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THE WAYS AND EXTENT OF CORRELATION BETWEEN HUMAN RIGHTS AND THE RIGHTS OF THE NATION

Abstract. Purpose. The purpose of the article is to analyse systematically the correlation between human rights and the rights of the nation, in particular, their legal content, limits and possibilities of reconciliation in the context of modern global and national challenges. **Results.** The article studies the correlation between human rights and rights of the nation in modern legal science and international legal order. The historical evolution of these concepts is examined, in particular, the development of human rights in the liberal tradition and the formation of the rights of the nation in the context of national sovereignty. The impact of globalisation processes, national liberation movements and international intervention on the exercise of these rights is analysed. It is proved that the absolute priority of human rights can lead to the devaluation of national identity, while the dominance of the rights of the nation can create risks for the rights of minorities. It is established that in the modern world it is necessary to find a balance between individual and collective rights. **Conclusions.** It is concluded that democratic States use different models of reconciliation of these rights, including federalism, which works effectively in Canada and Switzerland. However, it is shown that federalism cannot be mechanically transferred to Ukrainian realities due to the risks of territorial fragmentation and destabilisation. Given the unitarian nature of Ukraine's state structure, it is proposed to improve decentralisation as the best way to reconcile human rights and the rights of the nation. The role of international mechanisms, such as the ECHR and the Framework Convention for the Protection of National Minorities, in resolving possible conflicts between these rights is outlined. The risks of excessive autonomy of territories that can be used as instruments of external influence are considered. The author proposes measures to strengthen the institutional protection of national sovereignty and citizens' rights in Ukraine. The need to develop political and legal mechanisms considering both the principle of equality of citizens and guarantees of cultural and linguistic identity is proved. It is emphasised that the legal practice of developed democratic states demonstrates effective ways to reconcile these rights, but their implementation in Ukraine requires due regard for historical, political and security factors.

Key words: human right, right of the nation, people, nation, personality, rights and freedoms, identity.

1. Introduction

Correlation between human rights and the rights of the nation is one of the key theoretical and practical issues of modern legal science. On the one hand, human rights are recognised as universal and natural, which guarantees their inviolability regardless of territory, citizenship or nationality. On the other hand, the rights of the nation, which include the right to self-determination, preservation of cultural identity, language and state sovereignty, are important for the functioning of national communities and the building of a democratic state. In the current context of globalisation, regional conflicts and changes in the international legal order, the problem of balancing these rights is increasingly relevant.

The delineation and interaction of human rights and the rights of the nation have both legal and socio-political dimensions. The problem is exacerbated in the context of national liberation movements, ethnic conflicts, multiculturalism and integration processes in international law. Individual nation-states seek to strengthen their sovereignty and cultural identity, which can sometimes lead to restrictions on the rights of certain groups or minorities. In addition, international human rights practices may conflict with national legislation, creating tension between the principles of state sovereignty and international human rights standards.

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of certain groups or minorities. In addition, international human rights practices may conflict with national legislation, creating tension between the principles of state sovereignty and international human rights standards.

In view of the above, this study is of scientific relevance in the context of the need for a systematic analysis of the relationship between human rights and the rights of the nation in the context of modern challenges, in particular in the context of international law, European integration and national self-determination. Moreover, the study allows for a deeper understanding of the legal mechanisms that contribute to the harmonisation of these categories and the development of theoretical and legal foundations for the further development of national legislation and international law-making.

The problem of correlation between human rights and the rights of the nation is quite popular in modern legal science. The fundamental aspects of human rights and their legal support have been studied by P. Rabinovych. He was one of the first Ukrainian scholars to develop a terminological apparatus for analysing this phenomenon. Similarly, N. Onishchenko and V. Horbal studied the problem of harmonisation of human rights and the rights of the nation in the context of the rule of law, considering possible conflicts and ways to overcome them. The work by T. Popovych and A. Shavarin highlights the concept of the fourth generation of human rights, which includes bioethical, digital and environmental rights, and raises the question of their role in modern society.

Naturally, the problem of correlation between human rights and the rights of the nation has become widespread among foreign scholars. In this context, the scientific works by M. Budrzhes, R. Wats, S. Marks and others are worthy of attention.

In general, the developed theoretical framework enables to cover a wide range of issues - from the theoretical foundations of the relationship between human rights and the rights of the nation to their practical implementation in constitutional and international legal mechanisms. Ukrainian and foreign studies show that it is necessary to find a balance between individual and collective rights, especially in the context of modern globalisation challenges and political transformations.

The purpose of the article is to analyse systematically the correlation between human rights and the rights of the nation, in particular, their legal content, limits and possibilities of reconciliation in the context of modern global and national challenges. The study is aimed at identifying ways to harmonise individual

rights and collective national interests, defining legal mechanisms for their coexistence and formulating theoretical and legal approaches to ensuring a balance between them in the context of the rule of law and international legal order.

2. The problem of correlation between the concepts of human rights and the right of the nation

The issue of correlation between human rights and the rights of the nation is one of the most important in modern legal science and international legal order. Human rights, as a universal category, are aimed at protecting individuals from any form of discrimination, ensuring dignity and freedom. In addition, the rights of the nation include aspects such as the right to self-determination, preservation of cultural identity, language, traditions and territorial integrity of the State. In the modern world, especially in the context of globalisation, national liberation movements and conflicts, the issue of reconciling these rights is increasingly relevant.

We consider it appropriate to specify the content of the concepts of human rights and the rights of the nation. Human rights have historically developed in the liberal tradition, starting with the legal acts of modern times, such as the Bill of Rights in the United States (1791) and the Declaration of the Rights of Man and of the Citizen (1789) in France. The universality of human rights was enshrined in the Universal Declaration of Human Rights of 1948 and a number of other international acts (Riaboshapchenko, 2021).

Human rights are universal rights inherent to all people regardless of race, gender, nationality, ethnicity, language, religion or any other status. They include the right to life, liberty, security of person, freedom from slavery and torture, freedom of thought and expression, and the right to work and education. These rights are inalienable and inviolable, meaning that they cannot be taken away or restricted without legal grounds. They provide protection against serious political, legal and social abuses (Marks Stephen, 2016). Human rights are moral principles or norms that set standards of human behaviour and are regularly protected by national and international law. They arise from human dignity and equality, defining the basic norms necessary for a life enjoyed with dignity. Human rights are universal, meaning that they apply to all people, regardless of their individual characteristics. They are the natural and inviolable ability of a person to act in accordance with his or her conscious will, to do anything that is not prohibited by law and does not harm others. Human rights include civil and political rights, such as freedom of speech and the right to a fair trial, as well as economic,

social and cultural rights, such as the right to education and healthcare (Rabinovych, 2015). They are the basis for ensuring freedom, justice and peace in the world.

Furthermore, the concept of the rights of a nation is based on the idea of national sovereignty, which was developed after the Peace of Westphalia (1648) and enshrined in the founding documents of the United Nations, in particular the UN Charter (1945), which contains the principle of equality of peoples and their right to self-determination.

In his speeches in 1999, UN Secretary-General Kofi Annan emphasised that human rights take precedence over state sovereignty (Horban, 2018). However, critics of this concept argue that contemporary international politics increasingly takes on the character of an 'interventionist human rights policy' that restricts the right of peoples to self-determination. A review of the history of political thought reveals two extreme positions on this issue: individualistic liberalism, characteristic of the Anglo-American legal system, and the collectivist model that developed in the French tradition. In the modern world, this balance is tilted in favour of human rights, which sometimes leads to excessive centralisation of power and increased bureaucracy.

Therefore, human rights are by their nature universal and individual, while the rights of the nation involve the protection of collective interests, including the right to self-determination, cultural identity and political autonomy. In the historical context, the concept of human rights developed mainly on the basis of liberal individualism, while the rights of the nation emerged as a reaction to imperial domination and colonial expansion. The main problem is that the dominance of collective rights over individual rights can lead to nationalism and discrimination against minorities, while the absolute priority of human rights can ignore the needs of national communities to preserve their identity.

One important aspect of this problem is the historical interaction of the concept of human rights with colonial policies, where the ideology of protecting individual rights was often used as a justification for interfering in the internal affairs of other states. Double standards in international law, when human rights are applied selectively, call into question the equality of peoples and contradict the principles of international justice (Popovych, Shavaryn, 2019). In modern democratic societies, it is necessary to consider not only the legal aspect of human rights, but also their interaction with the cultural, social and political heritage of individual nations.

In international law, human rights and the rights of the nation interact in several ways (in the context of our study, we consider the concept of nation to be identical to the concept of the right of the people of the State - author's note). First, the right of nations to self-determination is a collective right that can affect the realisation of individual human rights. Second, the realisation of the rights of a nation, for example, through the formation of an ethnic state, may cause conflicts with the principles of non-discrimination and minority rights (Rabinovych, 1992). Third, human rights guarantees often become the basis for international intervention in the internal affairs of states, which may conflict with the principle of state sovereignty.

The modern world faces a number of challenges in finding a balance between these two categories of rights. First, globalisation and international integration processes are expanding the requirements for universal human rights protection, which may be opposed by nation states seeking to preserve their identity. Second, migration processes and demographic changes necessitate addressing the rights of national minorities in states where they constitute a significant part of the population. This issue is particularly relevant for Europe, where the policy of multiculturalism is in conflict with traditional national models of statehood.

Third, the issue of the balance between human rights and the rights of the nation is acutely manifested in the context of national liberation movements and armed conflicts. On the one hand, the right of nations to self-determination is a recognised international norm, but its implementation may contradict the principle of territorial integrity of states. Examples include the conflicts in Catalonia, Kosovo or the Middle East, where national movements face resistance from state structures that invoke sovereignty and constitutional order.

3. Ways to address the problem of correlation between human rights and the rights of the nation

Ukraine can also serve as an example of a country that simultaneously protects human rights and the rights of the nation. In the context of the Russian aggression, the issue of national sovereignty and territorial integrity is directly linked to the rights of citizens to security, freedom and political self-determination. At the same time, it is important to respect the rights of national minorities, which is the duty of a democratic state.

The problem of the relationship between human rights and the rights of the nation can be resolved through the system of international and national regulatory frameworks. First, it is

important to apply the rule of law, which provides for the protection of both individual rights and the rights of national communities (Savchyn, 2015). In democratic states, human rights and the rights of the nation are exercised through the mechanisms of constitutional law, which enshrines equality of citizens, guarantees of cultural and linguistic identity, principles of decentralisation and participation in political life.

Second, international law offers mechanisms for the legal protection of human and national rights through the European Court of Human Rights (ECHR), the UN, the Council of Europe and other institutions. For example, the Framework Convention for the Protection of National Minorities (1995) sets standards for ensuring the rights of national communities within States (Framework Convention for the Protection of National Minorities, 1995).

Third, the legal practice of developed democracies demonstrates effective ways to reconcile these rights. Federalism models (e.g., in Switzerland and Canada) allow for a combination of human rights and collective rights of nations without threatening national unity. In the case of Canada and Switzerland, such a compromise between human rights and collective rights of nations was made possible due to the specific historical background, political culture and legal tradition of these states. Switzerland, for example, is a confederal state, where each canton has considerable autonomy with issues of linguistic, cultural and religious identity regulated at the local level (Watts, 2008). This has been made possible by a long historical process and the stability of state institutions that guarantee the equality of all citizens, regardless of their ethnicity or language. Similarly, in Canada, bilingualism and provincial autonomous rights are the result of a constitutional compromise between the English- and French-speaking populations, based on a deep legal tradition of constitutional federalism (Burgess, 2006).

However, this model is not universal and cannot be mechanically transferred to the Ukrainian context. First, Ukraine has a unitary state structure, which is a guarantee of its territorial integrity and political stability. The introduction of a federal model in Ukraine could lead to fragmentation of the state, strengthening of separatist movements and erosion of national unity, which has already been observed in the context of attempts by external forces to undermine the situation in certain regions (Savchyn, 2015).

Second, Ukraine's historical experience shows the danger of excessive autonomy of territories, which has often been used to undermine state sovereignty. The experience of autonomous units, such as the Autonomous Republic of Crimea, has demonstrated significant risks to national security, since such formations can become instruments of external influence. Unlike Canada or Switzerland, where federalism is the result

of centuries of evolution, Ukraine lacks a tradition of stable federalist governance, which poses a threat of destabilising the political system if it is introduced.

Third, in the context of the aggression that Ukraine is experiencing, any attempts to strengthen regional autonomy could be used to legitimise separatist movements and external intervention. Ukraine still faces the problem of informational influence from states seeking to undermine its sovereignty, while federalism can create additional mechanisms for institutional weakening of state unity.

Fourth, Ukraine's current political culture does not yet have a sufficient level of political responsibility and institutional maturity for the effective functioning of a federalist system. In countries where federalism works well, there are stable democratic institutions that ensure a balance between central and regional authorities, while in Ukraine, the political elite at the regional level often uses power for corporate or oligarchic interests, which can lead to corrupt decentralisation.

In view of these factors, the federal model is not suitable for Ukraine, as it not only fails to guarantee effective reconciliation of human rights and collective rights of nations, but also poses a threat to national security, territorial integrity and political stability (Onishchenko, 2013). A more appropriate way would be to improve the existing model of a unitary decentralised state, which would ensure a balanced combination of human rights and the rights of nations without risking statehood.

4. Conclusions

Consequently, correlation between human rights and the rights of the nation is a complex but important issue of modern legal science. While individual rights cannot be exercised outside the context of national sovereignty and self-determination, the rights of the nation cannot ignore fundamental human rights. The best solution is to balance these two categories of rights through international legal mechanisms, constitutional recognition of equality of citizens and the creation of political models that guarantee both individual and collective rights.

In the context of current global challenges, such as migration processes, national liberation movements and conflicts, it is necessary to improve legal mechanisms to ensure the equal coexistence of these rights. Ukraine's experience of fighting for independence and preserving its cultural identity is a vivid example of how the rights of a nation can be integrated into the general human rights system without contradicting democratic standards and international law.

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СПОСОБИ І СТУПІНЬ СПІВВІДНОШЕННЯ ПРАВА ЛЮДИНИ І ПРАВА НАЦІЇ

Abstract. Purpose. Метою статті є системний аналіз співвідношення прав людини і прав нації, зокрема їхнього правового змісту, меж і можливостей узгодження в умовах сучасних глобальних і національних викликів. **Results.** У статті досліджується співвідношення прав людини та прав нації в сучасній правовій науці та міжнародному правопорядку. Розглянуто історичну еволюцію цих концепцій, зокрема розвиток прав людини у ліберальній традиції та формування прав нації в контексті національного суверенітету. Проаналізовано вплив глобалізаційних процесів, національно-визвольних рухів і міжнародного втручання на реалізацію цих прав. Доведено, що абсолютний пріоритет прав людини може призвести до знецінення національної ідентичності, тоді як домінування прав нації може створити ризики для прав меншин. Встановлено, що в умовах сучасного світу необхідно знайти баланс між індивідуальними та колективними правами. **Conclusions.** Зроблено висновок, що демократичні держави застосовують різні моделі узгодження цих прав, зокрема федералізм, який ефективно працює в Канаді та Швейцарії. Однак показано, що федералізм не може бути механічно перенесений в українські реалії через ризики територіальної фрагментації та дестабілізації. З огляду на унітарний характер державного устрою України запропоновано вдосконалення децентралізації як оптимального шляху узгодження прав людини та прав нації. Окреслено роль міжнародних механізмів, таких як ЄСПЛ і Рамкова конвенція про захист національних меншин, у вирішенні можливих колізій між цими правами. Розглянуто ризики надмірної автономізації територій, що можуть бути використані як інструменти зовнішнього впливу. Запропоновано заходи щодо посилення інституційного захисту національного суверенітету та прав громадян в Україні. Обґрунтовано необхідність формування політичних і правових механізмів, що враховують як принцип рівності громадян, так і гарантії культурної та мовної ідентичності. Підкреслено, що правова практика розвинутих демократичних держав демонструє ефективні способи узгодження цих прав, однак їхнє впровадження в Україні потребує врахування історичних, політичних та безпекових чинників.

Ключові слова: право людини, право нації, народ, нація, особистість, права і свободи, ідентичність.