then the latter manifest itself in the form of documented actions, in particular complaints, applications, petitions, decisions, rulings, and actual actions; for example, the restoration of the violated right, the detention of a person who committed an administrative offense. That is, they are certain legal models of informational content, and at the same time practical tools for the effective achievement of the aspirations of the individual [25, p. 65].

Thus, the protection of human rights by means of administrative law involves the use of a wide range of administrative legal acts, norms of law, which establish mechanisms for counteracting the offense, restoration of violated law,

implementation of administrative-procedural, and administrative procedure measures, documented and actual actions aimed at guaranteeing of unimpeded realization of human rights, provided with administrative coercion.

The strategic aspects of the development of administrative law are closely linked to the need to improve the administrative-legal means of protecting human rights and the existing mechanism of such administrative-legal protection in general.

Administrative law regulations are an important means of protecting human rights. They can be both material and procedural, relate to the possible violation of human rights, the application of administrative penalties, the restoration of the legal status of citizens, in particular, compensation for damage. In Ukraine, they are contained in CUAO, Code of Administrative Justice of Ukraine (CAJU), and a number of other regulatory acts.

Of notable importance are standard-measures aimed at protecting a person from possible encroachment on the part of the subjects of power. Special attention needs to be paid to the formation of administrative-legal means of protecting human rights, related to revision of acts of public administration, which were adopted in violation of the requirements of the law, outside the competence and powers of this body. Administrative-legal regulations related to administrative liability of public administration and their officials, the possibility of compensation of losses or compensation of moral damages require alignment to European standards [26, p. 67-72].

Improvement of administrative-legal means of protecting of human rights in the light of current trends in the development of administrative law is closely linked with increased access to information resources for the purpose of implementing of public control over the activities of public administration bodies. According to I. Panova, the latter include the legal means of a preventive nature, aimed at preventing the violation of human rights. Of particular importance among such, she allocates legal norms, which document the conditions for free access of citizens to statistical, information data, databases or individual information resources; the commitment of the authorities and officials to inform the public about the implementation of public

functions, decision-making; the creation of subdivisions or the appointment of officials, authorized to distribute such information, to respond to public information requests, to implement state and public control over this [27, p. 70].

V. Kolpakov asserts that the general public should be given access to state registers. He believes that representatives of the public administration should identify themselves to the public, adhere to restrictions on sources and methods of income generation. Achieving the openness of the activities of the subjects of power is impossible without documenting their duty to indicate the reason for the adoption of their decisions [28, p. 6-14].

Improvement of substantive administrative-legal means of protecting human rights is related to the introduction of amendments to the CUAO, the CAJU and many other normative legal acts. In particular, in the CUAO should be made a number of changes regarding the review of the penal system and the amount of fines of officials for violating human rights in the field of labor protection, property, housing rights of citizens, trade, civil (public) order, list of offenses related to elimination of alternative jurisdiction in cases on administrative misconduct, etc.

Realization of activity means of administrative-legal protection of human rights is carried out through enforcement activities and self-defense. This enforcement applies to the prevention and termination of unlawful activities, which harms the implementation of the rights of a person guaranteed by the law; the restoration of their legal status; the termination of the validity of legal acts of an individual nature; the activity of the subjects of power that contravene the law, etc. The subject of this protective activity are public administration bodies and their officials, who have security-oriented functions, who make individual acts of law enforcement; requirements obliged to comply with for the elimination of existing violations and their termination. The implementation of these administrative-legal means of protecting of human rights is carried out through justice, jurisdiction, control and supervision activities or self-defense.

Such a wide range of powers of the public administration bodies, which are crucial for the realization of the rights, freedoms and legitimate interests of citizens,

predetermines the definition in administrative law not only of the limits of human freedom, but also of administrative structures, since such activity often leads to the adoption of unwarranted management decisions, creates illegal bureaucratic obstacles and barriers. According to A. Selivanov, the legal institute of judicial protection of human rights and freedoms is of great importance in this respect [29].

Human centrism, as the fundamental idea of reforming of all administrative law, penetrates into all managerial legal relations. It is it who forms the new quality of human rights protection by means of administrative law, since it introduces changes in the system-forming elements in the field of administrative law: principles, methods, legal regimes, industry systems. "Human centrism", which replaced the "state centrism ideology," updated the standard of interaction between the state and person [30, p. 236-237], gave impetus to the review of the organizational and legal foundations of the activities of state institutions.

However, according to some scholars, it is impossible to introduce human centered ideology in a pure (refined) form, so they propose to consider the process of fundamental changes in administrative law through the prism of updating the legal basis for the existence of triad in Ukraine: "human", "society" and "state" [31 , p. 7-8].

The most important role in this is played by the institutes of civil society and the legal state. In the context of the introduction of human centered ideology as the fundamental basis for strengthening the protection of human rights, civil society and the legal state is a kind of "protective cover" that opposes the selectivity of the application of the law, the overload of bureaucratic retribution, non-motivated civil servants to the qualitative performance of the functions of the public administration authority in protecting human rights [31, p. 7-8].

Human centrism is a form of "service" of the state to the interests of members of the social community in the manner defined by the current legislation. This ideology is aimed at eliminating the conviction of people that they are the "cog" of the state machinery, overcoming bureaucratic arrogance. The consequence of its implementation is to ensure decent lives, to bring respect for human rights, reliable

and effective means of their protection. Its domination leads to the fact that the implementation of the obligations imposed on the state and its apparatus under the law on the protection of human rights will be implemented in practice and will become natural for the whole society [32, p. 64-73].

3.3 Directions for developing of administrative-legal support for the protection of human rights in Ukraine

Public changes in the modern world force the administrative law to work in a new way, to settle new spheres of people's lives, to regulate those social relations that were not previously defined by the norms of a managerial nature. Such a diversification of the sphere of influence of administrative law leads to the need to strengthen the protection of human rights through its means, the development of new administrative-legal instruments capable of counteracting possible threats and challenges, and to secure safe conditions for the implementation of new forms of the life of society.

As was rightly noted by scholars, administrative law is developing around eternal discussions about defining the boundaries between the public and the private sphere, politics and governance, centralization and decentralization, the definition of restrictions on the freedom of the individual in society, the criteria for the effectiveness of the activities of public authorities in the field of public administration and the protection of people's rights, coordination for cooperation of functionally non-subordinated institutions, etc. [33, p. 65].

Important spheres of society's life, which require a primary administrative-legal settlement and creation of human rights protection means that are implemented within them, are the following: the sphere of innovation, intellectual property, information environment, the sphere of trade, in particular through the World Wide Web, and the quality of services provision, especially medical services, the sphere of electronic money and cryptocurrency, the realization of the potential of people with special needs, maternity and childhood, cultural heritage and realization of the cultural potential of the nation, etc.

In view of the fact that in many countries with developed economies, in particular in the United States, the issue of protecting intellectual property rights is no less important than the issue of national security, the sphere of innovation activity, intellectual property in Ukraine needs to improve administrative-legal regulation. Among the propositions, the researchers suggest the formation of a new strategy for scientific-technological and innovation development, a system of determined priorities for the development of the scientific and technological sphere, and the development of a clear state innovation policy, state support for innovation activities, improvement of the existing structure of sources of financing of innovations, which would stimulate enterprises to innovate development, strengthening of state financing of innovation projects, stimulating and encouraging of enterprises, simplifying the procedures of patenting, procedural aspects of protection of intellectual property of the creators of innovation development [34; 35]. At the same time, the forms and methods of coping with the infringement in the field of intellectual property need to be improved. In Ukraine, administrative liability for violations in this area should be strengthened.

Analyzing the content of Art.51-2 of the CUAO, one should pay attention to its uncertain nature, a large number of general wording, the content of which can only be understood through a careful analysis of all intellectual property legislation (“illegal use”, “intentional violation of rights to the object of intellectual property rights”), expressions, like, “etc.”, “other”. In light of this, according to the generalization of the Supreme Court of Ukraine, when applying the legislation on cases of administrative violations in the field of intellectual property (Article 51-2 of the CAO), courts should be guided by the content of special laws [36]. The blurry nature of the wording, the link nature of the rule, deprives the clarity and certainty of the enforcement process.

However, the content of Art.51-2 of the CUAO raises doubts as to the grounds for confiscation, the lawfulness of its application. Since Art.29 of the CUAO among the signs of confiscation refers to the presence of the objects that should be confiscated, the private property of the offender, its content contradicts the content of

Art.51-2 of the CUAO. Application of confiscation in accordance with the provisions of Art.51-2 of the CUAO refers to illegally manufactured products which, a priori, cannot be privately owned by the offender, because the ownership cannot be caused by grounds prohibited by law. Therefore, the legitimacy of the use of confiscation in these cases is doubtful [37, p. 111].

Strengthening of administrative-legal protection of the rights of citizens is closely linked to the field of trade, in particular through the World Wide Web, the provision of services (for example, medical).

The direction of improving the administrative-legal regulation of social relations should be the protection of personal data of persons involved in Internet commerce, comprehensive protection of the rights and safety of people in the information environment. Expansion of the use of "smart" devices makes it easier and more likely that cyber-attacks will be implemented. Principles of such settlement should be recognized awareness of the collection of data, methods, volume, features of the storage of information about the person, free participation or non-participation in information interaction, protection of personal data and privacy, the introduction of a clear system of administrative punishment in this area [38, p. 53-61].

Also, the top priority is the need on updating and codification of medical legislation. As A.Markin rightly points out, the legislative-administrative status of the health care institutions needs legislative detalization, the formation of unified requirements for licensing activities in this area, the clear definition of the conditions for the provision of medical services, the procedures for their payment, the regulation of information administrative activities of health facilities, e-health care, strengthening of administrative responsibility in the field of medical services [39, p. 178].

The sphere of electronic money and cryptocurrency also require effective administrative and legal support in order to counteract the possible violation of human rights. The experience of Japan, Switzerland, USA and England is important in this regard. The use of cryptocurrency requires standardization. Financial services for its use must be licensed by the state. It is important to create conditions for the

state to ensure transparency in the conclusion of contracts relating to the cryptocurrency market [40], defining the grounds for liability for violating the rights of citizens in this area.

In order to protect maternity and childhood, it is appropriate to propose the introduction of a procedure for the use of an emergency security order as a guarantee of safety of victims of domestic violence, the formation of special units subdivided into the National Police system with authority to counter domestic violence, the state's introduction of programs for the provision of educational services of professional nannies, etc. [41].

Military actions in the Donetsk and Lugansk regions of Ukraine predetermine massive destruction and damage to the rights and legitimate interests of the inhabitants of these regions. In order to reduce the migration of population from the Donetsk and Luhansk regions, it is necessary to create the administrative and legal framework for the protection of property rights of citizens in these regions. They should relate to guaranteeing the possibility for citizens to restore property rights or to develop a mechanism for obtaining compensation for lost, damaged immovable and movable property.

The transformation of the administrative-legal support for the protection of human rights in Ukraine is influenced by the need to expand the scope of the new institutions with powers for the implementation of administrative services (in particular, the CPAS), the review of the foundations of the judicial authorities, especially the system of administrative courts, the administrative-legal principles of interaction between the public and the civil authorities management.

Systemic reform of the Ukrainian legislation on administrative legal proceedings to strengthen the protection of human rights is associated with the implementation of systemic changes. These changes relate to judicial mediation, the introduction of a system of new electronic tools for technical support of administrative court proceedings, maintenance and improvement of the "Electronic Court" system, which allows an individual to file a claim through the Internet, to exercise independent control over the timely conduct of an official representative, to receive information in

the case of filing a claim against her, to keep track of the case, to receive information about procedural applications, to pay court fees through the Internet [42; 43], the introduction of evidence-based innovations by expanding the ability to involve electronic copies of documents as evidence, and the widespread introduction of the institute of electronic evidence in the procedural legislation.

Specialists indicate that electronic documents are recognized by the ECHR, in particular in the cases of "P. and S. v. Poland", "Eon v. France", "Shuman v. Poland". They must meet certain requirements: to exist in immaterial form, to be associated with the use of certain technical means for reproduction, can be duplicated on separate technical devices, etc. [44].

Until now, the practice is ambiguous to take into account the legal significance of "electronic evidence", in some cases it is taken into account, and in others, no, based on the lack of a proven connection between the individual and the fact of creating an electronic document. These questions, of course, should be reflected in the administrative law, since they directly affect the protection of human rights.

Thus, the development of administrative-legal support for the protection of human rights in Ukraine is related to the implementation of recognized standards of good governance in Europe, including legality and transparency of the decision-making process, openness of access to information, perfect administration, effective financial and budgetary management, control, supervision , responsibility [45, p. 87-92]. At the time of the improvement of both material and procedural administrative legislation, review of administrative procedures, institutional changes, which in general should be aimed at transforming the state and public administration into important entities of the implementation of the human rights function, which basis is the idea of human centrism and priority of protection of rights and interests of the individual.

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CHAPTER 4
TRANSFORMATION OF THE LAW-ENFORCEMENT SPHERE OF STATE IN THE CONDITIONS OF GLOBALIZATION

4.1. Globalization processes and their influence on the law-enforcement sphere of the state

At the present time, we are increasingly witnessing irreversible processes of human civilization development, which reveal new conditions for the functioning of the person and society. As a result, globalization has become the reality of our time, which is considered as the spread of economic, political and cultural processes beyond the borders of states and the formation of a new integrity of the world space on this basis.

The intensive process of globalization that has been observed over the past decades has caused many discussions among scientists from different fields. Today it's hard to find a more fashionable and debatable topic than globalization. Scientists, politicians, businessmen, religious figures, journalists talk about it and argue about it.

Globalization is a complex multifaceted process that extends to all phenomena of social development and is associated with the deepening of the internationalization of the world economy, the growing interdependence of national states caused by the accelerated movement of international transportation of goods, services, capital, high technologies, etc. [1]

In 2014, Ukraine made its final geopolitical choice. Integration into the European Union has become a national idea and the basis of the foreign policy of the national state. The European choice of Ukraine was enshrined in the Association Agreement between Ukraine and the European Union (the Agreement was ratified by the Ukrainian Act No. 1678-VII of 16.09.2014), the Ukrainian Act "On the Principles of Internal and Foreign Policy" No. 2411-VI of 01.07.2010 and other regulatory acts. At the same time, the mechanism of the modern Ukrainian state is still in the process of reform, its bureaucracy is unjustifiably large, which leads to the emergence of numerous bureaucratic and corruption schemes.

Today, globalization is a determining factor of the significant transformations of social development, covering all areas of human life without exception, including law enforcement.

The results of modern globalization really affect the state of crime and struggle to overcome it. Political and economic processes that really have influence upon the change in the nature of contemporary crime; political scientists distinguish those that are characteristic for the last decade of the twentieth century, namely: a) the collapse of the USSR; b) the transformation within the framework of the European Union, which resulted in changes in the visa regime, weakened customs and passport control in Western Europe; c) socio-political and economic reforms in China in the direction of capitalization of the economy of this country; d) the signing of the North American Free Trade Agreement. It is also worth noting that recently we have witnessed a narrowing of the sovereignty of countries as a result of the implementation of the globalization policy of the leading countries of the world, as well as the facts of disintegration and collapse of a number of countries around the world.

In connection with these processes, but already from their origin, criminological problems reveal themselves, which can form to a large extent a special status of today's crime. The most important of them should be:

a) the problem of employment of the population, a significant part of which is outside the necessary number of workers, able to provide a stable production in the world countries. It has been scientifically proven that only 20% of the planet's population is involved. In this case, there is a question of the role of the unoccupied part, which is intended for passive contemplation and, in the long run, probable employment in the non-productive sphere, where, as is known, it is often implemented in violation of the law. It should not be discounted an active resistance of the unemployed if the conditions for solving their problems do not improve or improve too sluggishly. In this case, the threat of using force methods for conflict resolution is increasing;

b) the problem of financial transaction markets, which is directly related to the fact that in our time more than 80% of financial capital is "free-floating", and this

contributes to the existence and development of financial speculation. At the same time, we are witnessing the unprecedented development of financial systems, through which daily transfers to one trillion dollars, a significant increase in the speed of transfer of money across national borders. Reducing the possibility of their identification facilitates illegal transactions and money laundering, while the use of a limited number of currencies (US dollar, Euro, British pound sterling, or Japanese yen) in international payments objectively contributes to criminalization processes in the field of international financial activity;

c) the problem of a significant decrease in the ability of national governments to manage society, to fight crime. The policy of globalization necessarily forms a tendency for the unification of the law, which actually narrows the possibility of taking into account national experience in solving important issues of law enforcement activity. [2]

Although globalization opens up broad opportunities for development, its benefits are used rather unevenly, as unevenly its costs are distributed, which seriously affects the realization and protection of human rights. [3]

Today, crime as a socio-political phenomenon has crossed the borders of countries, has gain features of the international, transnational phenomenon. A number of definitions of transnational crime that reflect its peculiarities, which have developed in the context of the implementation of modern globalization processes, have already been formulated and are in circulation. Thus, the World Conference on Organized Crime at the Ministerial level, held in Naples (Italy) in November 1994, proposed that the definition to be used in relation to processes "related to the flow of information, money, physical objects, people, or other material (intangible) means through state borders, and one of the subjects of this process is not represented by the state."

The full and effective implementation of human rights is recognized by the international community as a goal, mean and criterion of globalization. However, we must state that the realities of a globalized world are far from humanitarian standards.

Globalization is accompanied by the intensification of the traditional and the emergence of new risks for human rights, one of the leading places among which is the danger of criminalization of social relations at all levels - from interpersonal to interstate. At the same time, the peculiarity of a globalized society is not only the intense growth of the volume of traditional crime (according to the United Nations, the crime in the world increases by 5% per annum with an increase in population of 1-1,2%) [4, p.17] but also the development of new, yet not fully understood by humanity, forms of criminal activity, which intensively fill practically all uncontrolled or poorly controlled social niches.

Globalization has become an all-embracing and irreversible, due to the emergence of a perspective that matters to the entire human community, which cannot be solved by a single state, or even by a group of states. First of all, it is a matter of public security, the elimination of international terrorism and crime, the resolution of environmental problems, the protection of human values, which are human rights and freedoms.

The international community, separate politicians and scholars, that for a long time have recognized the problem of crime as an internal affair of the state, and who viewed it only in the context of human compliance with public authority, only now came to the question of the impact of crime on the implementation of human rights. We are gradually witnessing the emergence of a new humanitarian paradigm in criminological and criminal-law policies, under the influence of which we are forced to revise both established doctrinal structures and practical decisions related to the organization of social control over crime.

An integral part of globalization is the transformation of national crime into international transnational forms under the conditions of globalization of political, economic, informational and communicative processes. Today, such reality puts before criminal-law sciences new complex problems.

Studying the problems of the interconnection of globalization and crime, scientists proceed from the fact that in today's conditions, under the influence of conditions created by globalization, there is a change in the structure of crime, a

reassessment of its social danger, and as noted by K. M. Rakhmanova, the impact of globalization on crime lies in its transformation at the national level, in its efforts to actively use the consequences and benefits of globalization in criminal activity, to engage in the processes of "transnationalization". [5]

The fact that globalization is a factor determining the development of crime was stated at the UN level in the report "The Globalization of Crime. A Transnational Organized Crime Threat Assessment" [6].

The report says that crime groups make billions of dollars annually on trafficking drugs, weapons, humans, raw materials, counterfeit products, as well as marine piracy and cybercrime, but this is not just about the economy. Revenues from criminal activity and the threat of use of force allow criminals to influence the elections, politicians and military, and the largest economies are large markets for the sale of illicit goods. The report states that today a criminal market covers the whole planet, banned products are produced on the one continent, transported to another, and sold on the third, and thus, modern criminality, following the general tendencies of globalization, also acquires global, transnational traits.

The emergence of a new format of criminal activity, based on high intellectual potential and developed technologies of global communication is evidenced by the emergence of criminal hacking, whose subjects are professional computer criminals who operate with a clearly expressed ulterior motive. The share of these criminals accounts for about 90% of all crimes related to the theft of material assets, in particularly large amounts and most of the malfeasance. Individuals from this group can be characterized as highly skilled professionals with higher legal, technical and economic education. They know computer science well, are proficient in programming, their actions are accompanied by excellent masking. [7] It is this category of criminals that is the most dangerous for society and the state; they form the backbone of "cybercrime", which is primarily related to the criminalization of the Internet, although this term covers any crime that can be committed in the electronic environment. The following groups of cybercrime are distinguished: economic computer crimes (theft of information, unauthorized access, destruction or damage to

files and devices, etc.), computer crimes against personal rights and privacy of the private sector (electronic theft, etc.), computer crimes against public and state interests (for example, hosting of pornosites). [8, p.11]

One cannot but notice that the result of modern globalization was the changes that are associated with important migration processes in the modern world. These trends were analyzed in the 2004 UN regular report on human development, which reported an increase in the number of migrants living outside their homeland (76 million in 1996 to 175 million in 2000). Illegal migration has reached a scale of 30 million people annually. As a result, the leading Western countries formed quite large diaspora groups of various ethnic groups, including the Chinese, whose number, according to various statistics, ranges from 30 to 50 million people. The activity of migration processes is complemented by a significant increase in financial flows going to developing countries and increased from $ 30 billion in 1990 to $ 80 billion in 2002. [9]

According to Belarussian scientist, researcher of transnational crime V.V. Merkushin, transnational crimes are not only carried out in several countries, but also characterized by their regularity, which differs from the actions of ordinary organized criminal groups, which, even in the presence of significant opportunities, can only conduct individual international actions, and involve significant financial flows and facilities, which can be compared with the size of the national gross product of some countries, which sometimes leads to the dependence of the economies of these countries from their transnational criminal organizations, based on their territory. [10]

The conditions of globalization create an entirely new environment for the development of economic crime - the paradox of the situation is that this form of criminal activity has originated in the legal economy, and not in the field of illegal criminal economic activity (drug trafficking, prostitution business, bootlegging, etc.). The stressing of such a principle feature seems to allow to look at the problem of the relationship between economic and transnational organized crime, the determination of their development and formation, the combination of the economic and criminal components of organized crime, the determination of the priority of two trends -

"economization" of organized crime and increase in the level of organization of economic crime itself. The proposal to distinguish organized criminal crime and criminal economic activity [11, p.16-17] as a special form of criminal behavior can be considered promising.

The globalization of crime in the foreign economic sphere is expressed in:

- the significant expansion of smuggling activities;

- the formation of a criminal market, in which the financial turnover plays a significant role, including those related to laundering of proceeds from crime (legalization);

- the improvement of the mechanism and intensification of information exchange between criminal structures;

- the "merging" of the shadow and legal sectors of the world economy;

- the active and free migration across the planet of: shadow capital, human, industrial and information resources that are used in criminal activities;

- the specialization of criminal elements and their international co-operation;

- the patterns related to legal economic activity, in particular, for states with a developed criminal economy the following regularities are inherent - the presence of a large number of foreign companies, the presence of large financial and industrial groups with the participation of foreign capital, the presence of offshore business. At the same time, the domestic market is flooded with foreign currency and imported goods; domestic commodity producers are broke; only raw materials and energy resources are exported abroad, etc.

The manifestation of the systematic nature of foreign economic crime is its "legalization" - the interpenetration of the legal and criminal components of the world market. The illegal economy is likened to law. Often, criminal organizations interact with legal economic operators, and even more often one and the same structure carries out both legal and illegal foreign economic activity, combining different, legitimate and illegal means and methods of solving problems. At the same time, most law-abiding organizations are no stranger to the violation of laws - participation

in illegal economic operations, and the implementation of illegal transactions, including corruption.

The interrelation of legal and illegal foreign economic activity is expressed in the process of infusion of financial, organizational, institutional, personnel and information resources of criminal structures into the sphere of legal economic relations. Quite active reinvestment of criminal profits in the legal business is partly due to reasons of profitability and risk balance, and mainly, in order to "launder" the proceeds of crime.

Between legal and illegal subsystems, mutual exchange of means of organization and provision of business activity, unification of business technologies is carried out. [12]

Today, crime as a socio-political phenomenon has crossed the borders of countries, has gained features of the international, transnational phenomenon. A number of definitions of transnational crime reflecting its peculiarities, which have developed in the context of the implementation of modern globalization processes, have already been formulated and are in circulation. Thus, the World Conference on Organized Crime at the Ministerial level, held in Naples (Italy) in November 1994, proposed that the definition to be used in relation to the processes "related to the flow of information, money, physical objects, people, or other material (intangible) means through state borders, and one of the subjects of this process is not represented by the state."

International globalization, carried out on the basis of a broad integration of the participants in socio-political and economic processes, cannot but cause the same level of change that occurs within the framework of the development of modern organized crime. According to some researchers of this phenomenon, it is possible to identify objective processes that directly contribute to the transformation of crime into their transnational variety. First, it is the development of international ties in the political, economic and social spheres. Second, the formation of transnational corporations in some industries. Thirdly, the association of representatives from different countries of the world in international non-governmental organizations.

And, fourthly, it is a "blurring of state borders", which manifests itself in a significant simplification of the visa regime between a number of states and the openness of modern society for the broad flows of labor.

Thus, the combination of external (international) factors and internal (national) conditions ensures not only the availability but also the further transformation of the TOC, which reveals an extremely high degree of adaptability to the change of situation and various conditions, including the processes of it deterring through the law enforcement organs.

Today it is clear that organized crime, gaining a transnational dimension, poses a real threat to the process of democratization in the modern world by penetrating of its structures into the political system of society, increasing the influence on the process of developing and forming the content of national legislation, which is directed against democratic principles and objectives. In addition, there is a threat to the economic development of countries, as TOC leads to a decrease in the activity of those investors who cannot be included in the system of investing in a criminalized economy of a number of countries of the world, precisely because of its criminalization. Therefore, the issue of combating transnational crime is the subject of an analysis of the leading countries of the world, interested in the development of democracy, stability and economic development in modern conditions. In particular, the question of choosing the strategy and tactics of combating transnational criminal formations has become traditional in the context of the joint meetings of the Justice and Home Affairs ministers of the G-8. (Milan, 2001). The communiqués adopted at these meetings indicate the main types of transnational crimes; the struggle against them in the development society at the turn of the century has become particularly relevant.

First of all, these are crimes in the field of high technology, which are manifestations of cybercrime and are characterized by the widespread use of the achievements of modern science and technology, closely related to the functioning of the Internet, and through its intermediation are implemented by criminal forces for

the implementation of economic crimes and crimes against human freedom (for example, sexual exploitation).

Secondly, these are crimes related to money laundering (disclosure of bank secrets, penetration through the modern technologies into the system of bank protection and other financial institutions).

And, thirdly, these are corruption-related crimes that really undermine the security of the society, contradict the propagation of democratic values in the modern world and hinder the development of the rule of law and order.

It should be noted that in the world there are a number of international organizations and centers dealing with the problems of combating transnational organized crime. In this connection, the German scientist W. Beck states that "transnational legal spaces and institutions are no longer a luxury, but have become a necessity for all states in the global epoch, and it is precisely because national states in the course of globalization are increasingly losing not nominal legal power to make a decision, but control over the implementation of the provisions of the law". [13] Thus, the interconnection of the functioning of international institutions whose activities are directed against transnational organized crime, with the features of the globalization processes that have become the hallmark of the modern world, are noted.

Consequently, considering international crime as a socio-political phenomenon reflecting a combination of actions of rather large, stable and managed organizations and groups of people who are socially dangerous, are directed against the fundamental rights and freedoms of person and citizen, one can state:

a) the deployment of this kind of crime is conditioned by serious factors of economic, political and cultural character, which are formed within the framework of globalization processes of the present;

b) the formation of new criminal structures, their consolidation and institutionalization are in close connection with the serious civilization processes that really affect the state of the modern world community;

c) the urgent need for the deployment of international law enforcement and police structures is to improve the activities and prevent new forms of international crime.

The analysis of the relationship of two different phenomena - globalization of the world and the criminalization of social relations in society shows that the criminological aspect of globalization is very important, since understanding how the processes of criminalization under the conditions of globalization will develop in advance, will help to develop measures to minimize crime both in the world and in separate countries.

Thus, the fact that globalization largely determines the "face" of contemporary crime, forms a "criminal picture of the world" at the beginning of the XXI century, is indisputable. Since the processes of globalization must continue to proceed objectively on a global scale, its influence on the criminal community will, if not increase, have a significant impact on the state of world crime.

Existing trends of globalization of crime testify the active involvement of Ukraine in the processes of transnational criminalization and, above all, economic and political nature. This poses a threat to national security and necessitates the integration of criminological, legal, economic, foreign and security policies, and the intensification of international efforts to counteract the factors and effects of the globalization of crime.

4.2. Transformation and modernization of the law-enforcement sphere of the state in the conditions of globalization

The problem of transformation and modernization of the law enforcement system of the state in the conditions of globalization is of concern of many researchers. It involves a comprehensive structural transformation of the whole conglomerate of public relations, which is guarded by law enforcement agencies. The art and the benefits of the concept of gradual reform - is in the ability to carry out this process gradually, without reducing the effectiveness of ensuring social and public needs. The issues of reforming the system of law enforcement agencies of Ukraine

are becoming increasingly relevant in the overall process of democratization of society and the state, as well as their transformation in connection with the need to move closer to European and Euro-Atlantic standards. After all, the law enforcement system is intended to protect human rights and the achievements of democracy of a civilized state. The conditions of globalization indicate the expediency to transforming and modernizing the activities of law enforcement agencies.

Transformation (from lat. transformatio - transformation) - transition, change of type, form, essential properties of anything. [14] In the paradigm field, transformation etymologically means radical changes that are subject to the essence and content of phenomena under the influence of various factors that have both internal and external character, since most of the phenomena, in particular legal ones, are syncretic, which, accordingly, contain synthetic attributes. Yu. Shemshuchenko said on this issue that the end of XX - beginning of XXI century - is the time of transformation of the world on the basis of globalization, and such a transformation has radically influenced all spheres of human life - political, socio-economic, spiritual and, of course, law-enforcement.

Modernization is, above all, a comprehensive process of reforming existing and creating new institutions, as well as borrowing those cultural norms that are in line with the best standards and values of developed democratic countries. The essence of modernization process is to update or create new institutions that create conditions for the transformation of interpersonal relations in the sphere of political, legal, economic, social relations at modern basis of the recognition of the principles of democracy, the rule of law and human rights, the social state, and the established international norms of coexistence of countries.

Today, as a result of globalization, new and dangerous players appeared on the international scene. The level of instability and the violence accompanying such instability is compounded by increased international political weight and increased activity of general criminal organizations. Organized crime (weapon traffickers, drug mafia) uses terrorist acts as a mean of obtaining additional income and achieving political influence. The ominous trend is emerging - the growing importance of

apolitical groups who came to terrorism for the sake of financial gain and treats terrorist acts as part of a criminal business. Some of these groups also pursue political goals, but the main purpose of their political activities is to increase profits by destabilizing the situation in the countries and regions where they conduct their operations. Such a destabilization allows them to acquire a significant (if not essential) influence on the official authority of these countries. It is especially difficult to combat such criminal groups, since they have vast material and financial resources acquired through the illicit trade of weapons and drugs, and because of their ability to control (influence, operate or demoralize) the authities of the countries in which they operate. There are serious reasons to fear that criminal regimes, organized terrorist groups or independent terrorist organizations will have a real possibility of nuclear terrorism. In addition, there is a danger of high-tech terrorism, using a variety of ways to attack the delicate and interconnected infrastructure of modern society. [15]

It should be noted that in the context of the analyzed issues, Ukraine is one of the key countries, taking into account its geopolitical position. Many states regard our region as a zone of their strategic interests and pursue a very active policy in our region. Here the most important transcontinental communication corridors are concentrated, which greatly enhances Ukraine's role in world economic processes. From a political point of view, our region is viewed by many as a buffer zone between geopolitically conflicting countries in Asia and Europe.

Interstate and internal conflicts, other factors of a geopolitical nature create a significant tension and have far-reaching criminal consequences. These consequences of globalization processes require deep understanding. The escalation of terrorism, the activation of transnational organized crime significantly affects the political and economic stability in the country. There is a need for a comprehensive analysis, the development of effective measures to counter these threats and modernize the law-enforcement sphere of our state.

Modernization of the law-enforcement system should include the development of modern legal and regulatory conditions for the functioning both of each law-

enforcement agency separately, and the entire law-enforcement system of Ukraine as a whole.

For all the years of its independence, law enforcement agencies are constantly reforming in Ukraine. Each new Minister of Internal Affairs of Ukraine, the Prosecutor General of Ukraine, the Head of the Security Service of Ukraine announce the reform of the headed law-enforcement agency, but as the modern history shows, the quality of law-enforcement bodies is decreasing, and their level of corruptness is increasing. The need for reforming of law enforcement bodies (as a basic element of the law-enforcement system) also follows from the international conventions and agreements to which Ukraine joined, and from the international obligations of Ukraine within the framework of membership in the Council of Europe. Having made a European choice, our country made a commitment to change the role and functions of law enforcement bodies that would conform to the principles of the Council of Europe in accordance with the relevant Conclusion of the Parliamentary Assembly of the Council of Europe No. 190 dated September 26, 1995 [16, pp. 13-26]. The lack of systematic analysis of the shortcomings of the current legislation, which significantly impedes the reformation and development of the law enforcement system and its components, including the constitutional provisions of law enforcement and law enforcement agencies of the state, makes it impossible to introduce new legislative initiatives efficiently and systematically, and to systematically implement reforms.

In the context of globalization, the institution of law enforcement has a great importance and must meet the international standards. At this stage of globalized development, law enforcement officers must have good skills and competencies to compete on the world labor market.

The processes of integration and world globalization contribute to the expansion of the forms and areas of domestic law enforcement activities, which must definitely comply with European and international standards of the police. Today the work of the law enforcement agencies of the EU member states is carried out in accordance with the unified principles and standards developed and adopted in accordance with

generally accepted democratic values, which generally contributes to the strengthening of national, European and world law and order.

Implementation of relevant European standards and positive foreign experience in Ukraine should take place taking into account the specifics of the national legal system, the level of development of society and the immediate needs, interests of the people of Ukraine. Key unchangeable ideas in the process of further reforms should remain – political neutrality, decentralization, the fight against corruption, and enhancement of the culture of law enforcement officers' work.

In order to implement this into life, one must adhere to the general methodology of reforming, which is defined as the ways of understanding of social phenomena associated with the need to improve the governance of the state, the existence and development of state institutions. These are the principles, system of views and position on improving the activities of state institutions and state administration.

Based on a specific reforming methodology, relevant strategic planning documents are developed: Concept, Doctrine, Strategy.

The concept is a long-term document developed with the participation of higher authorities with the use of leading research institutions of the country for the long term. It includes a number of core areas: state-legal, political, social, organizational institutional, economic, financial, foreign-policy, informational, ecological, etc., which are inherent to the law-enforcement system as a whole. The concept of reforming of the law-enforcement bodies of Ukraine is approved by the Parliament of Ukraine upon the submission of the President of Ukraine.

The doctrine of reforming law enforcement bodies is a long-term document, which is developed on the basis of the relevant Concept, and consists of basic doctrinal documents. Ministries and departments develop it with the participation of commissions and parliamentary committees, using their research institutions, with the coordinating role of the National Security and Defense Council of Ukraine.

Based on the Doctrine of Law Enforcement Reform, a strategy for their reform is determined. Strategy for reforming of law enforcement bodies is a line of behavior of state institutions responsible for methodological issues: how, by what powers and

means to solve the issues of reforming both the law-enforcement system as a whole and each of its subjects, ensuring public safety and order, reducing the level of crime in the foreseeable future.

Also, in addition to theoretical developments, it is necessary to know the society in which the reform is carried out. Any reform should be based on society's expectations for change in line with its perceptions.

Modernization should be accompanied by information provision, the formation of a positive attitude (position) of society to reforms.

The reform should be in line with the Country Development Strategy and the Strategy for ensuring Ukraine's national security, taking into account the implementation of anti-corruption policies, standards and regulations. Any reform has three components:

1. "Organizational - what we want to get, what organizational structure, its system of management.

2. Legal - legislative and other secondary legislation support of the organizational structure and its management.

3. Technological - which innovative technologies will use the structure and its personnel upon completion of the reform." [17]

The conditions for successful reform are:

1. Political will of the country's leadership, personal ability to organize and implement reforms, personal responsibility to the people for the quality of their implementation and the result.

2. Availability of financial resources and funding centers, continuous control over the use of budgetary and extrabudgetary funds for reform.

3. The presence of creative managers capable of organizing and managing the processes of reform, providing and implementing the concepts of reform.

4. Availability of a functional system for training of stuff that will work in the reformed structures.

5. Availability of communication and information flows, providing feedback and real control over the state of reform.

6. Availability of real scientific-methodological substantiation of the need for reform and the possibility of supporting the reform processes. [17]

In order to successfully reform both the separate law-enforcement body and the law-enforcement system as a whole, it is necessary to determine the methodology of reform, which should determine the ways of solving the problem.

One of the conditions for successful reformation of the law-enforcement system will be its legislative consolidation by one or several branches of government, the definition of monitoring mechanisms and those responsible for monitoring the observance of legality in the activities of each law-enforcement agency. The subordination of the law-enforcement bodies to the President of Ukraine violates the balance of power distribution.

The President as Supreme Commander must provide leadership to the Armed Forces of Ukraine and other military units, as well as to be responsible for foreign policy. Subordination to the President of Ukraine of the (Security Service of Ukraine) SSU and the (State Guard Department) SSG (special-purpose law enforcement agencies) has nothing to do with it. These structures, if they are subordinate to the President of Ukraine, may be legally defined as special services without determining their status as a law enforcement agency.

The absence of an approved Strategy for reforming of law enforcement agencies in Ukraine, after two years of reform, once again indicates that there is no state vision for organizing and managing of this process.

On the basis of the above mentioned and also taking into account international experience, modern conditions and the condition of Ukraine, it is expedient:

1. In the format of the implementation of the constitutional reform, initiate the formation of a subgroup to develop a separate section of the Constitution - "National Security of Ukraine", which provides reference to law enforcement agencies, law enforcement system, law enforcement activity and law enforcement service. Consider the Ukrainian law-enforcement system as a component of the National Security of the state, which protects citizens, society and the state from internal unlawful infringements, while having the right to restrict the constitutional rights of citizens.

2. Develop a basic (constitutional) Law of Ukraine "On the Law Enforcement Service in Ukraine", which will identify the definitions: law enforcement agencies, law enforcement activity, and law enforcement service. This law defines the main features, functions and tasks of law enforcement agencies, the procedure for their formation, their classification, the procedure for admission and the conditions to perform law-enforcement service as a type of civil service, the basic requirements for restrictions on the admission of citizens to the law-enforcement service, etc.

3. Develop a Strategy for reforming of law enforcement bodies and approve it at the level of the Decree of the President of Ukraine or the Resolution of the Parliament of Ukraine.

4. To create an interdepartmental working group under the President of Ukraine on monitoring the reform of law enforcement agencies and the law-enforcement system of Ukraine in order to coordinate and operationally influence the state of reform.

5. National Security and Defense Council under the President of Ukraine should analyze the developed Concepts of reforming each law enforcement body and taking into account the established systemic vision, prepare a nationwide Concept for reforming the Ukrainian law-enforcement system and an Action Plan for reforming the state's law-enforcement system with discussion and approval by the National Security and Defense Council.

6. To provide proposals to the Cabinet of Ministers of Ukraine on bringing the legislation of Ukraine on the activities of law enforcement bodies of the state into compliance.

Finally, it should be noted that Ukraine's EU accession, active cooperation with the Council of Europe, the OSCE and other international organizations, the fulfillment of the international legal obligations, make to completely depart from the negative practice of the previous authoritarian regimes, to transform law-enforcement bodies from hierarchical and closed bodies of post-Soviet regime in open-minded public democratic bodies of public power, with a qualitatively new philosophy of governance, effective forms and methods of work. This will contribute to the

development of a distinctive national model of law-enforcement activity in Ukraine that would meet generally accepted democratic values, European standards, will serve society through the protection of human rights and freedoms, the fight against crime, maintenance of public security and order.

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CHAPTER 5
CANONICAL AND PEDAGOGICAL GUARANTEE OF HUMAN RIGHTS REALIZATION

5.1 General references about canonical pedagogy

Canonical pedagogy thoroughly explores and fully supports the realization of human rights. The very term "canonical pedagogy" has not found its proper place and isn`t practically used in theological, philosophical and legal literature. However, subconsciously, on the intuitive level, teachers (especially theological ones) feel that pedagogical science itself and academic discipline need natural correction, orthodox verification, and in general a kind of ontological inspection. The question is whether modern pedagogy is accompanied by an ontological methodology, whether all educational institutions use pedagogy, or human rights are realized in the way that the universe requires. These and other problematic issues call for the idea of the expediency of the existence of canonical pedagogy. To illuminate the concept of "canonical pedagogy," we compare the philosophical definitions of "pedagogy" and "canon".

Pedagogy (from the Greek - a child and leader) – is a doctrine of education; the art of education, the science of education, in the broad sense - a set of students who are concerned with education. Today, pedagogy is on a new stage of its development. Thus, the influence of other subject branches gives rise to the attempt to put the actual function inherent in it, first of all, not on the living teacher who possesses means of spiritual influence, but on the "teaching machines" [1, p. 335]. In our understanding, the practical and theoretical teachers, family members, presbyter, preschool and school teachers, heads of institutions and enterprises, senior officials of the state, and others should take an active part in the realization of human rights.

"Canon (Greek - rule, sample) - a constant measure, endowed with a special, esteemed status; firmly established, traditional, generally accepted position, norm " [4, p. 106]. The canon is used in theology, which provides the establishment of the doctrine, dogmatic statements of religious education of believers. These canonical

norms include: Ten Commandments of God, the Nine Commandments of Bliss, parables of Jesus Christ, the message of the holy Apostles, the teaching of the holy Fathers of the Church, the decision of the Ecumenical and Local Councils, the teaching of presbyters. If all canonical norms are placed in the natural-legal space and the legal-legal field regulating church-religious activity, then canon law is formed. It is the place of pedagogy in canon law to determine the main content of canonical pedagogy.

The association of pedagogy with the canons gives the normative-natural formation of the educational process in which culturological development, socialization, imperative education and training, professional guidance, valuable results of professional activity, interaction of experienced persons with children and youth in various spheres of life are carried out. That is, canonical and pedagogical activity regulates the ordering of living conditions in accordance with ontological requirements.

Therefore, in our opinion, canonical pedagogy is a theological and philosophical science of the ontologically grounded cultural process of anthropological harmonization of all strata of the population under the conduct of *socially demanded* people with a naturalistic methodology.

We believe that *the main components* of this definition are: *scientific direction, culturological activity, age periodization, personality of canonical teachers, natural methodology.*

Exploring the scientific direction of canonical pedagogy, it is necessary to find out whether this is a theological or philosophical science. Here are possible contradictions, polar thoughts. But when it comes to the origin of theology, it turns out that it is the first philosophy. It should be emphasized that theological science carries out searches not only of dogmas, but also of links between them, clarifies the relation of man to dogmas, the influence of dogmas on the formation of human worldview, human behavior, etc. Often, one may hear the notion that theology has nothing in common with philosophy and that it is the opposite of science. But theology, as the first philosophy, gave rise to secular, general philosophy and its

directions. Such a philosophy is studied in higher educational institutions: secular and even theological. Secular philosophy does not go deep into theology and vice versa. We can say that in theology itself it is necessary to carry out the hermeneutic exegetical processes of biblical texts, which is already a need for philosophical interpretations. Therefore, there is a theological philosophy that differs from the philosophy of theology or general philosophy.

It is important to note that "theology and philosophy differ in subject and method." The subject of theology is God, here the world speaks only in the sense that the property of God as the Creator and Savior makes it necessary to depict the output of things from God and the return to Him. The subject of philosophy is the created world, it speaks of God only in the sense that there are indications of God in the creatures. The difference of subjects is related to the difference in cognition and methods. Theology derives from the Revelation. It is used by the natural mind only in order to, as far as possible, explain to people the truths of faith, systematize them and develop them in conclusions. Philosophy derives from the natural. It takes into account the truths of faith as a scale that enables her to criticize her own results: since there is only one truth, nothing can be true, contrary to the revealed truth. It serves the theologian, providing the sensory-methodical apparatus that it needs to describe the truths of faith. And it also finds in theology a complement that it seeks: answers to questions that its own means of cognition can not cope with [2, p. 21–22].

If you consider human rights dogma, it will be the subject of the theology study. All human rights are dogma. Dogmatic rights derive from the natural and supernatural laws of the world. For example, the right to love, the right to air, the right to water, etc. Here philosophy will not help without natural science, especially without theology.

However, theological philosophy, using dogmatic doctrine, develops a discussion of dialectical relationships between the influence of man on the state of affairs in a team, water conservation, air purification, etc. From the theological and philosophical rights will be the natural responsibilities of man.

In general, the theological and philosophical science of canonical pedagogy establishes the limits of the knowledge of their rights and responsibilities and the implementation of their pedagogical methods and forms. But these methods and forms must be canonically grounded, that is, they must be invested in a constant measure of one or another religion, denomination. Each religion, each denomination has its own canons, which should be reflected in pedagogy. This is not a canon law, but a canonical science in pedagogy. This science justifies every pedagogical action, directs it to ontological requirements.

Cultural activity in canonical pedagogy begins with anthropology.

Natural science anthropology is the basis of pedagogy and educational work and must be philosophical, which in living connection with the whole philosophical problem explores the structure of man and his involvement in the formations and areas of being, to which it belongs. Anthropology should also answer the question of why various empirical sciences, natural and humanitarian anthropology, explore a person with completely different methods. The meaning and justification of this process should become clear from the affiliation of man to various spheres of being, which are designated by the names "nature" and "spirit" [2, p. 20]. However, the anthropology of canonical pedagogy explores human rights ontological methods. In fact, there is a theological anthropology which is the main in canonical pedagogy.

After all, philosophical anthropology is complemented by theological. This is explained by the fact that a person occupying a special place in space is a microcosm that unites all realms of the created world. Therefore, in anthropology, all metaphysical, philosophical, and theological issues coincide and hence roads lead in all directions [2, p. 21]. If we assume that the macro world has something right, then the micro-universe has a micro right in the microscope. That is, at the moment of creating a person, it received ontological rights that can be learned through anthropology. It is about carnal, spiritual and spiritual rights that are in harmony.

In the process of compulsory culturological activity, *the rights of body, soul and spirit* are expanding, and this extension must be harmonious

"The human body is created by God from the ashes of the earth, and therefore it belongs to the earth. By human`s bodily life, man isn`t different from other living beings (animals), and it is in the satisfaction of bodily needs. They are diverse, but in general they are reduced to the satisfaction of two basic instincts: the instinct of self-preservation and the instinct of the continuation of the genus. Both of these instincts are invested by the Creator in the carnal nature of any living creature with a well-understood purpose - so that this creature does not perish and do not disappear without a trace. To communicate with the outside world, a person is endowed with five sensory organs: sight, hearing, smell, taste and touch, without which it would be completely helpless in this world. All this apparatus of the human body was extremely complex and wisely built, and it would be a dead machine without motion, if there was no soul "[3, p. 70–71].

The existence of bodily human rights is necessary for the biological (first of all) life. The need for the human body dictates the corresponding rights. But the very need for manifestation of bodily rights does not contain boundaries. Human`s mind establishes the limits of body rights manifestation. Exceeding the boundaries of bodily rights leads to a violation of the natural biological laws of the body, causing illness or ending life on earth. That is, the right to food and life has a justified restriction, which forms not only medicine but also theology. In particular, overeating, excessive consumption of alcohol, etc., is a sin and requires a canonical and pedagogical upbringing. Similarly, one can justify the right to see (peer), to listen, to sniff (inhale drugs), to taste (to create a cult of food), to touch (to trick a person for bodily pleasure) and many other actions related to canonical and legal constraints.

The soul is given to man by God as a life-giving beginning, in order to control the body. In other words, the soul is the life force of man; its scientists call it a vital force. Animals also have soul, but it was raised with the earth along with body. If the soul of animals was created by God with words of the creation the living soul for animals of all kinds, then God created man's soul for man not by words, but by inhalation in the face. This is the "breath of life" and it is a higher beginning of man,

that is, the spirit, by which a human immodestly elevates over all other living creatures. Therefore, the human soul is in many respects similar to the animal soul, but in its higher part, it is incomparably greater than the soul of animals, precisely because of its combination with the spirit of God. The soul of man is like a connecting link between body and spirit, representing itself as a bridge from body to spirit. All movements of the soul are so diverse and complex, so interwoven with each other, so lightly changing and difficult to catch, which it is customary to divide them into three categories (views): thoughts, feelings, desires. Thoughts spread from the mind, the brain. The central organ of feelings is the heart. It is a measure of what is pleasant or unpleasant to a person. The heart is naturally regarded as the center of human life, a center that contains everything that enters the soul from the outside, from which all that is revealed by the soul within. Desires are governed by the will, which has no material organ in the body, and instruments for fulfilling its rules - muscles and nerves. The results of the activity of the human mind and the feelings born of the heart, make one or another pressure on freedom, and the body performs a certain action or movement [3, p. 71].

Mind, heart and will shape the human rights of the soul, which are natural and mutually controlled, are coordinated by these bodies, are directed to the human soul. The soul of man seems to receive an "order" from reason, heart and will for a concrete right to do so, and not otherwise. This right is expressed in the mind and feeling or desire that gives the soul satisfaction or dissatisfaction.

It becomes clear that the effects on the soul must be ontologically substantiated and provided by a person. Then the movements of the soul become canonical and positively affect the environment in the form of pedagogical guidance. In general, what the soul is filled with, and passes to another person. As a result, mental rights, in addition to being acquired independently, are transmitted from one person to another by canonically and pedagogically, which corresponds to the requirements of God`s occupation in the realm of human rights.

Above the body and soul or even a little higher, there is the spirit, which often acts as a judge and soul and body, and gives an assessment of everything from a

special high point of view "[3, p. 72]. "The word spirit in the Scriptures is used in various meanings: for example, in the sense of the wind, the flow of air - quiet or violent, sometimes in the sense of the breath, as the beginning of the lower, animal life. Sometimes this word refers to dullness spirits, gifted with reason, will, power and sometimes human souls and others "[4, p. 204].

The spirit in man is manifested in three forms: the fear of God, the conscience, the aspiration of God. "The fear of God is, of course, not a fear in our ordinary sense of this word: it is a reverent trembling before the greatness of God, inextricably linked with the unchanging faith in the truth of the existence of God, in the truth of the existence of God as our Creator, the Prophet, the Savior, and the Grantor . All people, at whatever stage of development they are, have faith in God. The second, as the spirit manifests itself, is a conscience. Conscience points to a man who pleases God and what is unworthy, what is needed and what can not be done. Not only indicates, but also prompts the person to perform the indicated, and for the performance rewards comforting, and for non-fulfillment punishes reproaches of conscience. Conscience is our internal judge, guardian of the law of God. People call conscience - "voice of God" in the human soul. The third manifestation of the spirit in man is the aspiration of God. Our spirit naturally is to seek God, strive for unity with God. Animals and our spirit can be satisfied by nothing. In our spirit, there is a desire for something higher than all the surrounded earthly life, for something perfect. Manifestations of the spirit are the guiding principle in the life of each person "[4, p. 72–73].

The right of the human spirit derives from divine breath, as the provision of the right to life in heaven. With such a right, a man is in own reverence and poses earthly concerns (temporary) to the background, and, armed with humility and with various unclear external influences, has the right to turn to the Force, which is the most powerful among all the forces. Having spiritual right, the right of faith, a person dogmatically feels safe, that is, reduces the degree of helplessness.

Every person has the right to seek spiritual joy and receives it in the presence of pure conscience. In various non-canonical deeds, a person has the right regardless of

own will to assess actions. Moreover, this can be done before the commission, at the time of commission and after the completion of the act. In any case, the right to spirit as a manifestation of conscience has a pedagogical force.

In all cases of life to give a certain type of rights, a person aspires to God, turns, "runs" to God. It is important that this desire is never too late. The human spirit must realize that delaying the time in asking God for the provision of canon law does not correspond to pedagogical expediency. Pedagogically justified is the right to aspire to God as soon as possible, since a person makes less illegal acts.

From the point of view of the fleshly, spiritual and spiritual rights of a person, we feel that canonical pedagogy is realized in anthropological harmony. Of course, this harmonious unity requires a natural hierarchy, in which the bodily right must be on the last step.

Periodization as a component of canonical pedagogy lies in the fact that every person needs canonical and pedagogical influence. But the degree of influence depends on various factors. One of them is age rating. Note that canonical and pedagogical influence is required by all sections of the population, but most of all it concerns children and youth. In particular, the relationship between the Church and schools of fundamental importance is important for the child.

«For a child from a Christian family, a meeting of a Church and life takes place at school, and there may not be a transformation of life in the spirit of faith. Since the Church in Ukraine is separated from the state, this means that it is separated from the school. In this situation, it is difficult for Church to influence the school spiritually. Separating the school from the Church takes away the possibility of spiritual freedom for a child, there is pressure on child`s spiritual experience, which he or she received earlier in the family, weakens and distorts it. Christianity itself opened the way to religious freedom. Christianity refers to the inner world of man and appreciates human life by its internal impulses that define its actions, which are not satisfied only with the implementation of the law, but require the sincerity of appealing to God and purity in the inner world. Only a free conversion with God has the value of Christianity. One of the main tasks of Christian education is to uncover and

consolidate the "gift of freedom" for a child» [5, p. 115]. In addition, it is necessary to educate the child in the ability to enjoy human rights, to understand the essence of their canonicality. After all, with a small number of rights you can create a lot, the main thing is to perform high-quality duties. Familiar pedagogy teaches these true truths, which is the source of canonical pedagogy.

The family starts up the foundations of children`s rights, which give the opportunity and help prepare the place for themselves in life, help become a good citizen. Moral upbringing in the family, Sunday pastoral studies, parenting instruction is a canonical school that prepares for a maturity exam in order to have rights and acquire life practices. A graduate of the canonical family school must acquire a good knowledge of the rights for bodily pleasures and at the same time realize that the excess of such rights harms not only physical but also spiritual health.

The personality of the canonical educators is a socially demanded people, that is, those who promote the acquisition of human rights throughout life. Such people include parents, family members, school educators, managers of professional qualifications and labor collectives, friends, pastors, etc.

In canonical pedagogy the role of parents is greatest. Children do not choose parents, but they take on the experience of life exercises both at the conscious and at the subconscious level. Therefore, public and state bodies should constantly take care of strengthening family pedagogy. After all, a person in paradise, has almost all rights, changes own nature, which led to a change of place of residence. This means that there are additional "guardians", "mentors" who have earthly power. This authority has a duty to influence parents so that their children learn well how to implement their rights in a real, ontological life. The same applies to family members, especially the elderly, who already have a wealth of experience.

The canonicality of family pedagogy practically never ends: even when a child is studying at a school, the child is in the labor force even when has own family. Family canonism accompanies a person constantly and "polishes" her rights. These are the responsibilities of society and the state.

A major role is assigned to presbyters who carry out education of the population in non-servicing activities, which is in fact the most canonical. The shepherds do not pay much attention to the acquisition of new rights. Their canonical pedagogy proceeds from the fact that God created a person with a good soul, in which existential rights are invested.These rights last for life, so no additional rights need to be asked. But one needs to ask God's grace to fulfill what was planned in the Industrial Estate in accordance to the natural enthusiasm, talents of each person. Man often neglects or underestimates what he has, can not manage intentions, desires, that is, the spirit. These desires are often separated from the mind and generate passion for carnal pleasures. Therefore, the role of canonical pedagogy becomes clear, which states that the soul can not dispose of its rights without the Holy Ghost without the Holy Spirit, and therefore cannot succeed.

Natural methodology, as the main component of canonical pedagogy, is often unnoticed in human life. All people who have a relationship with the upbringing enjoy the appropriate rights, but often without thinking, they try to find various innovations, "advanced" pedagogical technologies for the education of a worthy person, who will take a certain public "vacancy" to exercise their rights. These rights should benefit not individuals, but members of society, so they become canonical.

Canonical human rights derive from natural foundations and are a basic condition of human life. Therefore, the natural methodology is reflected in the subject of canonical pedagogy.

In our opinion, the subject of canonical pedagogy is the existential rights of person, reflected in soul, which is the source of gaining ontological (natural) rights. The greatest expression of the soul (along with feelings and desires) is the mind. "Understanding refers to the concentration of perception of thoughts and intentions, as well as the will decisions that precede human actions. The mind allows people to acquire a moral notion. It is in the presence of reason that a person is different from "foolish animals" and therefore can dominate them. That is, the mind is the spiritual essence of man, it gives a person the ability to seek answers to questions of being. The reason is a repository of human thoughts and plans. Mind and understanding are

received from God "[6, p. 991]. Therefore, the natural ontological mind has boundaries and is governed by human rights.

The task of canonical pedagogy is to investigate existential human rights, to highlight their naturalness, necessity and sufficiency, skillfully and creatively to implement them in everyday activities. With the emergence of additional powers provided by society and the state, people must always compare them with their existential rights, to feel their dignity in themselves. Therefore, realization is subject to only natural, existential, and not public-state, human rights.

Consequently, the general outline of canonical pedagogy covers its components and subject matter. The study of canonical pedagogy is actively involved in dogmatic theology and canon law.

5.2 Forms of human rights implementation in canonical pedagogy

The study of the implementation of human rights requires the coverage of such philosophical categories as obligation, commitment, responsibility. After all, natural rights are granted with certain conditions, which are given in accordance to specific guidelines. People must know why they need to implement own rights, which they will have on whether there is any natural obligation, whether responsibility arises for unfulfilled or poorly implemented rights, or leads to abuse of rights, etc. In canonical pedagogy, these issues are relevant because rights and duties are considered in unity in Gestalt. Obviously, there are no rights without obligation, so it is important to establish the nature of the duty, its sources and grounds, and from there to deduce natural, canonical rights.

«Duty is the internal instruction of a person to act in accordance to certain moral norms and values that exist in society; Such a positive value orientation, which can not be carried out without the element of self-imposed, volitional effort. Therefore, fulfillment of the obligation implies the existence choice freedom. The moral duty must be distinguished from the various social requirements - production, public, etc. In the history of ethics and morals, the interpretation of nature and origin of duty is one of the most difficult problems. At the same time, awareness of duty helps a person to bridge the gap between what is and what should be» [7, p. 442].

For canonical pedagogy, spiritual responsibility is valuable, hence the spiritual responsibility, spiritual sanctions follows.

We believe that spiritual duty is an ontological spiritual requirement for man, which is set forth in God's law.

God's Law includes the Ten Commandments of God (Sinai Law) and the Ten Commandments of Bliss (Mount Law). They outline the spiritual obligations of man, the motives for which it should be guided by the earthly life. Therefore, ontological responsibilities derive from ontological rights. These rights are granted to man in order to fulfill the commandments of God and the commandments of bliss. It's up to the man. This requires not only the will, the desire and the strength of the spirit, but the fear of God, the conscience for not fulfilling the Law of God.

Consequently, the realization of canonical human rights must be internally consistent with canonical obligations, which are the main requirement of any pedagogy. Therefore, under the implementation refers to "the transition from the supposed real, that is, from the assumption that an object that exists beyond thinking, the object in itself, opposes or can resist us - to our own knowledge of the real, that is, to the knowledge that it exists in itself , without opposition to the act of cognition. Realization, in other words, establishing that the prediction of thinking about reality relates to an object (the establishment of a real one) can be verified experimentally or through thinking.

Realizing something is to realize the reality of the fact. In practical terms, realization means the same thing as implementation: to implement a construction project, to implement a plan of travel, etc. "[7, p. 378]. We consider the realization of human rights in canonical pedagogy, where it is about the implementation of natural laws, God's Law, God's Craft in human life.

Human rights are subject to canonical norms that justify theology, theological philosophy. But in a secular sense, this is carried out by philosophy and natural science - physics, chemistry, biology, astronomy, etc. They experimentally establish that a person has the right to make changes in the world. These changes should be within acceptable limits. The established limit corresponds (to say the least) to the theological canon. This is evidenced by mathematics, which with the help of logical thinking reaches a certain limit, and then thinking is powerless, ineffective. However,

the above mentioned means that natural laws exist beyond thinking, but it must actually be accepted as a real existence, as is traditionally practiced in mathematics. In theology, acceptance for a real rational belief in God.

It is reasonable to base these considerations on the basis of definitions, where human rights are combined with responsibilities. In addition, they are subject to canonical pedagogy. That is, the rights and duties must be found in the canonical pedagogy that derives from God's Craft.

In our opinion, the realization of human rights in canonical pedagogy is a normative existential process of introducing human ontological capabilities into a deontological transcendental reality.

We proceed from the fact that the way of human existence is exercised through the duties and actions of its rights and God's planned normative life-process must be transformed into reality. The existential action of man is its natural right. That is, a person is planned to think, to show feelings, to desire (to want something), and so on. These are potential rights that can be realized as needed and not fully effective. For example, the right to desire something (usually material) is, in most cases, reduced to the sowing of God. But does a person always ask for what he or she really needs? These and other refinement factors are known only to God, who, without sowing a person, provides deserved material goods for the correct spiritual behavior. A persistent manifestation of the law, the desire for material will be annoying, and perhaps also an intolerable act. Violent realization of law can lead to unpleasant consequences, sanctions.

The existential action of man is natural duty. Duty is not a potential phenomenon, but a kinetic, effective, which must be realized in full force. Here normativity of an existential manifests itself not only in compulsory action, but also in the right one. To perform the duty, you must correctly exercise the rights. Conversely, in order to correctly implement the rights of a person in the future, one must skillfully, methodically correct and fully perform natural responsibilities. Without the performance of the duties entrusted to God by the duty of man, a person will not receive a canonical and pedagogical right to something else. That is, first, you must fulfill the condition, and then ask for the blessing, and not vice versa.

The carried out analysis is normative. However, let us emphasize that the normativity of existence on the right and duty exists constantly, although people are rarely thought about it. The right to existential manifestations are all living beings, but the man adds mind to these manifestations that is needed for control. True, in the higher metanthropological dimension - transcendental - there is another controller - conscience. Reason and conscience control the implementation of ontological human rights so that there is no surplus or abuse. Proper implementation of human rights contributes to the deontological transcendental reality.

Transcendental reality is a non-existent life. Body life provides an existential reality and simultaneously prepares a person for transcendental reality. These processes are deontological, that is, the implementation of ontological installations in the corporeal, and then in non-living life. It is known that God created man not for life on earth, but in heaven. On earth, a human was inadequately performing proper duties. This punishment does not deprive a person of the right to return to his previous place of residence. Canonical pedagogy helps to realize the human desires that take place in God's work. Speaking of ontological rights, we note that a person has such basic natural-supernatural groups of rights: the right to be a micro-universe, the right to have the image of God, the right to acquire the likeness of God. "The group of the rights of the microscale is determined by systems of natural laws. The six natural laws (for each creation of the world) and a separate system of ontological laws of peace "[8, p. 128]. The group of ontological rights of possession of the image of God are defined by the Ten Commandments of God, a group of ontological rights to the acquisition of the likeness of God - the Nine Commandments of bliss. In our opinion, the proposed God's norms in human life have a canonical and pedagogical interpretation, since they are based on education of all segments of the population. In addition, the adult population is obliged to independently implement God's rules in deontological activities.

The realization of human rights is most in need for such supernatural categories of man as: the microcosm, the image of God and the acquisition of the likeness of God. And each human category has its own peculiarities.

We know that realization (from the Latin - real, valid) is performed in four forms: **observance, execution, use, application.**

Observance of ontological human rights is a prerequisite for canonical pedagogy. A person must know canonical rights and properly exercise powers in life, to reconcile own rights with the rights of other people. The observance of rights means not directing them to narrow interests, but on an active, full life, which is canonically approved.

A person as a micro-universe has received the natural and supernatural laws created by the Creator every day: "light, space and time, vegetation, solar system, the development of the nature of the water and space, the development of the nature of the terrestrial space of peace" [8, p. 128]. These laws operate in the macro- and micro-universe. Only the micro-universe adheres to laws as a duty, and not just rights.

For example, you can observe the laws of the flora in different ways, despite their necessity and utility. "This refers to the natural connection of a person with plants, which give ontological principles of life: compliance with sanitary and botanical norms with the help of plants, norms of hydrating the human body, thermodynamic equilibrium, vitamin nutrition of human cells, etc. In general, following the laws of the plant world, a person restores body tissues, replenishes energy, maintains the vital functions of his organism "[8, p. 139-140]. Observance of a post means the transition to the consumption of food only of plant origin, which is primary, performs not only the purifying function of the organism, but also the function of strengthening the connection of the microscope with the macroset. It is clear that the need to adhere to the norms of development of the plant world is great, since it is the first living cells that give the right to a person to build a more complex spiritual and spiritual building with canonical and pedagogical approval.

A human, as an image of God, adheres to ontological human rights, and has certain responsibilities, in particular, that leads to a righteous life. First of all, it concerns the right to respect God's respect, true knowledge and conviction. A person has the right to adhere to the primacy of spirituality, disinterestedness, good thoughts, pure feelings in the heart, morality and human dignity, one source of spiritual power, good advice, etc. Owning ontological rights leads to respect for other people. Especially when it comes to vows, property, sense of sociability, etc. This right is directed at caution in dealing with other people for whom we must live. The right to

observe brotherly assistance expresses aspects of love for one's neighbor, and the prevention of defamation. That is, in the image of God there are all conditions for the observance of ontological human rights. This requires will.

In order to have the right to acquire the features of God's likeness, man must also adhere to the important precepts set forth in the Nine Commandments of Bliss. This applies, in particular, to those virtues that can lead a person to complete happiness.

If a person reaches happiness then only to a certain extent, which depends on the observance of spiritually healthy attitudes, new ways of moral life. Such observance follows from the observance of those vital principles that Jesus Christ demonstrated while on earth. This should be a feeling of thirst for compliance with the spiritual laws that bring man closer to God. Man has the right to adhere to the likeness of the Son of God, since this is the only example in the world of emotional movements and deeds that guard the values of the universe and lead to eternal life. Of course, ways of observing the principles of such actions, thoughts and feelings are full of difficulties. Overcoming the path to Heavenly Kingdom is the free choice of every person, but this must be preceded by a choice of spirit: material or immaterial. Observance of the principles of distinguishing itself from the influence of the material spirit gives the right to enter the spiritual path of happiness, bliss.

Performing ontological human rights plays an important role in canonical pedagogy. One thing is knowledge of these rights, and the other is in their performance. In the exercise of human rights, man is associated with asceticism, that is, the implementation of the authority given by God. In fact, we are dealing with the promotion of the Prostitution of God, His task, commission, order or plan, which underlies the canonical pedagogy.

An integral part of the universe, as well as the micro-universe, is an animal. On its example, let's look at the enforcement of rights. Deeply absorbed in the peculiar natural "pedagogy" of animals, their natural rights and an assessment of the quality of their implementation, we argue that the animal fulfills its rights as an ontological conscience, embodies the natural "entrusted" rights without fault. Therefore, a person builds "partnership" with animals in order to successfully fulfill their rights.

«Given various programs of instinctive behavior, unconditional and conditional reflexes, a large proportion of animals can perform a universal function that is connected with the life and everyday life of a person - domestication. The domestication of animals is carried out by a person for their own needs. After all, the human body and some species of animals are very close to each other, and animals affect the livelihoods of humans. In particular, the domestication of animals, which is not fully implemented, emphasizes the subconscious borrowing of the necessary rules of behavior and domestication of those norms that a person should not borrow, has no right» [8, p. 148]. In fact, the animal often completes the exercise of human rights, to which a person is treated with something cool. As a result, the animal induces and helps to fulfill a significant amount of human rights. Such a natural "pedagogy" has values for the micro-universe.

Being an image of God, a person has all the rights to fulfill the law (contract) between the Creator and the people. This is set forth in the Ten Commandments of God. Contracted action on the one hand is performed by God, and on the other - images of God. In the case of successful full implementation of the rights granted to man as an image of God, it will take (after earthly life) a worthy place in the Kingdom of Heaven. That is, a person must fulfill all ontological tasks, avoiding the temptations of evil power.

Every person has the right to consumer interests, to the gift of the word, to a certain talent (vocation), to all virtues, to grace of God, etc. The question arises: to how to fulfill these rights, so that compliance is consistent with canonical pedagogy. The method of canonical implementation of human rights stems from the Law of God. From each of its norms (the Commandments) there are specific permissions and prohibitions which according to the transaction must be performed.

It is worth saying that the implementation of permits is a human right which it will not overcome. For this reason, God created the canonical School - the Church, where methodological assistance is provided, in the form of church norms, church law. Church law teaches how to communicate with God, how to protect the image of God from unclean forces in ourselves. The physical teachers of the canonical School are presbyter (priests, bishops) who, on the writings of the apostles and holy fathers of the Church, give explanations on the exercise of human rights, in particular by the

faithful. Good advice on the exercise of rights is provided by charity activists, senior authoritative believers, theologians, scientific and pedagogical workers of theological seminaries, academies and universities. For students, these are teachers and especially teachers of Christian ethics.

The canonical and pedagogical provision of human rights on the way to the acquisition of the likeness of God is carried out in the Nine Commandments of Bliss. It is necessary to fulfill these given rights with such inspiration and enthusiasm that they can fill up all the supernatural legal space and approach as closely as possible the likeness of God. To do thiswe need the following conditions: *an understanding of absolute truth, liberation from spiritual ailments, the ability to ask, satisfaction with destiny, the feeling of lost paradise bliss, readiness to accept the spiritual heritage.*

Understanding of absolute truth in canonical pedagogy is performed by a person according to the rules of higher justice education. A person has the right to live not only according to the norms of the truth, but also to live as honestly as a man craves water. It must be a feeling of ontological need: the inhibition / restoration of this thirst must be perceived as absolute truth.

Exemption from spiritual ailments is carried out through hard work, sometimes unbearable process, torment for the sake of one - the return of spirit to the ontological state by true repentance. Spiritual ailments are sins that torture a person, because he or she knows what harm sins bring to God's likeness. If we compare the notion that man has sins and wants to acquire the likeness of God, then it becomes clear the degree of repentance and its insignificance.

The ability to ask God, leaders and people is a great ontological art. People tend to ask material wealth, positions, improvement of living conditions, physical health, etc. However, people rarely ask for reason, wisdom, ability, patience, and generally the acquisition of virtues, spiritual health, to fulfill what man has the right to do. Sometimes it happens that a person has already exhausted oneself physically and asks for physical strength. But a person cannot be exhausted spiritually; then you need to ask for spiritual power that will contribute to the fulfillment of physical possibilities. In other words, the fulfillment of the role of the plaintiff must have a canonical and pedagogical argumentation.

Satisfaction of destiny must capture mankind constantly. Thinking, caring for lucrative living options, trying to achieve a material position in life, and other factors are a sin and have nothing to do with the exercise of the rights granted. Even when there are difficulties in life, one must still be content with own destiny, because it is a trial or a punishment for mistakes. If demolish it patiently and make the right conclusions and not demand more, then the fate will become ontologically grounded and fair.

The feeling of lost paradise bliss performs at least a twofold canonical and pedagogical function: it is a pity for the sins and an attempt not to make them any more. The man first lived in paradise and was blissful фтв happy. Now it is possible to imagine what the violation of the norms of natural and supernatural law leads to the hard work, sometimes unbearable domestic and professional inconveniences and the rejection of new sins. Under the sign there is the question of getting back to paradise. It must be merited to be an action of acquiring the likeness of God.

The readiness of the adoption of a spiritual heritage is formed during the earthly life, the fulfillment of all that a person is entitled to, but under the control of canonical pedagogy leads to the kingdom of heaven, which is promised by God for a righteous life on earth. It is necessary to raise a rhetorical question about the readiness of living in paradise and to make positive conclusions in case of unreadiness. It is clear that the spiritual inheritance will be inherited by people who have acquired the maximum likeness of God, fulfilled all the ontological conditions of life on earth

The use of ontological human rights is not the same due to objective and subjective reasons. Objective reasons lie in the fact that God distributes rights in accordance to the degree of development of reason. For each person there is a certain natural set of rights. The attempt of a person to enter a wider field of rights is a sin, a violation of the norms of natural and supernatural law. Therefore, you only need to use the rights granted, but to the fullest extent. Subjective reasons are also at least two: outsiders and the personal ones. The outsider reasons include various human rights constraints. These may be service functions, marital and family ties, family and other features, court decisions, etc. The personal reasons lie in the person who tries to spend own rights not for purpose, due to excessive curiosity, for criminal purpose or

independently restricts his rights due to laziness. Human interference in the expansion and narrowing of their rights is also a sin.

We emphasize that the use of human rights is related to their use not only for the benefit of themselves for personal gain or for their own benefit, but for others. Love to neighbor is imperative: you need to worry, live for this neighbor, using all the rights granted.

A person (as a microcosm) has a degree of perfection, gifted with the corresponding high natural talent, which should be used in space and time

«The spatial-temporal attraction of man to good is ontologically connected with the mass of sensual-intellectual achievements. The results of natural-legal education and knowledge of the laws of the universe are concentrated in the feelings and mind of man, become like a semi-product for solving spiritual problems. Actually, it is about spiritual tasks, not accumulation of material goods and pleasures. The mass of natural feelings and knowledge proves that a person can be rich without property. But there are problems in establishing the necessary moral and spiritual boundaries for themselves and observing them. In particular, this relates to the love of the earthly; humbledrive as the goal of obtaining its good deeds, the limits of kindness to the person who does evil, to restrain himself in constant obedience (restriction in space and time), the restraint of the wings of the mind with the ways of humility. In accordance to the laws of inertia, a person lives in the spiritual world naturally and legitimately as long as this spiritual life does not interfere with the forces of the material world - material worries, life problems, etc. The natural tendency to good, the creation of good without waiting for rewards now, the right-spiritual and hereditary features and other factors make it possible to keep people's actions, thoughts and feelings in their natural state by inertia, showing indifference to the surrounding reality.» [8, p. 134–136].

The microcosm must be full of spirit and soul. Using ontological kindness, people distribute the energy that is lacking to the whole universe. In other words, if one person has committed an evil that has a negative place in the world, then the second person has the right to replace that negative place with good. This is carried out in accordance to the laws of space and time.

A person has the right to worry that he or she is rewarded with the image of God. This concern is emphasized by the continued use of the norms of Sinai legislation. Imperative norms The Ten Commandments of God require serious prevention. In order not to allow sin, a person uses the right to acquire God's rice, behavior, character, etc., to emphasize their affairs (in particular thoughts and feelings). Insufficient use of God's law does not form existential good, which subsequently becomes existential evil

God's likeness is attained to the maximum amount of bliss. A person, usually uses higher heaven to reward for life in small doses. But if a person uses the maximum amount of bliss, it acquires the value of the land itself, which is necessary to prevent the spoilage of meat products. According to the rules of supernatural law, a person with a high degree of likeness of God prevents other people from slipping into the position of evil.

The application of ontological human rights is connected with the embodiment of the whole creative life in practical life. After all, the existence of natural rights requires the embodiment of life: the microcosmos functions in the macrocosm, it is obviously possible to investigate in the effects of the laws of the solar system.

«Natural law contains the secrets of heavenly phenomena, despite the fact that the universe has unified laws regarding the earth and the sky. These great mysteries of the sky give rise to the mystery of human life: everything is available in space, maps of the starry sky as heavenly coordinates are directed to the human mind, which thus generates anthropology of law. Thanks to the solar system, information is transmitted by cells of the human body. Under the influence of ionizing radiation, ultraviolet waves there are various changes (mutations)» [8, p. 143]. That is, the laws of the solar system contribute, as if helping to apply natural human rights to life. The same can be said about other systems of natural laws that are created by God every day of the creation of the world. These laws formulate canonical pedagogy, which also justifies human rights.

The image of God with the corresponding rights is a qualitative copy of the rights given by God. Only the application of these rights in practice requires a special instruction contained in canonical pedagogy, beginning with the Ten Commandments of God. "The purpose of the Old Testament is to unite God with people from whom a

new nation is created, intended to fulfill the will of God" [9, p. 34]. These are, in particular, the application of the unity of the rights of the image of God to the right of God in the micro-interpretation on an appropriate scale. This is a peculiar application rate, which is much smaller than unit, but qualitatively affects the harmony of the world.

The application of ontological human rights leads to the likeness of God. The canonical effect of such an application is described in the Nine Commandments of Bliss. In particular, "the transgression of the commandments is the falsity of the value hierarchy enshrined in society. God gives preference to people who are doomed to public opinion by neglect and rejection. Carrying on the image of God requires courage to confront the stereotypes imposed by the world.

Blessed people, that is, all the people gifted with good (all that a person needs in life that corresponds to desires and dreams, determines the positive side of life, opposes evil), Christ calls those who decide to adhere to healthy living grounds, challenging public opinion. At the same time, he willingly enjoys the reception of the paradox, the intentional combination of seemingly contradictory concepts "[9, p. 66].

God's likeness requires man to apply the holistic laws of God without neglecting certain norms and without any distortions, heresies. At the same time, the results of this implementation need not necessarily be obvious. For the most part, in the material world, there will be certain suffering that needs to be duly paid, and in the spiritual world, deserved good.

Consequently, the forms of human rights realization in canonical pedagogy - observance, execution, use, application - should be considered for certain natural and supernatural categories of a person. For this purpose, an analysis of such application from the standpoint of a person as a microcosm, image and likeness of God is effective.

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