

ЦИВІЛІСТИКА БЕЗ КОРДОНІВ

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INTERNATIONAL LEGAL STANDARDS OF HUMAN RIGHTS: GENERAL PRINCIPLES

Formulation of the problem. Among the intangible values realized by most people in open democracies, human rights and freedoms remain paramount. These views are based on the liberal democratic tradition of socio-political thought, which has been developing for more than three centuries. Human dignity is the source of his rights and freedoms. Human rights are based on one undoubted value – human dignity. The problem of human rights protection is the most pressing in international law. Human rights are universal moral rights of a fundamental nature, which belong to every person in his relations with the state. Human rights are a cross-cutting theme of UN programs and strategies in areas such as peace and security, development, humanitarian assistance and economic and social issues. One of the most important achievements of the UN is the creation of a comprehensive body of human rights law – a universal code that is protected at the international level, to which any state can join and to which all people seek to implement. The United Nations has identified a wide range of internationally recognized rights and established mechanisms to promote and protect those rights and to assist States in fulfilling their commitments.

The state of research of the topic. The foundations of international human rights standards continue to evolve simultaneously with the pro-

cess of forming new legal systems that declare in their constitutions the ideas of the rule of law and respect for human rights. Doctrinal approaches to the interaction of international and national law, to the legitimacy of universal international legal standards and their role in the protection of individuals at the national level in the context of practical issues and challenges that exist at the international and national levels should now be considered. The human rights sector is constantly evolving through the development of new international and national legal instruments.

The aim of the article. The aim of this article is to study international human rights standards in the context of the fact that human rights issues are most important in international law, as well as the role of the UN in shaping international human rights standards.

Presenting main material. International standards of human rights and freedoms can be considered as universally recognized provisions of international acts of binding and recommendatory nature, as well as principles of international law, which enshrine the fundamental rights of the individual, which are crucial for protecting people from illegal and unjustified actions by the state, other persons, violate or restrict these rights, as well as serve as a guide for all states in regulating and ensuring the rights of their citizens.

According to P.M. Rabinovych [8], the classification of international human rights standards is carried out according to various criteria: depending on their ontic status, such standards are divided into nominal (terminological, textual), which include only the names of human rights and freedoms applied in international instruments and actual (substantive), which include recorded in these sources content and volume indicators of such rights and freedoms; by deontic status – mandatory, the implementation of which is formally necessary for the respective states and can be ensured even by the application of international political and legal sanctions, and recommendatory, which, although not formally binding, but also secured by international political sanctions (morally -political); by space (territory) actions – world (general civilization, global) and regional (in particular, continental); by the circle of addressees – general (applies to all people) and specialized (addressed to members of only certain social communities, groups – for example, children, women, refugees); according to the subject of their establishment: standards of the UN, UNESCO, the Council of Europe, the European Union, etc. It should be noted that the above list of international human rights standards is not exhaustive.

The inclusion of international human rights standards in national legal systems in legal research is denoted by various terms: “transformation” “implementation”, “harmonization”, “incorporation”, “adaptation”, “implementation”. As for the term “implementation”, it was developed in international law and has become widespread in numerous resolutions of the UN General Assembly, in many international conventions and treaties. In most cases, the implementation of international law is a sphere of sovereign states that use their internal organizational and legal mechanism for this purpose. At the international level, the criteria to be met by the rule-making process in setting human rights standards are defined. An example of this is the UN General Assembly Resolution № 41/120 of December 4, 1966 “Establishment of international standards in the field of human rights” [1]. International human rights standards are understood as enshrined in international acts and documents, textually unified, functionally universal principles and norms that fix the minimum necessary and desirable content and scope of human rights, due to the achieved level of social development and establish positive obligations of states to ensure them, protection and defense,

providing for their violation of sanctions of political, legal or political nature.

International standards of human rights and freedoms are enshrined in international agreements, conventions and covenants, based on world experience and embodying current needs and trends in social issues. The United Nations (UN), established in 1945, played a key role in the development of international human rights standards. It was the UN Charter that became the first multilateral international treaty in the history of international relations, which laid the foundations for the process of forming universal values of mankind and marked the beginning of a new stage in the field of protection of human rights and freedoms. In particular, paragraph “c” of Art. Article 55 of the Charter obliges states to develop international cooperation in order to promote “universal respect for and observance of human rights and fundamental freedoms for all, regardless of race, sex, language or religion”. Thus, this fundamental international treaty enshrined the principle of respect and observance of human rights in the modern world community [3].

The main international conventions containing international standards of human rights and freedoms are: the Universal Declaration of Human Rights (1948), the Covenant on Civil and Political Rights (1966 and 1966), and the Covenant on Civil and Political Rights (1966). The Charter of Economic Rights and Duties of States (1974), the Convention for the Protection of Human Rights and Fundamental Freedoms (1950), and the European Social Charter (1961). The Catalog of Human Rights proclaimed in the Universal Declaration of Human Rights (1948), based on European values, was proclaimed universal. It expresses the values without which the normal development of society is impossible, based on the principles of freedom, the rule of law and human rights. The idea of the universality of human rights, formulated in the Universal Declaration of Human Rights (1948) and other international legal acts, was accepted as an axiom.

The provision on the universality of international legal standards was confirmed in the Vienna Declaration and Program of Action adopted at the World Conference on Human Rights (1993). The most important in the protection and observance of international standards of human rights and freedoms is the presence and effectiveness of international mechanisms for their provision. In those cases when the state mechanism is not able to ensure the realization of human rights and freedoms, international law provides for the possibility

of confusion between international mechanisms and human rights.

One of the most important comprehensive international acts for the protection of human and civil rights is the Universal Declaration of Human Rights adopted by the UN General Assembly on December 10, 1948. The declaration defined a wide range of civil, political, socio-economic and cultural rights. The text of the document reflects the natural nature of human rights, and it is proclaimed that all peoples and all states should promote the respect and protection of human rights and freedoms through national and international progressive measures. The implementation of the rights enshrined in the Universal Declaration of Human Rights and other international instruments has become a very difficult process, given the different levels of social, economic and cultural development. The two fundamental documents included in the International Bill were the International Covenants adopted by the UN General Assembly on December 16, 1966: On Political and Civil Rights and On Economic, Social and Cultural Rights. The fact that the draft Declaration and Covenants were drafted by the same Human Rights Commission, set up in early 1946, was a happy coincidence, as it ensured continuity and logical consistency in the content of the Declaration and Covenants and thus defined their functional relationship: purpose The Declaration consisted in the very definition of human rights, while the purpose of the Covenants was to translate international human rights norms into specific positive legal obligations of states [2].

For the first time, an individual has become a subject of international law. Under the provisions of which, all persons residing in a State party to the Covenants or having jurisdiction over that State shall be entitled to exercise the rights provided for in the Covenants without distinction as to race, color, sex, language, religion, political or other opinion, national social origin, property, caste or other status. All member states are obliged to bring their national legislation into line with the provisions of these legal instruments. In addition, under the Optional Protocol to the Covenant on Civil and Political Rights, a citizen of any State party to the Covenant that has signed the Protocol may apply directly to the UN Human Rights Committee for protection of his rights [5].

The legal basis for the work of the UN Human Rights Committee includes the procedural rules related to its functioning and the substantive rules that it applies in the exercise of the powers vested

in this international body. The analysis of the competence of the UN Human Rights Committee allows us to single out the following functions: the control function, which is to monitor the implementation of member states of their obligations under the International Covenant on Civil and Political Rights (1966); the interpretive function exercised when the Committee clarifies the content of the provisions of the Covenant and the specifics of its implementation; implementation function, which is manifested in the promotion and institutional support of the implementation of obligations under the Covenant by States parties; judicial function, which is to consider interstate disputes and individual reports of violations. The powers of the Committee include: consideration of reports of States parties to the Covenant; consideration of interstate disputes; consideration of individual reports of violations. Following the consideration of the reports of the States parties to the International Covenant on Civil and Political Rights (1966), the Committee does not take decisions binding on States, but in the practice of the Committee there are so-called general comments, concluding remarks and considerations. As all decisions of the UN Human Rights Committee are of a recommendatory nature, the decisions of the Committee by legal nature should be considered acts of "soft law" along with acts of international organizations, the importance of which is due to the high degree of implementation of the recommendations of this body. In its consideration of interstate disputes, the Committee may provide good offices to States parties or mediate through the establishment of a Conciliation Commission. The practice of the Committee is actively used by the International Court of Justice and the Inter-American Court of Human Rights [7].

The International Covenant on Economic, Social and Cultural Rights, adopted by the UN General Assembly on 16 December 1966, defined more specifically human rights such as the right to work, to strike, to health care, to education, to participate in cultural life, and also the rights of convicts. The realization of these rights is associated with the expansion of the paternalistic functions of the state, and depends on the level of political, economic and social development of the latter. The International Covenant on Economic, Social and Cultural Rights establishes only the standards to which the state must strive. The Committee on Economic, Social and Cultural Rights monitors the observance by States parties of their obligations under the Covenant and the level of exer-

cise of their respective rights and responsibilities. The mandate of the Committee is set out in Chapter IV of the Covenant and ECOSOC resolutions and includes consideration of periodic reports by States on the measures they have taken and on progress towards achieving the rights recognized in the Covenant.

The development of universal and regional human rights standards takes place in complex and contradictory conditions, in which the states that form and implement such standards differ not only in their socio-economic systems, but also in civilizational features that sometimes complicate the implementation of universal standards in all spheres of life. International standards of human rights and freedoms are established by the international community within international organizations for their provision and protection both at the international level and at the regional level. The formation and normative consolidation of international standards of human rights and freedoms took place gradually at the UN level, and then at the regional level – within the regional international organizations [6].

The UN Charter of 1945 emphasizes that the organization promotes the full respect and observance of human rights and fundamental freedoms for all, ie the UN Charter imposes on states the obligation not only to respect but also to protect. The leading role of the United Nations in maintaining international peace and security, as well as in ensuring global cooperation and the development of international law, makes it of paramount importance in the field of international legal regulation of the fight against terrorism. UN statutory bodies play an important role in ensuring respect for human rights. According to Article 7 of the UN Charter, it defines the list of the main UN bodies: the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice and the Secretariat; and paragraph 2, Article 7 of the Charter contains provisions for the establishment, if necessary, of subsidiary bodies within the UN. According to Art. 13 of the Charter, the UN General Assembly should promote international cooperation in the social, cultural, economic, health, and human rights and fundamental freedoms.

To implement these tasks, the UN General Assembly may adopt recommendations addressed to member countries of the Organization. Thus, in 1948, the UN General Assembly adopted the Universal Declaration of Human Rights. Among other major UN bodies, the Economic and Social Council

(ECOSOC), which coordinates the UN's economic and social activities under the leadership of the General Assembly, has a special role to play in protecting human rights and fundamental freedoms for all. This body has the right to prepare draft conventions for the General Assembly on matters within its competence, to set up commissions to carry out its functions and to carry out various activities in the field of human rights protection [9].

The leading role of the United Nations in maintaining international peace and security, as well as in ensuring global cooperation and the development of international law, makes it of paramount importance in the field of international legal regulation of the fight against terrorism. At the same time, among the six main UN bodies, the most important in terms of maintaining international peace and security and ensuring proper regulation of international relations is the Security Council, which in accordance with paragraph 1 of Art. 24 of the Charter, has the primary responsibility for maintaining international peace and security and acts on behalf of all UN members in the performance of their duties. The 15-member Security Council focuses on specific tasks related to the maintenance of international peace and security.

In addition to the above-mentioned UN general bodies, special attention should be paid to the UN Human Rights Council as a profile body in the system of the international mechanism for the protection of human and civil rights and freedoms. This body was established in 2005 during the Summit of Heads of State and Government in New York and replaced the existing UN Commission and Human Rights Committee. The next step in the development of this body was the UN General Assembly resolution 60/251, which contains provisions on the mandate, work, composition and procedure for the election of members of the Council. According to the resolution, the main purpose of the Council is to protect human rights and fundamental freedoms on a fair and equal basis, as well as the effective coordination and integration of human rights activities within the UN system. One of the characteristic features of international law is the existence of an extensive system of means for the peaceful settlement of international disputes, which includes both conciliatory and judicial means. Part 1 of Art. 33 of the UN Charter stipulates that the parties to the dispute must first seek to resolve the dispute through negotiation, examination, mediation, conciliation, arbitration, litigation, recourse to regional authorities and agreements. The main

judicial body of the entire international community, of course, is the International Court of Justice [10]. According to Art. 96 of the UN Charter, Art. 65 of the Charter of the International Court of Justice, the UN General Assembly or the UN Security Council may request advisory opinions on any legal matter. Other UN bodies and specialized agencies, which may be authorized by the General Assembly at any time, may also request the Court's advisory opinions on legal issues arising within the scope of their activities.

The UN Charter stipulates that each of the main UN bodies may establish different specialized agencies or units to perform its duties. The options of any subsidiary body of the United Nations are limited. They perform the work strictly defined by their constituent act, respectively, the legal status and importance of UN subsidiary bodies are different. Some of them are practically intergovernmental organizations, and others are autonomous intergovernmental bodies. There are many UN organizations and agencies that operate and carry out a variety of work on specific issues, such as: the International Labor Organization, the International Atomic Energy Agency (IAEA), the Food and Agriculture Organization of the United Nations, UNESCO, the United Nations Educational and Scientific Organization. and Culture), UNIDO (United Nations Industrial Development Organization), the World Bank and the World Health Organization

(WHO). It is through these agencies that the UN does most of its humanitarian work.

Conclusions. In the modern world, the protection and observance of fundamental human and civil rights and freedoms have ceased to be the competence of a particular country, but have become a matter for the entire international community, as it has long been a more important task for many countries. Due to the increased concern and attention of the international community to these issues at various times, authoritative international organizations have adopted a number of declarations, conventions, charters. International human rights law is considered to be an international standard, as it is developed on the basis of customary norms formed by the recognition by States of the legal force of rules of conduct promulgated by the UN General Assembly in the form of declarations or recommendations. The founding members of the United Nations have committed themselves to international cooperation to promote universal respect for and observance of human rights and fundamental freedoms. International human rights standards are universally recognized international legal norms that enshrine the status of the individual at the universal level and establish a list of fundamental rights and freedoms, the obligation of states to respect these rights and freedoms, and the limits of possible or permissible restrictions.

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International standards of human rights and freedoms can be considered as universally recognized provisions of international acts of binding and recommendatory nature, as well as principles of international law, which enshrine the fundamental rights of the individual, which are crucial for protecting people from illegal and unjustified actions by the state, other persons, violate or restrict these rights, as well as serve as a guide for all states in regulating and ensuring the rights of their citizens.

The foundations of international human rights standards continue to evolve simultaneously with the process of forming new legal systems that declare in their constitutions the ideas of the rule of law and respect for human rights. International human rights law is considered to be an international standard, as it is developed on the basis of customary norms formed by the recognition by States of the legal force of rules of conduct promulgated by the UN General Assembly in the form of declarations or recommendations.

International human rights standards are universally recognized international legal norms that enshrine the status of the individual at the universal level and establish a list of fundamental rights and freedoms, the obligation of states to respect these rights and freedoms, and the limits of possible or permissible restrictions. International standards of human rights and freedoms are enshrined in international agreements, conventions and covenants, based on world experience and embodying current needs and trends in social issues.

International human rights standards are based on generally accepted principles such as: respect for the sovereignty of the state; inadmissibility of interference in the internal affairs of the state; self-government of peoples and nations; equality of all people and non-discrimination; equality of rights and opportunities for men and women; respect for human rights, even in the event of armed conflict and responsibility for criminal human rights violations. The significance of these principles lies in the fact that they are the basis for the development of human rights and their enshrinement in national law, as well as a criterion for the legitimacy of the state in the field of human rights.

International human rights standards have developed gradually. Initially, only political rights were enshrined, then economic and social rights. They were specified in the national legislation of the states. However, each state must not only bring its legislation in line with its international obligations, but also take certain actions and create real conditions for guaranteeing and exercising rights.

International human rights standards are based on the rules of natural law, which include the ideals of freedom, justice and equality before the law. These norms are enshrined in the legal system of each state.

Key words: international legal standards of human rights, human rights, international law.

Жебровська Кристина Артаківна, Рябошапченко Анастасія Олександрівна МІЖНАРОДНО-ПРАВОВІ СТАНДАРТИ ПРАВ ЛЮДИНИ: ЗАГАЛЬНІ ЗАСАДИ

Міжнародні стандарти прав і свобод людини можна розглядати як загальнодовизнані положення міжнародних актів обов'язкового та рекомендаційного характеру, а також принципи міжнародного права, що закріплюють фундаментальні права особистості, які мають визначальне значення для захисту людини від незаконних і необґрунтованих дій із боку держави, посадових та інших осіб, порушують або обмежують ці права, а також виконують функцію орієнтира для усіх держав у регламентації та забезпеченні прав своїх громадян. Основи міжнародно-правових стандартів прав людини продовжують розвиватися одночасно із процесом формування нових правових систем, які декларують у своїх конституціях ідеї верховенства права та поваги до прав людини.

Міжнародно-правові акти в галузі прав людини розглядають як міжнародні стандарти, оскільки вони розробляються на підставі звичаєвих норм, що сформувалися внаслідок визнання державами юридичної сили правил поведінки, проголошених Генеральною Асамблеєю ООН у вигляді декларацій чи рекомендацій.

Міжнародні стандарти у галузі прав людини – це загальнодовизнані міжнародно-правові норми, які закріплюють на загальнолюдському рівні статус особистості і встановлюють перелік основоположних прав і свобод, обов'язок держав їх дотримуватися, а також межі можливого або припустимого їх обмеження.

Міжнародні стандарти прав і свобод людини закріплені в міжнародних угодах, конвенціях і пактах, що базуються на всесвітньому досвіді та втілюють сучасні потреби, тенденції соціального прогресу.

В основу міжнародних стандартів із прав людини покладені такі загальнодовизнані принципи, як: повага суверенітету держави; неприпустимість втручання у внутрішні справи держави; самоврядування народів і націй; рівноправність всіх людей і заборона дискримінації; рівність прав і можливостей чоловіків та жінок; дотримання прав людини навіть за умови збройних конфліктів і відповідальність за злочинні порушення прав людини. Значення наведених принципів полягає у тому, що вони є основою розроблення прав людини та їх закріплення у національному законодавстві, а також є критерієм законності діяльності держави у сфері прав людини.

Міжнародні стандарти у сфері прав людини склалися поступово. Спочатку були закріплені лише політичні права, потім – економічні та соціальні. Саме вони і були конкретизовані у національному законодавстві держав, однак кожна держава повинна не лише привести своє законодавство у відповідність зі взятими на себе міжнародними зобов'язаннями, а й вчиняти певні дії та створювати реальні умови для гарантування і здійснення прав.

Основою міжнародних стандартів у сфері прав людини становлять норми природного права, що включає ідеали свободи, справедливості та рівності перед законом. Ці норми закріплюються правовою системою кожної держави.

Ключові слова: міжнародно-правові стандарти прав людини, права людини, міжнародне право.