THE RIGHT TO PEACE AS A FUNDAMENTAL PRINCIPLE OF THE POST-WAR LEGAL SYSTEM OF UKRAINE

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Currently, national legal doctrines are called to develop effective mechanisms for the protection and effective functioning of national legal systems, taking into account the political realities of the 21st century. All the problematic issues listed above in the conditions of today's challenges need answers from the doctrinal community, including the system of rights, freedoms and legal interests of a person in both the theoretical and practical plane. In particular, we would like to offer for discussion the context of the established system of human rights, which will be discussed further. Many questions arise among scientific legal problems, related to martial law, which was introduced in connection with full-scale invasion of the Russian Federation in Ukraine, as well as the problem that oriented to the period of peacebuilding. We will immediately emphasize that it is not enough "categorically", "unconditionally" distinguish the above-mentioned directions in the near future.

In the given context, it becomes clear that the corresponding load falls, first of all, on the legal system that guarantees human rights, as well as on the state, which should provide them, and the judicial system, which has them in good faith advocate and defend. The legal system of a particular society, which reflects its social economic, political and cultural distinctiveness, is national legal system It determines the integrity of this legal system, reflects unity society, and is one of the manifestations of state sovereignty, an indicator of sustainability legal development. Scientists note that the national legal system determines the peculiarity of the legal life of a certain society. So, it is quite clear that the legal system as the embodiment of the corresponding the achieved level of development of law must be capable of: a) execution certain tasks; b) reproduction necessary in given spatio-temporal dimensions functions; c) ensuring the necessary conditions for an effective legal system regulation.

First of all, we will consider some of the urgent tasks of the modern stage development of the legal system of Ukraine. Among such tasks, we focus primarily on the human right to peace in this article. Tasks of the legal system in democratic social and legal conditions states are influenced by socio-economic, political and moral, ethno-national factors. At the same time, their social content is growing on strengthening group, intergroup social interaction of people about realization of their interests. The specified functions are designed to ensure the existence, well-

being, and sometimes the survival of society itself, the realization of rights and freedoms person and citizen.

The following have a significant impact on the functioning of the legal system general social tasks, such as guaranteeing: a) national security, the fight against aggression on the part of the Russian Federation, liquidation of its on sequences, b) social programs aimed at maintenance of health care, social security of the disabled, etc., protection and protection of children's rights; c) scientific forecasting of the development of law, legislation, economy, population growth, creation of new industries production and workplaces, development of relevant forecast plans and material and financial support in the economy, social sphere; d) creation systems of education and health care available to broad sections of the population pension provision, solving other social issues taking into account issues of security of citizens, certain societies, population groups, etc.; e) creation international, state, legal guarantees to prevent the military aggressions and ensuring conditions for peoples to live in peace [1].

Scientific-technical development of the entire civilization. The state supports science, education, culture, uses their results, promotes development and provision intellectual potential of society, guarantees intellectual development of each individual [2]. This determines the possibility of realizing other human rights and freedoms and citizen, provides grounds for concluding that their cancellation is inadmissible or any limitation. Thanks to the recognition of human dignity are recognized as "inviolable and inalienable human rights, due to which they form the basis of any society, as well as justice" [3].

The main task of the legal system for the period of peacebuilding is the proclamation and provision of the human right to peace. In domestic legal literature it is rightly noted that the direct manifestation of the meaning of law is exactly human rights, which objectively act as a measure of law in society, an indicator of its civilization. After all, with the help of rights, a person joins the material and spiritual the welfare of society, to the mechanisms of power, to legal forms of expression of will and realization of own interests. From the level of security of rights to a decisive extent depends on the degree of perfection of the individual himself, his life and health, integrity and security. It is the human dimension of law that is the cornerstone and the starting point of any social transformations in modern democratic one’s realities [4].

It became obvious that it was not enough to "declare" certain important human rights and freedoms. The state (and this is her if not the most important duty) must guarantee their strict fulfilment, and in if necessary - security and protection. Since the rules of justice are basis of social life, the idea of justice needs a corresponding one institutionalization. A person's place in society, his social role largely depends on the scope of rights and freedoms that determine its social opportunities, character life activities, the system of people's connections in society.

In the legal literature, human rights are considered mainly as a systemic phenomenon characterized by a number of signs, among which it is possible the following should be distinguished first of all: 1) openness, which implies an

opportunity expanding both the list of human rights and the content of already existing rights; 2) polystructurality, according to which individual human rights, on the one hand, have their own defined structure, and on the other hand, they are united in certain groups according to the appropriate sign; 3) integrality, which implies organic the relationship and interdependence of human rights, as well as their content rapprochement on the basis of humanism, justice, equality, solidarity, tolerance, etc. By examining the relevant levels or components of the overall system of rights person, scientists traditionally distinguish groups of personal or civil, political, economic, social and cultural human rights. At the same time for in recent years, given the development of relevant technological innovations, legal science significantly strengthened the doctrinal development of the group informational and somatic human rights, which are already fully justified actually received an independent place in the general system of human rights. In addition, human rights are also distinguished on other grounds or criteria, in particular, depending on the time of their occurrence, they are divided into rights first, second, third and fourth generations; depending on the categories of people, to which the rights apply, single out the rights of women, the rights of children, the rights of persons with limited physical properties, etc.; depending on their subject composition individual and collective rights are distinguished; depending on peculiarities of the forms and mechanisms of the state provision of human rights are divided into negative and positive [5].

However, whatever the specific classification of human rights, their core of the general system is traditionally considered the right to life, without due provision and protection of which it is impossible to talk about any other rights and human freedom. At the same time, the realities of today, especially those related to the Russian-the Ukrainian war and the strengthening of international crisis transformations law and order, cause the need to reconsider the last thesis and, accordingly, the definition of a functionally central right in the system of rights a person's right to peace, which in current realities requires the implementation of a thorough theoretical development as an individual human right.

In this connection, the question should acquire great importance related to constitutional modernization, which is impossible without a guarantee of human rights to peace. That is why, obviously, the right to peace must be earned "status of constitutional consolidation". At the same time, the human right to peace in the general system of its rights and freedoms should be considered fundamental a complex right, which, in fact, should be recognized as primary in the hierarchical one structural systems of human rights.

It is clear that the human right to peace must still be developed (elaborated) by modern socio-humanitarian science in general and law doctrine, in particular, with unconditional consideration of the practical component. But, even with a superficial, overview study of the nature of this right is clear and that it (this right) should include protection from aggressive manifestations on the part of other states, especially states sponsoring terrorism, terrorist organizations, terrorist groups; security from use of nuclear weapons, biological, chemical, and other types of mass

weapons damage; protection against any destruction of the civilian population (esp children), destruction of infrastructure, etc.

In the context of the consequences of the full-scale military invasion of the Russian Federation in Ukraine as of December 9, 2022 within the framework of an international conference "Human rights in dark times" was separately emphasized about the killed civilians residents of Ukraine (6,595, including 443 children), missing children (330), children who forcibly taken to Russia (12572), destroyed educational institutions (2719), educational institutions that cannot be restored (332), destroyed kindergartens (776), destroyed health care facilities (1110), destroyed cults buildings (churches, temples, mosques – 205), destroyed cultural objects (775), railway stations, stations (110), thermal power plants (10), boiler houses (332), internally displaced persons citizens (6.5 million), persons who became refugees but received temporary protection outside Ukraine (12.5 million). Listing all these statistics, it becomes clear that this list is not exhaustive. However, it is also clear that traditionally the fundamental right to life (a group of physical human rights) cannot be realized without ensuring the human right to peace, which is demonstrated by the realities of today.

It should be noted that the human right to peace is related to security and protection of other human rights, in particular, social and economic rights, namely: sufficient standard of living, social protection, health care and property, etc. In particular, social protection of a person, labor and property relations, educational and cultural development of personality, etc., can be real only in conditions the appropriate level of security of her right to life and health. Similarly, and vice versa, life and health of a person, his inviolability and safety as the highest social values in a democratic, legal state is a necessary prerequisite practical implementation of all other human rights.

However, despite this, a person's life, and therefore the right to it, is complete rightly traditionally considered the primary basis of any others social goods and values. At the same time, today's realities, primarily those of them, which are related to the military aggression of the Russian Federation in Ukraine, make it necessary rethinking some established approaches to understanding hierarchical relationships in the system of human rights and freedoms. In this context, it is primarily about the right to peace, which is possible to be considered both at the level of a specific individual, certain social groups and society and humanity as a whole. The right to peace, especially in the conditions of the modern crisis of the world legal order, should be recognized as a guarantee not only the effectiveness of any social interaction, but also the reality, the reality of all other human rights as a matter of fact, including the so-called third party rights (for example, the right to solidarity, the right to international communication, etc.) and of the fourth generation (for example, the right to the Internet, the right to transplantation bodies, etc.).

Considering the issue of the right to peace, it should be noted that in modern scientific literature, the specified category was developed primarily in context of international law, which in its structure contains a significant number of legal ones norms aimed at limiting the use of military force in the decision relevant

international conflicts and implementation in social practice the principle of peaceful settlement of interstate disputes. Modern concept the human right to peace is based precisely on the doctrine of international law, which includes several important universal principles of its practical ensuring, in particular, the principle of non-use of force and the threat of force, the principle of resolving international disputes by peaceful means, the principle non-interference in the internal affairs of states, the principle of equality and self-determination peoples, the principle of territorial integrity of states, etc.

In the scientific literature, it is noted that "the UN General Assembly first recognized the right to peace in 1978 in the Preparatory Declaration societies to live in peace. The declaration states that there is peace between peoples the main benefit of humanity and a necessary condition for its development. Declaration appeals to all states and international organizations to by all means contributed to the realization of this right. At the same time, in the preamble to this Declaration the right of individuals, states and humanity to live in peace, which is inalienable, is stated and must be implemented without any restrictions. Respect for this right described as a necessary condition for the progress of all peoples in all spheres of life" [6].

In the context of the above, it should be emphasized that the right to peace can and must be considered simultaneously as having collective and individual legal nature. Its basis should be recognized as the desire to reach agreement between states and their peoples, as well as between individual citizens and them associations within a certain society, the desire for peace settlement of any conflict situations at the macro and micro levels. With it follows that not only the subjects of the right to peace should be recognized as peoples, nations or societies, but also individuals and their associations. After all peaceful coexistence of citizens in the state is a necessary prerequisite for development appropriate mechanisms for ensuring and protecting any other rights and freedoms a person.

Thus, the concept of "peace", which is the basis of this right, should understood as the absence of military confrontation between two or more states, organized violence within the country, as well as a means ensuring comprehensive and effective protection and protection of human rights, social justice, economic welfare, etc. At the same time, the right to peace can be considered as the most important legal institution around which all other human rights and freedoms, including the right to life, are combined.

The content of the right to peace consists of the possibilities of the relevant subjects to live and to carry out a certain activity in a state of agreement with other collective and individual subjects of law. Investigating the general theoretical context of the essence and nature of law people to peace, it is necessary to pay attention to the problem of a systemic nature its regulatory support, which, as evidenced by today's realities, cannot be effectively resolved only through appropriate legal means, in particular, international ones. Yes, certain issues of peacekeeping have found their way international legal consolidation in a number of UN acts, in particular, in the Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding between Peoples (UN General Assembly Resolution 2037 (XX) of

December 7, 1965), in the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind (UN General Assembly Resolution 3384 (XXX) of November 10, 1975), in Declaration on the Preparation of Societies for Life in Peace (UN General Assembly Resolution 33/73 of 15 December 1978), in the Declaration on the Right of Peoples to Peace (UN General Assembly Resolution 39/11 of November 12, 1984), etc.

At the same time, these and other international legal sources of concept formation the rights to peace, unfortunately, turned out to be impossible to practically ensure the specified right in the life of modern societies, the violation of which in current realities

Ukrainian-Russian war has unprecedented since the Second World War nature. In this regard, we believe that one of the most important prerequisites ensuring the effective practical implementation of the right to peace is "healthy" moral environment of human life and society, which can be achieved by conditions of appropriate "normotactics" or appropriate level of coherence and the relationship between social regulators, primarily law, morality and religion The latter is connected, among other things, with the fact that any social conflicts have a corresponding moral justification at their core.

It is important for conducting modern state and legal affairs reforms play functions inherent in the legal system as a phenomenon social reality. The scientific study of the legal system involves the study of not only it the statics, but also the dynamics, of how it functions, changes, how it does its job social purpose. It is clear that the selection is static or dynamic components of the legal system has a purely theoretical character, because they are in a close relationship and separate, without interaction, lose its qualitative characteristics.

The functioning of the national legal system depends on the whole set of social relations, economic, political, social and spiritual factors. The term "functioning of the legal system" reflects it action in the social system. Give a functional characteristic of legal system means to define and describe the methods of its action, ways and forms of influence on public relations. Stability, dynamism and systematicity of social relations are necessary conditions for the progress of society.

This period of development of the society of Ukraine needs effective implementation of integration, organizational, regulatory, security and others function of the legal system. Functions of the legal system in democratic, socio-legal conditions states are influenced by socio-economic, political and moral, ethno-national factors. The national legal system is a kind of indicator of a stable (or close to it) economic, legal, political, social development of each state, and most importantly, the achieved level of protection of rights and freedoms and legitimate human interests. So, it is quite clear that the legal system, as the implementation of the corresponding achieved level of development of law should be able: a) to perform certain tasks; b) reproduction of the necessary functions both in the normal course of life and in extreme conditions.

Today, social is growing orientation of the legal system as a means of formation and realization of interests subjects by establishing certain goals, norms,

rules of behavior. At the same time, the provision of optimal is of particular importance combination of social and legal principles of the development of society. This task quite complex: legal and social principles are designed to ensure the good of the individual: today it is of primary importance — social rights: maintenance optimal ratio between the earnings of the able-bodied part society and disabled citizens; provision of appropriate subsidies benefits, reduction and limitation of the scale of impoverishment; curbing unemployment, and as a perspective - ensuring a sufficient standard of living. And that's about its "regular" course of events.

However, today it is also such general social tasks as guaranteeing national security, liquidation of the consequences of the pandemic, environmental disasters, implementation of social programs that will reflect the position of "everything necessary taken into account", maintenance of rehabilitation measures, etc. [7].

Yes, in the European states in today's conditions, the right to sufficient standard of living is one of the most important social rights of a person. Despite to the fact that each person should personally take care of his well-being, he, however, conditions must be created for it to be able to provide a minimum standard of living. Especially when it comes to a person elderly, disabled. This is the duty of the state, according to which the state recognizes the right of everyone to a sufficient standard of living for himself and his family [8].

It should be noted that the concept and definition of "adequate standard of living" is not defined in scientific circulation. Therefore, it is evaluative: that is, every person determines for herself the level that corresponds to her ideas about what is sufficient standard of living. Turning to the characteristics of the "adequate standard of living" category, it should be noted that, in our opinion, its signs should not be limited only with the corresponding level of a person's security of certain material things benefits or resources, which is primarily the focus of modern attention normative and socio-humanitarian discourse. In particular, Article 11 of the International Covenant on Economic, Social and Cultural Rights of 1966, also Article 48 of the Constitution of Ukraine is included in the category "sufficient standard of living" sufficient food, clothing and shelter. However, in the context of the analysis the content of these and many other international and national norms normative legal acts should be noted that sufficient or, others in other words, a decent standard of human life is impossible without appropriate development of the individual himself, giving him a real opportunity to use achievements of culture and science, to receive quality education, etc. That's why to signs of the category "adequate standard of living", in our opinion, are also necessary include indicators of the ability of a person to satisfy his cultural spiritual and educational needs.

Therefore, a certain uncertainty exists in the provisions of international documents, which refer to an "adequate standard of living". It is up to the state to determine and establish minimum standards below which citizens' standard of living cannot decrease. Of course, ensuring a sufficient standard of living poses a difficult problem even for wealthy countries. The realization of the right to an adequate standard of living is certainly affected internal resources and capabilities of the state. In the international pact on economic, social and cultural rights are

defined as the most general programs aimed at meeting these needs. Using the right to work, a person must receive the necessary means to exist. Providing it with suitable conditions for this is an internal task legislation of each state. In this context, for special attention deserve, in particular, the issue of proper provision and protection of security health in modern European countries. After all, it is the realization of the right to health care is most reflected by the inadequacy of the legal system of Ukraine, and not only regarding the principles of a social, legal state.

Thus, we can conclude that the right to peace is an important component that plays a priority role in modern state-building processes and should be reflected in legal policy is the provision and protection of human rights. At the same time, today we should talk not only and not so much about the potentially granted rights, in particular, the human right to peace, but about the reality of their provision, implementation, observance, application, and therefore about the realism of their implementation. In this regard, today it is no longer enough to simply declare the relevant rights within the framework of the general system of human rights, which fully applies to the right to peace, which requires the creation of effective mechanisms for its practical provision and protection, including in the context of the activity of certain international.

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