

Universal Human Rights and State Sovereignty

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Abstract: The relevance of the study is conditioned by the necessity of establishing the degree of interaction of universal rights and freedoms of the individual in civil and international law, as well as the possibility of limiting state sovereignty in the implementation of international obligations to ensure and protect human rights. The purpose of the paper is to investigate the international experience of legal regulation of universal human rights in order to develop ideas for their implementation in the legal framework of countries in transformation, including Ukraine. The leading methods of the study included the analysis of international and European practices of consolidating universal human and civil rights, modelling of legal structures acceptable to Ukraine. As a result of the study, it was concluded that the restriction of state sovereignty is possible only in favour of the individual based on the priority of human rights. The research materials can be useful for lawyers and government officials performing draft law activities, teachers of law schools, as well as officials and public administration officials who seek to apply the standards and practices of international regulation of universal human and civil rights in individual management cases.

Keywords: Universal civil rights, concepts of human rights, international obligations, state sovereignty.

INTRODUCTION

Global integration requires the transformation of socio-economic, political systems of social development, which leads to changes in the organisation of state power within each nation state and the world in general. Transformation is a radical, comprehensive transformation of all structures of the social system, focused on a person, ensuring their rights and freedoms. An increasing number of countries are trying to reorient their political and economic models to adapt to the modern world. Naturally, social development is described by a deterministic process of transformation, where one form of social development is replaced by another. In the absence of a common civilisation formula, transformation processes cover all countries of the world without exception or may affect certain aspects of public life within one or a group of countries. One such transformation process, which affected many countries, began in the territory of the former Soviet Union in the 1980s. This process was called “perestroika”, which was supposed to transform the socialist system. In the pilot stages, the transformation concerned only the expansion of the state's political institutions – publicity, freedom of speech, and the right to information. However, later “perestroika” grew into a systemic transformation with the gradual development of a society with a market

economy and the creation of several independent sovereign states.

The former socialist countries of Central and South-Eastern Europe and the Soviet Union have much in common, while at the same time forming an increasingly diverse region in terms of socio-political development (Silova 2009). Among the common features are the general socialist past, as well as the scale and significance of political, economic, and social transformations after the collapse of socialism in 1989. In most socialist European countries, the transformation has been quite successful. They have become members of the European Union, demonstrating the emergence of open, liberal societies, at least partially based on respect for the law, the rule of law, the priority of human rights, and economic freedom. But in some countries in Southeast Europe and the former Soviet Union, the so-called repressive regimes still exist. Therewith, the decline of global freedom has been observed for the 13th year in a row on all continents and countries, from ancient democracies such as the United States to consolidated authoritarian regimes such as China (Freedom in the world 2019). Modern transformational restructuring is accompanied by a certain civilisational pressure, which is the result of the global dependence of national identity on the policies of international institutions that undertake the implementation of the transformation of national public administration systems (Pampura 2016). As for Ukraine, its transformation processes are difficult and inconsistent. Despite significant changes in

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reforms in various spheres of public life (education, civil service, anti-corruption), development of national legislation, its adaptation to the acts of the European Union in order to implement the idea of freedom and fundamental human rights, Ukraine received 60 out of 100 points in the ranking "Freedom in the World" (Freedom in the world 2019). Furthermore, many democratic constitutional and legal principles, despite the convergence of law by force, take root in the Ukrainian legal framework.

In view of the above, it is prudent to examine the correlation between universal human rights, which are enshrined in international law, and the provisions of domestic law of a particular state for their mandatory recognition and observance. In this regard, the study will attempt to answer the following questions: is there an unambiguous idea of universal human rights in the modern international community? Can states establish exceptions to international human rights law? What is the correlation between universal human rights and domestic law in post-socialist countries, in particular in Ukraine? Is state sovereignty limited by the necessity of regulating and protecting universal human and civil rights?

DESCRIPTION OF BASIC RESEARCH APPROACHES TO UNIVERSAL HUMAN RIGHTS

Human rights form the basis of both international and domestic law. Although the becoming and development of human rights have a long history, the need for shaping their international standards became apparent only at the end of the 19th century, when industrialised nations started introducing labour legislation. Such regulation has increased the cost of labour, but at the same time has led to deterioration in the competitive position of workers relative to countries where such legislation did not exist. Economic necessity forced states to consult with each other. As a result, the first agreements were issued to ban women's night work, to establish an international labour organisation, etc. The democratisation of states and the development of the idea of protection of human rights in states in the second half of the 20th century led to a certain restriction of internal sovereignty, which was reflected in the democratic legal order. In any case, it is human rights that are beginning to be an indicator of the effectiveness of transformational and democratic changes. The term "human rights" originated not so long ago, but the very idea of human rights is as old as the history of human civilisation. Formally, it became universally recognised only after

the establishment of the United Nations (hereinafter referred to as the UN) in 1945. The main component of "human rights" is defined to be, first and foremost, those rights that are inherent in human nature and without which people cannot develop their personality, human qualities, intelligence, talent, and conscience, provide for their needs (Dr. Surinder 2014); secondly, the minimum rights that every person should have against the state or public authorities by virtue of the fact that they are a member of humanity regardless of any other considerations (Henkin 1979). Human rights is a general term that includes "Civil Rights", "Civil Liberties", and "Social, Economic and Cultural Rights" (Dr. Gagandeep and Rajinderjit 2018).

The concept of human rights is dynamic, finds a broader definition and constantly covers new areas, as human society continues to move in its development. The fundamental provision governing the concept of human rights is respect for the individual and their values, regardless of colour, race, sex, religion, or other considerations. In essence, human rights constitute the fundamental provisions necessary to live with a sense of dignity. Their universality has its origins in the idea of equality of all people. Thus, these two values are quite sufficient for the adoption of the concept of human rights. That is why the idea of human rights is supported by all world cultures, governments of civilised countries, major world religions. Therewith, it is axiomatically acknowledged that the power of the state cannot be arbitrary and unlimited, it must be connected with the necessity of ensuring at least minimum conditions and standards to all those under its jurisdiction so that they can live with a sense of human dignity. After the Second World War, there is a clear trend of an increasing importance of fundamental human rights and freedoms, the development of international and supranational standards for their due provision and protection. Universal human rights, ensuring their implementation and protection have become a fundamental issue, which without exception has begun to be perceived by all states, regardless of the model of political and socio-economic system. At the same time, in a multipolar world, in different states, societies, groups, different views on human rights continue to coexist. In contemporary world, there are several concepts of human rights with fundamentally different approaches of states, which, albeit geographically separated, have common positions on human rights. The study will focus on the key features of the three global state concepts of human rights.

The first concept of human rights is Islamic (Muslim), in which the main place is given not so much

to the rights as to the duties of a Muslim before Allah. It is believed that one of the central ideas of the Qur'an is the idea of justice for man. The principle of "Islamic justice" allows for certain advantages, in particular for men over women. For example, the Constitution of the Arab Republic of Egypt (1971) guarantees equality between women and men, but Article 2 states that the principles of Islamic Sharia constitute the main source of law, and Sharia in turn excludes equality. The liberal-semi-social capitalist concept of human rights meets the standards of international law. It is described by an individualistic approach to person and citizen, the definition of their rights and freedoms. The leading role is given to personal and political rights and freedoms. The first are considered absolute and unlimited. Socio-economic rights, although recognised, are considered in some countries not to be enshrined in constitutions, as they cannot be guaranteed by direct judicial decisions (in particular, the court will not employ an unemployed person who invokes their constitutional right to labour). And even though the concept is recognised as state in most countries, in some countries its fundamental provisions are not implemented. For example, some states have acceded to the International covenant on economic, social, and cultural rights (1976) and have stated that they are temporarily postponing the implementation of certain provisions of the covenant.

The last concept is the legal system of totalitarian socialism, which has recently been preserved in five states (Vietnam, China, North Korea, Cuba, Laos). The list of rights enshrined in the constitutions of these countries is in line with international instruments, but traditionally it is about the rights of the citizen. They are perceived as such that are gifted by the socialist state, the power of the workers. The leading role of the Communist Party in society and the state is also consolidated. Different conceptual approaches of groups of states to human and civil rights are reflected both in international relations (reservations and remarks during the signing of international agreements) and in the content of official documents of states (national domestic legislation). Furthermore, when discussing the issue of human rights and the internal competence of the state to enshrine certain rights in domestic law, different views on the correlation between international and domestic law are particularly pronounced. There are different views on this in the doctrine of international law. Some scholars adhere to a dualistic concept, others – to monistic. The dualistic concept emphasises not only the connection between

these systems, but also their difference and independence. Representatives of this concept stated that international and domestic law are separate branches of law that never intersect, but interact to a certain extent (Triepel 1899; Anzilotti 1961). Proponents of the monistic orientation proceeded either from the priority of domestic law or from the rule of international law.

In contemporary world, scholars and practitioners are concerned not so much with the differences between these two concepts, but with the study of the mechanisms and degree of interaction between them. In the light of modern international law, the dualistic concept does not work in many aspects of modern international relations (Voloshin 2011). It is unlikely that it can explain the law-making activities of certain international non-governmental organisations, whose decisions (for example, the technical standards of the International civil aviation organisation) almost automatically become part of national legislation. In the context of the dualistic concept, the law of the European Union can be considered, which was developed on the basis of international law and gradually acquired the features of a supranational legal order, which has no clear boundary between domestic and international spheres (Merezhko 2010).

Different views on the correlation between international and domestic law are manifested in the positions of states on certain issues of international relations. In this regard, the history of voting on The Universal declaration of human rights (hereinafter referred to as the Declaration) deserves to be mentioned, during which each country declared its amendments to the declaration proceeding from their own political and state system, human rights concepts, etc. (Universal declaration of human rights 1947). In its special statements, the United States rejected the legal obligation of states under the UN Charter to guarantee respect for human rights and freedoms, regardless of race, language, or religion. And the Soviet Union, recognising the binding nature of the UN Charter, absolutised the concept of state sovereignty and believed that the regulation of human rights lies fully within the internal competence of states. As a result, in the USSR, the Ukrainian SSR and the Belorussian SSR, and other Soviet republics (a total of 8 countries) abstained from voting (Verbatim report of the meeting... 1948). Therewith, the Declaration enshrines over 30 fundamental rights and considers their protection as a general standard in the relations of the world community. Some governments argue that some of the

rights in the Declaration are “*jus cogens*”, an imperative rule that states cannot renounce.

Nowadays, apart from the Declaration, there are nine major international human rights treaties. It is the UN human rights treaties that underlie the international system of human rights promotion and protection. The basis of the fundamental principles of international human rights law comprises: The Universal declaration of human rights (1947); International covenant on economic, social and cultural rights (1976); International covenant on civil and political rights (1976); International convention on the elimination of all forms of racial discrimination (1969); Convention on the elimination of all forms of discrimination against women (1979); Convention against torture and other cruel, inhuman or degrading treatment or punishment (1987); Convention on the rights of the child (1989); International convention on the protection of the rights of all migrant workers and members of their families (1990); International convention for the protection of all persons from enforced disappearance (2006); Convention on the rights of persons with disabilities (2008). The human rights standards enshrined in these international agreements are becoming universal since the world community has managed to reach a compromise on these issues. For each of these agreements, treaty bodies are established to monitor the implementation of the provisions of the agreements by the member states. Furthermore, some agreements are supplemented by optional protocols, which may establish additional rights and obligations arising from the agreement.

IMPLEMENTATION OF INTERNATIONAL LAW PROVISIONS OF HUMAN RIGHTS INTO NATIONAL LEGISLATION

Different conceptual approaches of states to human and civil rights are reflected both in international relations (reservations and remarks during the signing of international agreements) and in the content of official documents of states, especially constitutions. Statements and reservations of state representatives in the signing and ratification of certain international human rights instruments are aimed at expressing their position, state ideology and state concept of human and civil rights. All this is reflected in domestic legislation, which determines how and to what extent the state will perform its international obligations. Currently, international law also regulates the scope of implementation of several specific international human rights obligations by states, e.g. elections at regular intervals, secret ballot with the participation of foreign

observers. This process has developed in recent years by incorporating international human rights obligations directly into the legislation of various countries around the world. No state is capable of performing its international human rights obligations without bringing its constitutional and branch legislation into line with them.

The main manifestation of the influence of international law on domestic law is the harmonisation of their content. Implementation can occur both at the stage of rulemaking and at the stage of implementation, in particular, the enforcement of law. Universal human rights, recognised by the representatives of most states, are conventionally enshrined in their Constitutions, which is no exception for Ukraine. The Constitution of Ukraine (1996) reaffirmed its commitment to the universally recognised principles and provisions of international law and enshrined the priority of human rights, ideological diversity, equality of human and civil rights and freedoms, and the prohibition of all forms of discrimination as its legal foundation. International practice has a generally accepted approach, according to which the state independently determines the mechanisms to implement its international obligations in the national legal system. These mechanisms are usually reflected in constitutions and special laws. In Ukraine, implementation mechanisms are enshrined in the Constitution of Ukraine (1996), the Declaration of state sovereignty of Ukraine (1990), and the Law of Ukraine “About international treaties of Ukraine” (2004). According to Article 9 of the Constitution of Ukraine (1996), existing international treaties, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, constitute part of the national legislation of Ukraine, i.e. the international agreements operate on the territory of Ukraine in the same form, as they exist in the agreement itself. Ukraine is consent to be bound by an international treaty may be given by signing, ratifying, approving, accepting the treaty, acceding to the treaty, as well as by other means agreed by the parties (Article 8 of the Law of Ukraine “On international treaties of Ukraine”). Thus, for the rules of an international agreement to become binding in Ukraine, it is necessary to give consent in accordance with the procedure prescribed by the current legislation.

There is another approach in the world. The constitutions of individual countries include not only ratified international treaties, but also general principles and provisions of international law. Therewith, the latter

become an integral part of national legislation due to the mere fact of their existence, and their ratification is not required. For example, the Constitution of Spain (1978), Section 96 states that "Validly concluded international treaties, once officially published in Spain, shall be part of the internal legal system. Their provisions may only be repealed, amended, or suspended in the manner provided for in the treaties themselves or in accordance with the general rules of international law". Germany Constitution (1949), Article 25 "The general rules of public international law constitute an integral part of federal law. They take precedence over statutes and directly create rights and duties for the inhabitants of the federal territory". According to Part 4 Art. 15 of the Constitution of the Russian Federation (1993) generally recognised principles and provisions of international law and international treaties of the Russian Federation are an integral part of its legal system. If an international treaty of the Russian Federation establishes rules other than those prescribed by law, the rules of the international treaty shall apply.

In Ukraine, due to the specific features of the legal technique of Art. 9 of the Constitution of Ukraine (1996), the general provisions and principles of international law, especially embodied in the form of international custom, can hardly be applied. For instance, the fundamental rights of a citizen in relations with public administration bodies (the right to take part in the management of public affairs, the right to be heard, etc.). Currently Ukraine has no special procedural act that would govern the fundamental guarantees for a person in relations with the authorities, the so-called relations of good governance. Many issues of implementation and protection of human rights in relations with public administration bodies can be found in the acts of the intergovernmental organisation – the Council of Europe, to the Charter of which Ukraine joined in 1995.

The provisions of all acts of the Committee of Ministers of the Council of Europe are not mandatory for the governments of the member states, including Ukraine, but are of a recommendatory nature and determine the direction of development of the country is legislation. Such documents are called acts of "soft law", their provisions do not constitute the provisions of law, but play an important part in developing ideas about the principles of administrative procedure, the basic rights of individuals in the implementation of administrative actions, decisions aimed at exercising the rights of these persons or their performance of obligations under the law. Despite their recommen-

datory nature, national administrative courts, in resolving legal conflicts between an individual and the authorities, very often refer to such Recommendations. But in this situation, such a reference is quite justified at the stage of law enforcement. In the absence of national rules, the court resolves the conflict based on common standards of public administration to prevent unlawful interference with individual rights. In countries where the rules of international law are subject to mandatory ratification, the general rules and principles of international law may be applied by national authorities, in particular the courts, when it falls within their competence according to national procedural legislation.

Another form of introduction of international provisions into domestic law is reception, direct reproduction of an international provision in an act of national legislation. Thus, the content and permissible restrictions of rights and freedoms contained in the Declaration, have currently become universally recognised provisions in the constitutions of more than 120 countries. The Fundamental Law of Ukraine is no exception. This reaffirms the existence of universal human rights, which are recognised by the entire international community. By acceding to an international treaty, each state shall be obliged to abide by its obligations. The Vienna convention on the law of treaties (1969), following the UN Charter, confirmed the provision that "ratification", "acceptance", "approval", and "accession" mean in each case the international act so named whereby a state establishes on the international plane its consent to be bound by a treaty". This provision is generally accepted, and it should be considered in close connection with Art. 27 of the Vienna convention on the law of treaties, which states that "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty". This Article obliges all states to comply with international treaty rules, regardless of the provisions of domestic law, and in case of conflict between them, the rules prescribed in an international treaty shall apply. In this case, each state may establish a procedure for performing its international obligations. Thus, to perform its international human rights obligations, each state must bring its constitutional and branch legislation into line with them.

FEATURES OF THE TRANSFORMATION OF STATE SOVEREIGNTY AND ITS CORRELATION WITH UNIVERSAL HUMAN RIGHTS

Despite the existence of a whole range of international human rights agreements to which almost

all countries of the world have acceded, thereby recognising the existence of certain standards in this area, it is impossible to speak unequivocally about the absolute supremacy of international law in human rights. It is limited by the sphere of regulation of international and domestic relations. States themselves set the limits of obligations, subjecting international law to certain issues of domestic relations. Nowadays, it is widely believed that states are losing their sovereignty, since international obligations, including human and civil rights, have started to play a significant role. Scientific analysis of international human rights protection is combined with a reflection of issues of state sovereignty and national security (Werner 2004; Koščo 2016).

If state sovereignty should, in fact, be limited, then only in favour of the individual, based on the priority of human and civil rights. This is exactly what has been happening recently and is reflected in the enshrinement in international instruments of the fundamental universal rights of the individual, which is perceived by most countries around the world. Apart from the consolidation of universal human rights, an extensive mechanism for monitoring their observance has been established in the international arena, which once again emphasises the recognition of the priority of individual rights in the world. In the system of international mechanisms for monitoring the observance of human rights, human rights treaty bodies play a significant role. Each member state to any treaty undertakes to take the necessary measures to ensure the general enjoyment of the rights enshrined in that treaty. To date, 10 treaty bodies have been established, comprising independent experts with acknowledged competence in human rights. These experts are subject to proposal and election by the member states for a renewable period of four years. The contracting authorities shall consider reports from member states and individual complaints or communications. They also publish general comments on treaties and organise discussions on related subjects.

Furthermore, the UN has introduced the Universal Periodic Review (UPR), which includes a periodic review of human rights documents of all 193 UN member states. UPR constitutes a significant innovation of the human rights council, which is based on equal treatment of all countries. This gives all states the opportunity to claim what actions they have taken to improve the human rights situation in their countries and to overcome the difficulties associated with the

exercise of human rights. Currently, this mechanism is one of a kind. To achieve this purpose, the UPR includes an evaluation of human rights in states and a review of human rights violations wherever they occur. UPR also aims to provide technical aid to states and enhance their capacity to address human rights issues effectively and to share best practices in ensuring human rights between states and other stakeholders. The reviews are conducted by the UPR Working Group, which comprises 47 members of the Council, but any UN member state can take part in the discussion. Non-governmental organisations can take part in the discussion as stakeholders.

At the last meeting of the working group on the universal periodic review of human rights, the human rights council presented a National report in accordance with resolution 16/21 on Ukraine (National report submitted..., 2017). It noted key achievements since the preliminary review, such as: amendments to the Constitution of Ukraine (1996) of 2016, which served as a starting point for comprehensive judicial reform; amendments to the Law of Ukraine "On principles of prevention and counteraction of discrimination in Ukraine", which brought it in line with international standards; in 2012, the National Preventive Mechanism (NPM) for the prevention of torture and ill-treatment was established under the auspices of the Ombudsman; in 2017, the Office of the Commissioner for Gender Equality was established, which will ensure that men and women in Ukraine have equal rights and opportunities; creation of the National Police in 2015 based on new principles of accountability, transparency, professionalism, and respect for human rights; creation of several bodies aimed at preventing and combating corruption – the State Bureau of Investigation, the National Anti-Corruption Bureau, the National Agency for the Prevention of Corruption.

By acceding to an international agreement on human rights, an individual state undertakes a legal obligation to ensure the implementation of the right recognised in this treaty. But the recognition of rights on paper alone is insufficient to guarantee that they will be implemented in practice. Thus, the country has an additional obligation to regularly report to the monitoring committee established under this agreement on how rights are exercised and protected. This system of human rights monitoring is common to most UN human rights treaties. To meet their reporting obligations, States must report on the initial report, usually one year after accession, and then periodically

in accordance with the provisions of the treaty (usually every four or five years). Apart from the government report, treaty bodies can procure information on the human rights situation in the country from other sources, including non-governmental organisations, UN agencies, other intergovernmental organisations, academia, and the press. In the light of all available information, the UN Human Rights Committee is considering the report with government officials. Based on this dialogue, it publishes its comments and recommendations, which are called "concluding remarks".

Apart from the reporting procedure, some treaty bodies may perform optional control functions through three other mechanisms: the investigation procedure, the handling of intergovernmental complaints, and the handling of individual complaints. All these measures constitute a mechanism for international cooperation in the field of human rights. The evaluation of the development trends of international cooperation in this area suggests the significant impact of international law on domestic law. Considering the substantial number of international human rights treaties currently ratified by many countries, it is difficult to agree that human rights fall within the internal competence of the state. However, there is a widespread view that the provision and protection of human rights is still an internal affair of the state. Indeed, many issues of regulation of human rights and freedoms still remain within the scope of internal competence of each state, which independently, considering the international obligations, determines the time, sequence, and specific method of their implementation. These issues are resolved depending on the ratio of different political forces within the country, their positions, as well as on other factors, not only on existing international agreements. Here, states are free to form bodies, including judicial ones, to consider legal conflicts of various kinds, law enforcement agencies, etc. But if, for example, the state has introduced judicial control over the activities of public administration, it must again meet internationally recognised standards of administration of justice.

With the strengthening of the role of supranational entities, which determine certain directions of development and monitor certain areas, there is an issue of limiting state sovereignty. But the possibility of limiting state sovereignty, even in resolving issues of ensuring the minimum rights of the individual is quite arbitrary. The International commission report on mediation and state sovereignty in 2001 stated that

state sovereignty means responsibility, and the main responsibility for protecting people lies with the state itself. "State sovereignty implies responsibility, and the primary responsibility for protecting its people lies with the state itself" (The responsibility to protect... 2001). At the same time, the state undertakes only those obligations that it can perform. However, such "interventions" into state jurisdiction and sovereign rights do not entail the threat of sovereignty as an immanent quality of the state as long as these restrictions are carried out voluntarily, and do not acquire the nature of violent actions.

In any case, an international legal instrument is binding only on those who have signed it, and no one shall have the right to impose more obligations on a country than it is willing to assume. For example, in December 2018, Morocco hosted a UN conference on the adoption of the Global compact for safe, orderly, and legal migration (2018). The pact was approved by all 193 members except the United States. But at the adoption ceremony, only 164 countries officially adopted it. Apart from the United States, Hungary, Austria, Italy, Poland, Slovakia, Chile, and Australia were among those who refused to accept the agreement. During the discussion, the administration of President Donald Trump stated that the global approach to the issue is incompatible with US sovereignty, and Angela Merkel said that cooperation is the only answer to solve global problems (U.N. Members adopt global... 2018). The British government has made it clear that the UN agreement will not change the country's ability to determine its own migration policy (Goodman 2018).

The example of signing such an international agreement makes it clear once again that none of the obligations can be imposed on a sovereign state. Each state determines its own immigration policy, including in areas such as asylum, border control, and the return of illegal refugees. The softness and factual non-binding nature of many provisions of international law is explained by the fact that this area of international responsibility is undeveloped. Its statutory base is reduced only to the Draft articles on responsibility of states for international illegal acts (Draft articles on responsibility... 2001) and the Draft articles on the responsibility of international organisations (Draft articles on the responsibility... 2011). However, the main problem lies not in the documents, but in the non-binding nature of most decisions of international justice bodies, as well as the lack of relevant competence in most of them. Differences in the legal, socio-economic,

and cultural levels of development of different states do not allow them to equally comply with the general imperative provision of “respect for human rights”. It is hardly possible to demand the identical implementation of this principle in countries belonging to the Anglo-Saxon legal family, on the one hand, and to the Sharia system, on the other. The most illustrative example is the legal regulation of the death penalty, which is significant and varies in different states. The polar positions on euthanasia, abortion, and the LGBT community are also characteristic here.

CONCLUSION

Modern transformation processes are described by features, which include the increase of influence of international law on the development of domestic law (the predominance of international law over domestic law, the emergence of “model legislation”, the practice of reception of legal experience); unification of national legal systems, in particular, at the level of legal awareness, legal ideology, and culture; expansion of the national jurisdiction of specific states beyond their territories; emergence of general or special bodies of international justice (courts, tribunals, arbitration) and new sources of international law (primarily, the growing role of legal precedent).

The limitation of state sovereignty in the modern world can only be referred to as such that is in favour of the individual based on the priority of human rights. Without a reasonable restriction of the rights of independent states, and thus without sovereignty, the processes of economic integration, the solution of global challenges facing humanity, and in many respects the very existence of civilisation are not currently possible. Apart from ensuring and protecting universal human rights, each state has other important tasks (ensuring peace and national security). And in these matters no state gives up its sovereignty. It is important to harmonise the issue of human rights with the aims to ensure peace and security so that none of the priorities oppresses the other.

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