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PHILOSOPHICAL AND LEGAL JUSTIFICATION OF THE IMPLEMENTATION OF HUMAN RIGHTS AND FREEDOMS

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The article presents a philosophical and legal analysis of the problem of the implementation of human rights and freedoms in the conditions of the modern legal order. The starting point of the study is the proposition that human rights are not only legal constructs, but primarily moral and anthropological categories that must have a real embodiment in legal practice. The key to understanding the implementation of rights and freedoms is not only their formal consolidation in legal acts, but also the provision of institutional, social and cultural conditions for their practical implementation.

The paper analyzes the historical and philosophical development of the idea of human rights – from ancient ideas about natural law to modern concepts, such as John Rawls’ theory of justice and Jorgen’s communicative theory of law. Hagerman Special attention is paid to understanding the dualism of natural and positive law. It is emphasized that the effective implementation of rights is possible only under the conditions of their moral legitimation and the integration of moral values into positive law.

The role of key institutions of the rule of law – the judiciary, government bodies, civil society and international organizations – in guaranteeing and protecting human rights is revealed. It is noted that independent justice, citizen participation in democratic processes, adherence to the rule of law and implementation of international standards are necessary prerequisites for overcoming the declarative nature of rights.

A separate part of the study is devoted to the philosophical criticism of the declarative nature of rights and freedoms, which is manifested in the gap between formal norms and real social practice. The author emphasizes that such declarativeness is a consequence of neglect of the dignity of the person, as well as the absence of real mechanisms for implementing legal guarantees. In this context, the restoration of the connection between law and morality, which is based on the principles of autonomy, equality and justice, is proposed.

The article also examines current challenges facing the realization of rights: war, digital control, global social inequality. These phenomena not only limit individual rights, but also change the very structure of legal consciousness. The author insists on the need to expand philosophical and legal approaches to the analysis of these new challenges, in particular by rethinking the concepts of privacy, security, and responsibility in the digital age.

Special emphasis is placed on the concepts of dignity and legal personality as fundamental conditions for the realization of rights. It is argued that it is the recognition of a person as a bearer of dignity and autonomy that creates the basis for the formation of an effective system of legal protection. In this sense, human rights should be considered not as abstract formulas, but as a means of ensuring the real participation of a person in social and political life.

In conclusion, the article proves that the philosophical and legal justification of the implementation of human rights and freedoms is a multidimensional process that encompasses both legal and moral, social and cultural aspects. Such an approach allows not only to comprehend the essence of human rights, but also to formulate practical recommendations for their effective implementation in the conditions of a modern legal state.

Keywords: human rights, philosophy of law, rule of law, dignity, legal personality, normativity, justice, positive law, natural law, realization of rights.

Formulation of the problem. In the modern world, marked by global challenges, the problem of the implementation of human rights and freedoms is taking on a new meaning. The formal presence of legal declarations increasingly contrasts with the practice of their non-observance. In this regard, the question arises: is the legal form sufficient to ensure the dignity and autonomy of the individual? Does positive law not lose its legitimacy when it does not meet the moral criteria of justice? The search for answers to these questions requires an appeal to the philosophical and legal understanding of rights and freedoms – as values that require justification at the level of reason, morality, and social context.

Analysis of the study of the problem. The work analyzes the historical and philosophical development of the idea of human rights – from ancient ideas about natural law to modern concepts, such as John Rawls's theory of justice and Jürgen Habermas's communicative theory of law. Special attention is paid to understanding the dualism of natural and positive law. It is emphasized that the effective implementation of rights is possible only under the conditions of their moral legitimation and the integration of moral values into positive law.

The purpose of the article. The purpose of the article is to philosophically substantiate the conditions under which the realization of human rights and freedoms acquires not only legal validity, but also moral legitimacy. This involves an analysis of the legal status of the individual, the relationship between natural and positive law, an assessment of institutional mechanisms for the protection of rights, and a study of the normative significance of the categories of dignity, justice, and freedom.

Presenting main material. Philosophy of law is a fundamental discipline that studies the nature of law, its origin, structure, functions and place in the system of social relations. In the context of the problem of the implementation of human rights and freedoms, it acts as a methodological basis for understanding legal norms not only as formal prescriptions, but as values rooted in the moral and ethical foundations of human existence. Philosophy of law is called upon to understand the meaning of law in its integrity and at the same time the effectiveness of the influence of law on man and his development [1, p. 8].

One of the key problems of the philosophy of law is the interaction of natural and positive law. Natural law, formulated in the works of thinkers of antiquity and modern times (G. Grotius, J. Locke, I. Kant), is based on the assumption that human rights are inalienable and universal, inherent in human nature and reason. In contrast, positive law is defined as a set of norms adopted by the state, which have legal force and ensure order in society.

The realization of human rights and freedoms cannot be limited to declarations in regulatory acts. It involves the practical implementation of these rights in everyday life, which requires the existence of effective institutional mechanisms – independent courts, democratic procedures, active participation of civil

society. At the same time, the moral legitimation of law, based on the principles of justice, respect for the dignity of the individual, and equality, is important.

The philosophical approach to understanding the implementation of rights makes it possible to identify dissonances between the formal legal norm and real practice, to reveal the deep causes of their violation, among which political, socio-cultural, economic factors can be distinguished. Analyzing the concepts of J. Rawls, J. Habermas and other modern theorists, we can talk about the need for a “communicative” dimension of law, when legal norms are created and applied in the space of rational dialogue between subjects.

Given this, the philosophical and legal justification for the implementation of human rights is complex in nature – combining ontological, normative and social dimensions. Only in this way can conditions be created for real freedom and the protection of rights that go beyond declarativeness.

The idea of human rights has deep historical roots, dating back to ancient times. The writings of Aristotle and Cicero outlined the first concepts of natural law, which recognized the existence of universal moral norms inherent in man as a rational being. These ideas were transformed in the Middle Ages under the influence of Christian theology, in particular in the writings of Thomas Aquinas, who integrated natural law with divine will, defining justice as “the constant intention of giving to each his due”.

The idea of human rights is fundamental to the development of European and world civilization. Its influence on the development not only of law, but also of morality, religion, the foundations of civil society, and politics cannot be overestimated. The idea of “natural”, “sacred” human rights and freedoms in one cultural form or another permeates the entire history of Europe from antiquity to the present day [5].

Recently, arguments have appeared in the justification of the idea of rights that originate from the idea of human identity. A person as a person has the right to an original and identical existence. In addition to personal identity, one can talk about cultural, social, religious, political identity, etc [6].

Modern times brought with them radical changes in the understanding of human rights. The Age of Enlightenment was a period of secularization of legal thought and the formation of the concept of individual rights. John Locke, in his treatise “Two Treatises of Government”, emphasized that a person has natural rights to life, liberty, and property, which the state must protect. These ideas became the theoretical basis for the formation of modern democratic constitutions.

Immanuel Kant proposed an approach that deduces rights from the category of autonomous human dignity, based on the principle of respect for the individual as an end in himself. He emphasized that freedom is not only the absence of external coercion, but also the ability to act in accordance with reasonable moral laws that each person establishes for himself.

In the 20th century, the idea of human rights expanded significantly on a global scale, which was reflected in international documents – the UN Universal Declaration of Human Rights, the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, and other acts. At the same time, a philosophical discourse on the limits and conditions of the realization of rights was intensified, in which John Rawls with his theory of justice as fairness and Jurgen Habermas with the concept of communicative rationality.

These theoretical constructs imply the idea that law should be not only a formal set of norms, but also the result of an agreed social consensus that ensures moral legitimacy and real protection of human rights. One of the central themes of the philosophy of law is the relationship between natural and positive law. This dualism defines two main planes in which human rights acquire their meaning and effectiveness.

Natural law, as noted, is based on the idea that certain rights are inalienable, immutable, and inherent in man by nature. It transcends the boundaries of a specific legal system and is universal, as it is based on universal human moral principles. This approach was developed in the works of thinkers of antiquity, the New Age, and modernity, especially in the light of humanistic values.

At the same time, positive law is a normative system established by the state and regulating social relations. It is characterized by formal certainty, codification and mechanisms of coercion that ensure its

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implementation. Positive law creates a legal framework for the implementation of rights and freedoms, defining specific procedures and guarantees.

However, there is a tension between these two approaches, which is manifested in the fact that not all norms of positive law correspond to the principles of natural law and therefore may violate the fundamental rights of the individual. This gap is especially noticeable in cases of authoritarian regimes, where the formal legal system is used to legitimize repression.

Philosophical analysis of this dualism allows us to focus on the need to integrate natural law principles into positive law, which is the key to the true realization of human rights. John Rawls, in his theory of justice, emphasizes that law should provide the conditions under which each person has the opportunity to realize his freedom and equality.

Thus, the philosophical and legal justification of the implementation of human rights and freedoms involves not only the development of a regulatory framework, but also ensuring its moral legitimacy and effectiveness through institutional mechanisms.

The realization of human rights and freedoms in a state governed by the rule of law is impossible without developed institutions that ensure effective protection of these rights and control over compliance with the rule of law. The concept of a state governed by the rule of law includes such components as the rule of law, the separation of powers, the independence of the judiciary, and citizen participation in decision-making.

First of all, an independent judiciary acts as a guarantor of the protection of individual rights. It is called upon not only to apply the norms of positive law, but also to ensure their compliance with the fundamental rights arising from natural law. The practice of constitutional proceedings in various countries demonstrates that it is through the courts that the balance between power and freedom, the protection of the minority from the pressure of the majority, and the protection of human rights in difficult socio-political situations take place.

Democratic procedures, including elections, referendums, and the activities of civil society organizations, are another important tool for the realization of rights and freedoms. Active participation of citizens in the political process contributes to the formation of public consensus, increases the legitimacy of norms, and reduces the risk of their violation.

Equally important is the role of international organizations and mechanisms that promote the protection of human rights beyond national jurisdictions. Examples include the European Court of Human Rights, the International Criminal Court, and the UN Human Rights Committee, which provide an additional layer of oversight and encourage countries to adhere to international standards.

At the same time, it should be taken into account that the institutional framework for the implementation of rights is often complicated by corruption, political pressure, and insufficient legal culture of the population. Therefore, the philosophy of law proposes not only to describe these mechanisms, but also to criticize their effectiveness, to look for ways to improve them by strengthening the principles of justice and dignity. The goal of the philosophy of law is to identify the semantic content of law, that is, its spiritual understanding and experience through the prism of certain ideals, values, views, etc., in other words, through a worldview [2].

One of the main challenges of the modern legal system is the declarative nature of human rights – a situation where rights are formally enshrined in laws or international documents, but their actual implementation remains problematic. This problem is not only legal, but also deeply philosophical.

The declarative nature of rights is associated with the gap between the normative base and social reality. A legal norm, even of the highest level, cannot guarantee its effects without effective mechanisms of implementation and public support. Thus, rights turn into empty formulas that lose their value and become an instrument of formal legitimism.

From the perspective of legal philosophy, this means that law does not fulfill its main function – ensuring justice. The ideas of I. Kant, emphasizing respect for human autonomy and dignity, remind us that

law should be not only a formal prescription, but also a moral imperative that recognizes the freedom and equality of the individual.

Y. Habermas, in his theory of communicative action, shows that the legitimacy of law arises in the process of rational dialogue, which assumes openness, equality of participants and mutual understanding. The absence of such dialogue leads to formalism and ignoring the real needs of people.

In addition, philosophical analysis points to the problems of social inequality and discrimination, which are often masked by the declarative nature of rights. Without awareness and overcoming of these causes, rights cannot become truly effective.

Therefore, overcoming declarativeness requires a deep rethinking of the legal field, the integration of moral principles into legal practice, and the development of a social culture of respect for rights and freedoms. The modern world is characterized by a number of challenges that significantly complicate the realization of human rights and freedoms. War, the growth of digital control, and the strengthening of social inequality create threats that cannot be ignored in philosophical and legal discourse.

War as an extreme form of conflict leads to massive violations of fundamental rights – life, freedom, security. It destroys the institutions of the rule of law, creates a legal vacuum and generates impunity. The philosophy of law emphasizes that even in wartime, the basic humanitarian principles enshrined in international humanitarian law must be preserved, and the protection of individual rights cannot be completely abolished.

Digital control and mass surveillance pose a new threat to the right to privacy and freedom of expression. Technological developments create opportunities for excessive interference in the private lives of citizens, which can lead to authoritarianism in the digital space. The philosophical and legal analysis here focuses on the balance between security and freedom, the importance of transparency and accountability of government.

Social inequality, driven by economic, cultural, and educational factors, also limits access to rights. Lack of resources, discrimination based on gender, ethnicity, and age create barriers to equality before the law and participation in public life.

These challenges require the philosophy of law to develop new concepts of the protection and implementation of human rights that take into account the dynamics of the modern world, integrate technological and social contexts, and offer adequate mechanisms to counter threats.

The issue of legal personality is central in the philosophical and legal analysis of the implementation of human rights and freedoms. Legal personality determines the ability of a person to be the bearer of rights and obligations, to participate in legal relations and to enjoy guarantees of legal protection.

Legal personality is usually considered as a legal property of a person, a social legal status that, by its legal nature, is inseparable from the person [3].

The concept of legal personality is based on the idea of human dignity, which is considered an integral characteristic of the individual. Dignity serves not only as a moral but also as a legal foundation that enshrines everyone's right to respect and fair treatment.

The philosophy of law emphasizes that legal personality should be considered not only formally, but also in reality. It assumes that a person should be able to effectively exercise his rights, as well as receive appropriate protection in case of violations. Inadequacy in this aspect leads to violations of human rights, marginalization and social isolation.

I. Kant's ideas about the autonomy of the individual as the basis of human rights have been further developed in modern concepts, which emphasize the importance of creating conditions for free choice and self-realization. In this context, dignity is associated with the ability to be a subject of law, rather than an object controlled from the outside.

Thus, the consideration of legal personality and dignity requires a comprehensive approach that takes into account both regulatory and socio-psychological aspects that contribute to the real realization of human rights and freedoms.

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The problem of the realization of human rights and freedoms requires an interdisciplinary approach, in which the philosophy of law plays a methodologically and normatively central role. As shown in the previous sections, human rights are not just an element of positive legislation – they are the result of the complex historical, moral and rational development of human civilization [4].

Conclusions. Philosophical and legal analysis allows us to identify a key difference between the formal enshrining of rights and their actual implementation. The implementation of rights presupposes not only the presence of laws, but also effective institutional mechanisms, moral recognition, social justice and personal autonomy. Without a combination of normative and moral dimensions, law loses its ability to serve human freedom and dignity.

The dualism of natural and positive law requires a constant dialogue between universal moral principles and specific legal norms. The rule of law must play the role of a mediator that not only formalizes rights but also ensures their real application – through courts, democratic procedures, legal education, and international cooperation.

Contemporary challenges, including war, digital totalitarianism, and global inequality, question the universality and sustainability of human rights. In this context, the philosophy of law calls for a renewal of normative models and an emphasis on human dignity as an indisputable source of legal personality.

Thus, the philosophical and legal justification of the implementation of human rights and freedoms is not only a theoretical construction, but also a practical call to restore the deep meaning of law as a service to man. Only under such conditions do rights cease to be declarative and become the real foundation of human coexistence.

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ФІЛОСОФСЬКО-ПРАВОВЕ ОБҐРУНТУВАННЯ РЕАЛІЗАЦІЇ ПРАВ ТА СВОБОД ЛЮДИНИ

У статті наведено філософсько-правовий аналіз проблеми реалізації прав і свобод людини в умовах сучасного правового порядку. Вихідним пунктом дослідження є положення про те, що права людини – це не лише правові конструкти, а насамперед морально-антропологічні категорії, які повинні мати реальне втілення в юридичній практиці. Ключем до розуміння реалізації прав і свобод є не лише їх формальне закріплення в правових актах, а й забезпечення інституційних, соціальних та культурних умов для їх практичної реалізації.

Розкривається роль ключових інституцій правової держави – судової системи, органів державної влади, громадянського суспільства та міжнародних організацій – у гарантуванні та захисті прав людини. Зазначається, що незалежне правосуддя, участь громадян у демократичних процесах, дотримання верховенства права та впровадження міжнародних стандартів є необхідними передумовами подолання декларативного характеру прав.

Окрема частина дослідження присвячена філософській критиці декларативного характеру прав і свобод, що проявляється у розриві між формальними нормами та реальною соціальною практикою. Декларативність є наслідком нехтування гідністю особи, а також відсутності реальних механізмів реалізації правових гарантій. У цьому контексті пропонується відновлення зв'язку між правом і мораллю, заснованого на принципах автономії, рівності та справедливості.

У статті також розглядаються сучасні виклики, що стоять перед реалізацією прав: війна, цифровий контроль, глобальна соціальна нерівність. Ці явища не лише обмежують права особистості, а й змінюють саму структуру правосвідомості. Важливою є потреба розширення філософсько-правових підходів до аналізу цих нових викликів, зокрема шляхом переосмислення понять конфіденційності, безпеки та відповідальності в цифрову епоху.

Особливий акцент робиться на поняттях гідності та правосуб'єктності як фундаментальних умов реалізації прав. Стверджується, що саме визнання особи як носія гідності та автономії створює основу для формування ефективної системи правового захисту. У цьому сенсі права людини треба розглядати не як абстрактні формули, а як засіб забезпечення реальної участі людини в суспільному та політичному житті.

На завершення, у статті доведено, що філософсько-правове обґрунтування реалізації прав і свобод людини – це багатовимірний процес, який охоплює як правові, так і моральні, соціальні та культурні аспекти. Такий підхід дає змогу не лише осягнути сутність прав людини, а й сформулювати практичні рекомендації щодо їх ефективної реалізації в умовах сучасної правової держави.

Ключові слова: права людини, філософія права, правова держава, гідність, правосуб'єктність, нормативність, справедливість, позитивне право, природне право, реалізація прав.