

INTERNATIONAL STANDARDS OF SOCIAL RIGHTS: CURRENT STATUS AND PROSPECTS FOR DEVELOPMENT

NORMAS INTERNACIONAIS DE DIREITOS SOCIAIS: SITUAÇÃO ATUAL E PERSPECTIVAS DE DESENVOLVIMENTO

ZORYANA SKALETSKA

National University Kyiv-Mohyla Academy,
Kyiv, Ukraine
o.skaletska@ukma.edu.ua

SVITLANA OLIINYK

National Academy of Management, Kyiv,
Ukraine,
kolossok@ukr.net

PETRO KORNIENKO

National Academy of Statistics, Accounting
and Audit, Kyiv, Ukraine
p.kornienko@ukr.net

YEVHENIIA BONDARENKO

Kyiv National Economic University, Kyiv,
Ukraine
bondarenko.osvita@gmail.com

NATALIIA VOLCHENKO

Sumy National Agrarian University, Sumy,
Ukraine
natavol4enko@gmail.com

Abstract: The relevance of this topic prompts a study of existing international standards of regulation, ensuring, and protection of social human rights, which in connection with the development of society become increasingly important, as they are designed to guarantee people a decent and dignified standard of living. The purpose of this study is to analyze and determine social human rights, as well as to determine the conditions of international mechanisms and standards of their observance and protection. The results of the study is the definition of the basic concepts and terms, among which "social rights", "international standards", "international standards of human rights", etc.; the history and necessity of the formation of social human rights; the list of social human rights was determined; the international legal framework, which regulates and contains social rights, was investigated and established; analyzed international standards of social human rights, their regulation, and ensuring; analyzed social rights of Ukraine and their consideration through the prism of the European integration course; worked out steps for further improvement and development of social human rights. It was proposed that in further research, more detailed attention should be paid to the comprehensive development of mechanisms to ensure and protect social human rights and their improvement in connection with the constant challenges of the present.

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Corresponding author:

o.skaletska@ukma.edu.ua



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Resumo: A relevância deste tema motiva o estudo das normas internacionais existentes de regulação, prestação e proteção dos direitos humanos sociais, que em relação ao desenvolvimento da sociedade assumem cada vez mais importância, pois visam garantir às pessoas um nível de vida digno e decente. O objetivo do presente estudo é analisar e estabelecer os direitos humanos

sociais, bem como determinar as condições dos mecanismos e normas internacionais para a sua aplicação e proteção. Os resultados do estudo - definição de conceitos e termos básicos, incluindo "direitos sociais",

"normas internacionais", "normas internacionais de direitos humanos", etc.; a história e a necessidade do estudo; o papel dos direitos sociais no desenvolvimento e proteção dos direitos humanos; e o papel dos mecanismos e normas internacionais de direitos humanos. O estudo foi realizado com base nos seguintes elementos: a história e a necessidade da formação dos direitos humanos sociais; a lista dos direitos humanos sociais foi determinada; o quadro jurídico internacional, que regula e contém os direitos sociais, foi pesquisado e estabelecido; as normas internacionais dos direitos humanos sociais, a sua regulamentação e disposição foram analisadas; os direitos sociais da Ucrânia e a sua consideração através do prisma do curso de integração europeia foram analisados; os passos para a melhoria e o desenvolvimento dos direitos humanos sociais foram elaborados. Foi proposto que, em investigações futuras, se preste mais atenção ao desenvolvimento global de mecanismos de garantia e proteção dos direitos humanos sociais e à sua melhoria em relação aos desafios constantes da atualidade.

Palavras-chave: Carta Social Europeia. Prestação. Proteção. Instrumentos internacionais. Mecanismos.

1. Introduction

The rapid development of mankind, globalization, and technological progress have led to the fact that the regulation, ensuring, and protection of human rights has long ceased to be the prerogative of only one country and has become the responsibility of the entire international community. Thus, every year more and more international legal acts designed to regulate human rights and freedoms are adopted. It is the international legal acts that set the standards establishing the universal indicators of human rights that all countries of the world must comply with. National legal acts adopted within a certain country and designed to regulate human rights must comply with the established international standards.

Rights are a universal value, and the primary responsibility of the international community as a whole is to observe, guarantee, protect, and respect human rights (Klymenko, 2019). Human rights and freedoms are formed into separate groups, according to the importance or a certain sphere where they are applied, the priority among which are civil rights. However, it should be noted that among the totality of existing rights in the world, social rights that provide a person with a decent standard of living, safe and fair working conditions, medical care, recreation, etc. are important.

Existing social dangers in Ukraine, such as a significant level of poverty, ineffectiveness of state policy to increase labor rights of citizens, crisis of health care system, aggravation of the demographic crisis, the need for social protection of the population, ensuring an adequate level of education and many other require from state authorities to develop, maintain and adopt international standards of social rights (Dlugopolska, 2017).

The problem of regulating, ensuring, and protecting human rights is one of the main problems in the world because they are universal rights that are fundamental and belong to everyone.

2. Theoretical framework and literature review

As early as the XX century, the establishment and regulation of human rights did not exceed the authority of the individual country, but the development of international relations and international cooperation and the recognition of human beings as the greatest value in society led to the emergence of the sphere of international regulation and protection of human rights. Modern scholars think about the future of humanity with the help of the latest philosophical approaches. This is also true for predicting future legal relations since they do not exist without society and evolve with it (Morska, & Davydova, 2021). Social rights are created and improved in relation to the development of humanity.

Today, each country has the right to establish certain features and conditions of human rights regulation, according to the legal system, traditions, and rules existing in such country (Hunt, & Mason, 2017). Nevertheless, a number of rights and issues in the regulation and protection of human rights are entrusted to international institutions. An important factor and circumstance that changed the view of the entire international community on the field of human rights protection was the World War II, which completely changed the world's view and attitude towards human rights and the place of human beings in the world and their protection. The response to the World War II was the creation of the United Nations (UN) and the adoption of the Universal Declaration of Human Rights in 1948 (Universal Declaration of Human Rights, 1948). Klimenko noted that the Universal Declaration of Human Rights served as the foundation and model for many of the world's constitutions and other normative legal acts. He believed that the Declaration is still the source of global human rights standards (Klymenko, 2019).

One of the main tasks of any country is to protect the rights and freedoms belonging to individuals, as well as to create conditions for the population to live in dignity. Among all the intangible values that exist in the world, the most important place is occupied by human rights and freedoms. At the core of these rights is human dignity. Human rights have been shaped by a number of values, among which human dignity undoubtedly occupies an important place (Akimenko, Bigniaki, Belogubova et. al., 2019). The desire of the international community to

develop human rights has led to the improvement and development of more and more international standards to ensure and protect human rights. Consolidation of the state as a social one caused the need to create international standards and mechanisms to regulate, ensure, guarantee, and protect social human rights (Kuli-Ivanchenko, 2021). In Ukraine, ensuring and protection of social human rights becomes important in the conditions of state transformations, the Ukraine's choice of strategic guidelines for the European integration, overcoming the economic and political crisis, as well as in the conditions of full-scale war (Krasnozhon, 2022).

Social human rights are interconnected with the other types of rights (political, economic, cultural, etc.), as all of them have a universal character and are equally important and valuable (Kuli-Ivanchenko, 2021). The universal nature of human rights, including social rights, is evidenced by the fact that all states undertake obligations to ensure and protect them, although, however, taking into account national peculiarities and the legal system of their country. In order to adequately protect the rights, freedoms, and interests of natural and legal persons, the legislator and the international community have proposed specific legal mechanisms and standards, in particular, ensuring and protection of social rights (Melnichenko, 2021).

The International Covenant on Economic, Social and Cultural Rights (1996) states that all states that have ratified this legal instrument must individually do their best and within their available resources to ensure and promote the realization of human rights enshrined in this right. Granting human beings social rights enables them to become full members of the society.

3. Research design and methods

The methodological basis for the study of this topic is a set of the used general scientific and special-legal methods, complementing each other, taking into account the topic of research, which in its turn contributes to the objective analysis. Among the methods of the research of this topic of the article, it is necessary to allocate dialectical method, logical method, method of system analysis and method of analogy, formal-legal and system-structural method.

Through the use of systemic analysis, it was possible to establish the main legal acts regulating and enshrining social rights and standards and mechanisms for their protection and enforcement. The semantic method was used to establish the main terms and terms that were used in the research process. The corporatist method was used to conduct an analysis of various international legal acts that, to varying degrees, regulate social rights granted to an individual. The

historical method facilitated the study of the process of the formation of social rights and the necessity of their existence.

The use of the dialectical method made it possible to analyze and isolate the specifics of individual social human rights. The hermeneutic method helped to conduct an analysis of scientific works, which contain the research on the standards and mechanisms of realization of social rights belonging to an individual. The system-structural approach allowed us to work out the next steps in the development of social human rights.

4. Results

While researching issues of international standards of social rights, it is necessary to define the concepts of “international standards” and “international human rights standards”. The concept of “international standards” should be understood as general rules and requirements for normative frameworks and practices, as well as a certain established legal level below which states should not fall (Yushko, & Shvets, 2013). In its turn, the concept of “international human rights standards” should be understood as a system of universally recognized principles and norms enshrined in international legal acts and treaties designed to regulate human rights and obligations, as well as to establish requirements and mechanisms for their observance, enforcement, and protection. (Kuli-Ivanchenko, 2021). The main features of international human rights standards can be attributed to: predictability and enshrined in international legal acts; rules and norms suitable for repeated application; affect the implementation and protection of human rights; are universal in nature; are generally binding on the state, which formally recognizes them and others.

Scientific literature divides human rights into four groups (generations of human rights): social and political rights; social, cultural, and economic rights; collective rights; and rights associated with scientific and technological progress. Of particular importance and relevance of legal enshrining, ensuring, and protecting social human rights in accordance with the real realities, namely in connection with the problems of poverty, unemployment, problems of hunger, and lack of housing people, as well as in connection with military actions that take place on the territory of Ukraine. Also, the protection of the social rights of prisoners of war, especially in conditions when almost international organizations do not have access to such prisoners of war, becomes important in connection with the current realities of war (Kaplina, 2022).

It is important to keep in mind that social rights are a part of the second generation of human rights when reviewing the history of their development.

This generation of rights was formed because of people's struggle to improve their standard of living, as well as their economic situation and cultural level. Social rights were formed as a response to the First and Second World Wars when there was a need to meet human social needs. The second generation of human rights was intended to alleviate confrontation and relations between different strata of the population. Beginning in the 21st century, more and more states began to enshrine social human rights at the state level and to become social countries. The consolidation of the status of countries as social countries has begun to be enshrined in the constitutions of many countries. For example, the Constitution notes that Ukraine is a social state and recognizes social human rights and promotes their provision and implementation (Constitution of Ukraine, 1996).

Many scholars define the concept of “social rights” in different ways. The concept of “social rights” should be understood as a set of rights and norms that define, establish, and regulate the conditions of people's life, which are recognized by the international community as optimal and necessary for the development of the individual, separate social groups, and society as a whole. It should be noted that social rights were first mentioned in the American Declaration of Independence and the French Declaration of Human Rights.

Yushko and Shvets (2013), giving a definition of social rights, believed that it was a set of rights that provided a person with a decent standard of living (physiological, material and spiritual).

Social rights are the same and indispensable for all and should be guaranteed to everyone; these rights provide the basis for a decent existence of people. Fair and equal access of all citizens to social rights and their realization must be provided by effective mechanisms and state institutions for their guarantee and protection.

The list of social rights can include: the right to work; to decent living conditions; to social protection; to recreation; to health care; to housing to ensure in case of full, partial or temporary disability, loss of a breadwinner, unemployment due to circumstances independent of the person and others; the right of children to be raised, in case of loss of parents, etc. However, every year established social rights are developed and new rights appear, for example, the right to tourism as a form of recreation (recreation).

The singling out of social rights and the development of mechanisms and standards for their realization, ensuring, and protection is caused primarily by the following reasons: the

international recognition and proclamation of the importance and necessity of social rights; the importance of social rights for the development and formation of a democratic legal state; the establishment of the principle and status of a social state that undertakes obligations to respect for and protect human rights; the harmonization of national and international standards of protection of human rights (Verba, 2015).

It is also necessary to note the principles on which the proper observance and ensuring of social human rights is based, namely: equality of opportunity and freedom from discrimination; the principle of social security; the principle of avoiding any manifestation of a child or forced labor; the principle of fair remuneration for work; the principle of freedom of association, etc. (Hnatenko, 2020).

International standards of regulation, ensuring, and protection of social human rights are enshrined in legal acts of international and regional nature. The acts regulating ensuring and protection of social rights include: the Universal Declaration of Human Rights, the European Social Charter, the International Covenant on Economic, Social, and Cultural Rights (1966), the International Convention on the Elimination of All Forms of Racial Discrimination (1996), the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of Working Migrants and Members of their Families, conventions of International Labor Organization, etc. Also, between the states a considerable number of treaties on the regulation of social human rights has been signed.

5. Discussion

While analyzing separate legal acts, regulating social human rights, we should note that although the International Covenant on Economic, Social, and Cultural Rights has a binding force, but this document defines economic, social, and cultural rights as optional rights (International Covenant on Economic, Social and Cultural Rights, 1966). States must ensure the social rights specified in this Covenant at least to a minimum level. Among the social rights enshrined in the Covenant are the following: right to self-determination; right to work; equality of men and women; rest and leisure; protection of the family, mothers, and children, etc. (International Covenant on Economic, Social and Cultural Rights, 1966).

The Committee on Economic, Social and Cultural Rights, established by the UN Economic and Social Council, is responsible for monitoring compliance with the rights and

provisions specified in the International Covenant on Economic, Social and Cultural Rights. Thus, the powers of the Committee of the relevant Covenant are: to consider the report of states on their compliance with the rights specified in the Covenant; to consider complaints of one country against another on human rights violations; to provide recommendations on the application and interpretation of the Covenant provisions; also in certain cases, subject to the Optional Protocol, complaints of individuals on violation of their rights, etc. may be accepted for consideration (International Covenant on Economic, Social, and Cultural Rights, 1966).

One of the most important sources of international standards of social rights is the European Social Charter (1996). The main purpose of adopting and signing the Charter was that Member States of the Council of Europe agreed to ensure and protect the social rights enshrined in the Charter in order to improve the living standards of their citizens. The European Social Charter (1996) enshrines the following social rights: right of workers to decent wages and a decent standard of living for themselves and their families; collective bargaining; right to organize to protect their social rights; right of poor people and families to medical and social assistance; to social security; right to use social services, etc. (European Social Charter, 1996).

The European Social Charter (1996) contains provisions, requirements, and measures to be implemented and introduced by states for the effective realization by individuals of their social rights. Thus, for example, in order to realize and ensure the right to social security, states must take the following actions: improve the social security system in the country and raise it to a new level; maintain the social security system at a satisfactory level, etc. In other words, states need to take action to improve and develop the social security system. For Ukraine, it is necessary to bring the social security system up to European standards.

To ensure adequate medical and social assistance, it is necessary to provide low-income families and individuals with social security and to provide all necessary assistance, especially medical assistance. States must also establish effective social services whose functions include the promotion of well-being and development, as well as the adaptation of certain groups of people to the social environment.

An important legal instrument regulating social rights is the International Convention on the Elimination of All Forms of Racial Discrimination, under which states that have ratified this Convention are obliged to eliminate and prohibit all discrimination in all its forms and ensure the equality of every person before the law, without distinction as to race, color, or national or ethnic origin (International Convention on the Elimination of All..., 1966).

In 1995, the World Summit of Heads of State and Government, organized by the United Nations, adopted the Copenhagen Declaration on Social Development. The Copenhagen Declaration on Social Development (1996) was the purpose of the meeting, in which participating States noted that everywhere in the world there was an increase in the prosperity of some, but unfortunately, an increase in the abject poverty of others. This problem needed to be addressed immediately, which was the goal of the meeting and the consequent adoption of the Copenhagen Declaration on Social Development. This Declaration notes that in order to develop and improve social rights, it is necessary to equally guarantee and protect human social rights; to develop civil society and involve the public in decision-making; to expand the provision of social services and improve them, etc. (Copenhagen Declaration on Social Development, 1995).

Ukraine has undertaken legislative obligations to bring its legislation and standards in compliance with European Union standards to ensure and protect human rights. One of the main legal instruments regulating human rights, in particular social rights, is the Convention for the Protection of Human Rights and Fundamental Freedoms. This Convention affirms the idea of human rights as universal, indivisible, and non-selective one. Although the Convention does not include a broad list of social rights, among them Article 4, which prohibits slavery and forced labor, and Article 11, which provides for the right to form and join trade unions for the protection of one's rights, it has established mechanisms and standards for their protection (Convention on the Protection of Human..., 1950). The European Court of Human Rights (ECtHR) supervises and protects human rights, including social rights. As Nalivayko and Stepanenko (2019) note, thanks to the ECtHR's application of an extended evolutionary interpretation, more and more rights not textually enshrined in the Convention and Protocols, among them social rights, fall under the regulation of the Convention and protection in the European Court of Human Rights.

One of the largest groups of cases on the violation of social human rights in the ECtHR is the legal relationship on the payment of pensions and other social benefits. Going forward, more effective enforcement and protection of social rights is needed from the entire international community and countries at the national level so that individuals can realize them, thereby ensuring a decent standard of living and satisfaction of their needs.

The improvement and development of standards for the regulation and enforcement of social rights is influenced by the activities of the European Committee of Social Rights. This point can be proven by the example of the case of *Autism-Europe v. France*, which concerned

the implementation of the European Social Charter (1996). In this case, the Committee noted that ensuring a certain right that is related to the implementation of the European Social Charter (1996) is extremely difficult and requires significant financial resources, the state must take measures that will achieve the goals specified in the Convention within a reasonable time (No. 13 /2002 International Association Autism-Europe (IAAE) v. France, 2002). States must take measures to deal with possible changes in the world and their impact on vulnerable populations. It should be noted that states must make efforts to ensure and protect social human rights regardless of the economic and political situation in the country.

For the further development and improvement of international standards of social rights, it would be appropriate to create a unified starting point for the protection of this category of rights, since most mechanisms for ensuring and regulating social rights are scattered among various international legal acts. For example, it might be possible to systematize the norms governing the implementation and protection of social rights in a single legal act adopted under the auspices of the United Nations, which would apply to all countries of the world. The adoption of a corresponding international instrument would make it possible to catalog this group of human rights at the international and regional level and would also help to update regional and inter-state agreements between states on the enforcement, observance, and protection of social human rights.

6. Conclusion

To summarize all of the above, it should be noted that international standards of social rights should be understood as principles and provisions that are enshrined in international legal acts regulating human social rights and obligations and their ensuring and protection. The international community has developed universal and regional mechanisms and standards for the regulation, ensuring, and protection of social human rights. Every country in the world must ensure the protection of relevant rights, at least at the minimum level, regardless of the economic and other situation of the country. It is safe to say that international standards for regulating and securing social rights are important being high standards for guaranteeing this category of rights.

Further study of international standards of social rights should be aimed at the comprehensive development of mechanisms to ensure and protect this type of rights, as well as the development of conditions for the implementation of norms regulating the realization of social rights into national legislation and the improvement of the national legislations. It is also

necessary to note the guarantees to ensure and protect human social rights. Among the agencies that must safeguard for these rights are state and local government agencies, judicial and executive agencies, enterprises and institutions that are authorized to protect certain social rights, such as the right to work.

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