

**THE GENERAL CONCEPT
OF HUMAN RIGHTS:
INTERNATIONAL
THEORETICAL AND
LEGAL ASPECTS OF
DEVELOPMENT**

As it is known, the individual, his rights and freedoms are Supreme values.

In turn, human rights are «certain structured regulatory properties and characteristics of being a person that expresses its freedom and is an integral and necessary means and conditions of its life, its relations with society, the state and other individuals. The modern world is impossible without human rights, which are based on the principles of freedom, equality, justice and are universal.

Human rights are inalienable. No one can deprive man of his natural birthright – to life, to physical integrity, to free choice of ways their livelihoods, freedom of conscience, opinion, belief, autonomy in the area of privacy and other rights. The modern world can not be imagined without human rights, which are based on the principles of freedom, equality, justice and universal nature.

Fairly observed that the modern catalogue of human rights stated in international law documents and the constitutions of the states of law, is the result of a long historical development of benchmarks and standards that have become the norm in the modern society. The critical step in the development of human rights was a bourgeois-democratic revolution in the XVII – XVIII centuries, which were put forward not only a wide range of human rights, but also principles of freedom and formal equality, which became the basis of universality of human rights, giving them a truly democratic sound. Formation of a legal state would be impossible without approval in the public consciousness and practice of freedom and human rights[1].

Noting the huge humanitarian and moral essence of human rights, however, it is impossible not to touch the question of why human rights in the modern world is not the universal fact, and most countries in the world are not legal (they can be authoritarian, totalitarian or devoid of any distinct characteristics). It seems that the answer to this question is not purely legal; it overlooks the broader sphere of social relations covered by the notion of civilization. If, therefore, historically trace the path of formation of ideas of human rights and the rule of law, it cannot be linked directly with any particular formation. The apotheosis of human rights was a bourgeois revolution with the principles of equality, freedom, justice. However, not all bourgeois states were able to hold a high standard of democracy and human rights.

In the same formation there may have been different attitudes to human rights and the state of law. Therefore, such global humanity problems should be considered in the context of the civilizational approach. Formation determines only the socio-economic development and the position of classes and social groups in society. Formation approach does not reveal the man's place in society, its value, the catalogue of his natural and inalienable rights. The individual in all his complex relations and dependencies appears only in the framework of the civilizational approach. From this we can conclude that the idea of human value, his right to liberty and formal equality, reliance of the society on a right securing the claim of the individual to humane treatment from the authorities, first of all are typical for the European civilization.

The dominance of the Hindu religion has identified a special type of Hindu civilization. Hindu religion was a system of rules meticulously designed, thoroughly regulated all social life and it ordered a certain way of life and behavior, precluded the reasonable assessment of customs and traditions. Along with other social reasons (economic and national fragmentation, isolation of communities) that significantly influenced the formlessness, the lack of character of the person experiencing the unconditional power of community, caste [2].

Christianity supports the idea of equality of all people before God, equality of all as sinners. Paradoxically, this equality hadn't unite people, but even more separated them, led to the formation of the ideology and psychology of individualism, to the idea of personal salvation. While in early Judaism – a largely community-based and tribal pastoral society's religion – the problem of relationship with God became «God – people», reflecting the dominant principles of collective thinking, the differentiation of social forms of life and the release of an individual in this system, this idea is transformed into the idea of the personal reward of the righteous, in the idea of personal redemption and salvation [3].

Islam contains a special concept of human. This wider vision of human nature is based on the worldview that is diametrically opposed to what has been the source of Western understanding of the problem. So, some of the essential ideas associated with human rights and democracy, perfectly suit with the philosophy of Islam. The rule of law, a bedrock principle of democratic governance, is also essential for Islamic law.

Limitation of power of state must be collared with another democratic principle – the principle of accountability to the people. Because of the im-

portance that was attached to this principle in the early years of Islam, it became a vital element in Muslim philosophy. The rulers had to respond to the people not only on matters relating to the management of the state overall, but also keep them closely informed about the expenditure of people's money. Even the caliphs had to seek permission from people when they wanted to expend people's money on their own costs.

In addition to certain principles identical with the basic ideas of democracy, Islam also proclaims economic, social, cultural, civil and political rights similar to the rights contained in the International Declaration of human rights, the International Charter of economic, social and cultural rights, the International Charter of civil and political rights and other declarations and conventions of UN. The Koran, for example, grants poor the right to the possession of part of the wealth of the whole community through zakat (wealth tax that must be paid by each secured Muslim). While zakat, one of the five pillars of Islam, is equal to the confession of faith and daily prays to the Lord, it can be affirmed that the right of the poor to receive a part of the wealth of the entire community is inalienable and undeniable right in Islam. As stated in the Koran: «And in their wealth there is a right of the hungry and the needy» (51:12) [4].

As in the universal Declaration of human rights, Islam also recognizes the right to family and private life, the right to freedom of movement and residence, the right to their own culture and language, as well as the right to freedom of conscience. For example, the Universal Islamic Declaration of human rights is a document prepared by a group of Ulema in 1981 and based on the values enshrined in the Quran and the Sunnah, – unambiguously declares that «everyone has the right to freedom of conscience and worship in accordance with his religious beliefs». This article in the Declaration was undoubtedly written under the influence of the Quranic injunction that the choice of religion must not be coercive.

Continuing the analysis of the main provisions regarding the concept of human rights, it is appropriate to give the opinion of the West German scientist and lawyer K. Shtern, who believes that: «Fundamental rights enshrined in the constitutions of States are based on human rights: they absorb contained in them personal and natural-law start. As an essentially new element there is the positive-legal institutionalization. Public-legal recognition and warranty mean a big breakthrough in the idea of human rights... Based on the postulates and declarations as a natural rights, they are rights in the legal sense» [5].

In legal doctrine on the basic sphere of existence in public relations, human rights are usually divided into personal, political, socio-economic and cultural; however, in a large extent this division is symbolic[6]. For some of them the only essential difference is between human rights and the rights of the citizen.

Human rights can also be divided into 1) personal + political; 2) socioeconomic; 3) cultural + collective. Some modern scholars distinguish the fourth generation: environmental law [7].

A certain kind of «sanctity» of human rights today is enshrined in the basic laws in almost all States of the world. For example, the relevant sections on rights and freedoms are in almost all constitutions of the CIS countries. Thus, the Constitution of the Azerbaijan Republic, adopted by referendum of the Azerbaijan Republic on November 12th 1995, asserts the main principle of rights and freedoms: «Everyone from the birth possess inviolable and inseparable rights and freedoms. Rights and freedoms include duties and responsibilities towards society and other persons» (article 26) [8].

Article 15 of the Constitution of the Republic of Armenia of 5th July 1995 also established the constitutional provision that «citizens, regardless of nationality, race, sex, language, religion, political or other views, social origin, property or other status have all the rights, freedoms and duties established by the Constitution and laws». Ensuring the rights and freedoms of citizens of the Republic of Kazakhstan as the Supreme goal of the state proclaimed in the Constitution of the Republic of Belarus, adopted by referendum of the Republic of Belarus on 24th November 1996. «The state guarantees the rights and freedoms of citizens of Belarus that are enshrined in the Constitution, laws and international commitments of the state» (article 21) [8].

In accordance with articles 13, 14 of the Constitution of the Kyrgyz Republic «The basic freedoms and rights of man belong to everybody from birth. Freedom and human rights are applicable. They are recognized as absolute and inalienable, define the meaning and content of the legislative and executive authorities, bodies of local self-government are protected by the law and the courts».

The Constitution of the Russian Federation adopted by popular vote on December 12th 1993, also found that the Russian Federation recognizes and guarantees the rights and freedoms of man

and citizen according to the universally recognized principles and norms of international law and in accordance with this Constitution. In addition to it also defined the position that the rights and freedoms of man and citizen are directly applicable. They determine the meaning, content and application of laws, activity of legislative and Executive authorities, local governments, and are provided with justice (article 18) [9].

In our opinion it should highlight some international and legal aspects of the protection of the rights and freedoms of the individual. As rightly observes, in this regard, the Kazakh scientist-lawyer, M. A. Sarsembayev exactly «the protection of human rights is now relevant» and that «the UN since its inception is a centre of cooperation of States to protect human rights» [10]. Thus, in accordance with article 1 (paragraph 3) of the UN Charter, one of the goals of this universal international organization is to achieve international cooperation «in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion...»[11]. In accordance with article 55 of the UN Charter with the aim of creating stability and well being necessary for peaceful and friendly relations among Nations based on respect for the principle of equal rights and self-determination of peoples, the UN promotes: «a. higher standards of living, full employment, and conditions of economic and social progress and development; b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion». Under the leadership of the UN, the international community of States has reached the present day is making a considerable and significant achievements and results in the formulation of universally applicable minimum standards in the field of human rights, and numerous international mechanisms for their implementation and application. However, continued violations of human rights around the world speak about serious difficulties on the way to the ideal. But the highest efficiency of the international mechanisms the main responsibility for ensuring human rights in the territories subject to them rests with national governments.

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