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INTERNATIONAL HUMAN RIGHTS STANDARDS AS A TOOL FOR HARMONIZING GLOBAL AND LOCAL LEGAL ORDER

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Summary

The study is devoted to a comprehensive analysis of the conceptual foundations, main features and practical aspects of the functioning of international human rights standards in the modern globalized world. The relevance of the work is due to the need to form a holistic theoretical approach to understanding the nature of international standards in the context of the dynamic development of international law and the adoption of over 300 international documents in the field of human rights.

The work analyzes the evolution of conceptual approaches to defining international human rights standards, starting from the 2012 Declaration on the Rule of Law and UN General Assembly Resolution No. 41/120. Particular attention is paid to the study of the main characteristics of the standards: establishing the content and scope of human rights, their minimal nature as the “least acceptable compromise”, the obligation of compliance and model for national legal systems.

A significant part of the study is devoted to the analysis of the paradox of the universality of international standards, which consists in combining their global nature with the possibility of various culturally specific interpretations. The practice of the European Court of Human Rights on the application of the doctrine of “margin of appreciation” and the approaches of different civilizations to the interpretation of fundamental rights and freedoms is considered. The need for a dialogue of civilizations to form a “consensus” language in the field of human rights is substantiated.

Special attention is paid to practical aspects of the implementation of international standards, in particular the problem of establishing a fair balance between individual and collective interests. The process of standardization of the social significance of formally distinct legal phenomena and the dialectics of essence and form in the application of international standards are analyzed. The specifics of the maximum abstractness of the terminology of international standards and the features of their official interpretation in specific historical conditions are considered.

The study demonstrates the complex and multidimensional nature of international human rights standards, their dynamic nature and ability to adapt to changing social needs, while maintaining the fundamental focus on protecting human dignity and ensuring justice on a global scale.

Key words: international human rights standards; human and civil rights and freedoms; human rights protection mechanism; constitutional law; international law.

1. Introduction

Statement of the problem in general terms and its connection with important scientific or practical tasks. In modern conditions of globalization and integration processes, the issue of international human rights standards is of particular relevance both for the theory of international law and for the practice of state-building. The formation of a single conceptual basis for understanding the nature, content and mechanisms for implementing international human rights standards is a key task for ensuring effective protection of

fundamental rights and freedoms at the global level. This issue is of particular importance in the context of the need to harmonize national legislation with international requirements and standards.

The relevance of scientific solutions. The relevance of the study is due to several factors. First, the dynamic development of international human rights law and the adoption of about 300 international documents in this area, which requires systematization and conceptual understanding. Second, the presence of various, often contradictory approaches to interpreting the concept

of “international human rights standards” in scientific literature. Thirdly, the practical necessity of developing effective mechanisms for implementing international standards into national legal systems, taking into account the cultural and historical characteristics of different states.

Analysis of recent research and publications. The issue of international human rights standards has been studied in the works of both domestic and foreign scholars. A significant contribution to the development of theoretical foundations has been made by studies devoted to the analysis of the nature of international standards, their classification and implementation mechanisms. At the same time, despite the presence of numerous publications, the issues of the dialectical combination of the universal nature of standards with their culturally specific interpretation, as well as the problem of standardizing the social significance of legal phenomena, remain insufficiently studied.

The purpose of the study is to comprehensively analyze the conceptual foundations, main features and practical aspects of the implementation of international human rights standards in order to form a holistic theoretical approach to understanding their nature and functional purpose.

Research tasks:

- to analyze the conceptual principles of the formation of international human rights standards and their regulatory and legal basis;

- to determine the main features and properties of international human rights standards, including their universal nature and features of cultural adaptation;

- to investigate practical aspects of the implementation of international standards, in particular the problems of balancing individual and collective interests;

- to substantiate theoretical approaches to understanding the dialectics of the universal and the particular in the system of international human rights standards.

Research methodology. The work uses a complex of general scientific and special research methods. The dialectical method is used to analyze the contradictions between the universal nature of standards and their culturally specific interpretation. The systemic approach allows us to consider international standards as a holistic system of interconnected norms and principles. The comparative legal method is used to analyze different approaches to the interpretation of standards in different legal systems. The formal-logical method is used to systematize and classify the main features of international standards.

Logic of presentation of the researched material. The structure of the study reflects a logical sequence from general theoretical principles to specific practical aspects. First, the conceptual foundations and nature of international standards are revealed, then their main features and properties are analyzed, including the

issue of universality, and the study concludes with a consideration of practical aspects of the implementation of standards in various socio-cultural contexts. This approach provides a comprehensive understanding of the phenomenon under study, from theoretical justification to practical application.

2. Conceptual principles and nature of international human rights standards

Fundamental (key) principles of law that define, establish the norms of ensuring, as well as guaranteeing, the minimum necessary (under specific historical conditions) principles of human existence in a certain society. Such principles must be provided to every participant in the relevant society, in particular to every person, regardless of their place of residence. Therefore, the uniformity, equality of such basic principles - at least in their minimum life-supporting dimension - is one of the most convincing manifestations of the principles of humanity, justice in the activities of any modern society (M. Freeman, 2017, p. 45).

In the modern world, the protection and provision of fundamental rights and freedoms of man and citizen have ceased to be the exclusive competence of an individual country, but have become a matter of the entire international community, since for a long time it has been a priority task of many states of the world community. Due to the increased interest and attention of the international community to these issues, at different times authoritative international organizations have adopted about 300 declarations, conventions, charters. International legal acts in the field of human rights are usually considered as international standards, since they are created on the basis of customary norms that have formed as a result of the recognition by states of the legal force of norms of conduct that were proclaimed by the UN General Assembly in the form of declarations or recommendations (J. Kluchka, 2019, p. 415).

On September 19, 2012, at its 67th session, the UN General Assembly adopted the Declaration on the Rule of Law at the National and International Levels. The document emphasizes the important role of the General Assembly as the key consultative and representative body of the United Nations in promoting the rule of law in all areas through the formation of political decisions and the creation of relevant standards (paragraph 27). Therefore, it is quite natural that today in almost all works devoted to human rights and freedoms - scientific research, educational literature, journalistic and educational materials - the authors address the issue of human rights standards. However, this terminological concept is used by researchers mainly in different, often contradictory meanings.

It should be noted that for understanding the nature and features of international human rights standards, the UN General Assembly Resolution No. 41/120

“Establishment of International Standards in the Field of Human Rights” adopted on December 4, 1966, is of great methodological importance (Establishing International Standards in the Field of Human Rights UN General Assembly Resolution No. 41/120 of 4 December 1986). This document identified the main guidelines that should be taken into account when creating international instruments in this area. In particular, such instruments should: a) be consistent with the existing system of international human rights law; b) be fundamental and based on the inherent dignity and worth of the human person; c) be sufficiently specific or constitute a basis for rights and obligations that can be clearly defined and implemented; d) contain, where necessary, a practical and effective implementation mechanism, including reporting systems; e) have significant international support.

The main characteristic of the standards under study is usually considered to be the establishment of a) specific content or b) a defined scope, or c) both the content and scope of human rights. Such standards are human rights criteria enshrined in international agreements and other international instruments, which States undertake to observe or to which they are encouraged to strive (H. Steiner, P. Alston & R. Goodman, 2020, p. 5).

Some researchers rightly emphasize that international human rights standards actually define the “minimum standard”, constitute the “least acceptable compromise”; they not only fix the catalog of generally accepted rights, but also establish their certain basic scope, the lowest level at which these rights should be implemented. In addition, specific requirements for mechanisms for ensuring human rights (for example, positive obligations of the state to guarantee, protect and defend these rights) may also be subject to standardization.

Despite the existence of various alternative formulations and views, today it is still possible to determine what exactly is covered by the concept of international human rights standards. Due to the fact that legal, social, economic conditions in the world are diverse, not all standards can be applied everywhere and simultaneously. Undoubtedly, states must overcome discrepancies between domestic legislation and achieve international standards, an international level, and in view of this, international human rights standards are norms that provide for general democratic requirements and obligations of states, which must, taking into account the peculiarities of their social structure and national development, be implemented in their systems. The provisions of the Constitutions of states on the fundamental rights and freedoms of man and citizen must be consistent with international standards, since the protection of these rights ensures the existence of a sovereign, democratic and independent state (J. Mazák, 2020, p. 45).

The binding nature (or at least the expediency of compliance by states) of international standards in

the field of human rights is also one of their essential characteristics. Thus, depending on their deontic status, they can be both legally binding and recommendatory prescriptions that should be taken into account in the formation and creation of all other legal norms on human rights. That is why some scholars characterize this property of standards as model nature.

3. Main features and properties of international standards

It is also necessary to note the peculiarities of sanctions for non-compliance with the specified standards. Such sanctions are mainly either of a political-legal (regarding mandatory norms) or exclusively political (regarding recommendatory norms) nature. One way or another, the obligation or recommendation regarding their implementation and a certain responsibility for evading this falls precisely on the states.

Some scholars note that (along with the legal norms themselves) the standards under study also include principles. They are even proposed to be considered as a separate source of law in the field of human rights.

In particular, the position was expressed that international human rights standards are formed from a set of principles and norms that define: human rights and freedoms in various spheres of life; the obligation of the state to ensure and observe human rights without any discrimination both in peacetime and during armed conflicts; the basic principles of natural law; responsibility for criminal violations of human rights; ways of developing and expanding the sphere of human rights; directions for strengthening the control mechanism over the implementation by states of their human rights commitments (M. Nowak & K. Januszewski, 2017, p. 54).

Standards in international law are generally recognized norms that are both the smallest possible agreement of positions and guidelines for implementation. This dual function of international standards determines their variability (in the field of human rights - towards the continuous enrichment of the content of declared rights). In addition, the process of creating international standards as a whole is in a rather close connection with natural human rights and the positivist approach to understanding the essence of the relevant norms, which guarantees the presence of legal content and form of prescriptions that can function as standards, samples, models and benchmarks. It is worth emphasizing that one of the characteristics of international human rights standards is also their universality – global or regional.

This was again stated in the above-mentioned Declaration of the UN General Assembly “The Rule of Law at the National and International Levels”. It states, in particular, the following: “We reaffirm the solemn commitment of our States to fulfill their responsibilities

to promote universal respect for, observance of and protection of all human rights and fundamental freedoms for all. The universal nature of these rights and freedoms is beyond doubt. We emphasize the obligation of all States, in accordance with the Charter, to respect human rights and fundamental freedoms for all, without distinction of any kind" (paragraph 6) (D. Shelton, 2020, p. 112).

However, this characteristic, in our opinion, requires additional clarifications and refinements. What is meant is that the universality of such standards should be dialectically combined with, at first glance, a contradictory feature – the possibility of non-universal (ambiguous, multidimensional) interpretation of their more or less specific content and/or scope in different cultural environments. For example, the UN Human Rights Committee, established in accordance with the International Covenant on Civil and Political Rights and the Optional Protocol thereto, directly noted that the right to family life may vary depending on socio-economic and cultural circumstances. And the European Court of Human Rights (hereinafter referred to as the ECHR) has developed the doctrine of the "margin of appreciation", which provides, in particular, for the interpretation of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the ECHR) taking into account the traditions of the relevant state, so that certain national, historical, and cultural characteristics of the state are taken into account in the process of its national implementation.

Indeed, researchers of this issue cite numerous examples of different interpretations of human rights standards depending on the traditions and values not only of different civilizations, but even of individual states. For example, the concept of freedom, which is basic to European human rights standards, is interpreted quite differently in the Islamic world, Chinese, Indian, and African civilizations. It is also difficult to reach an understanding when it comes to different religions. However, in any case, human rights standards are a problem that unites all of humanity; therefore, in this situation, it is important to strive for and achieve, through a dialogue of civilizations, a common, "consensus" language on these issues (N. Rodley & M. Pollard, 2021, p. 39).

4. Practical aspects of the implementation of international standards

The characteristics of international standards are: universality, i.e. international standards of law enforcement are of a general nature and these standards touch on key aspects of law enforcement; practical orientation, i.e. international standards are the result of practical experience, which is reflected in international norms or the result of proven achievements of modern legal science; optimality, i.e. international standards are the result of a compromise between countries that have

different levels of legal regulation of law enforcement and establish minimum rules, models, samples and standards for their implementation for all; duality – for some countries that are distinguished by a high level of organization and activity of law enforcement agencies, the model of functioning of such agencies proposed by international standards constitutes minimum requirements, and for others - the goal that they seek to achieve as a result of the implementation of such standards; orientation towards implementation in the internal legal system of countries, which implies the readiness of the latter to integrate international standards of law enforcement into national legislation.

Along with the problem of different interpretations of the content of human rights standards in different cultural contexts, there is also the problem of establishing the optimal ratio of individual and collective interests, taking into account the needs and characteristics of each individual, which can often create difficulties in the implementation of the standards under study. After all, it is necessary to establish a "fair" balance of the various interests of different subjects of society. And it involves a certain standardization of ontically (actually, empirically, externally) different, but functionally similar phenomena. In particular, the ECHR succeeds in this in its practice through, so to speak, "universalization of individualization", since the very requirement to achieve such a balance is not a one-time, not individualized, but extremely general, all-encompassing, that is, normative (H. Steiner, P. Alston & R. Goodman, 2020, p. 8).

In other words, it is about the standardization of the social significance of outwardly (formally) different facts, relations, situations. In this way, the dialectic of the essence and form of the phenomenon is embodied: any essence is always formalized, and any form is always essential.

A specific characteristic of international human rights standards, which already concerns the linguistic-terminological and logical-conceptual form of their structure and presentation, is the maximum abstractness of the terms-concepts used in them (among which terms-concepts of a purely evaluative nature often dominate). The literature has rightly drawn attention to the fact that standards established at the global level should be as general, abstract as possible, not defining a specific scope of rights and freedoms. Universal standards should be based on universal human values, and not on the ideas of individual civilizations. However, the official interpretation of such standards for practical purposes will still often be carried out taking into account the specific historical conditions and circumstances of their application.

Conclusions

The analysis of international human rights standards indicates their complex and multidimensional nature.

These standards act both as a minimally acceptable consensus of the world community and as guidelines for the further development of national legal systems. Their key characteristic is to establish the basic content and scope of human rights, which must be ensured by all states regardless of their cultural, economic or political characteristics.

At the same time, a feature of international standards is their universality, which is paradoxically combined with the possibility of different interpretations in different cultural contexts. This creates a certain tension between the desire for unification of approaches to human rights and the need to take into account national specifics. Resolving this contradiction requires a constant dialogue of civilizations and the search for a common "consensus" language in the field of human rights.

The practical significance of international standards is manifested in their modeling - the ability to serve as models for the formation of national legislation and law enforcement practice. At the same time, the mechanisms for ensuring compliance with these standards are predominantly political and legal in nature, which emphasizes the special role of the international community in their promotion and protection.

The dynamism of international human rights standards is due to their dual function as minimum requirements and maximum aspirations, which ensures the constant expansion of the content of the proclaimed rights. This property allows the standards to adapt to changing social needs and challenges, while maintaining their fundamental focus on protecting human dignity and ensuring justice on a global scale.

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МІЖНАРОДНІ СТАНДАРТИ ПРАВ ЛЮДИНИ ЯК ІНСТРУМЕНТ ГАРМОНІЗАЦІЇ ГЛОБАЛЬНОГО ТА ЛОКАЛЬНОГО ПРАВОПОРЯДКУ

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Анотація

Дослідження присвячене комплексному аналізу концептуальних засад, основних ознак та практичних аспектів функціонування міжнародних стандартів прав людини у сучасному глобалізованому світі. Актуальність роботи зумовлена необхідністю формування цілісного теоретичного підходу до розуміння природи міжнародних стандартів в умовах динамічного розвитку міжнародного права та прийняття понад 300 міжнародних документів у сфері прав людини.

У роботі проаналізовано еволюцію концептуальних підходів до визначення міжнародних стандартів прав людини, починаючи від Декларації про верховенство права 2012 року та Резолюції Генеральної Асамблеї ООН № 41/120. Особливу увагу приділено дослідженню головних характеристик стандартів: встановленню змісту та обсягу прав людини, їх мінімальному характеру як «найменшого прийнятного компромісу», обов'язковості дотримання та модельності для національних правових систем.

Значну частину дослідження присвячено аналізу парадоксу універсальності міжнародних стандартів, який полягає у поєднанні їх глобального характеру з можливістю різного культурно-специфічного тлумачення. Розглянуто практику Європейського суду з прав людини щодо застосування доктрини «межі розсуду» та підходи різних цивілізацій до інтерпретації основоположних прав і свобод. Обґрунтовано необхідність діалогу цивілізацій для формування «консensusної» мови у сфері прав людини.

Окрему увагу приділено практичним аспектам реалізації міжнародних стандартів, зокрема проблемі встановлення справедливого балансу між індивідуальними та колективними інтересами. Проаналізовано процес стандартизації соціальної значущості формально відмінних правових явищ та діалектику сутності й форми у застосуванні міжнародних стандартів. Розглянуто специфіку максимальної абстрактності термінології міжнародних стандартів та особливості їх офіційного тлумачення в конкретно-історичних умовах.

Дослідження демонструє складну та багатовимірну природу міжнародних стандартів прав людини, їх динамічний характер та здатність адаптуватися до змінних суспільних потреб, зберігаючи при цьому фундаментальну спрямованість на захист людської гідності та забезпечення справедливості у глобальному масштабі.

Ключові слова: міжнародні стандарти прав людини, права та свободу людини і громадянина, механізм захисту прав людини, конституційне право, міжнародне право.