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## UNIVERSALITY OF HUMAN RIGHTS: A CROSS-CULTURA ANALYSIS

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**The purpose:** to analyze from a theoretical and legal point of view the modern problems that exist in the process of cognition and comprehension of the principle of universality of human rights. **Research methods:** the dialectical method of cognition, general scientific and special methods, in particular cross-cultural analysis, were used in the work. **Results:** it has been found that international human rights standards are universal, they are endowed with universalism, which can be considered in two aspects: firstly, they apply to all people without exception, regardless of any characteristics, which is reflected in many legal documents (subjective criterion); secondly, referring to the developed terminology, from the point of view of the scope of rights (standards), they are also usually differentiated into two groups: universal and regional (territorial criterion). It has been established that to some extent there has been a decrease in the general belief in the possibility of progress of humanity towards universal values on the basis of globalization. **Discussion:** if earlier the universality of human rights was a more or less obvious idea within the framework of Kant's project of perpetual peace, and cultural differences acted as an additional factor, today the very justification of the universality of such rights becomes more problematic. Human rights are a kind of individual rights from which a person cannot waive, and the achievement of which is a goal on a global scale. Human rights, unlike other rights, always retain their validity, even if they do not belong to treaties and constitutions. However, their implementation requires institutionalization. Universal human rights standards are enshrined in universal international legal acts adopted by all or most countries of the world, and apply to the entire population of the Earth, primarily related to the activities of the United Nations.

**Key words:** universality of human rights; principle, cultural differences; cross-cultural analysis; elements of universality; dialogue; common values.

**Problem statement and its relevance.** In the context of Ukraine's European integration, the issues of cross-cultural analysis of the universal nature of human rights are relevant. This is due to both the need to form a global law based on universal principles (which are the principles of human rights), and the aggravation of the issue of preserving the cultural diversity of the world. With the development of increased global connections, the need to deepen mutual understanding and establish cross-cultural dialogue between

representatives of different cultures becomes urgent. It is becoming increasingly evident that this requires an understanding of foreign customs and cultures, and a tolerant attitude towards them. Cross-cultural studies conduct a comparative analysis of behavior, consciousness, and features of phenomena related to cultural manifestations in different ethnocultural groups, so such studies are interdisciplinary.

Moreover, in the context of a full-scale Russian aggression, violations of human rights are

becoming increasingly relevant. The war that Russia started on the territory of Ukraine has illegally deprived thousands of Ukrainians of the right to life, many citizens have lost their health, property, cannot live with dignity, be employed or receive education, and many more have been illegally deported, kept in terrible conditions, and people in the occupied territories are disappearing without a trace. In such conditions, the universal nature of human rights is not recognized by both the aggressor and other terrorist organizations and authoritarian regimes. The pursuit of unlimited power and disregard for international law lead to horrific consequences.

As is well known, the universal nature of human rights implies that the state is responsible to its citizens and the international community for fulfilling all obligations under national and international human rights standards.

However, as N.M. Onishchenko and M.V. Nonyak rightly point out, it has become evident that it is no longer enough to simply "declare" certain important human rights and freedoms. The state (and this is perhaps the most important obligation) must guarantee their strict implementation, and if necessary, their protection and defense [1, p. 292].

The problem of the universality of human rights, understood as rights possessed by every human being regardless of temporal and spatial conditions, national or regional specifics, various historical, cultural, religious peculiarities, political regime, forms of state system and government, and the international status of the state in which a person resides, is an issue. The universality of human rights is a legally enshrined standard of civilization that has achieved worldwide recognition.

In the scientific literature, there is no unified position on the essence of the idea of the universality of human rights, which can be confirmed by a large number of studies, the scope of which ranges from cultural-relativistic approaches, that is, the statement of the objective inevitability of cultural differences of regional civilizations, to ethical-value points of view according to which the universality of human rights is a basic element of the unity of different civilizations.

**Analysis of research and publications.** In the national legal literature, attention is paid to the problem of human rights through the prism of the universal and culturally diverse, to the disclosure of the content of the dialectical interaction of human rights protection in the process of globalisation, and to the determination of the dependence of human rights on the state regime by G. Andreeva, M. Antonovych, V. Bratasiuk, V. Vasechko, C. Golovaty, O. Hryshchuk, D. Hudyma, S. Husarev, S. Dobriansky, C. Kovbasyuk, A. Kolodii, A. Kuchuk, S. Maksymov, O. Merezko, D. Petsa, A. Pukhovska, N. Radanovych, P. Rabinovych, Y. Razmetaieva, O. Tyshchenko and others.

**The purpose** of the article is to analyse, from the theoretical and legal perspective, the current problems which exist in the process of cognition and understanding of the principle of universality of human rights.

**Summary of the main research material.** The idea of the universality of human rights occupies a prominent place in world legal culture. It has its roots in the constitutions and basic laws of democratic states, and the idea of the inalienability of human rights has spread in Western democratic society. After all, the priority and inalienability of human rights are recognized by every democratic society, the foundation of which are norms that enshrine the protection of human rights.

It is worth agreeing with the well-known scholar, researcher of contemporary philosophy of law S. Maksimov, who argues that the combination of universal and cultural in the field of human rights in the context of globalization is possible only on the basis of intercultural dialogue. It is necessary to develop rules for such a dialogue, an important condition of which should be sincerity, that is, communicativeness and partnership, and not attempts to impose one's point of view [2, p. 116].

International human rights standards are universal, endowed with universalism, which can be considered in two aspects: first, they apply to all people without exception, regardless of any characteristics, which is reflected in many legal documents (subjective criterion); secondly, referring to the developed terminology, from the point of view of the scope of rights (standards), they are also usually differentiated into two groups:

universal and regional (territorial criterion) [3, pp. 98-101].

To some extent, there has been a decrease in the general belief in the possibility of the progress of humanity towards universal values based on globalization. If before these events the universality of human rights was a more or less obvious idea within the framework of Kant's project of perpetual peace, and cultural differences acted as an additional factor, today the very justification of the universality of such rights becomes more problematic.

As A.E. Samsonova notes, given the significant amplitude of worldviews, a multi-vector cognition of this problem is quite permissible and expedient, with an orientation towards dialogical mutual adaptation of different positions. Accordingly, neither the rhetoric of the formal-institutional, ethical-value, and cultural-relativist approaches to the idea of the universality of human rights is idealized, nor is the thesis about the insuperable fundamentality of each of them uncritically refuted [4, p. 112].

According to J. Raz, human rights are a kind of individual rights from which a person cannot waive, and the achievement of which is a goal on a global scale. Human rights, unlike other rights, always retain their validity, even if they do not belong to treaties and constitutions. However, their implementation requires institutionalization [5, p. 9].

As is well known, in philosophical and legal thought on the issue of the universality of human rights, there are opposing positions of universalism and particularism. The universality of the idea of human rights, its unity for all cultures, is insisted upon by representatives of universalist liberalism (J. Rawls, R. Dworkin). The principle of the universality of human rights, defended by representatives of this direction, asserts that all people have certain rights. The denial of the universality of this idea comes from various forms of particularism, which emphasize the diversity of cultures, their desire to protect their identity (M. Sandel, A. MacIntyre).

An attempt to overcome the extremes of both universalism and particularism is the approach developed by contemporary communicative

philosophy of law from the standpoints of discourse ethics (K.-O. Apel, J. Habermas). According to this approach, human rights as a concretization of universal moral principles manifest themselves as norms on the basis of which the peaceful coexistence of individuals and different cultures is possible, and even their cooperation in the face of global problems. This formulation of the question allows us to resolve the seemingly irreconcilable contradiction between the positions of the universalism of human rights and the pluralism of cultural identity, when the right to cultural identity is considered a significant individual right for all people [6, p. 87].

Universal human rights standards are enshrined in universal international legal acts adopted by all or most countries of the world, and apply to the entire population of the Earth, primarily related to the activities of the United Nations. The universalism of international human rights standards is based on the UN Charter and detailed in the Declaration on Principles of International Law, adopted by the UN General Assembly on October 24, 1970.

At the universal level, in addition to the United Nations, the International Labor Organization plays an important role in the development of international legal acts in the studied area of the realization of the protection of women's rights, which regulates the legal status of citizens in the field of labor.

Meriting particular attention is the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, adopted in Istanbul on May 11, 2011, which for the first time raised the issue of domestic violence, and also noted that violence against women is a mechanism by which women attain a subordinate status to men [7].

It is worth agreeing with N.A. Guralenko and O.I. Myronyuk that the idea of universality of human rights is intersubjective. The scholars note that in order to overcome cross-cultural differences, it implies recognition by each subject of legal communication of the obligation to perceive the other as an equal. In the process of self-realization, everyone must remember the complementary belonging of rights to other persons and not violate

them. The universality of human rights presupposes equal treatment for everyone, excluding the theory of treating other members of society solely as a means of realizing one's interests [8, p. 255].

As Sidi Omar and Fatuma Ahmed point out, there are two fundamental elements that can be considered as the basis for establishing a constructive intercultural dialogue on human rights.

The first element is the need for mutual knowledge and mutual recognition between individuals, groups, and communities based on universally recognized common values. Thus, there is an urgent need for mutual intercultural learning.

The second element is the need to accelerate educational efforts at all levels, through which people of different cultures and regions could learn about one another in the manner described above. As privileged places for reflection and in-depth learning, universities can play a vital role in this educational process.

Moreover, all these social and political educational efforts must be guided by an inclusive, rather than exclusive, vision of others and recognition of their value, regardless of their differences, as a minimal basis for fruitful and peaceful intercultural dialogue [9, p. 318].

It is worth noting that, firstly, in practice, human rights are being observed less and less. Secondly, the constant diminution of discourse on human rights, in the long-term perspective, undermines its significance as a global rhetoric of justice and freedom. Thus, human rights risk turning from a global mechanism of transparency, accountability, and justice that was feared into an instrument for justifying abuses and self-indulgence of the powerful and mighty of this world. Therefore, true and meaningful universality of human rights is crucial in the struggle for global justice.

In principle, limitations on rights are allowed only in cases where it is necessary to take into account other legitimate interests and values, provided that such limitations are proportionate. However, in some contexts, limitations tend to be overly broad or unjustifiably severe. Thus, the exception becomes normalized, rendering human rights non-universal in practice and the very idea of universality sterile.

Furthermore, authorities often abuse seemingly legitimate restrictions, for example, when trying to silence the opposition.

For instance, restrictions on freedom of speech in the context of digitalization, with justifications such as preventing the spread of fake news. Similarly, the fight against threats to national security often serves as a pretext for prolonged suspensions of human rights.

The view of V.B. Cherevatyuk and A.V. Cherevatyuk is pertinent, that the nearest perspective for Ukraine should be a transition from state-centrism to human-centrism; a formed human-centric policy of a humanistic European society will contribute to the development of a living environment necessary for the realization of human potential and the protection of human rights [10, p. 63].

**Conclusions.** The principle of universality of human rights implies that certain rights and freedoms must be recognized and protected regardless of cultural, religious, political, and economic differences. This principle is based on the conviction that all people possess dignity and inherent rights that are not subject to denial or limitation.

The idea of universality of human rights occupies a prominent place in global legal culture. However, the results of cross-cultural analysis indicate the existence of differences that require public discussion and dialogue between cultures.

To analyze the universality of human rights through a cross-cultural approach, it is necessary to consider which rights are considered important and recognized in different cultures and societies around the world.

1. Fundamental rights, such as the right to life, freedom of expression, the right to a fair trial, and the prohibition of torture, are recognized by virtually all cultures and societies. These rights are considered fundamental to human dignity and well-being.

2. Despite the universality of certain rights, cultural contexts may influence their interpretation and application. For example, the concept of family and the role of women may differ across cultures, which may affect rights related to family relations and gender equality.

3. To ensure the universality of human rights, it is important to engage in dialogue and achieve consensus between different cultures and societies. This involves respecting differences and striving for common values that recognize and protect human rights.

4. Global standards and protection mechanisms. The promotion and protection of universal human rights take place within a specific cultural context, where these rights must be culturally legitimized, recognized, and integrated as part of the cultural fabric of society.

Strategies for promoting human rights require the use of a new discourse that is more sensitive to different worldviews, based on a shared understanding of these rights to avoid conflicts and ensure intercultural dialogue.

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## УНІВЕРСАЛЬНІСТЬ ПРАВ ЛЮДИНИ: КРОС-КУЛЬТУРНИЙ АНАЛІЗ

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**Мета:** проаналізувати з теоретико-правової точки зору сучасні проблеми, що існують у процесі пізнання та осмислення принципу універсальності прав людини. **Методи дослідження:** у роботі використано діалектичний метод пізнання, загальнонаукові та спеціальні методи, зокрема крос-культурний аналіз. **Результати:** з'ясовано, що міжнародні стандарти прав людини є універсальними, їм притаманний універсалізм, який можна розглядати у двох аспектах: по-перше, вони поширюються на всіх без винятку людей незалежно від будь-яких ознак, що відображається у багатьох правових документах (суб'єктивний критерій); по-друге, звертаючись до напрацьованої термінології, з погляду сфери дії прав (стандартів) їх також прийнято диференціювати на дві групи: універсальні та регіональні (територіальний критерій). Встановлено, що певною мірою відбулося зменшення загальної віри у можливість прогресу людства в бік універсальних цінностей на основі глобалізації. **Обговорення:** якщо раніше універсальність прав людини була більш-менш очевидною ідеєю в межах кантівського проекту вічного миру, а культурні відмінності виступали як додатковий фактор, то сьогодні більш проблематичним стає саме обґрунтування універсальності таких прав. Права людини є видом індивідуальних прав, від яких людина не може відмовитися, і досягнення яких є метою в масштабах усього світу. Права людини, на відміну від інших прав, завжди зберігають свою дійсність, навіть якщо вони не належать до договорів і конституцій. Проте їх здійснення потребує інституціалізації. Універсальні стандарти прав людини закріплені в універсальних міжнародно-правових актах, прийнятих усіма чи більшістю країн світу, і стосуються всього населення Землі, насамперед пов'язані з діяльністю Організації Об'єднаних Націй.

**Ключові слова:** універсальність прав людини; принцип; культурні відмінності; крос-культурний аналіз; елементи універсальності; діалог; спільні цінності.

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