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ТЕНДЕНЦІЇ РОЗВИТКУ ТА ОСНОВНІ НАПРЯМИ ПРОТИДІЇ КІБЕРЗЛОЧИННОСТІ В УКРАЇНІ

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Сучасний етап розвитку соціалізованого суспільства характеризується активним використанням електронно обчислювальних машин (комп'ютерів), систем та комп'ютерних мереж і мереж електрозв'язку. Впровадження нових ІТ-технологій дає можливість удосконалити функціонування багатьох сфер життєдіяльності, таких як оборони, енергетики, транспорту та ін. Разом із тим, відкриття нових горизонтів комп'ютеризації нерозривно пов'язане із появою нових форм злочинної діяльності та іншими проявами недобросовісного використання досягнень науково-технічного прогресу. Однією із серйозних проблем нашого суспільства є зростання кіберзлочинності, що негативно впливає на внутрішню економічну та соціальну стабільність держави.

Захищеність та надійність інформаційних систем та комп'ютерних мереж є необхідною умовою ефективного функціонування державного апарату та

його складових, діяльності господарюючих суб'єктів, та безпечного життя людей.

В Україні спостерігається інтенсивне впровадження сучасних інформаційних технологій у різні сфери діяльності людини, зокрема у діяльність правоохоронних органів, яку вже важко уявити собі без використання сучасних засобів обчислювальної техніки. Протидія кіберзлочинності зумовлює розроблення та комплексного застосування організаційно-правових та технічних методів захисту.

До нормативно-правових актів, які врегульовують суспільні відносини у сфері кібербезпеки в Україні слід віднести: Конституцію України, Кримінальний кодекс України, Конвенцію про кіберзлочинність, закони України «Про інформацію», «Про захист інформації в інформаційно-телекомунікаційних системах», «Про державну таємницю», «Про національну безпеку України» численні укази Президента України та інші нормативно-правові акти. Також вагоме значення має Закон України "Про основні засади забезпечення кібербезпеки України".

5 жовтня 2017 р. Верховна Рада України прийняла Закон України "Про основні засади забезпечення кібербезпеки України". Цей Закон визначає правові та організаційні основи забезпечення захисту життєво важливих інтересів людини і громадянина, суспільства та держави, національних інтересів України у кіберпросторі, основні цілі, напрями та принципи державної політики у сфері кібербезпеки, повноваження державних органів, підприємств, установ,

організацій, осіб та громадян у цій сфері, основні засади координації їхньої діяльності із забезпечення кібербезпеки [2].

2 лютого 2018 року у складі Державного центру кіберзахисту та протидії кіберзагрозам Держспецзв'язку відкрито новий підрозділ — Центр реагування на кіберзагрози (англ. Cyber Threat Response Centre — CRC). Основною діяльністю підрозділу є забезпечення кіберзахисту органів державної влади та об'єктів критичної інформаційної інфраструктури України [4].

Таким чином, державно-правовий механізм протидії кіберзлочинності в Україні вже створений, але констатувати наявність належного рівня кібербезпеки ще передчасно. Як свідчить статистика, рівень розкриття злочинів у кіберпросторі нижчий за 50 % [3]. До того ж, слід урахувати, що до офіційної статистики потрапляє не більше чверті кібератак, які вчиняються щодо українських об'єктів. Три чверті вчинених кіберзлочинів — це латентна злочинність. Потерпілі від кіберзлочинів, особливо це стосується фінансово-банківських установ, вважають за краще приховати факт успішної кібератаки, ніж втратити ділову репутацію та клієнтуру через розголос події злочину. До того ж, має місце недовіра у суспільстві до правоохоронних органів, сумніви щодо професіоналізму та елементарної порядності їх працівників.

Логічним вбачаємо виділення такого заходу боротьби з кіберзлочинністю в Україні, як посилення покарань за їх вчинення. В даному контексті варто зазначити, що за останні роки до Розділу XVI даного нормативно-правого акту вже вносились зміни декілька

разів, в тому числі й щодо зміни санкцій статей Кримінального кодексу України, виключення та доповнення Розділу новими статями. Проте, враховуючи безперервний розвиток інформаційних технологій та форм вчинення кіберзлочинів, варто розуміти, що можливим є настання моменту, коли чинні санкції не відповідатимуть негативним наслідкам шкідливих діянь кіберзлочинців [1].

Наступною виділеною нами тенденцією є посилення міжнародного співробітництва у сфері боротьби з кіберзлочинністю в Україні. Потреба у міжнародному співробітництві з'явилась, передусім, внаслідок масової появи транснаціональних комп'ютерних злочинів, складність яких свідчить про те, що жодна держава не здатна їх подолати, покладаючись виключно на власні сили. Оскільки на світовому рівні боротьба із кіберзлочинністю розпочалась майже на десятиліття раніше, ніж в Україні, перейняття досвіду інших країн очевидно ще довгий час перебуватиме в переліку основних тенденцій розвитку правового регулювання боротьби з кіберзлочинністю в нашій державі.

Обмін відомостями оперативно-розшукового характеру з іншими державами у справах про кіберзлочини, виїзд членів слідчо-оперативних груп за кордон та прийняття працівників правоохоронних органів іноземних держав в Україні для проведення слідчих і оперативно-розшукових дій позитивно сприятиме обміну досвіду та підвищенню кваліфікації працівників правоохоронних органів. В світлі євроінтеграційних процесів важливою для України є

демонстрація того, що ми готові протистояти загрозам найстрімкіше зростаючому виду злочинності.

Також запобігання кіберзлочинності має містити в собі заходи підвищення рівня цифрової грамотності населення, сприяння в просуванні індивідуальних засобів захисту особистої інформації та встановлення правил користування громадянами кіберпростором. Відповідно до Програми діяльності Кабінету Міністрів України, затвердженої постановою Кабінету Міністрів України від 12.06.2020 року №471, Міністерство цифрової трансформації України започаткувало національних проект з цифрової грамотності, основною метою якого є навчити 6 млн. українців цифровій грамотності за 3 роки. Останнє дослідження свідчить про, те що цифрові навички населення України зросли на 5,2%, а серед людей старшого покоління цей показник зріс на 4% [7].

Можемо зробити висновок, що збільшення кількості кіберзагроз в нашій державі все актуальнішим робить питання оптимізації правового регулювання даної сфери. Висока латентність та недобросовісне використання інформаційних технологій створюють все новіші можливості злочинної діяльності та вимагають кардинально інших підходів до запобігання кримінальних правопорушень, які вчиняються у віртуальному просторі та створюють загрози для суспільства.

СПИСОК ВИКОРИСТАНИХ ДЖЕРЕЛ

1. Кримінальний кодекс України : Закон від 05.04.2001 № 2341 III Офіційний сайт Верховної Ради України. URL: http://zakon.rada.gov.ua/laws/show/2341
2. Про основні засади забезпечення кібербезпеки України : Закон України від 5 жовтня 2017 р. / Верховна Рада України // Відомості Верховної Ради України. — 2017. — № 45. — Ст. 403.
3. Департаменту кіберполіції [Електронний ресурс]. — Режим доступу: https://cyberpolice.gov.ua/news/zvit-pro-rezultaty-roboty-departamentu/
4. Державний центр кіберзахисту та протидії кіберзагрозам [Електронний ресурс]. — Режим доступу: http://www.dsszzi.gov.ua/dsszzi/control/uk/publish/art
5. Кравцова М. О. Сучасний стан і напрями протидії кіберзлочинності в Україні. Вісник кримінологічної асоціації України. №2(19). 2018. URL: http://dspace.univd.edu.ua/xmlui/bitstream/handle/123456789/3848/ 78
6. Роговець В. Інформаційні війни в сучасному світі: причини, механізми, наслідки. Персонал. 2015. № 5. С. 10–17.
7. Урядовий портал - Єдиний веб-портал органів виконавчої влади України - Мінцифри презентувало Дія. Цифрова освіта 2.0 [Електронний ресурс]. — Режим доступу: https://www.kmu.gov.ua/news/mincifri-prezentuvala-diyacifrova

ДЕЯКІ МІРКУВАННЯ ЩОДО ВИЗНАЧЕННЯ СТАТУСУ ТА ВРЕГУЛЮВАННЯ ПРАВ РОЗУМНИХ ІСТОТ НЕЗЕМНОГО ПОХОДЖЕННЯ

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У пропонованих тезах доповіді запропоновано авторські міркування щодо того, як було б доцільно визначати статус істот, розумних чи не розумних, чиє походження не є земним.

Обмірковуючи цю тематику, ми маємо розуміти, що зараз щодо неї у нас відсутні будь-які джерела, які базуються на практиці подібних відносин. Причиною такої ситуації є відсутність реальної практики у вигляді реального контакту з позаземним життям (не враховуючи білків, що ми їх знаходимо в деяких астероїдах та кометах). Єдине джерело, яким ми послуговуємося, це правосвідомість, яка дозволяє пропонувати гіпотетичне правове регулювання. Тож спробуємо, опираючись на теорію, вибудовувати принцип наших дій на практиці – у разі гіпотетичної появи на Землі позаземних істот.

Почнемо з позначень основних понять, що їх можна використовувати у цій сфері, оскільки наразі немає чіткої системи як визначити розумне життя від інших видів.

Насамперед, запропонуємо визначення вихідних понять.

Земляни – це фізичні особи, що, не залежно від виду, народилися або проживають на Землі, та їх належність до громадянства певної держави можна визначити по праву землі й праву крові.

Позаземці – це люди, що народилися за межами Землі, та їх громадянство буде залежати у першу чергу від права крові.

Ксенос (від грецькго Ξένος, чужинець чи іноземець) - фізичні особи не людського виду, що мають позаземне походження, і не проживають на Землі.

Далі давайте спробуємо класифікувати істот які можуть потрапити на Землю – ксенос та позаземців. Підставою для таких пропонов є власні спостереження автора цих тез доповіді:

Розумні істоти. Розумними ми будемо вважати істот, що мають належність до певної цивілізації. “Цивілізація (від лат. civilis – громадський, державний) – це спосіб життя великої спільноти людей, що посідає певну територію, сповідує свою релігію, розвиває власні культурні традиції й систему цінностей, удосконалює оригінальний комплекс суспільно-економічних відносин” [1, с. 4] й обов’язково здатні до навчання і розвитку, можуть комунікувати з подальшим встановленням дипломатичних відносин.

Передрозумні істоти – це істоти, що їх розглядають науковці як такий вид, що має можливість стати розумним, але наразі нездатні до створення цивілізації, не можуть самостійно вийти на зв’язок та

комунікувати з подальшим встановленням дипломатичних відносин.

Рішення про визнання таких істот предрозумними ухвалює відповідна наукова комісія за наявності необхідних ознак – писемність, ремесло тощо. До моменту виходу на необхідний технологічний рівень позаземні істоти знаходяться під опікою держави, що контролює планету чи систему.

За умови того, що така істота якимсь чином покинула межу проживання, буде прирівняна в статусі до розумної істоти.

Нерозумні істоти – це істоти, яких ми можемо визначити як таких, що відповідають ознакам тварин. Злочини проти них караються відповідно до Закону України “Про захист тварин від жорстокого поводження”[2]. За умов, що статус таких істот був визначений як “передрозумних”, доцільно визначити перехідний етап у статусі цих істот, наприклад, строк у 2 роки, в межах якого, їх статус встановлюється як державне майно, що не пілягає відчуженню. Такі об’єкти мають підлягати поверненню в межу природнього проживання (маю на увазі, що це може бути як одна планета чи декілька планет, так і сукупність секторів де вони проживають чи інші орбітальні об'єкти, які є їхньою межею осілості) у визначений 2-річний строк, після чого отримують статус суб’єкта.

Відповідно, проводячи аналогію з людиною, спробуємо зрозуміти яким чином могло б виглядати правове регулювання юридичного статусу таких істот.

До таких істот доцільно застосовувати чинне законодавство тієї держави, на території якої вони

опинилися, та універсальні норми міжнародного права, зокрема права, які передбачені у Загальній декларації прав людини (для розумних істот). [3]

Також такі особи можуть мати право визначене Законом України “Про громадянство”, якщо потраплять на територію України: можливість отримати громадянство по праву крові, землі, у процесі натуралізації (прийняття громадянства) та іншим чином [4].

Стосовно кримінальної відповідальності, то тут у силу вступають положення конституції, а саме - “Стаття 68 Конституції України: Кожен зобов'язаний неухильно додержуватися Конституції України та законів України, не посягати на права і свободи, честь і гідність інших людей.

Незнання законів не звільняє від юридичної відповідальності.” [5]

СПИСОК ВИКОРИСТАНИХ ДЖЕРЕЛ

1. Кравченко Н. Б. Теорії цивілізацій: навч.-метод. вид. Київ : Нац. ун-т біоресурсів і природокористування України, 2019. 94 с.
2. Про захист тварин від жорстокого поводження: Закон України від 01.12.2006 р. № 27: станом на 06 листопада 2023 р. URL: https://zakon.rada.gov.ua/laws/show/3447-15#Text
3. Загальна декларація прав людини: Декларація від 10.12.1948 р. № 217 А. URL: https://zakon.rada.gov.ua/laws/show/995_015#Text

4. Про громадянство України : Закон України від 01.12.2001 р. № 13: станом на 27 жовт. 2023 р. URL: https://zakon.rada.gov.ua/laws/show/2235-14#Text
5. Конституція України : Конституція від 28.06.1996 р. № 30 : станом на 1 січ. 2020 р. URL: https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text

COPYRIGHT ON COMPUTER PROGRAMS

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Taking into account the rapid technological development of the IT industry in the whole world and in particular in Ukraine, the issue of copyright for computer programs requires special consideration and research.

As a general rule, copyright in a computer program is intended to protect the specific embodiment of an idea, that is, the external form of expression, and thus the code, not the idea itself, will matter. Copyright does not apply to processes, methods of operation, algorithm, concept or principles of program construction. By changing the program code in this way, but without changing its functions and essence, you can get a new security object.

According to Art. 1 of the Law of Ukraine "On Copyright and Related Rights" computer program - a set of instructions in the form of words, numbers, codes, schemes, symbols or in any other form, expressed in a form suitable for reading by a computer, which lead its action to achieve a certain goal or result [1]. It should be noted that such a definition is quite complex in terms of understanding the terms and concepts that are embedded in its essence, that is why there is a need for a normative legal definition and

interpretation of the concepts so that they are understandable not only for citizens, but also for the court. In the special literature, the concept of software (further - software) appears, which includes the content of a set of computer programs. In general, each computer program performs a certain function, and software serves to perform a given task. From this we can conclude that the terms "computer program" and "software" are related as a part and a whole, although in practice these concepts are identified [3, p. 12].

In accordance with Part 4 of Art. 433 of the Civil Code of Ukraine [2] and Art. 18 of the Law of Ukraine "On Copyright and Related Rights", computer programs are protected as literary works, as well as in accordance with Art. 28, the term of protection of a computer program as one of the objects of copyright lasts during the life of the author and 70 years after his death [1], although in fact the last norm is not particularly important, since computer programs age very quickly. It should be noted that such an approach is due to the influence of international treaties, to which Ukraine is a signatory. In support of this position, Art. 4 of the Copyright Treaty of the World Intellectual Property Organization dated December 20, 1996, which states the following: "Computer programs are protected as literary works within the meaning of Article 2 of the Berne Convention. Such protection applies to computer programs regardless of the manner or form of their expression."

In accordance with Part 4 of Art. 433 of the Civil Code of Ukraine [2] and Art. 18 of the Law of Ukraine "On Copyright and Related Rights", computer programs are protected as literary works, as well as in accordance with

Art. 28, the term of protection of a computer program as one of the objects of copyright lasts during the life of the author and 70 years after his death [1], although in fact the last norm is not particularly important, since computer programs age very quickly. It should be noted that such an approach is due to the influence of international treaties, to which Ukraine is a signatory. In support of this position, Art. 4 of the Copyright Treaty of the World Intellectual Property Organization dated December 20, 1996, which states the following: "Computer programs are protected as literary works within the meaning of Article 2 of the Berne Convention. Such protection applies to computer programs regardless of the manner or form of their expression."

It should be pointed out that copyright applies both to the entire program and to a certain component or part of it. That is, they should be functionally complete elements, for example, modules, routines, libraries. Thus, a necessary condition for the possibility of extending copyright to a computer program is its relative independence and autonomy of work [5, p. 133].

Copyright for a computer program arises by virtue of the very fact of creating a product of activity, as well as regardless of the author's age and legal capacity. Thus, it does not require additional registration, but such measures are absolutely appropriate in order to ensure adequate protection during legal disputes regarding the authorship of a computer program. In Ukraine, there is a presumption of authorship, but the advantage of registration is a relatively low price, as well as a number of advantages during the court process in case of disagreements or abuses. Having a copyright registration certificate allows

you to freely dispose of the right to a computer program or any software product. Thanks to the certificate, you can reliably defend yourself in court and use it as an argument in defense of your interests.

The next point of our research is the outline of the essence of the copyright on a computer program. As a general rule, copyright is divided into property and non-property (moral).

Property rights include those directly related to the right to use the work or prohibit its use by other persons. The author has the right to allow the use of his software product with certain restrictions. Thus, the subject has the right to publish the program, adapt or rework it, as well as attach it as a constructive element to another program. It is also possible to distribute the work by selling or renting it out.

Non-property rights provide the possibility for the author to have the right to indicate his authorship, as well as the possibility to remain an anonymous developer or work under a pseudonym [6].

Therefore, the copyright on computer programs serves as an important institution in the field of intellectual property rights protection, as it allows you to protect your property and non-property rights as the author of the program.

REFERENCES

1. On Copyright and Related Rights: Law of Ukraine dated 01.01.2023 Database "Legislation of Ukraine"/BP of Ukraine. URL:

https://zakon.rada.gov.ua/laws/show/2811-20#Text (date of application: 04/12/2023).

2. Civil Code of Ukraine: Law dated January 16, 2003 No. 435-IV. Database "Legislation of Ukraine"/BP of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/435-15#Text (date of application: 04/12/2023).
3. Yakovenko I. L. Actual issues of legal protection of software. 2018. P.12.
4. S. R. Vodorezova. Peculiarities of legal protection of a computer program as an object of information relations. Law and innovation. 2014 No. 3 (7).
5. N. V. Filyk, G. V. Omelchenko. Computer program as an object of copyright: problems of legal protection. Legal Bulletin. 2016. 2 (39). P. 133.
6. K. G. Dubas. Everything You Wanted to Know About Copyright in IT [Website]. 2020. URL: https://dou.ua/lenta/articles/copyright-in-it/

THE ROLE OF NDA IN THE PROTECTION OF CONFIDENTIALITY IN POSTMODERN SOCIETY

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The postmodern stage of development of the society as well as the dynamism of the digital economy building, both globally and nationally, objectively require widespread use of different steps to protect one of the most important human rights – the right to privacy (protection of information). Diversity and fast-growing development of technologies have become inherent attributes of the present time that creates new challenges for protection of information.

The issue of protecting of the right to privacy is very relevant in the context of the increased daily use of the Internet and social media as well as globalization of many business processes. As of today, information has become an integral part of life of every person.

Protection of the right to privacy is becoming more and more difficult due to unprecedented access to information and its rapid sharing through various media. The “information overload” concept is gaining its relevance, making the protection of confidential information more important nowadays than ever.

Thus, due to the above, Non-disclosure Agreement (NDA) is, probably, the most effective contractual way to

achieve the desired result within the legal framework.

Non-disclosure Agreement is a special legal tool defining mechanisms of preventing unauthorized disclosure of confidential information by the parties entering into such an agreement. Therefore, in a society where cooperation and information exchange have become key elements of daily life, the need for NDA feels especially crucial.

Despite of steady increase of the importance of information for daily life of society in recent years, the concept of Non-disclosure Agreement has been unknown to Ukrainian legislation for a long time. In fact, existing normative provisions only created the preconditions for collateral regulation of the relevant legal relations, without clearly regulating how, when and under what conditions Non-disclosure Agreement may be concluded. The civil legislation of Ukraine did not contain the definition of such an agreement, didn't define the features of its conclusion as well as practical use, and did not take into account the specifics of its legal nature, although, in the context of the constant digitalization of society, the use of this type of agreement is becoming more and more relevant every day.

The situation changed in some better way since adoption of the Law of Ukraine "On Stimulating Development of the Digital Economy in Ukraine", that was a breakthrough in the regulation of NDA at the legislative level, and that provided a definition of such an agreement for the first time, while also establishing its essential terms. This Law contains several progressive provisions that bring some clarity and legal certainty to the legal institute of Non-disclosure Agreement, that, in turn, may become a

promising area for further improvement of the civil legislation of Ukraine in terms of protection of trade secrets and confidential information.

At the same time, despite the long-awaited legislative implementation of the concept and certain features of Non-disclosure Agreement in the Law of Ukraine "On Stimulating Development of the Digital Economy in Ukraine", its legal regulation remains, though, insufficient.

Nevertheless, this situation still allows NDA to be an effective tool, for example, in the business sector, where companies need to protect their rights to confidentiality of commercial and technical innovations. In addition, in the context of the information boom when personal information is widely used, NDA can also be used to protect the right to privacy of individuals.

In general, the issue of protection of information is particularly relevant in the economic activity of companies engaged into the development, testing or support of software, i.e., IT-companies. In addition, it is reasonably studying this issue because of introduction in Ukraine of a special tax and legal space for such companies – Diia City. This legal regime is designed to ensure the maximum development of the digital economy in Ukraine, that is impossible without the application of legal protection measures in respect of confidential information, especially in the field of information technology.

Therefore, civil turnover participants often face the need to provide the maximum possible protection of their right to confidentiality. In particular, ordering goods in an online store, visiting a family doctor, signing a contract with contractors involves sharing information that constitutes

confidential or trade secrets.

Briefly, the role of Non-disclosure Agreement in ensuring confidentiality in the postmodern age can be formally summarized as following:

1. allows to introduce effective mechanisms for the protection of intellectual property – Non-disclosure Agreement is an effective tool for protecting commercial and intellectual property in the modern age. Such agreements allow companies to share innovations and confidential information without worrying about possibility of its further unauthorized use by market competitors;

2. promotes development of mutually beneficial partnerships – in a world, where cooperation is a key aspect of business activity, NDA helps to develop partnerships between different entities. By ensuring mutual protection of confidential information for all parties of the contract, Non-disclosure Agreement promotes trust and exchange of technological resources, that facilitates development of innovations and creation of new products;

3. from a moral point of view, NDA helps to define boundaries of ethical behavior in the context of legal relations arising from restricted information. By ensuring that information is exchanged on a fair and equitable basis, such an agreement helps to define the limits within which one party may (or is obliged to) use other party's confidential information or trade secrets;

4. plays crucial role in ensuring contractual balance between openness and protection of information. In a world where data exchange is an integral part of social development, NDA is becoming a key instrument for preserving confidentiality without restraint of the

innovative potential of the relevant subjects.

So, Non-disclosure Agreement is currently the main method of contractual regulation of protection of confidential information. Gaining every time stronger position in practice, the analyzed agreement is gradually turning into a kind of “universal soldier” used by partners at the stage of business creation; by companies (especially in the technology sector) when formalizing employment relations with employees or concluding civil law contracts with contractors or service providers; by employers in the process of searching and recruiting personnel or onboarding newly-hired employees, etc.

In general, from a global perspective, there are currently no restrictions on the use of this type of agreement to ensure enhanced protection of information that is of exceptional value for relevant entities. On the contrary, it seems that the range of areas where NDA will be used in the future will only increase in proportion to the steady growth of the role of information in human life.

СОЦІАЛЬНИЙ ЗАХИСТ І БЕЗПЕКА ЛЮДИНИ

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Соціальний захист населення є невід'ємною складовою соціальної політики будь-якої держави. Серед науковців відсутня єдина думка та єдиний підхід щодо тлумачення поняття соціальний захист.

Так, наприклад, І. М. Сирота вважає, що термін «*соціальний захист*» належить до функції держави, яка піклується про матеріальне забезпечення непрацездатних громадян.

У свою чергу, В. Ш. Шайхатдінов висловлює думку, що до соціального захисту входить діяльність держави та органів місцевого самоврядування, громадських організацій, підприємств щодо створення сприятливого навколишнього середовища, охорони материнства та дитинства, здійснення допомоги сім'ї, охорони здоров'я громадян, професійної підготовки громадян, забезпечення зайнятості населення, охорони праці, регулювання заробітної плати та доходів населення, забезпечення громадян житлом, регулювання права власності громадян. Соціальний захист є практичною діяльністю щодо реалізації основних напрямів соціальної політики.

Соціальний захист – це діяльність соціально орієнтованої держави, яка здійснюється через комплекс організаційно-правових та соціально-економічних заходів, метою яких є:

- по-перше, створення для працездатних громадян належних умов для забезпечення своїх соціально-економічних та духовних потреб;
- по-друге, гарантоване забезпечення громадянам, які потребують соціальної допомоги, рівня життя не нижче від прожиткового мінімуму.

В Україні конституційне закріплено поняття «соціальний захист», яке включає право на забезпечення громадян у разі повної, часткової або тимчасової втрати працездатності, втрати годувальника, безробіття з незалежних від них обставин, а також по старості та в інших випадках, передбачених законом.

Це право гарантується загальнообов'язковим державним соціальним страхуванням, здійснюваним за рахунок страхових внесків громадян, підприємств, установ і організацій, а також бюджетних та інших джерел соціального забезпечення; створенням мережі державних, комунальних, приватних закладів для догляду за непрацездатними (Конституція України, стаття 46) [1, ст. 46].

Отже, кінцевою метою соціального захисту є надання кожному члену суспільства незалежно від соціального походження, національної або расової приналежності можливості вільно розвиватися, реалізовувати свої здібності [6].

Якщо звернутися до ст. 24 Конституції України, яка проголошує, що не може бути привілеїв чи обмежень за

ознаками раси, кольору шкіри, політичними, релігійними та іншими переконаннями, за статтю, етнічним та соціальним походженням, майновим станом, місцем проживання, мовними та іншими ознаками, стає зрозуміло, що соціальний захист є одним з інститутів, який забезпечує права і свободи громадян. [1, ст. 24].

Соціальний захист населення України – це багатогранна система взаємопов'язаних з усіма законодавчими і виконавчими рішеннями різних рівнів економічних, правових і соціальних гарантій реалізації найважливіших соціальних прав кожного члена нашого суспільства незалежно від його місця проживання, працездатності, статі, віку.

У широкому розумінні соціальний захист – це система організаційних, правових та економічних заходів щодо забезпечення основних соціальних прав громадянина в Україні.

Структурно соціальний захист має такі складові:

а) державний соціальний захист – загальна система соціального захисту (загальнообов'язкове державне страхування та державна соціальна допомога);

б) спеціальний соціальний захист; в) додатковий соціальний захист і недержавне соціальне забезпечення (недержавне пенсійне забезпечення та недержавні соціальні послуги).

Соціальна безпека – це стан життєдіяльності людини та суспільства, що характеризується сформованою, сталою соціальною системою забезпечення соціальних умов діяльності особистості, її соціальної захищеності, стійкості до впливу чинників, які

підвищують соціальний ризик. Забезпечення соціальної безпеки в будь-якій країні здійснюється засобами державної, насамперед соціальної політики.

В Декларації про державний суверенітет України соціальна безпека розглядається як “стан гарантованої правової та інституціональної захищеності життєво важливих соціальних інтересів особи й суспільства від внутрішніх і зовнішніх загроз” [4].

Сьогодні актуальність забезпечення соціальної безпеки людини, держави, суспільства є пріоритетним завданням для України в умовах посилення зовнішніх та внутрішніх загроз національній безпеці [1].

Соціальна безпека людини в Україні закріплена на конституційному рівні. Так, згідно з Конституцією Україна:

- «є суверенною і незалежною, демократичною, соціальною, правовою державою» (ст. 1);
- «людина, її життя і здоров'я, честь і гідність, недоторканність і безпека визнаються в Україні найвищою соціальною цінністю» (ст. 3);
- «права і свободи людини та їх гарантії визначають зміст і спрямованість діяльності держави. Держава відповідає перед людиною за свою діяльність. Утвердження і забезпечення прав і свобод людини є головним обов'язком держави» (ст. 3),
- «усі люди є вільні і рівні у своїй гідності та правах. Права і свободи людини є невідчужуваними та непорушними» (ст. 21);

Тому постійним об'єктом соціальної безпеки держави виступає людина, її життєво важливі потреби, права, свободи та інтереси. Об'єктами соціальної безпеки держави є слабозахищені соціальні верстви, групи, спільноти. Основу такого регулювання становить система соціальних гарантій, які мають забезпечувати реалізацію передбачених Конституцією соціальних прав і свобод людини [2].

Безпека людини є ключовою складовою стратегічного напряму, визначеного ООН як сталий людський розвиток [5].

Він передбачає поліпшення якості життя людей за такими сферами:

- соціальне та економічне забезпечення;
- екологічно сприятливе середовище для життя; підвищення безпеки життя;
- покращення стану здоров'я.

Сьогодні в Україні ПРООН здійснює цілеспрямовану діяльність щодо зміцнення особистої та громадської безпеки, зменшення напруженості в українському суспільстві, запобігання конфліктам, забезпечення захисту прав людини та зміцнення довіри до держави для посилення здатності країни протистояти кризам.

Як зазначено в доповіді ПРООН «Безпека та правосуддя в Україні» (Security and justice in Ukraine), рівень територіальної громади є базовим у забезпеченні безпеки людини [3].

На думку міжнародної експертної спільноти, діяльність поліції, місцевих органів влади, інститутів громадянського суспільства та інститутів правосуддя є

більш чутливою до потреб місцевого населення, конкретної людини, що виступає важливим компонентом у процесі конструктивної трансформації відносин між особистістю, громадою та державними установами для забезпечення безпеки і правосуддя в Україні.

СПИСОК ВИКОРИСТАНИХ ДЖЕРЕЛ

1. Конституція України: Закон України від 28.06.1996 р. URL:https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text
2. Харазішвілі Ю.М., Грішнова О.А. Якість життя в системі соціальної безпеки України: індикатори, рівень, загрози. Економіка України. 2018. № 11-12. С. 684-685.
3. UNDP report "Security and justice in Ukraine Perspectives from Communities in Three Oblasts". This report was prepared by Survey Methodological Expert Heather Goldsmith. URL:http://www.ua.undp.org/content/ukraine/uk/home/library/democratic_governance/security_justice_perspectives .html.
4. Декларація про державний суверенітет України. Відомості Верховної Ради УРСР. 1990. № 31. URL: http://zakon.rada.gov.ua/laws/show/55-12
5. Преамбула Устава ООН. URL: http://www.un.org/ru/sections/uncharter/preamble/index.html
6. Державна програма зайнятості населення на 2001-2002 р. Затв. Законом України від 7 березня 2002 р.

ФІНАНСОВА ДЕЦЕНТРАЛІЗАЦІЇ В УКРАЇНІ: ВПЛИВ НА РОЗВИТОК МІСЦЕВИХ БЮДЖЕТІВ

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Актуальність теми дослідження

У сучасних умовах економічного, політичного та соціального розвитку України виникає насущна потреба в обґрунтованому аналізі та оцінці фінансової децентралізації як ключового інструменту реформування системи місцевого самоврядування та місцевих бюджетів. Впровадження фінансової децентралізації стало стратегічним напрямком державної політики, спрямованою на забезпечення сталого росту та ефективного функціонування місцевих бюджетів.

Основною метою фінансової децентралізації в Україні є створення умов для економічного зростання регіонів, підвищення якості надання комунальних послуг, а також стимулювання інвестиційного клімату на місцевому рівні. Дана тема вкладається в загальний контекст стратегічних трансформацій, спрямованих на підвищення життєвого рівня громадян та забезпечення стійкого розвитку країни.

У зв'язку з важливістю вищезазначених завдань важливо розглянути вплив фінансової децентралізації

на місцеві бюджети як складову сучасної соціально-економічної реформи. Дослідження цього питання сприятиме розкриттю перспектив, визначенню проблем та розробці ефективних рекомендацій для оптимізації механізмів фінансової децентралізації, що, в свою чергу, позитивно вплине на розвиток місцевих громад та підвищення ефективності використання бюджетних ресурсів.

Об'єктом цього дослідження є фінансова децентралізація в Україні. Дослідження спрямоване на ретельний аналіз та оцінку процесів, пов'язаних із передачею фінансових повноважень та ресурсів від центрального рівня до місцевих громад.

Виклад результатів дослідження

Бюджетна децентралізація представляє собою складну реформу, яка має за мету перетворення системи управління країною, де громади отримують можливість самостійно ухвалювати рішення і нести відповідальність за їх реалізацію, а також самостійно визначати пріоритети соціально-економічної та фінансової політики.

Головним стратегічним завданням модернізації системи державного управління та територіальної організації влади, яка здійснюється в наш час, є створення ефективного місцевого самоврядування та забезпечення комфортних умов для проживання громадян та надання їм високоякісних та доступних публічних послуг [4]. Для досягнення цих цілей необхідно враховувати належний рівень економічного

розвитку відповідних територій, їх фінансове забезпечення і належні джерела для поповнення місцевих бюджетів.

Фінансовий аспект є одним із ключових елементів, від якого, в значній мірі, залежить успішність функціонування територіальних громад. Наявність економічно активних суб'єктів підприємницької діяльності, достатня кількість кваліфікованих трудових ресурсів, розвинена промислова та соціальна інфраструктура – все це є основою для успішного розвитку громади.

Реформа призвела до підвищення інтересу органів місцевого самоврядування у збільшенні доходів до місцевих бюджетів, виявленні резервів для їх наповнення та покращенні ефективності адміністрування податків і зборів. Успішні громади демонструють високі та динамічні темпи зростання власних доходів. У сфері використання коштів акцент робиться на формуванні оптимальної структури бюджетних видатків, створенні ефективного та не завершено чисельного управлінського апарату, проведенні постійного аналізу витрат бюджетних коштів та упередженні випадків їх нераціонального використання.

Показники виконання місцевих бюджетів відображають загальний соціально-економічний стан відповідної території та її потенціал для сталого розвитку. Наявність достатніх ресурсів у місцевих бюджетах є запорукою того, що територіальна громада має можливість надавати якісні та різноманітні послуги своїм мешканцям, реалізовувати соціальні та

інфраструктурні проекти, створювати умови для підприємництва, залучення інвестиційного капіталу, розробляти програми місцевого розвитку та фінансувати інші заходи для всеосяжного покращення умов проживання громадян.

Фінансова (бюджетна) децентралізація в Україні має свої переваги та недоліки.

Переваги полягають у тому, що:

- місцеві бюджети отримали фінансову самостійність, а об'єднані територіальні громади право на прямі міжбюджетні відносини;

- збільшено кількість податків і визначено їх процент, який залишиться на місцях і не зараховується до загальнодержавного бюджету;

- запроваджено нові види трансфертів, зокрема базову дотацію, субвенції для освіти, медицини та реверсну дотацію;

- місцеві органи влади можуть розміщувати свої власні надходження в установах банків, а під власні гарантії можуть брати запозичення від міжнародних фінансових організацій.

До недоліків можна віднести:

- необхідність кардинальної реформи бюджетної системи,

- неправильно розподілене майно у громадах, невірне управління місцевими фінансами,

- відсутність достатніх джерел фінансування на державному і регіональному рівнях.

- недосконалі взаємовідносини між державним і місцевими бюджетами також створюють труднощі у фінансуванні місцевих проектів.

Першим кроком у зміні системи управління став прийнятий у 2015 році Закон України "Про добровільне об'єднання територіальних громад". Того ж року відбулися місцеві вибори у 159 об'єднаних територіальних громадах (ОТГ), і вже у 2016 році вони перейшли на нові міжбюджетні відносини з державним бюджетом.

Децентралізація місцевих бюджетів розпочалася за допомогою змін до Бюджетного і Податкового кодексів, які передбачали не лише передачу додаткових бюджетних повноважень, але і стабільних джерел доходів для їх реалізації.

Основні принципи фінансового зміцнення місцевої влади закріплені у статті 9 Європейської Хартії місцевого самоврядування, де вказується, що "органи місцевого самоврядування мають право на свої власні адекватні фінансові ресурси, якими вони можуть вільно розпоряджатися в межах своїх повноважень" [2].

Зміни до Конституції України, запропоновані Президентом із метою децентралізації влади, визначають матеріальну і фінансову основу місцевого самоврядування, зокрема, зазначаючи, що це включає в себе комунальну власність територіальної громади та доходи місцевих бюджетів, включаючи місцеві податки і збори, частину загальнодержавних податків та інші доходи.

Джерелом місцевих фінансів є цільові фонди органів місцевого самоврядування. Цільовий фонд – є

складовою спеціального фонду місцевого бюджету та використовується за цільовим призначенням, створюється з метою надходження додаткових фінансових ресурсів до спеціального фонду місцевого бюджету на фінансування видатків щодо вирішення питань соціально-економічного розвитку території, соціального захисту населення, становлення і розвитку місцевого самоврядування, проведення загальноміських заходів. Місцеві запозичення є джерелом фінансового забезпечення розвитку місцевого самоврядування і потужним фінансовим інструментом, який допомагає ефективно вирішувати їх поточні й довгострокові проблеми.

Найбільш поширеною формою залучення фінансових ресурсів органами місцевого самоврядування є випуск місцевих позик. Ринок муніципальних облігацій в Україні практично відсутній. Високим потенціалом мобілізації доходів володіє місцеве господарство, комунальна та інша власність, яка служить джерелом одержання доходів місцевого самоврядування і задоволення соціальноекономічних потреб населення відповідної території [5].

Основу місцевого господарства складають об'єкти комунальної власності. Суб'єкти господарювання комунальної форми власності є платниками як загальнодержавних, так і місцевих податків і зборів, тобто вони наповнюють дохідну частину місцевих бюджеті, тому виникає питання ефективного управління об'єктами комунальної власності [6]. Важливою проблемою в сучасних умовах є взаємовідносини між державним і місцевим бюджетом. У щорічних законах

про Державний бюджет України проводиться уточнення складу доходів загального та спеціального фонду місцевих бюджетів, визначається механізм надання додаткових дотацій місцевим бюджетам з державного бюджету, встановлюються розміри коефіцієнтів вирівнювання.

Один з інструментів реалізації регіональної економічної політики держави - це місцеві фінанси [1, с.44]. Підвищення фінансового (бюджетного) потенціалу місцевих фінансів є ключовим фактором для поліпшення якості життя населення, боротьби з бідністю та зниження рівня інфляції. Місцеві фінанси об'єднують фінансові ресурси, що перебувають у розпорядженні органів місцевого самоврядування, та соціально-економічні відносини при формуванні, розподілі, використанні та нарощуванні фінансового потенціалу об'єднаних територіальних громад (ОТГ).

Організація місцевих фінансів передбачає необхідне розмежування функцій і повноважень між державною владою та місцевим самоврядуванням, чіткий поділ доходів та видатків між державним і місцевими бюджетами, а також створення відповідних джерел доходів для місцевого самоврядування [3, с.156].

Сутність цього процесу полягає в забезпеченні самостійності в формуванні та використанні фінансових ресурсів, державної фінансової підтримки несамодостатніх територіальних громад, фінансового вирівнювання, стимулюванні збільшення доходів об'єднаних громад, раціональному використанні ресурсів, постійному контролі за їх використанням та

забезпеченні гласності та відкритості у фінансових операціях місцевого самоврядування.

Основні джерела місцевих фінансів включають державні кошти, що передаються органам місцевого самоврядування органами державної влади, власні кошти місцевих органів, запозичені кошти або комунальні кредити. Складовими місцевих фінансів є місцеві бюджети, цільові фонди органів місцевого самоврядування, комунальний кредит, місцеві позики, місцеве господарство та об'єкти комунальної власності. Фінансові ресурси можуть бути залучені від кредитних та страхових організацій, а також від підприємств, що мають місцеву форму власності, що існують на території місцевого утворення.

Висновки та пропозиції за результатами дослідження

Отже, враховуючи вищезазначене, можна прийти до висновку, що реалізація реформи децентралізації позитивно впливає як на розвиток місцевих фінансів, так і на балансування та розвиток фінансів національного рівня. Це обумовлено тим, що передача частини повноважень і бюджету від центральних до місцевих органів влади сприяє своєчасному та ефективному вирішенню місцевих питань, враховуючи їх територіально-економічні особливості. Місцеві бюджети відіграють ключову роль у формуванні загального бюджету країни та в управлінні її фінансовими відносинами.

Я вважаю, що необхідно активізувати ринок муніципальних облігацій в Україні. Для цього слід розробити та впровадити ефективний механізм випуску та обігу місцевих позик, що дозволить залучати приватний та корпоративний капітал для реалізації інфраструктурних та соціальних проектів, а також, на мою думку, варто забезпечити високий рівень прозорості у фінансових операціях місцевого самоврядування. Таке впровадження ефективних систем внутрішнього контролю сприятиме збалансованому та ефективному використанню бюджетних ресурсів. Створення сприятливого середовища для розвитку бізнесу на місцевому рівні допоможе збільшити доходи та забезпечити хороший рівень економічного розвитку громад.

СПИСОК ВИКОРИСТАНИХ ДЖЕРЕЛ

1. Коваленко В. В. Реформування та стратегічний розвиток фінансової системи України. ScienceRise. 2015. № 2(3). С. 43 – 46.
2. Еволюція фінансової системи ЄС: виклики та перспективи для України. URL: http://www. niss.gov.ua/articles/1671
3. Луніна І. О. Бюджетна децентралізація в Україні у контексті європейських тенденцій. Збірник наукових праць Національного університету Державної податкової служби України. 2016. № 2. С. 155-171.
4. Стратегія розвитку фінансового сектору України 2025. URL: http://zakon1.rada. gov.ua/laws/show/5/2020/.
5. Фінансова система національної економіки: проблеми розвитку та управління змінами за ред. Т. І. Єфименко. Держ.

навч.-наук. установа «Акад. фін. упр.». К.: ДННУ «Акад. фін. упр.». 2012. 892 с.

6. Проблеми розвитку фінансової системи України та шляхи їх вирішення: монографія. М.І. Карлін, Ю.В. Шулик, А.В. Кулай та ін. за ред. д.е.н. проф. М.І. Карліна. Луцьк: Вежа-Друк, 2014. 364 с.

WYZWANIA DLA REGULACJI PRAWNYCH W KONTEKŚCIE ZJAWISKA DEEPFAKE

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Pojęcie deepfake odnosi się do technologii, która dzięki użyciu sztucznej inteligencji generuje obrazy, filmy i nagrania symulujące rzeczywistość. Postęp techniczny i technologiczny w ostatnich latach sprawił, że tworzenie deepfaków jest jeszcze łatwiejsze i szybsze do wykonania, a otrzymane rezultaty bardziej realistyczne.

Przykładowo, platforma Hour One pozwala na stworzenie nagrania video z wirtualnymi postaciami. Użytkownicy Platformy muszą jedynie wybrać jedną spośród dziesiątek stworzonych przez aktorów awatarów, a także jego głos oraz wpisać monit, aby uzyskać realistyczną „gadającą głowę". Hour One pozwala również użytkownikom na digitalizację własnych twarzy i głosów.

Jest to jedna z wielu firm tworząca „wirtualnych ludzi", które dodały do swoich platform narzędzia językowe oparte na sztucznej inteligencji, aby zapewnić swoim awatarom większy zasięg. Ponad 150 firm tworzy obecnie produkty oparte na generatywnej sztucznej inteligencji — ogólnym określeniu systemów wykorzystujących nienadzorowane uczenie się do tworzenia tekstu i multimediów — dla twórców treści, marketerów i firm medialnych.

Tym samym, deepfake stanowi poważne zagrożenie dla wielu dziedzin życia społecznego oraz gospodarczego w tym bezpieczeństwa narodowego, demokracji, prywatności czy zdrowia. Dezinformacja, również ta kreowana przez sztuczną inteligencję, została uznana za jedno z globalnych ryzyk krótkoterminowych w Raporcie Światowego Fora Ekonomicznego.

Mając powyższe na uwadze, tematem artykułu jest przybliżenie zagadnienie deepfaków z perspektywy polskiego prawa karnego. Wskazane zostaną zagrożenia wynikających z ich funkcjonowania oraz problemy prawnokarne związane z odpowiedzialnością za ewentualne szkody powstałe w wyniku deepfaków.

Z uwagi na prawniczy charakter opracowania zostaną wykorzystane dwie metody badawcze: metoda dogmatyczno-prawna pozwalająca poddać analizie obowiązujące unormowania prawne oraz metoda historyczna zastosowana w celu przybliżenia aksjologicznych podstaw zagadnień związanych z sztuczną inteligencją w postaci deepfaków.

Wynikiem przeprowadzonych rozważań ma być wykazanie, że w obecnym stanie prawnym deepfake podlega penalizacji na gruncie prawa karnego, choć w mocno ograniczonym, fragmentarycznym jedynie zakresie. Ze względu na zagrożenia, które może powodować ich występowanie warto zatem, rozważyć jako postulaty de lege ferenda rozszerzenie przepisów prawnokarnych, mając jednocześnie na uwadze konstytucyjnie chronioną wolność wypowiedzi.

THE ACCELERATION OF LAWS REGULATING DIGITAL BANKS

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The Internet has played a major role in our daily financial business; in fact, a secure end-to-end transaction requires a secure protocol as these software-based solutions include the use of encryption algorithms, private and public keys, and digital signatures used by MasterCard and Pretty Good Privacy.

What are the characteristics or qualities of technical protection that achieve cyber security and leadership in regulating electronic banking operations in terms of legal legislation?

This article aims to draw the attention of lawmakers to develop legal legislation on an ongoing basis to ensure the safety and stability of the accelerated electronic financial system.

On the other hand, any tightening in the regulation of electronic banking services may be counterproductive because such solutions will quickly become obsolete due to the rapid pace of technological change.

The legal system of electronic banks in Jordan and EU is based on the Electronic Transactions Law, where the Central Bank of Jordan issues legal instructions regulating electronic business and instructions for cyber adaptation in

electronic payment companies.

Keywords: Privacy, digital signatures, Digital Banks, cyber security, Electronic Transactions.

SEASONAL MIGRANT WORKERS IN THE EU: ACCESS TO SOCIAL PROTECTION

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Migrant workers access to labor rights is a topic that has been discussed over the years. The main theme in this regard is that migrant workers often difficulties and legal barriers in accessing their rights in host countries due to their vulnerable position and other factors. The European union has a harmonized concept of granting migrant workers the same level of protection as a national worker, including access to social protection. However, certain groups have different level of access to their social protection, namely, seasonal migrant workers. This presentation aims is to provide an overview of the European Union's approach to seasonal migrant workers' rights through examining "seasonal workers directive" and reviewing the differences in national laws of member states in guaranteeing access to social protection through its different forms. The aim is to highlight the disparities between member states' practices and address the issues revolving seasonal migrant workers access to social protection and recent developments.

RETHINKING THE CONSTITUTIONAL DESIGN IN MULTINATIONAL SOCIETIES OF ETHIOPIA

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As a country with robust multinational societies, Ethiopia has adopted constitution in 1991 which set ethnic-based federal state structure and parliamentary form government. Despite this, the country is known for insecurity which resulted in the displacement of millions and death of hundreds of thousands in the last three decades. Some political elites and scholars blame the existing constitutional design as the root cause for insecurity and try to recommend US model of federalism. There also those who call for presidential unitary system. Against this backdrop, this paper tries to explore whether the unitary or the US model federalism is appropriate or not for democratic governance in the diverse societies of Ethiopia. Besides, the paper examine the whether the power sharing model (also called consociationalism) recommended by Arend Lijphart for countries with deeply divided societies in his seminal article fit the context of Ethiopia.

DARK PATTERNS

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In most cases, dark patterns seem clear and legal, which is why it is necessary for states to apply extraordinary measures to manage them. It is from this need that states adopt rules and guidelines on unfair commercial practices for the safety of users. Basic problems can be identified in relation to dark patterns. The first requirement would be that the states apply it in a way that is appropriate in the sense of effective protection, so that it explicitly puts dark patterns in the background. The most important question is how a state can effectively defend itself against hidden methods and at the same time protect fundamental rights. Because of the dark patterns, it is vital for states to provide rules that are specific to the situation.

First of all "dark patterns" appear in online commerce. Entrepreneurs sometimes make use of the consumer behaviour authority, through the data-centric and personalized practice that they demonstrate towards consumers. It spreads because entrepreneurs have more and more data that they can use for their own commercial purposes. It is a fact that, according to online commerce, the lives of consumers are made more manipulable and usable through quick orientation and non-stop availability.

I think it is important during the research to understand the process of defining dark patterns and the

importance of the problem. Furthermore, it is necessary for readers to be able to analyze the factors necessary to define the research problem: past information and forecasts, user behaviour, the economic and legal environment, as well as the marketing and technological capabilities of companies in the online environment, and to understand the problems and conflicts arising during the definition of the problem and the development of the approach.

Keywords: dark patterns, unfair, online, practice, consumer

ПРАЦЕВЛАШТУВАННЯ МОЛОДІ ЯК ПРОБЛЕМА СУЧАСНОГО СВІТУ

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Безробіття – це проблема, яка набула світового масштабу, не оминула ця проблема і Україну. Особливо гостро ця ситуація стосується молоді, людей, які нещодавно закінчила навчання у вищих навчальних закладах, професійних училищах. У світі вікові межі молоді коливаються від 13 до 35 років, в Україні, згідно Закону України «Про основні засади молодіжної політики» під молоддю розуміють осіб віком від 14 до 35 років [1]. Незважаючи на задекларовані законодавчі норми, які гарантують рівні права та можливості для усіх категорій населення, в країні досі існує розбалансованість між попитом на ринку праці та пропозицією робочої сили. Характерним для даної проблеми є наявність двох аспектів: правового та соціального.

Основною проблемою, з якою стикаються випускники навчальних закладів на ринку праці є їх слабка конкурентоспроможність, яка тягне за собою проблеми в пошуку першого місця роботи для початку своєї трудової діяльності. Це пояснюється дефіцитом

якісних робочих місць та відсутністю у молодих людей досвіду роботи чи практичних професійних навичок, які б змогли задовільнити вимоги роботодавців. Зазвичай роботодавці надають перевагу тим особам, у яких є хоча б мінімальний досвід роботи. Попри те, що молодь забезпечена якісною освітою, здоров'ям, певними перевагами, все ж їхні надмірні амбіції, малий життєвий та професійний досвід становлять перешкоди для хорошого працевлаштування, що характеризує їхню беззахисність на ринку праці [2].

Варто зазначити, що є ряд причин, чому саме молодь має бути працевлаштована першочергово. Молоді люди – це найактивніша частина суспільства в соціальному плані. Саме вони починають усі зміни, рухаючи місце роботи вперед, тим самим вперед рухається країна, росте економіка.

Здоров'я є ще одним чинником, який мав би надавати переваги молоді, адже чим сильніший і міцніший організм, тим легше йому буде витримати навантаження. Це робить молодих осіб більш дієвим інструментом в порівнянні зі старшим поколінням. Такі люди швидше призвичаюються до нових умов, вимог, обставин.

Дуже важливо не відтягувати з працевлаштуванням, адже тривалий період без реалізації набутих знань на практиці може привести до їх втрати. Особа втрачає свої навички та кваліфікацію, що в подальшому ще більше ускладнює пошук роботи. Разом з тим втрачається і віра у власні сили та свої знання.

У зв'язку з відсутністю можливостей

працевлаштування, багатьом особам доводиться виїжджати за кордон в пошуках роботи. Варто зазначити, що це призводить до того, що велика кількість дійсно хороших спеціалістів залишають Україну, адже просто не змогли влаштуватися тут в зв'язку з переконаннями роботодавців в тому, що вони не впораються.

Окрім цього чинником впливу також є невисокий рівень заробітної плати. Низька ціна робочої сили призводить до того, що значне число достатньо освічених і кваліфікованих осіб, в тому числі молоді, перебуває за межею бідності. Окрім соціального аспекту проблеми працевлаштування варто згадати й правовий. Першочергово необхідно зазначити про момент «офіційного працевлаштування». Дуже часто молоді спеціалісти стикаються з проблемою відмови роботодавців від закріплення трудових відносин договором і відмовою робити необхідні відмітки у трудових книжках. В подальшому це тягне за собою неможливість працівника довести наявність в нього досвіду роботи.

Необхідно зупинитися і на моменті працевлаштування неповнолітніх. Законодавство про працю, а саме ст. 24 Кодексу законів про працю вимагає письмової форми договору, що, на жаль, ігнорується роботодавцями і відповідно становить порушення трудового законодавства [3].

Проблемою правового регулювання є й те, що на законодавчому рівні не закріплена програма, яка б забезпечувала молоді доступ до робочих місць. Навіть попри те, що є закріплені програми стажування, вони не

ефективні і відповідно не вирішують проблеми. Працевлаштування молоді є проблемою, яку необхідно вирішувати, адже саме молодь є рушійною силою суспільства, яка зможе рухати країну вперед.

Отже, вважаю за доцільне закріпити на державному рівні програми, які б створювали умови для успішного працевлаштування працівників. Також необхідно створити механізм протидії випадкам незаконного працевлаштування.

СПИСОК ВИКОРИСТАНИХ ДЖЕРЕЛ

1. Про основні засади молодіжної політики: Закон України №1414-IX від 27 квітня 2021 року. URL: https://zakon.rada.gov.ua/laws/show/1414-20#Text .
2. Грабовець І.В. Молоді фахівці як соціально-статусна група: характеристика та роль у системі суспільних відносин. Грані. 2005. №5, С. 118-121.
3. Кодекс законів про працю України: Закон України №322-VIII від 10 грудня 1971 року. URL: https://zakon.rada.gov.ua/laws/show/322-08#Text

THE ISSUE OF THE IMPLEMENTATION OF INDIVIDUAL HUMAN RIGHTS UNDER THE CONDITIONS OF MARITAL STATE

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Let's start with the fact that the right to non-interference in personal and family life can be limited only in the interests of national security, economic well-being and human rights, which is referred to in Part 2 of Art. 32 of the Basic Law.

According to para. 3, 5 pp. 3.3 clause 3 of the decision of the Constitutional Court of Ukraine dated January 20, 2012 No. 2-рп/2012 [1] information about the personal and family life of a person (personal data about him) is any information or a set of information about a natural person who is identified or can be specifically identified, namely: nationality, education, marital status, religious beliefs, state of health, financial status, address, date and place of birth, place of residence and stay, etc., data on personal property and non-property relations of this person with others persons, in particular family members, as well as information about events and phenomena that took place or are taking place in the household, intimate, social,

professional, business and other spheres of a person's life, with the exception of data regarding the exercise of powers by a person holding a position, related to the implementation of the functions of the state or local self-government bodies. Such information about an individual and his family members is confidential and may be shared only with their consent, except in cases specified by law, and only in the interests of national security, economic well-being and human rights.

Therefore, during martial law, such information may be shared without the individual's consent in the interests of national security. However, it is necessary to emphasize the repeated cases of illegal leakage of private information, which is carried out by specially sent persons with the aim of publicly defaming someone. In our opinion, in order to reduce cases of leakage of personal information, the specified dissemination of private information in the interests of national security (restriction of rights) should be applied based on the understanding of the realization of the legitimate interest of the state. Then, such a legal restriction will have a clearly regulated procedure of application and determination of authorized state bodies, because in this case it is necessary to proceed from the superiority of the public (in the sense of public and state) interest over the private interest of a person. Such an advantage will be recognized as legal only when it is performed in accordance with the procedure established by the normative legal act. Moreover, the question of proving the interest of national security becomes important in practice, because this is one of the reasons for applying the specified measures to a person. Taking into account the

above, in our opinion, when disseminating information about a person that has the content of private information, one should be guided by a legitimate interest, that is, the state should proceed from such a legal possibility that has an external form of expression, is protected by the law and is provided by it, aimed at realizing the interest of the national safety.

The exercise of the right to freedom of thought and speech, to the free expression of one's views and beliefs may be limited by law in the interests of national security, territorial integrity or public order in order to prevent riots or crimes, as referred to in Part 3 of Article 34 of the Constitution of Ukraine.

The order of the Commander-in-Chief of the Armed Forces of Ukraine dated March 3, 2022 No. 73 [2], among other things, establishes a list of information, the disclosure of which may lead to the enemy becoming aware of the actions of the Armed Forces of Ukraine and other components of the defense forces, negatively affect the progress of the performance of assigned tasks during the operation the legal regime of martial law, namely:

- names of military units (subunits) and other military facilities in areas where combat (special) tasks are performed, geographical coordinates of their locations;
- the number of personnel of military units (subunits);
- the number of weapons and combat equipment, material and technical means, their condition and storage location, etc.

In our opinion, when considering the limitation of a person's right to freedom of thought and speech, to the free

expression of his views and beliefs, one should proceed from the fact that a person's view, thought, word, belief may have in its content (when a person expresses it for another person or a circle of persons) information that poses a threat to the national security of Ukraine. In this case, we are talking about the emergence of an interest protected by law in the state, since in most cases such information has already been expressed and disseminated by the person. An important aspect for the state is the question of proving whether such information actually violates the interests of national security. Order No. 73 of the Commander-in-Chief of the Armed Forces of Ukraine dated March 3, 2022 is intended to settle this issue, but in practice this is not enough. A number of other normative legal acts also do not specify all information that may threaten the national security of Ukraine. Therefore, in our opinion, a legal aspiration arises in the state, which is relatively defined in the legal norm or may not have an external form of expression at all, and therefore needs to be proven and confirmed by judicial authorities.

Consequently, restrictions on human rights must have an exclusively legal basis and be implemented in the interests of the state and society and on the grounds established in normative legal acts.

REFERENCES

1. Decision of the Constitutional Court of Ukraine in the case of the constitutional submission of the Zhashkiv District Council of Cherkasy Oblast regarding the official interpretation of the provisions of the first and second parts of Article 32, the second and third parts of Article 34 of the Constitution of Ukraine dated

January 20, 2012 No. 2-рп/2012

2. Order of the Commander-in-Chief of the Armed Forces of Ukraine dated March 3, 2022 No. 73. [Electronic resource]. Application date: 10.12.2023. Access mode: https://www.mil.gov.ua/content/mou_orders/nakaz_73_zi_zminamu.pdf

КАЗУС У СУЧАСНІЙ КРИМІНАЛЬНО-ПРАВОВІЙ НАУЦІ

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У сучасному вітчизняному кримінальному праві існує концепція суб'єктивного ставлення у вину, що, відповідно, активує детальне наукове дослідження інституту вини, а також взаємопов'язаних питань невинуватості. Коли посягання здійснюється за відсутності як ознак умислу, так і необережності, відсутня вина. У цьому випадку ми маємо справу із ситуацією, що не визначена Кримінальним кодексом України, але в теорії кримінального права та на практиці вона розглядається як випадок або казус. При цьому, під випадком у юриспруденції розуміється діяння, що має лише «зовнішні» ознаки кримінального правопорушення, але відсутні ознаки вини, і, отже, не є кримінально-караним.

Для дослідження поняття невинного заподіяння шкоди в умовах відсутності законодавчого визначення варто розглянути основні підходи до розуміння поняття казусу. В теорії кримінального права існують два підходи.

Перший підхід полягає у тому, що поняття та ознаки казусу деякі науковці формують «обернено» до необережної форми вини (кримінально протиправної

самовпевненості та кримінально протиправної недбалості), що певною мірою межує із казусом. Так, згідно з частиною 2 статті 25 Кримінального кодексу України, кримінально протиправна самовпевненість має місце тоді, коли особа передбачала можливість настання суспільно небезпечних наслідків свого діяння, але легковажно розраховувала на їх відвернення [1]. Казус містить принципову відмінність, а саме: особа не могла передбачити настання шкідливих наслідків свого діяння [3, с. 88]. Значно важче розмежувати казус із кримінально протиправною недбалістю, за якої особа теж не передбачає можливості настання суспільно небезпечних наслідків. Згідно з частиною 3 статті 25 Кримінального кодексу України, кримінально протиправна недбалість має місце тоді, коли особа не передбачала можливості настання суспільно небезпечних наслідків свого діяння (дії або бездіяльності), хоча повинна була і могла їх передбачити [1]. У такому випадку обов'язковим є встановлення необхідності (об'єктивного критерію) та можливості (суб'єктивного критерію) такого передбачення. Дослідники вважають, що казус характеризується відсутністю або суб'єктивного, або об'єктивного критерію, або одночасно обох цих критеріїв [4, с. 202]. Тобто, за першим підходом у розумінні цього поняття, казус (випадок) має місце тоді, коли наслідки, що настали, перебувають у причинному зв'язку з діянням особи, котра не тільки не передбачала можливості їх настання, а й не могла їх передбачити. Проте, з цим підходом погодитись важко, оскільки, по-перше, він недостатньо повний, стосується лише ситуацій розмежування необережної вини і казусу (випадку),

по-друге, не враховує відсутності усвідомлення особою суспільно небезпечного характеру свого діяння.

Другий підхід полягає у тому, що про випадок можна говорити і тоді, коли відсутня перша інтелектуальна ознака умислу – усвідомлення особою суспільно небезпечного характеру свого діяння, і при цьому не встановлена відповідальність за відповідне необережне посягання, або відсутні й ознаки необережності [5, с. 73]. Слідуючи даному підходу, для невинуватого заподіяння шкоди, тобто казусу, характерним є те, що особа не усвідомлювала і не могла усвідомити суспільну небезпечність свого діяння або не передбачала і не повинна була чи не могла передбачити настання суспільно небезпечних наслідків. Ми підтримуємо цей підхід, оскільки, по-перше, він розширює область застосування поняття казусу, бо не обмежується лише ситуаціями, які стосуються розмежування необережної вини та казусу, що дозволяє більш гнучко враховувати різноманітні сценарії, по-друге, на відміну від першого підходу, який обмежується лише наслідками, другий підхід враховує важливий аспект відсутності усвідомлення суспільно небезпечного характеру дії.

Варто зауважити, що в проекті Кримінального кодексу України міститься логічне визначення казусу, зокрема у статті 2.4.8. зазначається, що діяння особи визнається вчиненим без вини за відсутності передбачених складом відповідного кримінального правопорушення умислу чи необережності [6].

Необхідно звернути увагу на те, що питання казусу у кримінально-правовому розумінні стає

актуальним лише в тих випадках, коли вчинене діяння, передбачене кримінальним законом, призводить до суспільно небезпечних наслідків. При цьому, наявні ознаки об’єкта, об’єктивної сторони, суб’єкта відповідного складу злочину. Тобто, поняття випадку, як і кримінального правопорушення – цілком конкретне. Про наявність випадку можна судити лише внаслідок проведення кримінально-правової кваліфікації скоєного.

Тож, можна визначити такі ознаки кримінально-правового поняття казусу:

- вчинене діяння передбачене конкретною статтею Особливої частини Кримінального кодексу України;
- скоєному діянню притаманні всі ознаки об'єкта, об'єктивної сторони та суб'єкта певного складу кримінального правопорушення;
- відсутня умисна чи необережна форма вини, що призводить до виключення можливості настання кримінальної відповідальності.

Наведемо приклад: людина йшла по тротуару в дощ, підсковзнулась та рефлекторними рухами штовхнула іншу людину, яка внаслідок падіння вдарилась та отримала тяжкі тілесні ушкодження. Той, хто штовхнув потерпілу особу, не підлягає кримінальній відповідальності через те, що в момент даної дії не усвідомлював і не міг усвідомити суспільну небезпечність свого діяння або не передбачав і не повинен був чи не міг передбачити настання від свого діяння суспільно небезпечного наслідку. Проте варто зазначити, що відшкодування шкоди, завданої

ушкодженням здоров'я, здійснюється за частиною 1 статті 1195 Цивільного кодексу України (фізична або юридична особа, яка завдала шкоди каліцтвом або іншим ушкодженням здоров'я фізичній особі, зобов'язана відшкодувати потерпілому заробіток (дохід), втрачений ним внаслідок втрати чи зменшення професійної або загальної працездатності, а також відшкодувати додаткові витрати, викликані необхідністю посиленого харчування, санаторно-курортного лікування, придбання ліків, протезування, стороннього догляду тощо [2]).

Розкривши поняття казусу у сучасній кримінально-правовій науці, ми приходимо до висновку, що випадок (казус) означає відсутність вини, як однієї з обов'язкових ознак суб'єктивної сторони, а тим самим, і складу кримінального правопорушення в цілому. Це означає, що при наявності казусу відсутні підстави кримінальної відповідальності. Випадкове заподіяння шкоди не становить собою адміністративного правопорушення чи дисциплінарного проступку, відповідальність за які також настає лише при наявності вини. Водночас, внаслідок такого діяння може наставати цивільно-правова відповідальність – у випадках, коли цивільне законодавство допускає відповідальність без вини.

СПИСОК ВИКОРИСТАНИХ ДЖЕРЕЛ

1. Кримінальний кодекс України: Закон України від 5 квітня 2001 року № 25-26 / Верховна Рада України. URL: https://zakon.rada.gov.ua/laws/show/2341-14#Text (дата

звернення: 28.11.2023).

2. Цивільний кодекс України: Закон України від 16 січня 2003 року № 435-IV / Верховна Рада України. URL: https://zakon.rada.gov.ua/laws/show/435-15#Text (дата звернення: 28.11.2023).
3. Адамян А. С. Правова природа казусу як невинного заподіяння шкоди в кримінальному праві України. Науковий вісник Міжнародного гуманітарного університету. Сер.: Юриспруденція. 2014 №10-2. С. 88-90
4. Кримінальне право. Загальна частина / [Ю. В. Александров, В. І. Антипов]; за ред. М. І. Мельника, В. А. Клименка. – 5-е вид., перероб. і допов. – К. : Атіка, 2009. – 408 с.
5. Навроцький В. О. Основи кримінально-правової кваліфікації. Київ, 2006. 312 с.
6. Текст проєкту нового Кримінального кодексу України станом на 14.10.2023 року. URL: https://newcriminalcode.org.ua/upload/media/2023/10/15/kontrolnyj-tekst-proyektu-kk-14-10-2023.pdf. (дата звернення: 28.11.2023).

ГЕНДЕРНА ДИСКРИМІНАЦІЯ У СФЕРІ ПРАЦІ

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Проблема дискримінації у сфері праці залишається актуальною в сучасному світі. Незважаючи на існування законів, що забороняють дискримінацію, вона все ще поширена в багатьох країнах. Багато людей стикаються з негативними наслідками дискримінації на робочому місці, що може призвести до стресу, психологічних проблем, а також обмежень у кар'єрному зростанні.

Гендерна рівність - це умова, за якої жінки та чоловіки є рівними у реалізації своїх прав. Гендерна рівність є основним елементом соціальної відповідальності, а також можливістю розширення прав.

Гендерна нерівність - характеристика соціального устрою, згідно з якою різні соціальні групи, в даному випадку - чоловіки і жінки, володіють стійкими відмінностями і нерівними можливостями в суспільстві.

На практиці у багатьох країнах таке завдання як досягнення ґендерної рівності значною мірою сприймається як жіноча проблема. При цьому спостерігається зростаючий інтерес урядів та міжнародного співтовариства до ролі чоловіків та

хлопчиків у просуванні мети гендерної рівності. Це пов’язано з усвідомленням того, що гендерна асиметрія - це діагноз усьому суспільству.

Стаття 24 Конституції України встановлює, що громадяни мають рівні конституційні права і свободи та є рівними перед законом та вказує, що рівність прав жінки і чоловіка забезпечується: наданням жінкам рівних з чоловіками можливостей у громадсько-політичній і культурній діяльності, у здобутті освіти і професійній підготовці, у праці та винагороді за неї; спеціальними заходами щодо охорони праці і здоров'я жінок, встановленням пенсійних пільг; створенням умов, які дають жінкам можливість поєднувати працю з материнством; правовим захистом, матеріальною і моральною підтримкою материнства і дитинства, включаючи надання оплачуваних відпусток та інших пільг вагітним жінкам і матерям [1].

Основним нормативним актом, спрямованим на досягнення гендерної рівності, є Закон України «Про забезпечення рівних прав і можливостей чоловіків і жінок» [2]. У сфері праці та зайнятості Закон гарантує жінкам і чоловікам рівні права та можливості у працевлаштуванні, просуванні по роботі, підвищенні кваліфікації та перепідготовці. При цьому на роботодавців покладаються обов’язки: створювати умови праці, які дозволяли б жінкам і чоловікам здійснювати трудову діяльність на рівній основі; забезпечувати жінкам і чоловікам можливість суміщати трудову діяльність із сімейними обов'язками; здійснювати рівну оплату праці жінок і чоловіків при однаковій кваліфікації та однакових умовах праці;

вживати заходів щодо створення безпечних для життя і здоров'я умов праці; вживати заходів щодо унеможливлення та захисту від випадків сексуальних домагань та інших проявів насильства за ознакою статі [3].

Але все ж таки, навіть за наявності законодавчого закріплення заборони дискримінації, такі випадки існують. А отже, потрібно думати над шляхами вирішення такої проблеми. Тому, на мою думку, одним із способів вирішення, може бути – проведення тестування, перед працевлаштуванням особи, на її гендерну чутливість. Це чудовий спосіб проаналізувати майбутнього співробітника його ставлення до гендерної тематики.

Висновки. Отже, боротьба з дискримінацією у сфері праці залишається важливим завданням для суспільства. Існує потреба в постійному наголошенні на важливості рівних можливостей для всіх працівників, освітньо-просвітницькій роботі та ефективному захисту прав людини.

Освітні кампанії та тренінги можуть допомогти усвідомити працівникам шкоду гендерної дискримінації та сприяти побудові більш рівних та інклюзивних робочих середовищ. Підприємства, установи можуть проводити аудит робочого середовища для виявлення потенційних випадків гендерної дискримінації. Потім вони можуть приймати заходи для вирішення цих проблем, включаючи скасування неправомірних практик та встановлення системи звітності про подібні випадки.

СПИСОК ВИКОРИСТАНИХ ДЖЕРЕЛ

1. Конституція України: прийнята на п'ятій сесії Верховної Ради України 28.06.1996. URL: http://zakon5.rada.gov.ua/laws/show/254к/96-вр.
2. Про забезпечення рівних прав та можливостей жінок і чоловіків. Закон України від 01.01.2006.URL: http://zakon5.rada.gov.ua/laws/show/2866-15.
3. Сільченко С.О. Окремі питання запобігання гендерній дискримінації у сфері праці на локальному рівні. Матеріали VII Всеукраїнської науково-практичної конференції. 2018. С. 213.

HUMAN RIGHTS IN THE DIGITAL ERA: SOCIAL MEDIA'S ROLE IN EXPOSING AND IMPOSING VIOLATIONS

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In the age of rapid advancement, Interactive technology was one of the fields that changed the day-to-day lives of people around the globe. Over the last 25+ years, the world has shown entrepreneurship and revolutionary advancement in becoming a smaller place by being connected, easing interaction no matter how far apart.

From sharing picnic pictures with friends to closing a multi-billion-dollar deal via a video call/conference, people have used and merged interactive technology and social media platforms in specific into their lives, easing their overall progress. Some people in this world, however, chose to show their part of the story, their pain.

Social media has emerged as a useful tool, shedding light on the life conditions some people are living under and enabling us to witness atrocities that are being committed in real-time. Social media platforms made it possible for people to document and show their agony before it's too late. We no longer need to wait for the harm to be done and to know the story from the survivors, rather we can take actions to prevent them in very early stages before they turn from human rights violations to atrocities.

On the other hand, some challenges and violations appeared along and subsequently with social media's emergence in the human rights sphere. These same platforms were used to oppose various human rights violations varying from the violating the freedom to speech, to the one I think most concerning that I would like to word as *violating the freedom to free think*.

This paper will present the potential usage of social media platforms providing examples regarding exposing human rights violations, and it will look into the other face of social media platforms and the possibility of utilizing them in imposing violations instead of exposing them. We will take a look at the actions taken by the international community and its organizations after benefiting from such a key element that can prevent much pain.

Keywords: *Technology, social media, Human Rights, Violations, UDHR, International Community, United Nations, propaganda.*

1. The emergence of human rights

1.1. Prior 20th century

Human rights are fundamental principles that uphold the inherent dignity and worth of every individual, regardless of their race, gender, religion, or social status. These rights encompass the freedoms and entitlements that ensure individuals can live a life of respect, justice, and equality.

The origins of human rights can be traced back to historical developments and philosophical underpinnings,

and while progress has been made, challenges persist in pursuing a world where human rights are universally upheld.

The concept of human rights has ancient roots, with various civilizations and religious traditions emphasizing the value of human life and dignity. The origins of human rights can be traced back to ancient civilizations that laid the groundwork for the principles of justice and fairness. In Mesopotamia, the Code of Hammurabi (1792–1750 BC) is one of the earliest known legal codes that enshrined certain rights and responsibilities for individuals[1]. Similarly, ancient Egyptian, Greek, and Roman societies introduced concepts of legal equality, protection against arbitrary punishment, and the notion that certain rights were inherent to all humans.

The modern concept of human rights preservation began to take shape during the Enlightenment era of the late 17th and 18th centuries. Enlightenment philosophers such as John Locke, Jean-Jacques Rousseau, and Immanuel Kant emphasized every individual's intrinsic worth and equal moral status. Their ideas laid the intellectual groundwork for the later development of human rights[2].

The late 18th century saw the American Revolution and the Adoption of the United States Bill of Rights (1791), which enshrined key rights and liberties[3]. Following this, the French Revolution led to the Declaration of the Rights of Man and the Citizen (1789), emphasizing the universal nature of human rights. These events marked significant milestones in the evolution of human rights preservation.

Religious traditions have also played a significant role in shaping the concept of human rights. In many

religious texts, such as the Bible, the Quran[4], and various Hindu scriptures, there are references to the inherent dignity and worth of every individual, emphasizing the importance of compassion, justice, and respect for human life. Additionally, philosophical thinkers like Confucius, Aristotle[5], and Cicero articulated ideas about natural law and the moral foundations of human dignity.

1.2. Universal Declaration of Human Rights (UDHR)

The modern understanding of human rights emerged as a response to the atrocities witnessed during World War II. The Holocaust and other horrific acts prompted the international community to seek ways to prevent such tragedies in the future. The Universal Declaration of Human Rights (UDHR) adopted by the United Nations General Assembly in 1948 serves as a pivotal milestone. The UDHR outlined a comprehensive set of rights, including civil, political, economic, social, and cultural ones, laying the foundation for international human rights law.

"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." [6]

One of the most significant impacts of the UDHR is its role in inspiring and shaping national legislation. Countries around the world have incorporated its principles into their constitutions, laws, and policies. The UDHR has acted as a guide for countries in reforming their legal frameworks to align with international human rights standards. Through

this process, the UDHR exerts indirect pressure on states to implement and enforce human rights protections at the domestic level[7].

The UDHR serves as a powerful advocacy tool, enabling individuals, civil society organizations, and human rights activists to hold governments accountable for their actions and policies. The declaration provides a clear and universally accepted framework for assessing violations and promoting accountability. Activists leverage the UDHR to raise awareness about human rights abuses, mobilize public opinion, and encourage action by governments and international bodies.

The UDHR has influenced the establishment and operation of international courts and mechanisms that enforce human rights. For instance, the International Criminal Court (ICC) references the UDHR as part of its legal foundation in prosecuting individuals for genocide, war crimes, and crimes against humanity. Regional human rights courts, such as the European Court of Human Rights and the Inter-American Court of Human Rights, draw on the principles of the UDHR to adjudicate cases and ensure justice for victims.

The Universal Declaration of Human Rights holds a unique and critical role in the enforcement of human rights globally. While it is not a legally binding instrument in itself, its principles have served as the foundation for the development of legally enforceable treaties, as well as influencing national legislation, advocacy efforts, international courts, and diplomatic discussions. Through its normative power and widespread acceptance, the UDHR continues to guide the journey toward a world where the

rights and dignity of all individuals are respected, protected, and upheld. As we navigate the complex challenges of the modern world, the UDHR remains a beacon of hope and a source of inspiration for those working tirelessly to ensure the realization of human rights for all.

2. The Digital Era: Interconnectivity and Human Rights

In the dynamic landscape of the digital age, social media stands as a transformative force, reshaping the way individuals connect and interact on a global scale. Defined by a myriad of platforms such as Facebook, Instagram, X (formerly Twitter), and LinkedIn. Social media transcends geographical boundaries and temporal constraints, creating an interconnected web that brings people together like never before. At its core, social media serves as a virtual nexus where individuals from diverse backgrounds converge, fostering relationships, sharing experiences, and facilitating the exchange of ideas. Beyond being a mere tool for personal expression, social media has emerged as a powerful conduit for accessing and disseminating resources, amplifying its impact on both personal and collective spheres.

In the contemporary era, social media's role extends far beyond casual networking, evolving into a pivotal force that democratizes access to information and resources. Whether individuals seek educational materials, professional opportunities, or community support, social media platforms have become indispensable channels for connecting people with valuable resources. The democratization of information through these digital

mediums has significantly leveled the playing field, empowering individuals and communities to bridge gaps and overcome traditional barriers. As social media continues to evolve and shape the fabric of our interconnected world, its role as a catalyst for collaboration, resource sharing, and collective empowerment becomes increasingly pronounced.

One profound impact of social media is its ability to shed light on human rights violations occurring around the world. The next section will explore how social media may serve as a catalyst in exposing and addressing human rights abuses, providing a platform for individuals and organizations to share information, raise awareness, and mobilize resources.

2.1. Social Media's Role in Exposing Human Rights Violations Globally

The usage of exposing human rights violations was not the original idea of social media, it was rather to experience the ability to be part of a real-time virtual reality that enables the participants to meet, talk through chatting, and interchange knowledge on the social level.

Lately, the “scrolling addiction” and the extreme usage of social media platforms around the globe have been seen as a problem in some views and a benefit in others. As of 2023, research shows that there are about 4.9 billion social media users globally out of 8.1 billion[8].

This new portal of trading information in recent years took new turns and got more and more complex and kept naturally adapting and evolving in accordance with

the users' reactions and feedback.

2.1.1. Instantaneous Global Exposure

Social media platforms, such as X, Facebook, and Instagram, facilitate the instantaneous sharing of information and images, enabling individuals to report human rights violations as they happen. This immediacy helps in breaking down the barriers of traditional journalism, allowing eyewitnesses and victims to become instant reporters. A vivid example is the war taking place in Gaza - Palestine nowadays, where social media played a pivotal role in documenting and disseminating human rights abuses, leading to widespread international awareness and even a mass shifting of support as a result of how social media revealed the back-story and showed to the world the truth behind more than 8 decades of lies and propaganda being fed to the western populations' minds.

2.1.2. User-Generated Content

The rise of user-generated content on social media platforms has democratized the process of information dissemination. Ordinary citizens armed only with smartphones can capture and share evidence of human rights violations, giving a voice to the voiceless. This democratization of information empowers individuals and communities to hold perpetrators accountable and demand justice. The #MeToo movement, for instance, gained momentum on social media as survivors shared their experiences, exposing widespread sexual harassment

and abuse[9].

2.1.3. Global Solidarity and Awareness

Social media has the unparalleled ability to create global awareness and solidarity for human rights causes. Hashtags and trending topics on platforms like Twitter can quickly gain international attention, prompting individuals, organizations, and governments to take action. The Ice Bucket Challenge, while not directly related to human rights, demonstrated the global reach of social media in mobilizing resources and raising awareness for a cause[10].

2.1.4. Crowdsourced Advocacy and Resources

The exposure of human rights violations on social media often leads to crowdsourced advocacy and resource mobilization. Platforms like GoFundMe and Change.org enable individuals to initiate campaigns, raising funds and support for victims of human rights abuses. Additionally, online petitions and awareness campaigns leverage social media to pressure governments and international organizations into taking action. The #BringBackOurGirls[11] campaign, advocating for the rescue of kidnapped Nigerian schoolgirls, gained widespread support and put pressure on governments to address the issue.

In conclusion, social media has become a formidable force in exposing and addressing human rights violations globally. Its ability to provide instantaneous global exposure, facilitate user-generated content, foster global solidarity, and enable crowdsourced advocacy and resource mobilization empowers individuals and organizations to

contribute to the protection of human rights. While challenges persist, the role of social media in promoting awareness, accountability, and action against human rights abuses cannot be understated. As we navigate the complexities of the digital age, harnessing the potential of social media is essential in the ongoing fight for a more just and equitable world.

2.2. The Dark Side of Social Media as a Challenge to Human Rights

Social media once hailed as a tool for connectivity and the free exchange of ideas, has become a double-edged sword in the realm of human rights. While it has undoubtedly played a pivotal role in promoting activism, awareness, and mobilization, it also presents a significant challenge by being a potential instrument for human rights violations.

2.2.1. Online Harassment and Cyberbullying

The anonymity provided by the internet has facilitated online harassment and cyberbullying, which can have severe consequences on an individual's mental health and overall well-being. Such harassment may discourage individuals, particularly marginalized groups, from participating in online spaces and exercising their right to free speech.

2.2.2. Digital Divide and Access to Information

Access to the internet is not uniform across the

globe, leading to a digital divide that disproportionately affects marginalized communities. Limited access to the internet restricts individuals' ability to access information, education, and job opportunities, undermining their economic and social rights.

2.2.3. Online Surveillance and Privacy Invasion

One of the foremost cyber challenges to human rights is the pervasive online surveillance conducted by governments and private entities. The mass collection of personal data through various digital platforms has raised concerns about the erosion of privacy rights. Surveillance programs, often justified on national security grounds, have the potential to stifle free expression and discourage individuals from exercising their right to free speech and association online. Citizens may become self-censoring due to the fear of being monitored, limiting their ability to engage in open and critical discourse.

2.2.4. Censorship and Content Control

Even though the internet and specifically social media have granted people all over the world the ability to be heard and seen, it still is under the control of governments as it is a dangerous tool that is understandable to be monitored, but what will happen if the government itself was the abuser of these online platforms? Then this new instrument that allowed human rights to spread wider, can also be used to oppress these rights.

Governments and online platforms exercise significant control over the content that is accessible to users. While some forms of content moderation are necessary to combat hate speech, misinformation, and harmful content, overzealous censorship can infringe upon freedom of expression. The suppression of dissenting voices or the stifling of political opposition can undermine democratic principles and human rights.

In an example that I have been through myself, recently in Jordan which is my home country, a new law has been passed and adopted that implicates severe punishments for minor acts on social media, sometimes as minor as republishing a piece of false news, this might get one facing jail time up to 3 months, and a financial penalty waving between 7 and 28 thousand dollars[12]. The control over social media platforms in Jordan is something that the population got used to, internet connection interruption is a card that is always pulled by the government whenever wanting to lessen the magnitude of awareness spread about a specific cause or event taking place in the Jordanian street.

3. Conclusion

As we navigate the ever-evolving landscape of social media, it is crucial to recognize its potential as a force for positive change. By harnessing the power of these platforms responsibly and with an awareness of their impact, we can continue to leverage social media's capacity to connect people, share resources, and contribute to the collective betterment of society.

In terms of human rights and what social media has contributed to preserve them. Social media has become a formidable force in exposing and addressing human rights violations globally. Its ability to provide instantaneous global exposure, facilitate user-generated content, foster global solidarity, and enable crowdsourced advocacy and resource mobilization empowers individuals and organizations to contribute to the protection of human rights. While challenges persist, the role of social media in promoting awareness, accountability, and action against human rights abuses cannot be understated. As we navigate the complexities of the digital age, harnessing the potential of social media is essential in the ongoing fight for a more just and equitable world.

However, as shown above, we learned about how social media has an ugly and dark face as well, this darker side of social media poses a significant challenge to human rights. The dissemination of hate speech, online harassment, privacy infringements, misinformation, and its role in coordinating violence underscores the urgent need for regulatory frameworks and ethical guidelines. As we go through the digital world, it is imperative to strike a balance between freedom of expression and protecting the fundamental rights of individuals, ensuring that the promise of social media as a force for positive change is not overshadowed by its potential to contribute to human rights violations.

REFERENCES

1. Paul Gordon Lauren, 2013: The Oxford handbook of international

human rights law - Chapter 7: The Foundations of Justice and Human Rights in Early Legal Texts and Thought, Oxford University Press. P. 163 - 165
2. See Jean-Jacques Rousseau's The Social Contract (1762)
3. Hugo L. Black, 1960: The Bill of Rights, 35 N.Y.U. L Rev. 865.
4. Allamah Abu al-'A'la Mawdudi, 1986: Human Rights in Islam, Al Tawhid Journal / International Islamic University Malaysia. (https://www.iium.edu.my/deed/articles/hr/hr.html).
5. See Marquette Law Review, *Legal Philosophers: Aristotle, Aquinas, and Kant on Human Rights*, 55 Marq. L. Rev. 264 (1972). (https://scholarship.law.marquette.edu/mulr/vol55/iss2/4).
6. Universal Declaration of Human Rights (UDHR). Article 1
7. Universal Declaration of Human Rights (UDHR). Preamble.
8. Rohit Shewale, 2023: Social Media Users – Global Demographics, Demandsage, (https://www.demandsage.com/social-media-users/#:~:text=Social%20Media%20User%20Statistics%202023,platform%2C%20with%203.03%20billion%20users.)
9. Amy Brittain, 2023: Me Too Movement, Britannica, (https://www.britannica.com/topic/Me-Too-movement)
10. See ALS Ice Bucket Challenge, (https://www.als.org/IBC)
11. https://bringbackourgirls.ng/
12. Aljazeera.net. 2023. https://www.aljazeera.net/news/2023/8/12

ANALYZING THE INTERSECTION OF HUMAN RIGHTS AND IRAN'S CONSTITUTIONAL FOUNDATIONS

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This article conducts a thorough analysis of the confluence of human rights within the constitutional framework of Iran and the Universal Declaration of Human Rights. Examining six pivotal dimensions—fair trial, civil, economic, political, cultural, and social rights—reveals a noteworthy alignment in the recognized principles. However, a critical distinction arises in the limitations imposed on these rights, underscoring the importance of adhering to international standards. While both documents endorse these fundamental rights, the crux lies in the nuanced interpretation of ambiguous terms like public order and the welfare of all. Clarifying the boundaries of these limitations becomes imperative, raising essential questions about their extent and practical application. This article contends that unraveling these complexities demands further investigation and contemplation, underscoring the role of academic institutions in developing educational programs to shed light on these subtleties. By delving deeper into these intricacies, this study advocates for a more polished and universally applicable framework that reconciles fundamental rights

with their inherent limitations, ensuring their equitable realization across diverse contexts.

Keywords: Human Rights, Universal Declaration, Iran's Constitution, Intersectionality, Legal Framework

1. Introduction

The intersection of human rights within the constitutional framework of any nation is a critical juncture where legal principles, societal values, and global standards converge. This article embarks on an exploration of this pivotal intersection, focusing on the context of the Islamic Republic of Iran. Established in 1979, Iran's constitution represents a unique amalgamation of Islamic tenets and a commitment to upholding human rights. Through a meticulous analysis, this article endeavors to unravel the intricate relationship between Iran's constitutional foundations and the universally recognized principles enshrined in documents such as the Universal Declaration of Human Rights (UDHR).

The Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, serves as a foundational document guiding the global pursuit of fundamental rights and freedoms. Rooted in the aftermath of World War II, the UDHR was a response to the atrocities of the war and aimed to establish a common standard of rights that transcends cultural and national boundaries. Its principles embody a shared commitment to the inherent dignity and equality of all individuals, irrespective of their background or beliefs.[1]

As we delve into the comparative analysis between Iran's constitutional foundations and the principles outlined in the UDHR, the focus extends across pivotal dimensions such as fair trial, civil, economic, political, cultural, and social rights. By exploring these dimensions, we seek to illuminate the complexities and nuances that characterize the pursuit of human rights within the Iranian legal landscape. This inquiry is not merely an academic exercise; it serves as a gateway to understanding how a nation's legal foundations navigate the delicate balance between cultural specificity and the global imperatives of human rights. In doing so, we contribute to a broader dialogue on the universality of human rights and the diverse approaches to their realization, fostering a nuanced understanding of the intricate interplay between legal frameworks and the pursuit of fundamental rights.[2]

2. General Examining

2.1 Enforcement Guarantee

The Constitution, which essentially outlines the structure and framework of the system, the composition of the government, the duties of various powers, etc., dedicates its third chapter to the rights of the people. Similarly, the Universal Declaration of Human Rights, as implied by its name, encompasses rights for human individuals.

Both documents merely identify rights and do not explicitly address enforcement or consequences for non-compliance. However, concerning the rights outlined in the Constitution, Iran's domestic laws have legislated

internally and considered enforcement guarantees.

The Islamic Penal Code in Article 570 explicitly states that "any officials or government employees who deprive individuals of their rights specified in the Constitution, in addition to dismissal and a ban on government service, will be sentenced to imprisonment for six months to three years." Additionally, partial enforcement guarantees regarding the rights in question are considered, as indicated in the detailed provisions.[3]

As for the Universal Declaration, as mentioned, it was adopted by the General Assembly of the United Nations and its resolutions are recommendatory, not binding for countries. Nevertheless, the content of this document has become international customary law, and not adhering to its provisions is generally not acceptable from a public opinion perspective. Moreover, the principles and rights in this declaration were later incorporated into two other legally binding documents (International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights). If a country accedes to these covenants, it is legally obliged to adhere to them. For instance, under Iranian law, if the country signs and approves an international document, its provisions are considered as part of domestic law, and everyone is obliged to comply with them. After signing, the document must be presented in the Iranian Parliament, approved by representatives, and confirmed by the Guardian Council. In essence, it undergoes the legislative process like any domestic law. Iran has given a positive vote to the Universal Declaration, ratified the mentioned covenants in the parliament, and currently treats them as enforceable

domestic laws.

2.2 Restrictions and Conditions

In both documents, after identifying individual rights, some corresponding limitations are mentioned. The difference lies in the fact that in the Constitution, restrictions and conditions are usually addressed within the same principle that discusses the right. In contrast, in the Universal Declaration, rights are identified first, and limitations are referred to at the end of the articles, specifically in Articles 29 and 30

According to this document, the framework of limitations includes:

- The rights and freedoms of others within the framework of the law.
- Observance of the requirements of morality, public order, and general welfare.

In essence, these limitations are outlined to ensure that individual rights do not infringe upon the rights and well-being of others and to maintain a balance between personal freedoms and societal interests.[4]

2.3 Enforcement

Some of the rights mentioned in both documents are considered non-suspendable or non-restrictable under any circumstances. According to international law, certain conditions, such as declaring a state of emergency in a country, may provide a basis for suspending some rights.

However, specific conditions and characteristics exist that are beyond the scope of discussion here.

Nevertheless, certain rights are considered non-suspendable, even in emergency situations, including the presence of a new threat of war or during wartime. These rights must be respected, and deviations from their observance cannot be justified under the pretext of an emergency. These rights include:

- Prohibition of torture.
- Right to life.
- Non-retroactivity of the law (no punishment without a pre-existing law).
- Freedom of thought, religion, and belief.
- Prohibition of slavery.
- Right to a fair trial by an impartial and legal tribunal.

These rights are fundamental and are designed to be upheld regardless of the circumstances, emphasizing their universal and non-negotiable nature, even in times of crisis or emergency.

3. Detailed Examining

In the examination of the Universal Declaration of Human Rights, 27 out of its 30 articles pertain to individual rights, most of which are also referenced in the Constitution

(Chapter 3, from Article 19 to 42, addresses the rights of the people) [5]. The rights outlined in the Universal Declaration are as follows:

- Equality of all human beings in terms of rights and dignity.
- Equal enjoyment of all rights.
- Rights to personal freedom and security.
- Equality before the law and equal protection under the law.
- The right to be free from torture.
- Prohibition of slavery.
- The right to access to justice.
- Protection against arbitrary arrest.
- Open and fair trial in a competent, independent, and impartial tribunal.
- Presumption of innocence until proven guilty.
- Legal recognition that no one shall be held guilty of any crime not existing at the time of its commission.
- The right to privacy.
- Freedom of movement.
- The right to seek asylum.
- The right to nationality and not to be arbitrarily deprived of it.
- The right to marry and to find a family.
- The right to own property.
- Freedom of thought, conscience, and religion.
- Freedom of opinion and expression.
- The right to peaceful assembly and association.
- The right to participate in government and equal access to public service.
- The right to work and to join trade unions.
- The right to social security.

- The right to rest and leisure.
- The right to a standard of living adequate for health and well-being.
- The right to education.
- The right to participate in cultural life.

These rights can be categorized and classified in different ways to provide a more comprehensive and coherent comparison. Therefore, within this framework, we will proceed to elaborate on these rights based on their nature:

- Rights related to fair trial.
- Civil rights.
- Economic rights.
- Political rights.
- Cultural rights.
- Social rights.

Considering the importance of the discussion on a fair trial from the perspective of human rights, priority is given to the examination of the relevant rights in this regard, as detailed below.

3.1 The Right to a Fair Trial and Equality Before the Law

The right to a fair trial is characterized by two essential principles: the enjoyment of equal rights and equality before the law and the courts. According to Article 2 of the Universal Declaration of Human Rights, no discrimination should arise based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The constitution, in Articles 19 and 20, emphasizes the enjoyment of equal rights and equal protection for both

women and men before the law, while adhering to Islamic standards [6].

An examination of Iran's domestic laws reveals that gender and religion, in certain articles pertaining to equality, have not ensured the desired equality. Different religious scholars hold diverse opinions on this matter. It is argued by some that women and men have similar rights but not equal rights due to various reasons. Therefore, the widely accepted principle is that "everyone has the right to choose any occupation they desire, as long as it does not conflict with Islam, public interests, and the rights of others." However, in practice, it is observed that women are deprived of judgment in choosing a profession [7].

For instance, if someone is killed, and the death penalty is issued but not carried out due to certain reasons, or it is converted to blood money, or if blood money is directly imposed, differences can be noted between Muslims and non-Muslims. In modern times, various religious scholars express different opinions, and a notable example is the issue of equality in blood money between women and men. The leader of the Expediency Council confirmed this decision, supported by some religious authorities. Besides, in the fundamental principles of the constitution, other relevant issues are raised in this regard, as seen in Article 107, which states that the leader or members of the Leadership Council are equal to other individuals in the country before the law. Additionally, Article 3, Section 14, confirms comprehensive protection for individuals, including women and men, ensuring equality before the law [8].

Equality before the courts means that defense and

prosecution should be in a way that ensures equal opportunities for both parties to present their case during the trial process. It also means that every accused person should be treated similarly to others. For example, foreign nationals who have obtained entry permission should be entitled to equality before the courts. However, in some cases in certain countries, restrictions may apply. For instance, women might be prohibited from filing lawsuits for compensation in certain situations, or the testimony of a woman may not be considered equal to that of a man.

3.2 The Right to be Free from Torture

The prohibition of torture or inhuman treatment is addressed in Article 5 of the Universal Declaration of Human Rights, and in Article 38 of the Constitution, torture for obtaining confessions or information is explicitly forbidden. Additionally, the testimony of individuals obtained under duress or through coercion is considered void of value and credibility [9].

In the Islamic Penal Code, Article 578 stipulates that if a government employee, judicial or non-judicial, subjects a suspect to physical harm or harassment to force a confession, they will be sentenced to six months to three years of imprisonment. If the act leads to retribution or blood money, the perpetrator will also be sentenced accordingly. Regarding the credibility of confessions, Article 233 of the Islamic Penal Code recognizes a confession made by someone who has the authority as enforceable, thus excluding coerced confessions from validity [10].

Furthermore, according to international standards,

"such a confession obtained under torture is not valid against the torturers." This underscores the commitment to preventing torture and ensuring that confessions are obtained through lawful and humane means. The prohibition of torture is a fundamental human right that is safeguarded by both international declarations and national legal frameworks, highlighting the universal rejection of such inhumane practices [11].

3.3 The Right to Access to Impartial Courts

Article 8 of the Universal Declaration of Human Rights recognizes the inherent and primary right to a fair trial, and Article 34 of the Constitution acknowledges the right to seek justice as an established right for every individual. The right of all individuals to access these courts is officially recognized, and any prevention or denial of this right is declared prohibited [12].

The Criminal Procedure Code also addresses and supports this principle. For example, according to Article 68, initiating a complaint is sufficient to begin the legal process, and a judge cannot refuse to do so. Additionally, according to Article 71, judicial authorities are obligated to accept all written and verbal complaints at all times [13].

It is noteworthy that if an individual cannot file a complaint domestically, meaning that he is prevented from submitting his complaint to a competent judicial authority, or if, upon reaching such an authority, judges or other judicial officials refuse to accept the complaint, the possibility of forfeiting this right is facilitated. For instance, if an individual, for certain reasons, is held in prison and is

distressed about his situation, desiring to send a complaint to the court, but prison officials prevent his complaint from being delivered, it constitutes a violation of the right to access to impartial courts, punishable by imprisonment according to Article 574 of the Islamic Penal Code, ranging from two months to two years.

Internationally, despite the recognition of this principle in the Universal Declaration, governments can still interfere with or undermine this right due to certain political considerations. For instance, in the case of international courts such as the International Criminal Court, whose headquarters are in the Netherlands, for an individual to access the court and exercise this fundamental right, the Dutch government must grant permission to the non-citizen, or else it may jeopardize and forfeit this right.

However, it's important to note that after years of negotiation, an agreement was signed between the President of the International Criminal Court and the Minister of Foreign Affairs of the Netherlands. This agreement covers various issues, including the protection of the immunity of the Court's staff, preservation of evidence and information entering and leaving the country, and the establishment of appropriate procedures for issuing visas to applicants and the cessation of representatives of organizations related to the Court in the Netherlands. Although this agreement, known as the Host Country Agreement, becomes executable after approval in the Dutch Parliament, it can play a crucial role in restricting the possibility of forfeiting this right [14].

3.4 The Right to Avoid Arbitrary Arrest

According to Article 9 of the Declaration, no one shall be subjected to arbitrary arrest, detention, or exile. Similarly, Article 32 of the Constitution emphasizes that no one can be arrested except by a judicial order and procedure specified by the law. In case of arrest, the individual must be informed in writing of the charges as soon as possible, and the case file should be sent to competent judicial authorities within a maximum of 24 hours. Violation of these provisions is punishable [15].

Article 33 states that no one can be expelled from their place of residence unless prescribed by law. It is essential to note that the emphasis is on the prevention of individuals' arbitrary arrest, and if an arrest occurs, it must be in accordance with the law. In international standards, criteria for cases of arbitrary detention or arrest have been defined. For example, even an arrest made by law may be considered arbitrary if the law is ambiguous or violates other essential standards. The Islamic Penal Code and the Criminal Procedure Code have addressed the guarantee of implementing these principles and the procedural process [16].

For instance, Article 575 of the Islamic Penal Code imposes permanent dismissal from judicial office and deprivation of government employment for up to five years on judicial authorities or other competent authorities who, contrary to the law, detain individuals or order the criminal pursuit or issue a criminal record without legal grounds. Article 583 of the Islamic Penal Code also states that an official who detains or imprisons someone without a legal order or in unauthorized circumstances, or forcibly hides

them in a secret place, will be sentenced to one to three years of imprisonment or a fine. If the person has threatened the individual with murder or subjected them to torture, additional penalties will be imposed [17].

3.5 The Right to Public and Fair Trial in an Impartial and Independent Court

This matter has been addressed in Article 10 of the Universal Declaration, emphasizing that judgments and their executions should only be carried out by a competent, independent, and impartial court and in accordance with the law. Domestic law has also established regulations in this regard. The initial guarantee for a fair trial is that criminal trials must only take place in a court, namely a judicial authority, which must be legal, independent, and impartial [18].

Independence of the court means that the court is created by law and has the jurisdiction to deal with the case and the accused. Judicial independence is crucial to ensure that the judiciary is free from any pressure or undue influence from other branches and that the courts can administer justice freely. The independence of the judiciary is emphasized in the fundamental principles of judicial independence, and it is essential that judges and the judicial system can execute justice without any unwarranted interference.

Public trials mean that the judgments issued are publicly announced, and the accused must be informed of the reasons and evidence for the judgment. This ensures the implementation of justice, and everyone can observe

and scrutinize it. However, there are exceptional cases, such as trials involving children, family matters, and intimate issues, where non-public trials are supported. Another crucial aspect is the duration of issuing a judgment, which must be within a reasonable and appropriate time frame.

According to Article 188 of the Criminal Procedure Code, a court must be public unless in some cases, such as crimes against chastity, unethical matters, family matters upon request of the parties involved, or cases where the crime poses a threat to national security or religious sentiments, in which the court may be non-public. It's important to note that the right to legal representation in court, which is not explicitly mentioned in the Declaration, has been addressed in the Constitution [19].

3.6 The Right to Adequate and Effective Legal Representation

Every individual is entitled to this right both before and after the trial. Article 35 of the Constitution emphasizes that if an individual cannot choose a lawyer, the possibility of selecting one should be provided for them.

According to the provision of Article 186 of the Criminal Procedure Code, in certain crimes that carry legal penalties such as execution, retribution, life imprisonment, etc., if the accused does not introduce a lawyer, the court is obliged to appoint a defense attorney for them. However, in the pre-trial stage (i.e., the investigative stage), according to Article 128, in cases where the matter is confidential or the presence of a lawyer might lead to corruption, and in crimes against security, the presence of a lawyer requires the

court's permission [20].

This ensures that even in sensitive situations, the accused has the right to legal representation, but its implementation is subject to judicial discretion. The involvement of a lawyer can be restricted if the judge deems it necessary for maintaining confidentiality or preventing corruption in the investigative process.

3.7 Presumption of Innocence

The right to be presumed innocent until proven guilty is addressed in Article 11 of the Universal Declaration of Human Rights. Similarly, Article 37 of the Constitution recognizes the principle of "innocence" and states that no one shall be considered guilty under the law unless proven guilty in a fair trial. This fundamental principle emphasizes that individuals should not be treated as criminals until their guilt has been established through a legal and just process in a court of law [21].

3.8 Legal Nature of the Crime and Punishment

The principle of the legal nature of the crime and punishment underscores that actions are only considered crimes if they have been identified as such in the law, and any punishment must be in accordance with the provisions of the law. This principle is articulated in Article 11, paragraph 2, emphasizing the importance of legal recognition of offenses before their occurrence [22].

Article 38 of the Constitution further stresses the necessity for the legality of punishment, asserting that

punitive and corrective measures must be in accordance with the law, prescribed before the commission of the crime. No act or omission can be considered a crime unless stipulated as such by the law, and retrospective punishment is generally prohibited except under specific conditions and for the purpose of aiding the offender [23].

This principle is crucial for safeguarding the rights and personal security of members of society. It ensures that individuals are only held accountable for actions that have been previously established as offenses under the law. By upholding this principle, the legal system contributes to the protection of fundamental rights and the overall security of individuals in the community.

3.9 Right to Life, Liberty, and Personal Security

The subject of Article 3 of the Universal Declaration of Human Rights is the right to life. The right to life is a divine gift, and no one has the right to take it away. This right exists from the moment of conception in the mother's womb, and therefore, according to the law, terminating it carries penalties. The government's role in respecting the lives of its citizens is not only to prevent crimes but also to provide the necessities of life, including the right to food, clothing, education, etc [24].

"Liberty" is the inherent right of every individual, and no one can renounce it unless it goes against laws or ethics (Article 960 of the Iran Civil Code). The government's duty goes beyond just protecting lives; it also involves creating conditions for life. This includes various rights, such as the right to education, clothing, food, etc. The protection of life

doesn't only prevent crimes but also establishes order and ensures the well-being of citizens [25].

3.10 Right to Privacy: Non-Interference in Personal Life

Article 12 of the Universal Declaration of Human Rights addresses the right to privacy. Several principles in the constitution also emphasize this issue. In the Islamic faith, there is repeated emphasis on respecting the privacy of individuals. Article 22 states that the dignity, life, property, rights, residence, and occupation of individuals are inviolable. Article 25 prohibits eavesdropping, disclosure, and recording of individuals' telephone conversations, telegraph communications, telegrams, and censorship [26].

Domestic law has legislated on each of these matters, ensuring enforcement guarantees. For instance, regarding interference with property, the Islamic Penal Code states that if a government official misuses their position to force or coerce someone's property or rights, they will be sentenced to imprisonment or fined, in addition to returning the property. Unauthorized entry into someone's residence without permission is prohibited, and in some cases, legal procedures must be followed, such as obtaining a search warrant.

The guarantee of enforcement can be found in Article 580 of the Islamic Penal Code, imposing imprisonment for one month to one year if an official enters someone's residence without permission. The right to life, liberty, and personal security is safeguarded by creating conditions where individuals are not exposed to threats,

ensuring their safety [27].

In terms of interference with the dignity of individuals, there are extensive directives in Islam, and laws address various aspects of this issue. For example, during a trial, if someone is facing charges, media outlets are not allowed to publish details about the case before a final judgment is issued. Article 39 of the Constitution states that insulting or defaming someone who has been detained, imprisoned, or exiled under the law is prohibited and punishable.

Regarding inviolability of individual freedom, the law emphasizes preventing interference with the ordinary continuation of a person's life. This includes prohibitions against slavery, which exists in other societies, and the prevention of the arbitrary detention of individuals.

In terms of respecting the dignity of individuals, extensive recommendations exist in Islam, and laws address this issue even when someone is a suspect or prisoner. For instance, if someone is accused in court, according to the provision of Article 188, before a final judgment is issued, media outlets are not allowed to publish the proceedings. Article 39 of the Constitution states that insulting or defaming someone who has been detained, imprisoned, or exiled under the law is prohibited and punishable.

Regarding communication and telecommunications, Article 582 of the Islamic Penal Code states that if a government official eavesdrops on, intercepts, seizes, inspects, records, or discloses someone's correspondences, telecommunications, or conversations without legal justification, they will be sentenced to imprisonment or fined. The law emphasizes the necessity of

judicial authorization for such actions and specifies the conditions under which these actions can be taken [28].

Article 104, on telephone control, explicitly states that controlling individuals' phones is prohibited unless it is related to national security or is deemed necessary by the judge for safeguarding individuals' rights. As observed, preserving the privacy of individuals is highly important, and any violation of it is subject to various legal consequences [29].

3.11 Right to Form a Family

According to Article 16 of the Universal Declaration of Human Rights, every adult woman and man has the right to marry without any limitations and, upon dissolution, both spouses have equal rights in all matters related to marriage. Furthermore, marriage must take place with full and free consent [30].

In accordance with Article 10 of the Constitution, all laws and regulations should facilitate the formation of families and provide support for them. The Civil Code, in its first chapter of the seventh book, addresses the topic of marriage. According to Article 1034, any woman who is not impeded from marriage can be proposed for marriage. For example, a woman cannot be the wife of another person, and marriage with close relatives, such as a sister or aunt, is prohibited [31].

Religion is a factor that can nullify the equality in marriage, as stated in Article 1059 of the Iran Civil Code. A Muslim woman cannot marry a non-Muslim man, and the marriage of an Iranian woman to a foreign national, even if

there is no legal prohibition (assuming she is a Muslim), requires permission from the Iranian government. The law remains silent on the marriage of a Muslim man to a non-Muslim woman.

A valid and enforceable contract requires the mutual consent of both parties, as stated in Article 1059. Any contract that lacks the consent of both the woman and the man is not valid [32].

3.12 Right to Freedom of Expression, Belief, Thought, and Religion

Articles 18 and 19 of the Universal Declaration of Human Rights address these two important topics. This means that an individual's right to freedom of thought and religion encompasses the freedom to express and proclaim these beliefs. It also includes religious teachings and the practice of religious ceremonies. Regarding the right to freedom of belief and expression, it states that no one should be subject to fear or anxiety for holding their beliefs or expressing them. Individuals should be free to acquire, receive, and disseminate information and ideas through all available means without any border restrictions [33].

One of the tools for expressing beliefs and ideas is the media. The Constitution, in Article 24, declares that publications and the press are free to express their content, except in cases where it violates the foundations of Islam or public rights. Principles 12, 13, 14, 23, and 24 are dedicated to these matters [34].

According to the Iranian Constitution, Islam is declared the official religion of the country, and the Twelver

Ja'fari school of thought is the official Shia sect. Other Islamic sects, such as Sunni Muslims, are respected, and they are free to practice their religious ceremonies. Regarding personal matters, such as marriage, divorce, inheritance, and related lawsuits, they follow their own jurisprudence. Other religious minorities, including Zoroastrians, Christians, and Jews, have the freedom to practice their religious ceremonies within the framework of the law and follow their own jurisprudence in personal matters.

Article 23 enshrines freedom of belief, stating that no one can be subject to prosecution or censure merely for holding certain beliefs. For other unmentioned minorities, Article 14 of the Constitution stipulates that their human rights, as fundamental human rights, must be respected [35].

Various opinions have been expressed regarding the framework and boundaries of Islamic principles and public rights. The emphasis on freedom of expression is due to the government's awareness of the people's desires. The government's duty is not only to achieve its goals but also to take steps toward meeting the needs and desires of individuals.

The extensive emphasis on freedom of expression aims to make the government aware of the people's desires. If individuals don't express their needs, how can the government be informed? Nevertheless, to safeguard the rights of others, a framework and limits must be considered, ensuring that it doesn't infringe upon the rights of others. Governments, responsible for maintaining public order, set these limits, but narrowing the scope restricts democracy

and people's participation in decision-making.

3.13 Right to Political Participation in the Administration of the Country

The right to political participation in the administration of the country, categorized under political rights, is addressed in Article 21 of the Universal Declaration of Human Rights. This matter is also referred to in Principles 6 and 7. In Iran, the affairs of the country are managed based on the reliance and opinions of the public. Various means of public participation, such as elections, exist for the people to engage in the decision-making processes [36].

For example, the election of the President, members of the Parliament, and members of councils, as well as referendums, are conducted through public participation in the form of elections. Councils play a crucial role in manifesting the local participation of the people in the administration of the country, and their members are elected through the public vote.

This reflects the commitment to the principle that the public, through their votes and opinions, contribute to the governance and administration of the country. Public participation, especially through elections, is a fundamental aspect of the political structure in Iran.

3.14 Economic, Social, and Cultural Rights

In each section of economic rights, including the right to work and the right to form unions, Article 23 of the Declaration is referenced. According to the Declaration,

every individual has the right to work, and the choice of their work should be made free. They are entitled to equal pay for equal work, support during unemployment, fair wages, and the freedom to form and join unions for the defense of their own or others' interests [37].

Article 28 of the Iran's Constitution states that every individual has the right to choose a job they desire, provided that it does not conflict with Islam, public interests, and the rights of others. For example, activities such as establishing a gambling house or engaging in the buying and selling of alcoholic beverages are against Islam. Similarly, the entry and exit of certain goods are prohibited at specific times because it is not in the public interest [38].

The International Labor Organization has adopted various international standards and norms in this field, and it oversees their implementation by countries. Iran is committed to important documents of this organization [39].

Various provisions exist in labor law. For instance, Article 38 of Iran's labor law stipulates that equal work under equal conditions must be remunerated equally for both women and men. Discrimination in determining wages based on age, gender, race, ethnicity, political beliefs, and religion is prohibited. According to Article 6, forcing individuals into specific jobs and exploiting others is prohibited. The people of Iran, regardless of their ethnicity or tribe, enjoy equal rights. Factors such as color, race, language, etc., will not be a cause for discrimination. Everyone has the right to choose a job they desire, provided it is not against Islam, public interests, and the rights of others [40].

4. Conclusion

In conclusion, the comparative analysis of human rights principles within Iran's constitutional framework and the Universal Declaration of Human Rights reveals a striking similarity in the recognized rights related to fair trial, civil, economic, political, cultural, and social aspects. However, a nuanced examination highlights a crucial aspect – the limitations imposed on these rights, a facet underscored by international standards.

The challenge lies not in the acknowledgment of these fundamental rights but in the intricate task of defining and delineating the constraints imposed on them. Questions surrounding the interpretation of vague terms, such as public order and the welfare of all, remain pivotal. What constitutes a breach of public order, and where are the boundaries delineated? How do we precisely gauge the extent of safeguarding the welfare of all?

These inquiries necessitate deeper scrutiny and thoughtful reflection, emphasizing the need for further investigation into the interpretation and application of these overarching principles. Addressing these ambiguities is not just a legal endeavor but also a societal obligation. Academic institutions bear the responsibility to initiate and foster educational programs dedicated to these discussions, providing a platform for comprehensive exploration, understanding, and eventual consensus on the intricate balance between fundamental rights and their limitations. Through continued research and reflection, we can strive towards a more refined and universally applicable

framework that ensures the protection and realization of human rights for all.

REFERENCES

1. Lindkvist, L. (2017). Religious Freedom and the Universal Declaration of Human Rights. Cambridge University Press.
2. United Nations. General Assembly. (1949). Universal declaration of human rights (Vol. 3381). Department of State, United States of America.
3. Hashemi, K. (2008). Religious legal traditions, international human rights law and Muslim states (Vol. 7). Brill.
4. Curtis, J., & Darcy, S. (2012). The right to a social and international order for the realisation of human rights: article 28 of the universal declaration and international cooperation.
5. Morsink, J. (1984). The philosophy of the Universal Declaration. Hum. Rts. Q., 6, 309.
6. Johnson, S. R., Symonides, J., & Mayor, F. (1988). The Universal Declaration of Human Rights. Concerts for Human Rights Foundation, Incorporated (CHRF).
7. Hoodfar, H., & Sadr, S. (2010). Islamic politics and women's quest for gender equality in Iran. Third world quarterly, 31(6), 885-903.
8. Alikarami, L. (2019). *Women and equality in Iran: law, society and activism*. Bloomsbury Publishing.
9. Glendon, M. A. (2004). The rule of law in the Universal Declaration of Human Rights. *Nw. UJ Int'l Hum. Rts.*, *2*, 2.
10. Haji Dehabadi, A., Ahmadi, E., & Samsami, J. (2015). Article 38 of Constitution of Islamic Republic of Iran (Prohibition of Torture): Explaining its Principles and Reviewing the

Existing Criminal Policy Thereof. The Judiciarys Law Journal, 79(90), 7-36.
11. Nagan, W. P., & Atkins, L. (2001). The international law of torture: from universal proscription to effective application and enforcement. Harv. Hum. Rts. J., 14, 87.
12. Weissbrodt, D., & Hallendorff, M. (1999). Travaux Preparatories of the Fair Trial Provisions-Articles 8 to 11-of the Universal Declaration of Human Rights. Hum. Rts. Q., 21, 1061.
13. YOUSEFALIZADEH, M. (2023). FORMAL PRINCIPLES GOVERNING GLOBAL CRIMINAL PROCEEDINGS IN THE EUROPEAN UNION AND IRAN. Russian Law Journal, 11(2s).
14. Irving, E. (2014). The relationship between the International Criminal Court and its host state: the impact on human rights. Leiden Journal of International Law, 27(2), 479-493.
15. Lauterpacht, H. (1948). The universal declaration of human rights. Brit. YB Int'l L., 25, 354.
16. Mao, J., & Sheng, X. (2019). Article 29 (1) of the Universal Declaration of Human Rights: Reflection on Drafting, Sources and Influences. Cross-cultural Human Rights Review, 1(1-3).
17. Dahmardeh, E., & Khammar, M. A. (2016). Investigating Abetting Jurisprudence And Its Implementation With Iran Thetical Law By Focusing On The New Ipc (Islamic Penal Code) Adopted In 1392.
18. Hannum, H. (1995). The status of the Universal Declaration of Human Rights in national and international law. *Ga. J. Int'l & Comp. L.*, *25*, 287.
19. Ahmadi, A. (2016). The rights of victim in the Iranian Code of Criminal Procedure Act 2013. *Rev. Eur. Stud.*, *8*, 279.
20. Rahmdel, M., & Rahmdel, N. (2013). The right to

counsel in Iranian criminal justice system. Crime, law and social change, 60, 287-295.
21. Sheykholeslami, M. (2007). The Iranian Constitution and the principle of absurdity. Basic Rights, 3(6), 109-131.
22. Glendon, M. A. (1997). Knowing the universal declaration of human rights. Notre Dame L. Rev., 73, 1153.
23. Haji Dehabadi, A., Ahmadi, E., & Samsami, J. (2015). Article 38 of Constitution of Islamic Republic of Iran (Prohibition of Torture): Explaining its Principles and Reviewing the Existing Criminal Policy Thereof. The Judiciarys Law Journal, 79(90), 7-36.
24. Andorno, R. (2009). Article 3: Human dignity and human rights. The UNESCO Universal declaration on bioethics and human rights: Background, principles and application, Ethics series, 91-98.
25. Abasi, E., & Poorbengar, M. N. (2012). Public Policy: Labor Standards and Protection of Socio-Economic Rights of the Employees in Iranian and International Law
26. Glendon, M. A. (1997). Knowing the universal declaration of human rights. Notre Dame L. Rev., 73, 1153.
27. Es-haghi, S. J., & Sheidaeian, M. (2016). Public interest in criminal procedure and its challenges: an attitude toward Iranian criminal law. J. Pol. & L., 9, 1.
28. Kamalzadeh, H. (2017). Regulating the responsibilities and limitations of publishing proceedings in the media.
29. Ameripour, A., Nicholson, B., & Newman, M. (2010). Conviviality of Internet social networks: An exploratory study of Internet campaigns in Iran. Journal of Information Technology, 25(2), 244-257.
30. Bahreini, A., Fatemi, S. M. G. S., & Bahreini, M. J. (2020). The Genealogy of the Concept of the Right to Marriage in the Universal Declaration of Human Rights and Its

Comparative Comparison with the Provisions of the Cairo Declaration on Human Rights in Islam. The Islamic Journal Of Women and The Family, 8(1), 77-96.

31. ZakerSalehi, G. (2020). The status of women in the Iranian constitution. Journal of International Women's Studies, 21(1), 309-327.
32. Mohammadi, M. G. Investigating the Effects and Credibility of Permissible Contracts' Dissolution Condition in Iran's Laws.
33. Alizadeh, Y., Rostami, S., & Niya, M. M. (2018). Implementation of the right to liberty in the Islamic and international legal system in the light of Articles 19 of the Universal Declaration of Human Rights and Article 18 of the Covenant on Civil and Political Rights. Medical Law Journal, 12, 187-197.
34. Shahidi, H. (2008). Iranian journalism and the law in the twentieth century. Iranian Studies, 41(5), 739-754.
35. Shayanfar, J., Hoseyni, S. M., & Momeni, A. (2021). The status of the cultural rights in the Islamic legal system and the fundamental laws of Iran، Iraq and Pakistan by looking at international documents. Journal of Subcontinent Research, 13(41), 171-194.
36. Steiner, H. J. (1988). Political participation as a human right. Harv. Hum. Rts. YB, 1, 77.
37. Backer, L. C. (2019). From the Social to the Human Rights of Labor: Reflections on the Universal Declaration of Human Rights Art. 23, the ILO, and Working Rights Principles. Coalition for Peace and Ethics, Working Paper, (2/1).
38. Shirvani, F., Shenasaei, H., & Basir, S. B. M. Women's Right to Work from the Perspective of Iran's Regulations and Women's Convention.

39. Nomani, F., & Behdad, S. (2011). Labor rights and the democracy movement in Iran: Building a social democracy. Nw. UJ Int'l Hum. Rts., 10, 212.
40. Mooghali, A., Veysi, A., & Sasanfar, R. (2014). Conventions and Recommendations of International Labor Organization in supporting that labor force rights and its comparison with labor low and the Constitution of Iran. Advances in Environmental Biology, 8(17), 1276-1282.

MATRIMONIAL REGIMES AROUND THE WORLD

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Introduction

When we think about marriage, our thoughts often turn to the moment when we say "the yes". It is a romantic and love-filled occasion that commemorates the day we officially become the husband or wife of our chosen one. During this event, we may not think much about other potential "consequences". Marriage, as a social and legal institution, is interpreted and practiced differently in different countries and cultures. The interface between marriage and property ownership is particularly influenced by the specific legal framework applicable in each jurisdiction. A nuanced approach to marital property regimes reflects the recognition that married couples may have different preferences and priorities when it comes to asset ownership. Dealing with the complexities of marital property law requires careful consideration of the specific rules applicable in each jurisdiction. Couples entering marriage or considering changing an existing marriage should be aware of the specific legal provisions that apply to them. The marital property regime you choose, whether a default regime or a selected option, can have a significant impact on the ownership, management and distribution of assets during your marriage. Therefore, a thorough

understanding of these rules is of paramount importance for those wishing to establish a solid legal basis for their marital union. The purpose of this article is to analyze the bibliography on marriage systems from different parts of the world. It is critical that people understand the impact of marriage on their wealth and are aware of upcoming changes to the law.

Matrimonial regimes in Romania

In Romanian legal practice, there are certain established marriage rules that determine which assets belong to the spouses jointly and which assets are held separately during the marriage. This actually means that not everything you own will be owned by your spouse after marriage, depending on what type of marriage you choose. According to the Romanian Civil Code (Article 312(1)): (1)) As part of a Romanian marriage, spouses can decide on one of the following marital statuses: legal community status, traditional community status, separation of property. The first rule above (the Bar Rule) is the "standard" rule that applies immediately, unless the spouse explicitly makes a decision in favor of one of her other two rules, which must be explicitly selected in writing.

According to the Romanian Civil Code (Articles 339 to 359), the Bar Association rules that all property acquired by spouses during the marriage becomes community property. However, there are exceptions to this rule. Assets acquired by each partner before marriage remain separate property. Of course, people have not only assets but also debts. From a legal perspective, spouses have their own

debts (this is the rule) and joint debts (the exception). Maintaining this asset structure is justified by the need to maintain a balance between assets and debts owned jointly by the couple and those owned separately to limit the potential for abuse. As provided for in the Romanian Civil Code (Articles 366 to 368), the traditional community regime is based on a marriage contract concluded before or during the marriage of two people. A marriage contract is a real document that must be signed by the spouses and certified by a notary public. Essentially, spouses decide on traditional cohabitation through a marriage contract by agreeing to certain desired exceptions from the bar's rules. The third type of marital status is separation of property. According to this provision, each spouse promises to keep his or her own assets before and after the marriage. Therefore, this type of marital situation allows each of you to maintain maximum independence regarding your assets. Under current law, the assets and debts of a spouse are separate, so neither has any liability for the other spouse's assets or debts (although each may wish to keep their own assets). Like the other two legal systems, there is no community of property, but this regulation does not preclude the possibility of two spouses owning joint goods.

The marriage regime in Malaysia

Below we have compiled information focusing on places and religions that are different from what we know in Europe. I chose Malaysia because of its rich culture and diversity.

Marital assets play an important role in family stability and

social construction. The term matrimonial property is defined by the Malaysian government as follows: *Matrimonial property is the property that is obtained through joint effort by husband and wife during their marriage effective according to the requirements set by Sharia Law. Matrimonial property includes money, movable property, immovable property or any assets acquired jointly during the marriage period*.

The family rights of Muslim women in Malaysia are clearly defined in each state's Islamic Family Law. The purpose of this law is to provide justice to women so that they enjoy their natural rights and are not oppressed. This Islamic family law provides many rights to women, including detailed provisions regarding women's rights after divorce, death, or polygamy, especially in the marital property system. In the Quran it is written: *"For men is a share of what they have earned, and for women is a share of what they have earned" (Surah An-Nisa': 32)*. From this verse we can understand that the rights of men and women in property is dependent on their own respective efforts. According to Section 2, Islamic Family Law (State of Selangor) Enactment 2003, "*matrimonial property" is defined as property that is acquired jointly by husband and wife during their marriage effective according to the requirements set by the Islamic Law"*.

Islamic family law has redesigned its provisions in a more orderly manner to ensure better protection of Muslim women's rights in family matters (Mohd Khairul Ismail et al., 2014). In this regard, Islam also recognizes the ownership of property for each individual. All individuals, including husband and wife, have the right to own any property by

virtue of their marriage. Islam does not deny or limit these rights in any way. Islam views marital property as a way of recognizing property that may belong to the person seeking to own it. Disputes regarding marital property regimes can be divided into two categories. The first category is when the conflict arose while the marriage was still ongoing. On the other hand, the second category of disputes arises after the termination of a marriage, whether the cause of its termination is death or divorce. In either case, the dispute should be referred to a judge for resolution. If the disputed property appears to belong to a woman, it is considered to belong to her. All the same, the property that seems to be associated with men belongs to husbands. On the other hand, items which may belong to both men and women are left left to the party who can provide evidence or witnesses to support their claims regarding ownership. I came across an interesting study conducted in the Malaysian state of Selangor and published in the International Journal of Law, Government and Communication. 85 respondents participated in this study. A total of 12 statements were made regarding Selangor women's knowledge, understanding and awareness regarding marital property rights. The Ministry of Women, Family and Community Development's (KPWKM) Women's Development Action Plan 2009 takes various steps to help women understand their legal rights. The results of this study indicate that women's empowerment in marital property claims in Selangor has been achieved.

Convention on the law applicable to matrimonial property regimes

People have always interacted across borders, and marriages have also taken place between people across borders. Each country has its own legal system, which typically differs based on different cultural, religious, and political identities. In such situations, if the parties belong to different legal systems and the dispute arises outside of marriage, the court will decide on which specific law and legal system such contradictory situations will be determined. Private international law is one means of providing guidance to courts in such situations.

According to Article 3 of the Convention on the Law Applicable to the Matrimonial Property System, the marital property system is governed by the domestic law established by the spouses before marriage. A spouse can specify only one of the following laws: the laws of any state in which the spouse is a citizen at the time of designation; the laws of the state in which one spouse is habitually resident at the time of nomination; the law of the first country in which one spouse establishes a new habitual residence after marriage. The laws designated will apply to all their assets. However, whether or not a spouse has enacted a law pursuant to the preceding paragraph, a spouse may prescribe the law of the place in which the real property is located, with respect to all or part of the real property. It may also provide that any property subsequently acquired is subject to the laws of the place where the property is located.

Conclusion

In conclusion, our examination of marital regimes highlights the different legal frameworks for marital property rights in these different jurisdictions. The institution of marriage encompasses the legal framework that governs the distribution of property and property within marriage and is a central element of our social structure. They play an important role in shaping the nature of family relationships and the legal consequences that arise from them. Examining these institutions not only reveals the complexity of the law, but also highlights the evolution of society that led to the creation of such frameworks. The social context in which the institution of marriage operates is dynamic and constantly evolving. The institution of marriage and everything that governs it plays an important role in the society in which we live.

We recognize that who we are today is the result of a long history of people learning and passing on knowledge to make life better and easier today. Fundamentally, the study of marriage arrangements provides valuable insight into the boundaries between law, culture, and social values.

REFERENCES

1. Muhammud, F. S., & Halim, N. Z. A. (2022). Empowering Women in Matrimonial Property: A Case Study in Selangor. *International Journal of Law, Government and Communication, 7* (28), 239-253
2. Ahmed, A. R. M., Zaghloul, S. G. G., & Bakar, M. A. (2021). Matrimonial property disputes: Rules and effects. *Linguistics and Culture Review*, *5*(S4), 2154-2160. https://doi.org/10.21744/lingcure.v5nS4.1915

3. Manuel Vial-Dumas, *The Matrimonial Family in Byzantine Imperial Law: An Overview from Late Antiquity Until the Tenth Century AD*, 02.03.2021, https://www.tandfonline.com/doi/abs/10.1080/01440365.2021.1893947
4. Tania Broughton, *Concourt rules that marriage act oppressing thousands of women is unconstitutional* https://www.groundup.org.za/article/concourt-rules-apartheid-act-was-still-oppressing-hundreds thousands-black-women-unconstitutional/
5. Nicola Pomfret, Will Cudmore, *What are matrimonial property regimes?* 21.02.2023 https://www.farrer.co.uk/news-and-insights/what-are-matrimonial-property-regimes/
6. *Matrimonial property regimes* https://ejustice.europa.eu/36686/EN/matrimonial_property_regimes?GERMANY&member=1
7. Ovidiu Ivanof, *What's my marriage regime in Romania? Important aspects to know in advance* https://expatcenter.ro/whats-my-marriage-regime-in-romania-important-aspects-to-know-in-advance/
8. Nurul Huda Mohd. Razif , *Intimacy Under Surveillance: Illicit Sexuality, Moral Policing, and the State in Contemporary Malaysia,* 28. Oct. 2020 https://brill.com/view/journals/haww/18/2-3/article-p325_8.xml
9. *Convention on the Law Applicable to Matrimonial Property Regimes* https://www.jus.uio.no/english/services/library/treaties/11/11-02/matrimonial-property.html#treaty-header1-2
10. Momal Malik, Hassan Kamal, Ali Hussain Gilani, Shanzay Javaid, Zoha Adeel Allawala *Matrimonial Property: Protecting Women Financially*, 2023 https://sahsol.lums.edu.pk/node/12899
11. https://www.groundup.org.za/media/uploads/documents/judgment_-cct_23-20_sithole_and_another_v_sithole_and_another.pdf

12. *Matrimonial Property*, 2019 https://www.slideserve.com/falala/matrimonial-property-powerpoint-ppt-presentation
13. Ahmad bin Mohd. Ibrahim, *THE STATUS OF WOMEN IN FAMILY LAW IN MALAYSIA, SINGAPORE AND BRUNEI* https://www.jstor.org/stable/24862439
14. https://www.malaysia.gov.my/portal/content/28827

MIGRATION AS A CONTEMPORARY CHALLENGE TO THE PROTECTION OF HUMAN RIGHTS

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The impact of migration on human rights protection plays an important role in shaping legal understanding and interpretation.

This paper aims to present the human rights challenges: the complexities of migration. Migration is the movement of people from one place to another, either within a country or across international borders. It takes various forms, including economic migration, family reunification, forced displacement, and irregular migration. Economic migration is driven by job opportunities or higher wages, while family reunification involves reunited family members in another country. Forced displacement is driven by persecution, conflict, or violence in home countries, often involving refugees, asylum seekers, and internally displaced persons. Irregular migration is driven by escaping poverty, conflict, or persecution without the necessary documentation or authorization. The paper draws upon a review of how migration poses significant threats to human

rights, including discrimination, lack of access to basic services, violence and exploitation, and detention and deportation. Governments face a critical challenge in protecting human rights by ensuring migrants have access to necessities, protection from discrimination, violence, and exploitation, and legal assistance. Balancing these responsibilities with border management and ensuring citizens' safety and security can be challenging, especially in large influxes or migration-related security concerns. This analysis offers insights into international law a framework for protecting human rights and managing migration, and governments must comply with it and work together to address migration and human rights challenges. This research will provide the reader with the important role of international organizations such as the United Nations and the International Organization for Migration to enhance cooperation and provide support to governments in confronting these challenges. Our analyses are guided by the human rights framework that recognizes the importance of governments providing legal protection for immigrants, such as representation and fair treatment, providing them with educational and employment opportunities, and creating programs and initiatives to support this. this study serves as an initial investigation of how government involvement should ensure that migrants have access to healthcare services, regardless of their migration status, to prevent serious consequences for their health and well-being.

Keywords: economic migration, forced displacement, irregular migration, human rights, international law

Introduction

Illegal immigration is a growing phenomenon that involves sneaking across land borders, sea, and residence in another country illegally. The motives and reasons for illegal immigration are linked to the situation of poor communities and developing countries, which are facing poverty, unemployment, and instability. To combat this phenomenon, states have elaborated development plans and programs to help poor and developing countries improve social conditions and adopted laws criminalizing illegal immigration.

Migration generally means moving to live and stay there, with the main motivations being economic, social, psychological, and illegal immigration. The impacts on receiving countries are numerous, particularly economic and security impacts, social and health. Combating this phenomenon requires international cooperation.

The study aims to identify the causes of illegal immigration, its consequences on global security, the crisis's repercussions for maintaining global security against illegal migration, and the mechanisms and executive procedures needed to maintain global security.

The study focuses on the topic of immigration, which has become a pressing social, security, and political issue. It addresses the scarcity of studies on illegal immigration, aims to clarify the current reality and obstacles facing security, and explores the global impact of such migration. The study also hopes to encourage other security

researchers to conduct further studies on immigration in its various forms.

I utilized a descriptive-analytical method to collect, analyse, interpret, and draw general conclusions about literature, studies, theoretical and field research, regional and international experiences, university publications, and local and international conferences and seminars related to the study's subject. This approach aimed to improve and develop reality by incorporating relevant data and information.

Conceptualization of immigration

Migration is the definitive departure of an individual from their country's territory. Illegal immigration, as defined by the United Nations, refers to unregulated entry from one country to another without a permanent or temporary residence permit and non-compliance with necessary conditions for crossing state borders. This concept is outlined in the Protocol Against the Smuggling of Migrants and Article III of the United Nations Convention against Non-National Organized Crime.

Categories of Migration:

Immigration can be categorized into two main types: legal and clandestine.

1. Legal immigration:

Legal immigration involves formal requirements,

customs, and rules at the international level, such as having a travel document, owning it for legal reasons, obtaining legal authorization, and starting and ending their stay in the country. The legitimacy of immigration depends on the state's knowledge of the citizen, their orientation, and the state flag. For example, family reunification is the movement of people seeking to join family members living in another country, often driven by a desire to be reunited with loved ones.

2. Clandestine Immigration

Includes economic, forced displacement, and irregular migration.

Economic Migration refers to the movement of people in search of better job opportunities or higher wages. This form of migration is often driven by economic disparities between countries or regions and can be either temporary or permanent.

Irregular Migration refers to the movement of people who do not have the necessary documentation or authorization to enter or stay in a country. This form of migration is often driven by a desire to escape poverty, conflict, or persecution, and can involve a range of risks and vulnerabilities.

Forced Displacement refers to the movement of people who are fleeing persecution, conflict, or violence in their home countries. This form of migration is often involuntary and can involve refugees, asylum seekers, and internally displaced persons.

Reasons and Motives for Illegal Immigration:

Irregular migration is driven by the desire to escape poverty, conflict, or persecution, often involving risks and vulnerabilities. The extent of legitimacy depends on the state's knowledge of the citizen, their orientation, and the state flag.

The global financial crisis is causing a surge in illegal immigration due to various reasons, including economic, psychological, social, and political factors. As millions of people, particularly young people, are facing unemployment, particularly in developing countries, seeking alternative employment opportunities, immigration becomes a crucial solution. The crisis is expected to have systemic effects, with millions of people seeking a way out, even if it means risking their lives. To assess the reasons or motivations driving young people to migrate illegally, it is essential to understand the complex interplay between economic, psychological, social, and political factors.

1. Economic Reasons

Immigrants often seek livelihoods to ensure a secure and prosperous life, leaving their country of origin to find work opportunities. The economic situation in their home countries is largely influenced by demographic factors such as population growth and national income. The growing population decreases living standards, forcing many people to seek employment in another country, particularly unemployed youth seeking family life. This is due to the limited number of manpower required for industrial

expansion and the increase in business projects during periods of economic prosperity. Additionally, new products are introduced locally, further affecting the local economy.

2. Demographic factors

Play a significant role in migration, particularly in international countries where population growth is a primary reason for migration. Countries with abundant human resources but limited natural and economic resources face challenges in economic and social development, as their population abundance is not proportional to available resources. This reduces the capacity of states to create better employment opportunities for individuals. Young people, particularly those who can work, are more likely to migrate to countries that need labor for economic development. The pull-push theory suggests that migration is driven by the attractiveness factors in receiving countries, with the lack of balance between expulsion factors and those that attract immigrants to their destination areas

3. Social reasons

Migration is driven by economic and social motivations, particularly illegal immigration. The economic system and family system are linked to different migration patterns and forms. Population growth in the Eastern and Southern Mediterranean is expected to increase over the next twenty years, leading to unemployment and social

problems such as poverty, famine, unemployment, and disease. Unemployment affects individuals of all academic and professional levels, even those with certificates. The local labor market cannot meet these demands, pushing individuals to seek work abroad, even in difficult working conditions. The image of social success that immigrants display when returning to their country is also influenced by media coverage of protests, encouraging people to engage in immigration to achieve their ambitions.

4. Political motives

The end of the 20th century saw a surge in refugees, both individual and collective, due to wars and internal conflicts worldwide. These instabilities, often fuelled by ethnic, religious, or political affiliations, led to forced migration or political asylum. The Middle East region is currently experiencing this phenomenon, with unrest and armed conflicts in Arab countries like Iraq, Syria, Libya, and Yemen, exacerbated by the influx of refugees. This has led to a growing trend of refugees seeking safer, more stable environments.

5. Psychological motivations for migration

include frustration, inner alienation, social isolation, irrational thoughts, love of adventure, low family and community affiliation due to gaps in socialization programs and the weakness of institutions like families and schools. These motivations go beyond economic reasons and are

more important than the idea of getting rich quickly.

Migration poses significant threats to human rights, including the fundamental rights of irregular migrants, which have been approved by international agreements. These rights, including the right to education, healthcare, and equal treatment, are crucial for ensuring the protection of human rights.

Human Rights Challenges

Migration poses significant threats to human rights, including the fundamental rights of irregular migrants, such as access to nutritious meals, safe temporary shelters, and basic healthcare services.

1. Discrimination and Xenophobia

The New York Declaration condemns acts of racism, racial discrimination, xenophobia, and intolerance against refugees and migrants, as well as stereotypes based on religion or beliefs. States Parties in the International Convention on the Elimination of All Forms of Racial Discrimination commit to pursuing policies aimed at eliminating racial discrimination. Racial discrimination is defined as any distinction, exclusion, restriction, or specification based on race, color, ancestry, national or ethnic origin that prevents the recognition, enjoyment, or exercise of human rights and fundamental freedoms equally in various areas of public life. The International Covenant on Civil and Political Rights applies to all persons,

regardless of nationality or statelessness. Article 12 of the Covenant requires states to respect and guarantee rights without discrimination based on race, color, sex, language, religion, political opinion, wealth, lineage, or other reasons. Xenophobia, a term used in South Africa, refers to attitudes and behaviours that do not belong to a group or nation and can include overt violence, hate speech, crimes, and discrimination against immigrants.

2. Guarantee that migrants have access to justice

The New York Declaration aims to improve the integration and inclusion of migrants and refugees, particularly regarding their access to justice. Migrants have the right to a fair and public hearing by a competent, independent, and impartial tribunal established by law, as confirmed by international legal texts such as the Universal Declaration of Human Rights, the Arab Riyadh Agreement for Judicial Cooperation, and the Convention of 1983. However, migrants involved in large movements often face obstacles to accessing justice, such as a lack of local language proficiency, limited information about their rights, restrictions on their movement, and lack of assurance. Additionally, migrants face fear of detection, detention, and deportation, and may be reluctant to file complaints about crimes due to fear of retaliation. Furthermore, migrants face discrimination and unequal treatment in many countries, making them more vulnerable to bias, harsher punishments, and isolation in detention.

3. Protection of Migrants' Lives and Safety

The right to life is an inherent right protected by law, and irregular migrants also have this right. The New York Declaration and the International Covenant on Civil and Political Rights affirm this right. Article 16 of the Smuggling of Migrants Protocol includes intervention in cases where migrants' lives are threatened and assistance to ensure they enjoy migrant rights. However, the strengthening of control measures at external borders and the lack of legal migration channels have led to an escalation of risks related to illegal movements, resulting in thousands of migrants dying in deserts, land borders, and at sea due to extreme weather, dehydration, or suffocation.

a) Violence and Exploitation

The New York Declaration aims to protect refugees and migrants from violence and exploitation in fragile global conditions. However, irregular migrants often face inhumane treatment and may fall into the hands of criminal organizations while crossing the border. If they overcome these risks, they may be arrested, detained, and deported in conditions of torture and degrading treatment. Migrants are not adequately protected from violence, torture, abuse, and exploitation during their journey. In mass displacement, migrants may be exposed to exploitation by non-state actors, unscrupulous employers, trafficking, kidnapping, and torture by criminals seeking money. Girls and women are at serious risk, particularly from violence from immigration service colleagues, border authorities, police officers, and detention center guards. Sexual violence against men and boys is also widespread but often goes

unreported due to stigma.

b) Lack of Access to Basic Services

States must ensure equal access to health services and housing for all people, including migrants, regardless of their legal status and documentation. Article 43 of the Migrant Workers Convention mandates equal access to health services, including emergency medical care. However, accessing necessary treatment can be complicated by factors such as legal, cost, stigma, cultural, and linguistic issues. Irregular immigrants may be denied healthcare access, leading to difficulties in treating mental health issues and chronic illnesses, forcing many to self-medicate or resort to informal alternatives. The New York Declaration and the International Covenant on Economic, Social, and Cultural Rights emphasize the importance of respecting the human rights and political freedoms of migrants and refugees. Migrants often face challenges such as inadequate housing, sanitation, lack of food and water, poor hygiene, and restrictions on private accommodation, leading to increased vulnerability to homelessness, poverty, detention, and forced return.

c) Education and Employment Opportunities

The New York Declaration and the International Covenant on Human Rights emphasize the right to work for migrants, regardless of their status. However, they often face forced labor in the informal sector, which can be

dangerous and exploitative. Migrants' obligation to work is difficult due to their legal status, fear of employment, and isolation, leading to increased vulnerability to abuse and social exclusion. Migrant children often contribute to the family income or travel alone, and women's work is limited to gendered and informal occupations. The New York Declaration and the International Covenant on Economic, Social, and Cultural Rights also emphasize the importance of ensuring the educational rights of migrants and refugees. However, many countries prevent irregular migrant children from enrolling in schools. This is due to discriminatory attitudes, fear of xenophobic violence, and obstacles such as identity, residency, birth certificates, medical documentation, and exorbitant fees.

International mechanisms to protect the rights of irregular migrants

International mechanisms to protect the rights of irregular migrants are diverse and vary across international organizations and regional bodies. These mechanisms are a specialization of human rights enforcement, with control measures implemented by international and regional bodies against their members. Without a single agreement exclusively dedicated to the rights of illegal immigrants, applicable agreements will be different and multiple, with mechanisms varying depending on the rights violated. This research focuses on some of the mechanisms related to the rights of migrants both within and outside the United Nations system.

The United Nations system consists of five principal

organs, including the General Assembly, Economic and Social Council, Security Council, Human Rights Council, and International Court of Justice. These bodies work together to promote human and people's rights, with the protection of irregular migrants being a key objective. The Human Rights Council and Special Procedures contribute to human rights monitoring by conducting field visits, sending messages, receiving complaints and reports, providing advice and reports, and conducting studies. Letters are sent to countries concerned through the Office of the High Commissioner for Human Rights.

The International Convention on Migrant Workers, which entered into force in 2003, emphasizes the issue of migrant smuggling by requiring states to prevent and stop the circulation and employment of migrant workers in irregular situations. Convention No. 97 of 1949 addressed legal immigration, while Convention No. 143 of 1975 addressed irregular migrant workers, violating the Convention for the Protection of the Rights of All Migrant Workers and Their Families in 1990. The Protocol to Combat the Smuggling of Migrants by Land, Sea, and Air of 2000 is based on the humane treatment of migrants and their fundamental rights.

The international community has been focusing on the rights of illegal immigrants, particularly after human rights organizations raised concerns about their conditions at or after crossing borders. The host country has absolved itself of responsibility towards these immigrants, which requires ensuring their essential rights, life and health, and other relevant human existence rights.

One such mechanism is the Global Group on

Migration, created by the Secretary General of the United Nations in 2006. The working team consists of 10 international organizations, including the International Organization for Migration, the Office of the United Nations High Commissioner for Refugees, the Office of the United Nations High Commissioner for Human Rights, and the United Nations Population Fund.

The diversity of migration management mechanisms has led to the absence of a unified international institutional mechanism, weakening the legal protection of the rights of irregular migrants. To address this, suggestions include creating an international framework to protect the human rights of migrants, including the creation of an international organization for migration affiliated with the United Nations, integration into the International Organization for Migration and the Office of the High Commissioner for Refugees, or integrating the International Organization for Migration within the United Nations system.

Conclusion

The relationship between irregular migrants and human rights is crucial, as migration is a social phenomenon with a human dimension. The international community's interest in protecting these groups is evident through the importance of these rights under international law. The effectiveness of international agreements aimed at protecting migrant workers and their families depends on their implementation and monitoring mechanisms. Recommendations include ensuring that receiving State procedures for administrative control, regulation of freedom

of movement, and regulation of religious rituals do not infringe on the rights of irregular migrants. States should respect the principle of non-discrimination in their powers concerning migrants and avoid subjecting certain migrants to additional procedures and burdens under the pretext of reciprocity. Reconsidering international texts and domestic legislation relating to the expulsion of foreigners is necessary to ensure the judicial power alone is competent to make decisions. States should take measures to ensure lasting solutions to the situation of irregular migrants, including considering regularization programs through an integrated and preventive approach.

REFERENCES

1. International Labour Organization (ILO), International Organization for Migration (IOM), Office of the United Nations High Commissioner for Human Rights (OHCHR), International Migration, Racism, Discrimination and Xenophobia (2001). Available from www.unesco.org/most/migration/imrdx.pdf (accessed on 11 May 2016)
2. Duncan Wood, «Reflections on the Mexico-Guatemala Border», in Reflections on Mexico's Southern Border, Duncan Wood and others, contributors (Washington, D.C., Wilson Center, Mexico, Autonomous Institute of Technology Institute,1 April 2015)
3. Cathy Zimmerman and others, Health and human trafficking in the Greater Mekong Subregion: Findings from a survey of men women, and children in Thailand, Cambodia, and Viet Nam (International Organization for Migration and London School of Hygiene and Tropical Medicine, 2014).
4. Christine Adam, Migration at Sea, Rescue at Sea, in IOM 'International Migration Law and Policies: Responding to.Migration Challenges in West and North Africa", Round Table 8-9 December 2009, Dakar, Senegal.

5. Doctors Without Borders, Violence, Vulnerability, and Migration: Trapped at the Gates of Europe: A report on the situation of sub-Saharan migrants in an irregular situation in Morocco, March 2013.
6. F. Crépeau and others, "Right and access to healthcare for undocumented children: addressing the gap between international conventions and disparate implementations in North America and Europe", Social Science and Medicine, vol. 70, No. 2, January 2010.
7. Hein de Haas, "The myth of invasion: irregular migration from West Africa to the Maghreb and the European Union", October 2007.
8. Maggy Lee, "Human trade and the criminalization of irregular migration", International Journal of the Sociology of Law, vol. 33: 1 (March 2005).
9. P. Green and M. Crewcock, "The war against illegal immigration: State crime and the construction of a European identity", Current Issues in Criminal Justice 14 (2002), 87-101, in Lee, 3.
10. Verena Knaus and others, Silent Harm: A report assessing the situation of repatriated children's psycho-social health, (UNICEF Kosovo in cooperation with Kosovo Health Foundation, 2012).
11. Toward a World free from Violence: Global survey on violence against children, (New York, October 2013)
12. Obergefell v. Hodges, 135 S. Ct 2584, 2600–08 (2015).
13. Zeleniak, 26 I. & N. 158, 158 (B.I.A. 2013.
14. State v. Green, 99 P.3d 820 (Utah 2004); State v. Holm, 137 P.3d 726 (Utah2006).
15. Avendano-Hernandez v. Lynch. Twenty-First-Century Values and Transgender Communities' Impact on Immigration Policy and Foreign Relations, TULANEJ. O F INT 'L & COMP. LA W [Vol. 24), P. 392..
16. Ingrid V. Eagly, Immigrant Protective Policies in Criminal Justice, Texas Law Review [Vol. 95:245, p. 259.
17. Padilla v. Kentucky, 559 U.S. 356, 359 (2010)
18. Drax v. Reno, 338 F.3d 98, 99 (2d Cir. 2003)

19. Perez v. Elwood, 294 F.3d 552, 557 (3d Cir. 2002)
20. Prosecutor v Drazen Erdemovic, Case no IT-96-22-A, Appeal Judgment, 7 Oct 1997, judgment and Prosecutor jean Kambanda, Case no ICTR-97-23-S, ICTR T Ch, 4 Sept 1998, paras 39-40.
21. Cass.crim , 29 mai 1980 ,Bull.crim , n.164
22. Adamson v. C.I.R., 745 F.2d 541, 545-46 (9th Cir. 1984).
23. INS v. Lopez-Mendoza, 468 U.S. 1032, 1050 (1984).
24. Cabasug v. INS, 847 F.2d 1321 (9th Cir. 1988).
25. Reynolds v. United States, 98 U.S. 145, 150 (1878)
26. Weems v. United States, 217 U.S. 349 (1910).
27. Cleveland v. United States, 329 U.S. 14, 16 (1946)
28. Knauff v. Shaughnessy, 338 U.S. 537, 543-44 (1950).
29. Juan C. Quevedo, The Troubling Case(s) of Noncitizens: Immigration Enforcement Through the Criminal Justice System and the Effect on Families, Spring 2015 | Volume 10 | Issue 2 Tennessee Journal of Law and Policy 386, Spring 2015 | Volume 10 | Issue 2, p. 15
30. Anita Ortiz Maddali, LEFT BEHIND: THE DYING PRINCIPLE OF FAMILYnREUNIFICATION UNDER IMMIGRATION LAW, University of Michigan Journal of Law Reform [Vo l. 50:1), p. 118.
31. Eamonn Hart†, Citizens All Along Derivative Citizenship, Unlawful Entry, and the Former Immigration and Nationality Act, The University of Chicago Law Review, [82:2119
32. Jennifer Bond, Excluding Justice: The Dangerous Intersection between Refugee Claims, Criminal Law, and Guilty Asylum Seekers, 24 Int'l J. Refugee L. 37, 59 (2012), N 1
33. Sarah L. Eichenberger, When For Better is For Worse: Immigration Law's Gendered Impact on Foreign Polygamous Marriage, 61 DUKE L.J. 1067, 1083 (2012)
34. citing Act of March 3, 1891, ch. 551, 26 Stat. 1084)..
35. https://www.bbc.com
36. http://www.cnda.fr
37. http://curia.europa.eu
38. https://www.doctrine.fr

39. https://www.ekb.eg
40. http://eumigrationlawblog.eu
41. http://gate.ahram.org.eg
42. https://www.policemc.gov.bh/mcms-store/pdf
43. http://www.sis.gov.eg
44. https://www.unhcr.org

ПРАВО ДИТИНИ НА АВТОРСЬКЕ ПРАВО ТА ЙОГО ЗАХИСТ

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У сучасному світі, зважаючи на постійний розвиток суспільства, появу нових можливостей, технологій, молоде покоління стає все більш прогресивним. Саме через це його вважаюсь своєрідним генератором ідей, творчих задумів, унікальних рішень. Зважаючи на те, що діти ще не мають того життєвого досвіду, яким володіє людина вже в старшому віці, вони не обмежують свою уяву встановленими в соціумі стандартами та рамками. У зв'язку з цим постає питання захисту прав дітей, зокрема й авторського права.

Враховуючи те, що стрімко розвиваються технології, відповідно збільшуються і можливості дітей для реалізації своїх талантів, що звичайно ж сприяє і зростанню культурного надбання нашого суспільства. Вже в ранньому віці діти здатні не лише писати літературні, музичні, аудіовізуальні твори, а й володіють навичками створення комп'ютерних програм. Існує доволі багато знаменитих постатей, які проявляли свої творчі здібності ще з дитячих років. До прикладу, усім нам відома письменниця Леся Українка вже в 9 років написала свій перший вірш «Надія», а у 13 років активно

писала та публікувала свої вірші у часопису «Зоря» [1, с. 107]. Саме тому постає питання щодо здійснення прав інтелектуальної власності на той чи інший результат творчої діяльності малолітньої або неповнолітньої особи.

20 листопада 1989 року було ухвалено Конвенцію про права дитини. Її іноді можуть називати так званою "Світовою конституцією прав дитини", оскільки саме у ній встановлені міжнародні стандарти захисту дітей. Ця Конвенція була ратифікована Україною, а тому є частиною нашого законодавства.

У ст. 1 Конвенція визнає дитиною кожну людську істоту до досягнення нею 18-річного віку, якщо за законом повноліття не настає раніше. У ст. 13 Конвенції дитина має право вільно висловлювати свої думки; це право на свободу шукати, одержувати і передавати інформацію та ідеї будь-якого роду незалежно від кордонів в усній, письмовій чи друкованій формі, у формі творів мистецтва чи за допомогою інших засобів на вибір дитини [2].

Ще одним важливим нормативно - правовим актом, який регулює досліджувані питання, є Закон України «Про авторське право і суміжні права». За ч. 2 ст. 5 цього Закону первинним суб'єктом авторського права є автор твору. Також ч. 1 ст. 9 ЗУ встановлюється, що авторське право на твір виникає внаслідок факту його створення. Твір вважається створеним з моменту первинного надання йому будь-якої об'єктивної форми (письмової, речової, електронної (цифрової) тощо) [3].

Ключове питання стосується того, чи має вагоме значення той чи інший вік фізичної особи. Як можна побачити із зазначених положень, законодавець не

встановлює певних вікових меж щодо визнання особи суб'єктом авторського права. Важливим є те, щоб цей твір мав об'єктивну форму виражання та був оригінальним. Тобто правова охорона не буде поширюватися на висловлені малолітньою чи неповнолітньою особою ідеї, теорії, принципи, методи, процедури, процеси, системи, способи, концепції, відкриття, навіть якщо вони виражені, описані, пояснені, проілюстровані у творі. Отож, автором твору може виступати будь-яка фізична особа незалежно від віку, дієздатності, її громадянства.

Малолітні особи – це фізичні особи, які не досягли 14 років, вони мають часткову цивільну дієздатність. Проте, авторські права за них здійснюють їх батьки або опікуни. Вони від імені малолітніх укладають авторські договори, можуть захищати їх права у разі їх порушень. Стороною у договорі є малолітній автор в особі законного представника. Тобто, враховуючи обсяг їх цивільної дієздатності, вони не можуть самостійно розпоряджатися своїми майновими правами на твір. Все ж таки, на нашу думку, при використанні таких творів, потрібно враховувати думку малолітньої особи. До прикладу, така норма прослідковується в законодавстві Франції, зазначається, що письмова згода автора на використання його твору є обов'язковою. Виняток становить автор, який фізично не в змозі надати таку згоду, у всіх інших випадках це є необхідним.

Щодо неповнолітніх дітей віком від 14 до 18 років, то вони мають неповну цивільну дієздатність. Вони можуть самостійно здійснювати права на результати інтелектуальної, творчої діяльності. Крім того, їм

належить право одержувати винагороду за використання власних творів і розпоряджатися цією винагородою.

Фактично в усіх галузях права окремі категорії осіб, в тому числі й неповнолітні, підлягають особливій охороні.

У разі, якщо порушується авторське право, особа яка наділена ним, може скористатися своїми правами на захист. Зокрема у ст. 16 та ст. 19 Цивільного Кодексу України згадуються загальні норми захисту. Зазначається, що у разі порушення невизнання, оспорювання авторського права, або порушено її інші права інтелектуальної власності загалом як це зазначено у ст. 432 Цивільного Кодексу України, особа має право звернутися до суду [4].

Способом захисту авторського права і суміжних прав визнаються закріплені законодавством матеріально-правові засоби примусового характеру, за допомогою яких відновлюються порушені права і здійснюється вплив на порушника авторського права і суміжних прав [5, с. 299]. У ст. 55 Конституції України передбачено право на судовий захист прав інтелектуальної власності кожної особи [6]. Фактично, захист авторських прав дітей такий же, як і захист прав повнолітніх осіб, проте встановлено, що діти діють через представників (батьки, усиновлювачі, опікуни), бо не можуть самостійно бути позивачами або відповідачами в суді.

Наразі одними з найпоширеніших порушень прав інтелектуальної власності в Україні є піратство та плагіат (публікація твору під чужим ім'ям). Це свідчить про

недосконалість системи захисту авторського права в Україні. Зазвичай на практиці досить складно виявити такі порушення. Саме тому твори, авторами яких є неповнолітні особи, потребують відповідної охорони, що сприятиме їх захищеності та гарантуватиме недоторканість того чи іншого твору.

Зважаючи на усе вищесказане, можна зробити висновок про те, що хоча неповнолітні в силу свого віку дещо обмежені в здійснені ними своїх прав, однак вони визнаються авторами власних творів. Крім того, на нашу думку, у державі повинен бути створений механізм інформування дітей, а також їх батьків щодо сутності авторського права, способів його захисту, а також дотримання авторських прав. Це сприятиме розвитку правової культури громадян ще з раннього віку, а також запобіганню подальших порушень.

СПИСОК ВИКОРИСТАНИХ ДЖЕРЕЛ

1. Ольга Косач-Кривинюк. Леся Українка = Lesya Ukrayinka: хронологія життя і творчості. Укр. Вільна Акад. Наук у США. Нью-Йорк, 1970. 923 с.
2. Конвенція ООН про права дитини від 20 листопада 1989 р. URL: https://zakon.rada.gov.ua/laws/show/995_021#Text
3. Закон України «Про авторське право і суміжні права» від 01.12.2022 р. №2811-IX. URL: https://zakon.rada.gov.ua/laws/show/2811-20#n855
4. Цивільний кодекс України від 16.01.2003 р. № 435-IV. URL: http://zakon2.rada.gov.ua/laws/show/435-15
5. Право інтелектуальної власності. Академічний курс / за ред. О.П. Орлюк, О.Д. Святоцького. Київ : «Ін Юре», 2007. 696 с.
6. Конституція України від 28 червня 1996 р. URL:

http://zakon2.rada.gov.ua/laws/show/254к/96-вр.

ENSURING SOCIAL RIGHTS IN HUNGARY IN THE LIGHT OF INTERNATIONAL AND DOMESTIC LEGISLATION

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The main topic of my research is the enforcement of social rights in Hungary in the light of international and domestic legislation, as well as the characterisation of the relevant institutional system of social administration and the detail of the social services regulated in the field of social care.

In terms of legal regulation, there are three levels in this area: international, and – at least in Hungary - central and local. In addition to state regulation, we have to mention business players (companies) as norm-makers. This is why this is the area with the largest body of legislation, the harmonisation of which requires the greatest coordination in the world.

The main national legal norm on this subject is the Fundamental Law of Hungary, moreover I highlight two international documents on essential human needs: the Universal Declaration of Human Rights (as a universally accepted norm of customary international law) and the European Social Charter (as a regional convention). Hungary has also ratified the amended version of the

Charter, with optional commitments in the field of social rights. However, the right to social security in Article XIX of the Fundamental Law of Hungary is not a fundamental right, but a state objective, as indicated by the adjective "strive".

Relevance: the object of protection in this area is the social security of the individual, the right to exist. Knowledge of the institutional system relating to these rights is cardinal in a state governed by the rule of law.

Hypothesis: I assume that the institutional framework for the enforcement of social rights is formally provided in accordance with international legal standards, depending on the economic resources of the state.

Method: my research examined international regulation and its transposition into the Hungarian domestic (dualist) legal system including the central and local regulation levels. In the institutions, I was able to learn from experience about the relevant procedures and environmental researches.

The main parts of the research: my research covers the international and Hungarian regulation of the "social safety net", as well as the detail of the scope of social services, procedures related to specialised services, homeless care.

There are three aspects of social legislation in Hungary, depending on which segment of the social system is affected by the benefits provided. They are not nearly the same, yet the literature on social administration often "lumps" them together and refers to them in a uniform way. Thus, social security benefits, these are the classic contributory benefits guaranteed to beneficiaries by the

Social Insurance Act as the basic law for this sector, subject to the fulfilment of the conditions laid down in this law, where the range of risks is also predetermined.

The next are the assistance-type subsidies and the social minimum benefits/public services, where we must note that there are no predefined risks, but in fact they can be used for any risk (economic, social), if the person is below the poverty threshold and passes the means test under Act III of 1993 [hereinafter the Social Act]. The lex generalis in the field of assistance is the Social Act. It is tailored to the living conditions of the individual (individualised assistance). Social administration covers the provision of these types of benefits, i.e. the second category; cash benefits provide the bulk of services, these are tax-based benefits, an important difference from the former.

The third category is universal benefits, which are direct benefits, i.e. they are paid directly to the beneficiary if he or she is eligible under the legislation.

The focus of my research here is on the second type of benefits and the related administration and redistribution in the form of benefits, as well as on the social organisation system and residential institutions.

Conclusion: the development of the procedures is precise at the level of the law, and a centrally regulated system for the application for professional and other social benefits is available to the beneficiaries in all its details. Poverty as a phenomenon, however, is a phenomenon which the state machinery is unable to deal with on the basis of the current economic resources, for example, the fact that the minimum pension and the HUF amount of

various benefits do not follow inflation and subsistence costs.

Research direction: I hope that my research will help to understand discretional social administration, which is so often confusing/discriminative.

Keywords: social safety net, ILO, EU, poverty support, specialised care

REFERENCES

1. Fehér Zoltán. A szociális igazgatás általános kérdései és a felnőttvédelem, Unió Lap- és Könyvkiadó, Budapest, 2001
2. Gyulavári Tamás, Kardos Gábor. Szociális jogok az Európai Unióban - Az Európai Bíróság esetjoga, Adu Print Kiadó, Budapest, 1999.
3. Hajdú József, Homicskó Árpád. Bevezetés a társadalombiztosítási jogba. Patrocinium Kiadó, Budapest, 2014.
4. Jakab Nóra - Mélypataki Gábor - Szekeres Bernadett. A szociális biztonság nemzetközi kérdései. Bíbor Kiadó, Miskolc, 2016.

HUMAN RIGHTS AGREEMENT AND THE ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS DURING THE SYRIAN WAR

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Introduction

The concept of human rights has become a well-known and widely accepted term to use. Varying interpretations are possible, with differences usually being based on cultural background. Nonetheless, most of these understandings consciously or subconsciously include the basic rights outlined in the United Nations' Universal Declaration of Human Rights.

The United Nations has gradually expanded human rights law to encompass specific standards for women, children, persons with disabilities, minorities and other vulnerable groups, who now possess rights that protect them from discrimination that had long been common in many societies. Syria has obligations under several international treaties to uphold these rights, including the International Covenant on Civil and Political Rights and the International Covenant on Social, Economic and Cultural Rights (ICESCR). Syria ratified the ICCPR on March 23, 1976, and the ICESCR on January 3, 1976. In this research, the focus will be on the human rights agreement with Syria

during the war period since 2011, The right to freedom, and the rights to freedom of expression and assembly, Did the Syrian government abide by the implementation of the Human Rights Convention during the war?

The paper will answer the previous question and address the Syrian government's protection of its people and its obligations towards human rights conventions, and the use of chemical weapons will be studied as a model for the application of human rights through the conflicting parties. One case will be analyzed from the Syrian state's claim to the Organization for the Prohibition of Chemical Weapons, and how the latter dealt with this claim. Next, we will study the Syrian state's position on the committee sent by the Organization for the Prohibition of Chemical Weapons.

Syria's International Legal Obligations:

The government may restrict the right to freedom of association, but only on certain prescribed grounds and only when particular circumstances apply. According to Article 22 of the ICCPR:

1- Everyone shall have the right to freedom of association with others.

2- No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order , the protection of public health or morals or the protection of the rights and freedoms of others .

On December 9, 1998, the UN General Assembly adopted the “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,” commonly referred to as the Declaration on Human Rights Defenders. Article 5 of the Declaration states that all people have the right to assemble peacefully, to form, join or participate in NGOs, and to communicate with NGOs. Article 6 states that all individuals have the right to know, seek, or obtain information about all human rights and fundamental freedoms, as well as the right to freely publish, discuss or otherwise impart such information, knowledge, and views. The different UN committees responsible for monitoring Syria’s compliance with its treaty obligations have several times highlighted the government’s need to ease restrictions on civil society. In its July 2005 examination of Syria’s ICCPR implementation, the UN Human Rights Committee stated , The Committee is concerned at the obstacles imposed on the registration and free operation of non-governmental human rights organizations in the State party and the intimidation, harassment and arrest of human rights defenders. It also continues to be deeply concerned about the continuing detention of several human rights defenders and the refusal to register certain human rights organizations.

The Role of Human Rights organization in Syria during the war 2011-2023

The conflict in Syria continued despite the decrease in hostilities, which began from 2011 until today 2023, but took various forms of war, while economic and social conditions deteriorated. Parties to the conflict continued to commit gross human rights abuses, serious violations of international humanitarian law, and crimes under international law, including war crimes, with impunity. Government forces and armed opposition groups and their allies have unlawfully attacked civilians and civilian infrastructure, including water stations and displacement camps, through aerial and artillery bombardment in northern Syria. Government authorities, the Syrian National Army, and the Autonomous Administration of North and East Syria (Autonomous Administration) have subjected civilians to arbitrary detention, kidnapping, and enforced disappearance.

Syria and the Organization for the Prohibition of Chemical Weapons

The OPCW is responsible for the implementation of the Chemical Weapons Convention (CWC), which prohibits the use, development, production, stockpiling and transfer of chemical weapons.

The Syrian Arab Republic became a State Party to the CWC — and a Member State of the OPCW — in October 2013. As a result of a joint OPCW-UN mission (October 2013 – September 2014) in cooperation with the Syrian government, all of the chemical weapons declared by Syria were removed and verifiably destroyed outside of its

territory. However, questions about the completeness of Syria's declaration remain.

As every other State Party to the Convention, Syria is subject to the following obligations:

- Never under any circumstances to develop, produce, acquire, stockpile, retain, transfer or use chemical weapons (Article I of the Convention).
- Submit timely, accurate, complete declarations related to chemical weapons and chemical weapons facilities on its territory (Article III of the Convention).
- Cooperate with the OPCW in the exercise of all its functions and provide assistance to the Technical Secretariat (Article VII of the Convention).

To ensure Syria's compliance with its obligations under the Convention, there are currently three different OPCW missions with an active mandate to work on chemical weapons verifications issues: the Declaration Assessment Team (DAT), the OPCW Fact-Finding mission (FFM), and the OPCW Investigation and Identification Team (IIT). All three missions have different mandates. Their findings are based on scientific methods and evidence, and are provided to Member States and other entities (for example, the United Nations Security Council) on a regular basis.

United Nation position

With repeated allegations of the use of toxic chemicals for hostile purposes at a number of locations in

the Syrian Arab Republic, on 29 April 2014, the OPCW Director-General announced the formation of the OPCW Fact Finding Mission (FFM). The establishment of the FFM was based on the general authority of the OPCW Director-General to seek to uphold at all times the object and purpose of the Chemical Weapons Convention. This authority is reinforced by the relevant decisions of the OPCW Executive Council and the United Nations Security Council resolution (UNSCR) 21118 (2013); and its acceptance by the Syrian Arab Republic. Its creation is also based on terms of reference agreed between the Secretariat and the Syrian National Authority.

The FFM is responsible for determining whether toxic chemicals have been used as weapons in the Syrian Arab Republic. The mandate does not include identifying who is responsible for any alleged attacks. On the basis of the FFM's findings, the OPCW Investigation and Identification Team (IIT) (as the OPCW-UN Joint Investigative Mechanism (JIM) did previously), collects and analyses evidence that may help to identify the perpetrators of chemical weapons attacks in Syria. To date the FFM has issued 20 reports covering 73 instances of alleged chemical weapons use. The FFM concluded that chemical weapons were used or likely used in 20 instances: in 14 cases the chemical used was chlorine, in three cases the chemical used was Sarin, and in three cases the chemical used was mustard agent[1]. All efforts by the Technical Secretariat of

[1] These reports were submitted to the States Parties of the Chemical Weapons (https://www.opcw.org/about-us/member-states","https://www.opcw.org/about-us/member-states" HYPERLINK "https://www.opcw.org/about-us/member-states"Convention and

the Organisation for the Prohibition of Chemical Weapons (OPCW) to organize the next round of consultations with Syria continue to be unsuccessful, a senior official of the United Nations for disarmament affairs informed the Security Council today, underscoring yet again the urgent need for full cooperation by Damascus.

Adedeji Ebo, Deputy to the High Representative of the United Nations Office of Disarmament Affairs, briefing the Council on behalf of the High Representative for Disarmament Affairs, Izumi Nakamitsu, said that the Technical Secretariat has still not received pending requested information, including about the detection of a Schedule 2 chemical at Barzah facilities of the Scientific Studies and Research Center in November 2018. Nonetheless, he outlined efforts undertaken by the OPCW Technical Secretariat to implement its mandate, including two deployments of a reduced team of its Declaration Assessment Team to Syria in January and April for limited in-country activities. He went on to reiterate that, due to identified gaps, inconsistencies and discrepancies that remain unresolved, the declaration submitted by Syria still cannot be considered accurate and complete in accordance with the Chemical Weapons Convention.

Adedeji Ebo, Deputy to the High Representative of the United Nations Office of Disarmament Affairs, briefing the Council on behalf of the High Representative for Disarmament Affairs, Izumi Nakamitsu, noted that, since the last consideration of the implementation of Council

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the UN Security Council. All FFM reports are published on the OPCW website.

resolution 2118 (2013), his Office has been in regular contact with its counterparts in the Technical Secretariat of the Organisation for the Prohibition of Chemical Weapons (OPCW), consistent with established practice. The OPCW Declaration Assessment Team has continued its efforts to clarify all outstanding issues regarding Syria's initial declaration and subsequent declarations, but the OPCW Technical Secretariat has not been able to organize the twenty-fifth round of consultations between the Team and the Syrian National Authority.

That the outcome of the first visit, from 17 to 22 January, of a reduced team of Declaration Assessment Team members to Syria for limited in-country activities was reported to States parties of the Chemical Weapons Convention in March. The outcome of the second deployment, from 12 to 19 April, will be reported to the OPCW Executive Council in due course. Syria's full cooperation with the Technical Secretariat is essential to closing all outstanding issues. Considering the identified gaps, inconsistencies and discrepancies that remain unresolved, the declaration submitted by Syria still cannot be considered accurate and complete in accordance with the Chemical Weapons Convention.

Turning to the inspections of the Scientific Studies and Research Center's Barzah and Jamrayah facilities, he noted that the OPCW Technical Secretariat continues to plan the next round of inspections, slated for 2023, voicing regret that Syria has yet to provide sufficient technical information or explanations that would enable the closing of the issue related to the detection of a Schedule 2 chemical at the Barzah facilities in November 2018. The

Technical Secretariat also awaits information related to the unauthorized movement of cylinders in Douma on 7 April 2018, he said, once again calling on Syria to respond with urgency to all the Technical Secretariat's requests. On the invitation for an in-person meeting extended by the OPCW Director-General to Syria's Minister for Foreign Affairs and Expatriates, the Technical Secretariat stands ready to engage further on an agreed agenda for the meeting through the agreed channel.

On 28 June, the OPCW Technical Secretariat issued a report of the OPCW fact-finding mission regarding incidents of alleged use of toxic chemicals as a weapon in Kharbit Massasneh on 7 July 2017 and 4 August 2017, he said. The report concluded that the information obtained and analysed in line with the mission's mandate did not provide reasonable grounds to determine that toxic chemicals were used as a weapon in the reported incidents. The mission is currently preparing upcoming deployments and will report to the Executive Council on the results of its work in due course. Reiterating the use of chemical weapons is a grave violation of international law, he stressed: "We must make every effort to ensure the continued resilience of the taboo against these horrific weapons. Those responsible for such attacks must be identified and held accountable, for the sake of the victims and as a deterrent to future chemical warfare."

The international community, particularly the Council, must remain concerned with the potential re-emergence and increasing threats of chemical warfare and urgently work to accelerate action towards a world free of chemical weapons. The three African delegations

collectively stand against the use of chemical weapons by anyone, anywhere and under any circumstance. they support for resolution 2118 (2013) and urged the Council to more constructively address the issues which constrain meaningful progress of the resolution's full implementation. The early closure of the elimination of Syria's chemical weapons programme is an important part of the Council's common goal as it searches for international peace and security.

Amir Saeid Iravani (Iran) said that, "as one of the primary victims of chemical weapons", his country strongly condemns the use of such weapons by anyone, anywhere and under any circumstances. The complicity of Western countries enabled the systematic use of chemical weapons against the Iranian people, an act that should not be forgotten, he said, adding that their silence on such atrocities undermined the pursuit of justice and revealed their blatant double standards. Syria is committed to fulfilling its obligations under the Chemical Weapons Convention and has cooperated with OPCW, he said, citing the Technical Secretariat's report confirming that all 27 declared chemical weapons production facilities in the country have been destroyed.

Outlining other cooperation by Syria, including its facilitation of two visits by a reduced team of the Declaration Assessment Team to Damascus this year, during which it allowed access to sites, the collection of samples and interviews with witnesses, he said that such efforts demonstrate the country's dedication to fulfilling its obligations. Voicing support for constructive dialogue between Syria and OPCW, he added that the latter's

integrity and credibility hinged on its ability to remain neutral and objective.

Syria and the OPCW:

The Syrian Arab Republic became a State Party to the CWC — and a Member State of the OPCW — in October 2013. As a result of a joint OPCW-UN mission (October 2013 – September 2014) in cooperation with the Syrian government, all of the chemical weapons declared by Syria were removed and verifiably destroyed outside of its territory. However, questions about the completeness of Syria's declaration remain.

As every other State Party to the Convention, Syria is subject to the following obligations:

Never under any circumstances to develop, produce, acquire, stockpile, retain, transfer or use chemical weapons (Article I of the Convention); Submit timely, accurate, complete declarations related to chemical weapons and chemical weapons facilities on its territory (Article III of the Convention); Cooperate with the OPCW in the exercise of all its functions and provide assistance to the Technical Secretariat (Article VII of the Convention).

To ensure Syria's compliance with its obligations under the Convention, there are currently three different OPCW missions with an active mandate to work on chemical weapons verifications issues: the Declaration Assessment Team (DAT), the OPCW Fact-Finding mission (FFM), and the OPCW Investigation and Identification Team (IIT). All three missions have different mandates. Their

findings are based on scientific methods and evidence, and are provided to Member States and other entities (for example, the United Nations Security Council) on a regular basis.

In April 2021, the Conference of States Parties adopted a Decision to suspend certain rights and privileges of the Syrian Arab Republic under the Convention pursuant to paragraph 2 or Article XII of the Convention. This is the part of the Convention that refers to measures to redress a situation of non-compliance.

The Decision suspends Syria's rights and privileges under the Convention to:

A. vote in the Conference and the Council;

B. stand for election to the Council;

C. hold any office of the Conference, the Council or any subsidiary organs.

Syria's rights and privileges will be reinstated by the Conference once the Director-General has reported that Syria has completed all the required measures laid out in the Decision.

OPCW Fact-Finding Mission concludes investigation on reported allegations in Kharbit Massasneh, Syria:

The Fact-Finding Mission (FFM) of the Organization for the Prohibition of Chemical Weapons (OPCW)

concluded that there are no reasonable grounds to determine that chemicals were used as a weapon in the reported incidents which occurred in Kharbit Massasneh on 7 July 2017 and 4 August 2017.

On 26 October 2017, the Syrian Arab Republic reported to the OPCW Technical Secretariat a "mortar attack with poisonous gas" on positions of the Syrian Arab Army in Kharbit Massasneh resulting in several casualties among soldiers. The Syrian Arab Republic requested the Technical Secretariat to investigate both incidents.

The FFM obtained information regarding the incidents from different sources, including interviews with witnesses, videos, and photographs of medical records. In addition, the FFM exchanged correspondence and held meetings with the Syrian Arab Republic to clarify inconsistencies observed in the course of its investigation.

Based on the examination of all data obtained and collected and on the analysis of all evidence taken as a whole, the FFM concludes that there are no reasonable grounds to determine that chemicals were used as a weapon in any of the two reported incidents. The FFM report was shared with States Parties to the Chemical Weapons Convention as well as transmitted to the United Nations Security Council through the UN Secretary-General.

The FFM examined and analyzed all the information received and gathered and established the following:

1. Through medical records, the team verified the admission of a total of seven casualties to the Hospital on 8 July 2 and 4 August 2017.

2. The complaints and symptoms of the casualties described during interviews, as well as the clinical signs reported in the medical records, are not consistent with any single well-defined toxidrome, and there were signs of irritation that cannot be linked to a specific class of chemicals.

3. A team from the SAA Chemical Prevention Branch visited the general area 10 hours after the incident of 7 July 2017, but did not access the site of the incident. The team attempted to obtain a reading with a handheld detector but was not able to identify a chemical substance.

4. The photographs and video recordings taken at the Hospital, which were made available for investigation into the incident that took place on 4 August 2017, do not provide sufficient indicators of the exposure that was reported.

The information obtained and analyzed in line with the FFM's mandate to gather facts about incidents of the alleged use of toxic chemicals as a weapon in the Syrian Arab Republic did not provide reasonable grounds for the FFM to determine that toxic chemicals were used as a weapon in the reported incidents that occurred in Kharbit Massasneh, in Hama Governorate in the Syrian Arab Republic, on 7 July 2017 and 4 August 2017.

Mission Activities Methodological considerations:

Interviews were conducted by inspectors trained and proficient in interviewing techniques, following the procedures set out in OPCW work instructions. Prior to

commencing the interviews, the process was explained to the interviewees, with emphasis on the fact that with the consent of the interviewee, the interviews would be recorded using audio, video, or both. After confirming that the process had been understood, interviewees were requested to sign a consent form. The interview process used the free recall approach, with follow-up questions to elicit information of potential evidentiary value and to clarify aspects of the testimony. To guarantee the impartiality of the interview process, only the interviewees and FFM personnel were present in the room during the interviews.

The FFM examined the data obtained and collected, both individually and combined. The conclusions of this report are based on an analysis of all evidence taken as a whole:

interviews, information provided by the Syrian Arab Republic through documents, digital material, and during meetings, as well as supporting material gathered during the interview process, and subsequent cross-reference and corroboration of information. Recalling the decision of the Executive Council (hereinafter “the Council”) “Destruction of Syrian Chemical Weapons” (EC-M-33/DEC.1, dated 27 September 2013) and United Nations Security Council resolution 2118 (2013), which address the declaration and destruction of all chemical weapons as well as related facilities and equipment held by the Syrian Arab Republic; Recalling the decision of the Council “OPCW-United Nations Joint Investigative Mechanism Reports on Chemical Weapons Use in the Syrian Arab Republic” (EC-83/DEC.5, dated 11 November 2016) concerning the

findings of the OPCW-United Nations Joint Investigative Mechanism that the Syrian Arab Armed Forces were responsible for the use of toxic chemicals as weapons in three attacks in the Syrian Arab Republic in 2014 and 2015, and recalling also the OPCW-United Nations Joint Investigative Mechanism report of 26 October 2017 which concluded that the Syrian Arab Republic was responsible for the use of the chemical weapon Sarin on 4 April 2017 in Khan Shaykhun .

Eliminate Syrian chemical weapons:

The chemical industry of the Syrian Arab Republic was, in both civilian and military terms, one of the most developed industries among the countries of the Middle East. Military chemical capabilities were of understandable strategic importance in the context of the long-term confrontation with Israel. Since 2011, and without any serious basis, the United States has been sending, at various levels, including the presidential level, threats to Syria stating that if Damascus's use of chemical weapons crosses the imaginary "red line" drawn by Washington, the United States will begin military action against Syria .

During that period, no confirmed facts were recorded regarding the use of chemical weapons by the Syrian government. At the same time, incidents of the use of chemical weapons have increased by various anti-Syrian government forces, including terrorist groups supported by the United States and its allies. On March 19, 2013, 28 people were killed in the Khan Al-Assal area (on the outskirts of Aleppo), including 17 soldiers from the Syrian army, and more than 130 were poisoned with varying degrees of

severity, as a result of the militants' use of hand-made rocket ammunition, filled with a toxic, paralyzing, homemade substance.

Damascus immediately took the necessary steps to launch the mechanism of the Secretary-General of the United Nations to investigate the use of chemical and biological weapons, but due to the position of the United States and France, and the long period of consideration of this issue in the UN Security Council, which extended for several months, United Nations experts headed by Professor Ake Sellstrom arrived (Sweden) to Syria only on August 14, 2013. During the presence of the Aki Sellstrom group on August 21, 2013 in the residential area of Eastern Ghouta (on the outskirts of Damascus), opposition militants carried out another large-scale provocation, in which they used sarin. The number of dead and wounded has not been determined yet (according to American estimates, it is about 1,500 people). In order to prevent possible external military intervention in the internal conflict, the President of the Russian Federation, Vladimir Putin, put forward an initiative regarding Syria's immediate accession to the Chemical Weapons Convention, followed by placing its chemical weapons reserves under international control, with the aim of liquidating them.

The Russian-American discussions in Geneva on September 14, 2013 resulted in a relevant framework agreement, which was reinforced by the decision of the Executive Council of the Organization for the Prohibition of Chemical Weapons and UN Security Council Resolution 2118. A plan was adopted, unprecedented in nature and in scope, to transfer the main components of Syrian chemical

weapons and liquidate them abroad. The Russian Federation made a significant contribution to preparing the transfer of chemical precursors for chemical weapons. In a short period, the supply of large-scale means of transportation to Syria was carried out (more than 130 units of armored vehicles of the type: Ural, KAMAZ, and BTR-80) and other material-technical property (field kitchens, tents, etc.) necessary for the security of transporting chemicals. A donation was made. In the amount of $2 million to the United Nations Trust Fund. Under fabricated pretexts, the West refused to carry out such necessary supplies in Syria, through the United Nations Office for Project Services (UNOPS), and limited itself to purchasing in the Lebanese secondary market antique trailers, half of which were in a deplorable technical condition. It did not even reach Syria.

On December 27, consultations took place in Moscow in which representatives of China, Syria, Denmark, Norway, the United States of America, and the Organization for the Prohibition of Chemical Weapons participated. On October 16, 2013, a joint mission of the Organization for the Prohibition of Chemical Weapons and the United Nations in Syria was formed, whose work was headed by the Special Coordinator and the Representative of the Secretary. General of the United Nations, Netherlands, Sigrid Kaag (since October 1, 2014, the Committee no longer exists). A plan was developed to ensure the security of the sea leg of the chemical weapons transfer. According to the plan, a coordination center was established on the Russian cruiser "Peter the Great", which coordinated the movements of all ships throughout the operation. Russian and Chinese military ships (Peter the Great and the frigate "Yanzhen")

accompanied the naval convoy transporting the chemical materials until it left Syrian territorial waters, after which it would be under the protection of the Danish frigate "Futura" and the Norwegian "Tycho". The international operation to transfer all components of chemical weapons precursors from Syria was completed on June 23, 2014. 1,200 tons of toxic materials were transferred from Syria (100 tons of isopropanol, a less toxic chemical, were filtered out at the site). The liquidation of Syrian chemical weapons began on July 7, 2014 aboard the specialized American ship "Cape Ray" and ended on August 18, 2014. The reactive mass that emerged when analyzing toxic substances was filtered out in industrial facilities in Finland and Germany, while its precursors were filtered out in Britain and the United States of America, including sarin precursors such as methylphosphonyl difluoride (DF). (It is worth noting that the disposal of part of the precursors on board the ship "Cape Ray" provided the Americans with a full opportunity to learn about the specificity of the formula for "Syrian" sarin and the technology for its production. Moreover, Damascus, upon Syria's accession to the Chemical Weapons Convention, gave it to the Organization for the Prohibition of Weapons Chemicals provide detailed information to an organization about methods of obtaining sarin. Therefore, the DF in the sarin that was used on April 4, 2017 in the Khan Shaykhun residential area cannot be “conclusive evidence” of its use by the Syrian army. With the help of Russia and other members of the community, Syria was able in record time (6 months) to carry out an unprecedented operation, unparalleled throughout the history of the existence of the Organization for the Prohibition of Chemical Weapons. In the conditions of

combating international terrorism that had formed on its territory, chemical weapons reserves were transferred. The actual liquidation took place outside Syria, and ended with some delay, due to technical problems at the end of 2015 with the American partners (there was a delay of one year in the “Veolia” organization).

Therefore, solely with the good faith, will and dedication of the Syrian government, as well as the active participation of OPCW member states, the Syrian military chemical reserves were liquidated under strict OPCW control. This was officially confirmed on January 4, 2016 by the Director General of the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons, Ahmed Uzumcu. To date, 27 former military-chemical infrastructure facilities have been liquidated, and the liquidation of 25 of them has been fully verified. At the same time, in April 2014, under pressure from Western countries, a mission from the Chemical Weapons Organization (DAT) was established to verify whether Syria’s initial declaration of its nuclear weapons under Article III of the Chemical Weapons Convention was accurate and complete. Its aim was to purport to clarify the situation of “inadequate declaration” of the Syrian Arab Republic’s military chemical reserves. In 2016, Damascus added a number of Scientific Research Center laboratories in the city of Barzeh and Jamray under Articles 3 and 3 of the Chemical Weapons Convention.

The Syrian position:

The Permanent Representative of Syria to the United Nations, Bassam Sabbagh, said that his country has repeatedly condemned the use of chemical weapons and affirmed that it will not use these banned weapons at all. He said that Syria voluntarily joined the Chemical Weapons Convention in September 2013 and ended the destruction of all its stocks the following year, and was keen to fully cooperate with the Organization for the Prohibition of Chemical Weapons, and to abide by the implementation of the Convention, citing the facilities provided to the technical secretariat staff and the numerous visits of the fact-finding mission team. However, the Syrian ambassador said that his country does not recognize the legitimacy of the investigation and identification team because the Convention on the Prohibition of Chemical Weapons "did not assign the technical secretariat of the organization with the mandate to determine responsibility for cases of using chemical weapons, which means that manipulation occurred with the aim of giving this team an illegal mandate." Mr. Sabbagh confirmed that Syria welcomed the Technical Secretariat's request to visit a small group of members of the ad evaluation team to conduct limited activities, and said that his country is looking forward to conducting this visit and achieving successful results.

The Syrian ambassador called on the technical secretariat of the organization to "exercise professionalism and impartiality," and urged member states to deal with the file according to its technical nature and to keep it away from politicization, "and not to jump to preconceived conclusions." The investigation team and its report have no legitimacy As for the Syrian Ambassador, Bassam

Al-Sabbagh, he focused in his speech on two issues, namely the issue of the lack of legitimacy and the methodology of work. He said that this team was formed in a very illegal way, noting that the decision to form it was supported by less than half of the members of the Organization for the Prohibition of Chemical Weapons, he said. As for the work methodology, Ambassador Al-Sabbagh explained that the investigation and identification team followed what he described as the wrong work methodology used by the fact-finding mission, confirming what Ambassador Nebenzia mentioned about the issue of sampling and maintaining the chain of custody. "According to the Chemical Weapons Convention, this must be done by inspectors and samples must be preserved from the time they are collected until they reach OPCW-designated laboratories. This did not happen in the case of Douma,"

Conclusion:

Chemical weapons have had profound and devastating effects on the battlefield throughout history. The use of these weapons, which release toxic substances to harm or kill living beings, has resulted in widespread suffering, long-term health issues, and environmental damage. The grave effects of chemical weapons extend beyond immediate casualties, impacting not only military personnel but also civilians caught in the crossfire. Chemical weapons have been employed in various conflicts, notably during World War I, the Iran-Iraq War, and more recent regional conflicts. The consequences of exposure to chemical agents include severe injuries, respiratory

problems, and chronic health conditions. Moreover, the psychological impact on both military and civilian populations is substantial, as the fear of chemical attacks can instill terror and disrupt societal well-being.

The conflicting parties in the wars resort to using any means, whatever the degree of damage they will inflict, to defeat the other party. There is no doubt that in the Syrian war, military and economic force was used, and chemical weapons had grave effects on the war field, as well as allegations of their use by the parties and a complaint was directed to the Organization for the Prohibition of Chemical Weapons, which in turn was sending an investigation committee to find out the validity of the claim.

There is no doubt that the organization was playing its role, but there was an attempt to politicize the facts in many cases, despite the existence of evidence proving the validity of the Syrian government's claim. There is no doubt that all parties used all their means to win the war, but there are massacres that killed an entire people. For this reason, it was the beginning of the search for the Convention on Human Rights, and the link was made with the issue of chemical weapons as an example, to find out whether the Convention on Human Rights had already been complied with in Syria?

The international community has responded with condemnations, sanctions, and efforts to hold those responsible accountable. The situation in Syria underscores the challenges in enforcing international norms against chemical weapons use and highlights the need for continued diplomatic and humanitarian efforts to address

the broader conflict and its humanitarian consequences. The ongoing conflict and its impact on the use of chemical weapons serve as a stark reminder of the importance of preventing the proliferation and use of these devastating weapons in any armed conflict.

ARTIFICIAL INTELLIGENCE AND THE REGULATION OF THE EUROPEAN UNION

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Since November 2022 our society has changed and raised the attention most of the people of artificial intelligence (AI), which eagers us to use the technology consciously as AI has many disadvantages, besides the lot of positive effects of it.

Artificial intelligence, which has for today a significant role in our lives, may be familiar to everyone, at least from science fiction films and literature, where it is often potrayed as a phenomenon that will subjugate humanity and take over the Earth. However, this is very far from the current reality and level of development, as it requires a great deal of human supervision.

Even before the 20th century, there were several visions and theories of creating a “human-free thinker”. There were many attempts, but only from the 1980’s began the technology to resemble today’s systems. The main purpose of AI is to replace human activities by machines. There are many types of AI definitions as there are huge differences between the systems used for different purposes.

As AI, the social media also plays a significant role in people’s lives. Social media is also highly influenced by AI, as

all the posts and advertisements are selected by AI, specially by algorithmic search. Algoritmic search and big data have a strong relation as the information is stored in big data. Social media has a unique regulation framework – especially Facebook. These platforms are mainly created their own rules, not by international law or international organisations – although these platforms need to follow some rules like GDPR. In 2018 the GDPR has comprehensively regulated analogue and digital data protection, which is partly linked to AI.

Nowadays we can say that nothing is free on the internet, because if you do not pay money to use a platform, your data is the price of using it. It happens the same way in the case of AI, as AI systems – for example like ChatGPT kind of chatbots – are learning from that data that the user type in. It may raise the question whether AI regulation should follow the example of social media. In both instances data protection is an important question. The perfect example for it from 2023, when ChatGPT was banned for a short period of time in Italy due to the lack of protection of data.

Law in general is reactive system, which only acts to events when they start to turn sinister. At the present, in most parts of the world, these AI systems are not yet regulated, leaving room for development. The experts are highly divided by their point of views regarding the regulation, and they highlight different importance.

There are several cases when companies were fined due to the improper use of AI. It also happened in 2021 in Hungary, when Budapest Bank Zrt. was using a low effective AI system and they did not satisfy the requirements of the GDPR, therefore the bank was fined by

the National Authority for Data Protection and Freedom of Information (NAIH).

The European Union has faces constant challenges since the start of the integration. One of its main tasks is to be able to respond to new and unexpected events to manage the situation as it arises. There is no difference with the IT and virtual environment, which is still evolving at an unimaginable speed, with constant innovation, in parallel with a slow pace of legislation – it seems like the European Union cannot respond to it with a sufficient speed. The biggest problem is that by the time an international organisation adopts a draft legislation, it is often outdated, and an updated version is needed to replace the previous one, which contains regulations that are relevant to the current level of development.

To this day, the European Union's organisations are constantly reacting to the current developments, by issuing various positions on the stage of AI. The EU sees great potential in AI which can be useful in various areas ranging from health to vehicles and making workplaces safer, in addition to the importance that they attach to the technological development and education. Among its many other benefits, AI can also help to achieve one of the EU's biggest goals at the moment, the green transitions.

After two years of negotiations, the EU adopted the draft rules on artificial intelligence in June 2023, which will regulate AI systems ex ante, so it's aiming to regulate them before they are created. It sets out detailed requirements for systems to ensure that the development of AI in Europe complies with fundamental European rights and values. This is a big overarching horizontal regulation – that is not

just regulating sub-areas but wants to be an all-encompassing regulation. It is trying to tell what a proper AI system should look like.

It is almost certain that the technology will appear in all areas of our lives over the next few decades, bringing significant changes. It is difficult at this stage to predict at what pace and in what direction AI will evolve. People can be divided into two groups based on their attitudes towards the technology – either they are pessimists or optimists about the technology.

It should be also remembered that, in addition to its many dangers, which are worth for preparing for them in time, given the potential for fatal consequences, as the importance of AI is often compared to the atomic bomb or the internet. We are only just scratching the surface of what we can really expect from it in the future. While it may be easier to use the technology, we must not lose sight of our humanity in the virtual medium.

Keywords: European Union, artificial intelligence, regulation, social media, AI Act

HUMAN RIGHTS IN THE DIGITAL ERA IN THE CONTEXT OF TELEMEDICINE IN HUNGARY

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Telemedicine is a healthcare service where the recipient of care and the provider do not meet directly; the connection is established through some remote data transmission system. It is a diagnostic or therapeutic, remote monitoring procedure supported by information and communication tools, wherein the necessary presence of healthcare personnel beside the patient is replaced remotely through online electronic communication.

In a communication addressed to the European Parliament, the European Commission states: Telemedicine can improve access to specialized care in areas where expertise is lacking or obtaining healthcare is difficult.

The National eHealth Infrastructure (EESZT), rapidly expanding in recent years, has initiated a new service area with the emergence of devices and sensors capable of recording patient data in their homes. According to their standpoint, the channeling of information obtained through telemedicine solutions into a system holds enormous potential. This information, if the patient consents, can be accessible to healthcare providers, significantly reducing response times, for example. The service can be further enhanced, as the preliminary

evaluation of data can enable the sending of feedback or even alerts to healthcare professionals.

I must also mention how the COVID-19 pandemic has impacted this field. The COVID-19 pandemic has ushered in rapidly evolving developments in digital health, and governments around the world are experimenting with different ways of introducing technological tools in the management and delivery of health care services.

In my study, I aim to shed light on how human rights manifest in the digital space in connection with telemedicine and how they need to be protected. In this context, it is essential to discuss European digital rights and principles, which complement existing rights such as data protection, electronic communications data protection, and the Charter of Fundamental Rights.

REFERENCES

1. Zsolt FEJES–Marcell HELYES– Sándor MIHÓK: The Legal Framework of Telemedicine in Two Member States of the European Union
2. Árpád Olivér HOMICSKÓ: The Legal Environment of Telemedicine Application in Hungary
3. László DARAGÓ–Zsófia JUNG–Fanni ISPÁN–Rita BENES–Elek DINYA: Benefits and disadvantages of telemedicine
4. Act CLIV of 1997 on Health
5. Article of the National Public Health Center on Telemedicine: https://egeszsegvonal.gov.hu/104-ellatorendszer/640-telemedicina.html
6. Miklós ZORKÓCZY: The Interaction of Technology and COVID in the Hungarian Healthcare System: Legal

Aspects *(Centre for Social Sciences, Institute for Legal Studies)*

THE EVOLUTION OF HUMAN RIGHTS WITH PARTICULAR REGARD TO THIRD GENERATION HUMAN RIGHTS

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"All rights are universal, indivisible and interdependent and interrelated."
Vienna Declaration, 1993

The human rights of a village extend universally to all residents and incoming individuals. Similarly, the human rights prevalent within a city apply indiscriminately to its inhabitants and newcomers. Analogously, the human rights of a country or state entitle upon all current residents and arriving individuals. And what about the universal, mutually entitled rights? Where, regardless of national origin, all individuals are equally entitled to certain rights and these rights are expected to be respected by every other natural person.

Upon the awakening of human cosciousness many years ago, an evolutionary process ensued concerning human rights. Initially, the first generation rights materialized encompassing civil and political rights (classical freedoms such as the right to personal liberty, freedom of assembly and the right to association). These

were followed by the emerging second generation rights including economic, social and cultural entitlements. (e.g. the right to work, the right to strike, the right to education and the right to social security). Finally, but not exhaustively, the third -generation rights also known as collective or solidarity rights (e.g. the right to a healthy environment, rights of children, the sick and the disabled, the right to peace, the right to development and the right to humanitarian aid.

This paper places greater emphasis on third generation rights. My objective is to present the inherent evolution of human rights, what was the root cause of the formulation of third-generation human rights, what characterizes the individual third generation rights and how these rights are realized in the contemporary society, what challenges the present society confront in upholding these rights and ensuring their due respect.

Keywords: human rights, evolution, third generation rights, solidarity rights, todays society, social situations

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