

THE STRATEGY OF HUMAN RIGHTS STUDY IN EDUCATION

Anush Balian

National Academy of Agrarian Sciences of Ukraine

Nataliya Seysebayeva

Zaporizhzhya National University – Zaporizhzhia (Ukraine)

Natalia Efremova

National University "Odessa Law Academy" – Odessa (Ukraine)

Liliia Danylchenko

National Medical University – Odessa (Ukraine)

Abstract. Building strategies in the field of the contemporary human rights study is based exclusively on the above-mentioned doctrinal-normative and social-ideological approaches forming the foundation of the constitutional law of the democratic countries in the sphere of the human rights outlining, understanding, recognition and employment. But of special importance there is the author's approach to the realization of the human rights study performed by the representatives of the human population's young generation in the framework of the humanitarian education in the academic sphere. They live in the new conditions of the further advance of the globalization's global tendencies, which is connected with the human rights phenomenology and its strategic role and importance in the human society's existence and stable functioning.

Keywords: human rights; strategy; phenomenology; academic sphere; globalization; constitutional law

It won't be overstatement to recognize the importance of the legal science in general and the constitutional law science in particular in the general process of the scientific cognition of the human social nature (Orzih, 2005) (the ontological factor. – Auth.), the formation of its social standards, determining the molding and emergence of its intentions, life purposes, needs, interests, which though existential come into being and find their embodiment in the micro-society – on the local level of the society's functioning, in the conditions of the local self-government and in the boundaries of the corresponding territorial community, to which the person belongs (Baimuratov, 2009) (epistemological factor. – Auth.). It is also important for building and developing the institutional-legal forms of the human interaction with

the environment (communicative factor. – Auth.), performed via the phenomenology of the human and civil rights and freedoms.

This human rights' phenomenology preserves its strategic relevance not only in the ordinary conditions of the nationhood's functioning, but also in the extraordinary conditions of its existence – when the state ideology, the foundations of the political and economic systems are being changed. Under such circumstances the kernel of the continuity of the numerous basic theoretical legal constructions in this field of scientific knowledge is not only being preserved, but also modified according to the up-to-date megatrends in the modern world. Such megatrends are formed in the conditions of the already legal globalization (Kuli-zade, 2018), as a qualitatively new form of the universal globalization, adjusted to the unification of the human rights and freedoms, disregarding their citizenship, development of the international standards of human rights and their introduction into the social-political and normative-functional practice of the states. The above-mentioned standards include the agreed upon with the world or regional community via the multilateral treaties samples of human behavior in the most typical, stereotyped mass cases, which appear, get shape, occur and find their embodiment in the period of the person's realization of its temporal period of the life cycle in the local society – thus providing for the person real opportunities for existence and functioning in the system of the communicative interaction both with other subjects of the local society, through the satisfaction of their needs and interests, and the self-governmental (public) and state authorities.

At the same time, in the modern conditions, formed under the influence of the legal globalization, a brand new approach to the understanding of the phenomenology under research comes into being – by the establishment of the constitutional values system (Venislavskiy, 2011; Salei, 2013), to which, first and foremost, there should be included the human and citizen's rights and freedoms, acting as the social and legal archetype; the theory of constitutionalism as a brand new approach to the understanding and comprehension of the legal reality, both national (in the form of the historical legal process through the unification of the history, theory and practice of constitutional building) (Shapoval, 2005), and global (the perception of the constitutional values by the international community of states by means of the normative contractual guidelines of the international law) (Lvova, 2019); human rights «grounding» in the context of their direct realization up to the local level of the society's functioning and respectively the growing importance of the local self-government as the basic and constituent condition and field for the human rights' and freedoms' formation and employment (municipal and personality's human rights) (Baimuratov & Tanadzhy, 2008), as well as for the territorial community, united by the feature of the common place of residence on the corresponding territory, as the system sphere, where such rights, freedoms and obligations may be fully exercised in the process of the daily routine exploration in the period of the human

life cycle's realization, but with the achievement of the corresponding positive or negative social effect, which has substantial social, collective, individual meaning for the comfortable and perspective existence and functioning of such individual, group and collective subjects of law.

It should be emphasized that the outbreak of the mentioned conceptual approach, which is brand new in the post-Soviet period, was due directly to the diversity, consistency and the corresponding “steadiness” and “stability” of the scientific knowledge of many scholars of law and constitutionalists (Orzykh, 2005; Baymuratov, 2009; Gryshova et al, 2017a; Gryshova et al, 2018; Gryshova et al, 2019), which enabled them not only to foresee the positive attitude of the state legal science to the qualitative changes, which took place due to the proposed brand new political legal outlooks which proved real «comeback» to the classical foundations in the humanistic-humanitarian knowledge, and were also technologically based on the rejection of the old ideology and employment of the new categories, – which were recurrently enthusiastically criticized in the Soviet period as the basic categories of the bourgeois science, – but also to introduce such categories into the scientific discourse, and later into the public and regulatory circulation. Such brand new categories included the following ones: the employment of the constitutional law category as opposite to the public law; «social contract» as the liberal law ideology; the category of constitutionalism as contrary to the classical theory of the constitution origin; phenomenology of the «human rights» as compared to the human rights and freedoms, the concept of the natural human rights and the category of the “anthropocentricity” in the constitutional and legal regulation etc. (Orzykh, 1978; Orzykh, 2005; Orzykh, 1992; Pohorilko, 2010; Farber & Rzhevskiy, 1967; Farber, 1979; Farber, 1974; Farber, 1967).

Therefore, there was rejected the class approach in evaluating the social and legal status of personality and the visible shift to the side of the pre-assignment of the certain scope of human rights and obligations by the state which used to be dominant in the Soviet legal science. It was acknowledged that such ideological and normative approaches rather than providing the informed definition of the social and natural human essence and its active role in the economic and political life destroyed the system view of the real and not “ideological” historical development of the human social-legal status, including the rights and freedoms. Thus, it may be stated that the scientific works of the above-mentioned scholars “beat the clock” in the domain of defining the constitutional and legal human essence, the constitutional and legal regulation of the interaction of the human, society and state, development of human rights and freedoms in the historical and legal retrospective, in the formation of the concept of the human rights evolution as a social value, which is only a fragment of the general doctrine of human rights, being developed from a different perspective of the legal world outlook in the modern complicated world and in the conditions of the legal globalization. (Naama, 2001; Naama, 2011).

Summing up, it should be mentioned that building strategy in studying human rights in modern conditions is based exclusively on the above-mentioned doctrinal-normative and social-ideological approaches. The foundation for the latter is laid in the constitutional law of the democratic countries in the sphere of human rights definition, understanding, recognition, employment and study, aimed at the realization of such activity features of the mass behavior.

However, we consider it necessary to draw particular attention to the study of human rights by the representatives of the young generation of human population (pupils, students) in the framework of the humanitarian education in the academic process, which are supposed to live in the new conditions of the nationhood functioning and development with the continuing promotion of the globalization's global tendencies. In our opinion, the following methodological settings should be laid as the foundation for the strategy of human rights research:

- human rights and the level of their security – are indices of the democratic development and harsh promotion on the way of building the legal society. That's why everything should be done to secure the reliable protection of the rights and interests of people and citizens (including individuals with different legal status), the reinforcement of the legal mechanisms in this field of activity. Thus, the state should recognize, legalize, guard, secure, assist in realization, accompany, provide, guarantee the citizen's and human rights and freedoms (the factor of the human rights crucial role in the development of the democratic legal nationhood. – Auth.);

- to assure everyone's right to know the rights and freedoms is an important constitutional legal warranty of the human rights and freedoms (see p. 1 p. 57 the Constitution of Ukraine¹⁾, which launches realization of a row of constitutional rights and their warranties, in particular everyone's right to defend the rights and freedoms from any violations and unlawful infringements by any legal ways (see p. 5 p. 55 the Constitution of Ukraine), that is to defend the rights –one should know them (the factor of the human rights phenomenology constitutionalization. – Auth.);

- familiarization and acquisition in practice of the human and civil rights, freedoms and obligations is an important trend, means and organizational and organizational-legal form of human socialization in the local society (in the framework of the territorial community in which it permanently exists and functions) – it is here that socialization is transformed into the legal socialization, that is, from the process of the individual's socialization, as his possibility to reveal and implement his essential forces, which is of more complex, global character, related to the understanding of the human as a part of the Universe, all the creation in general, which as V.I. Vernadsky might have said, goes beyond the boundaries of the biosphere and is introduced into the boundaries of the noosphere (Gryshova et al, 2017b), being transformed into the law comprehension process as the universal regulator of the social relations, which is extremely important and, indeed, essential for streamlining the social relations and the stable organization of the human life cycle (the hu-

man rights phenomenology as the factor of the personality socialization in the local society. – Auth.);

– Ukraine has signed and ratified above sixty international conventions in the human rights sphere, making in this framework the corresponding international legal commitments, which must be enshrined in the national legislation and executed in the everyday activity of the public authorities. Several institutes of the human rights defense have been formed and are in operation in the country, among them there is the Ombudsman institute – the Commissioner for Human Rights in the Verkhovna Rada and his regional representatives, the Children's Ombudsman, the Ombudsman for the rights of entrepreneurs (the factor of the international legal dimension of the human rights and its installment in the national legislation through the establishment of the corresponding managerial executive institutions of the national public authorities. – Auth.);

– one of the today's priority tasks is the improvement of the legal awareness and legal culture of the population, especially young. There should be paid attention to, reflected and criticized as well, the very increase in the constitutional consciousness and constitutional culture of the population, which is directly embodied in the constitutional psychology formation. Thus, particular attention should be drawn to the solution of this problem on the state level. Moreover, there should be taken certain measures to achieve this ambitious goal – therefore the human rights teaching is of particular importance in the system of the continuing education (the factor of the human rights phenomenology impact on the formation of the individual and collective constitutional awareness, culture and psychology of the population. – Auth.);

– there should be outlined a strategic direction in the human rights sphere in the activity of all the public authorities: the efficient mechanism of human rights and freedoms security provision; the improvement of the national legislation on the basis of the generally accepted norms and principles of the international law in the human rights sphere; the elaboration of the mechanism of the strict adherence to the accepted laws and ensuring the rule of law in all the spheres of social life; the democratization of the judicial system by the implementation of the judicial-legal reform; thorough improvement of the activity connected with legal education, especially of youth, officials and with the improvement of their legal awareness and culture (the factor of the polyvariant effect of the human rights phenomenology on the key tasks and teleological dominants of the public authorities activity. – Auth.);

– the main task of the system of continuing education thereby is to bring to every pupil's and student's consciousness the fact that human rights are the society's highest value (the axiological factor of the human rights phenomenology. – Auth.);

– the state should take steps to sign about 400 international instruments relating to human rights, wherein the international legal standards, relating to human rights, are enshrined, with their priority over the national legislation recognized by most

countries of the world (international prospective factor of the human rights phenomenology effect on the national legislation system formation. – Auth.);

– in each country of the world there operates the human rights legislation system – its basis is formed by the country's Constitution, in which the human and civil rights, freedoms and responsibilities are enshrined in the separate section. The specification of the human and civil constitutional rights and freedoms is reflected in the national legislation (the factor of the national constitutionally legislative array of the state in the sphere of human rights formation. – Auth.);

– in the countries of the world, the human rights legislation consists of the following: the legislation in the sphere of personal rights: laws on freedom of conscience, appeals to the Court, etc.; the legislation on political and personal rights: laws on civil society organizations, political parties, elections, etc.; the legislation in the sphere of economic rights: laws of property, entrepreneurship, land, lease, privatization, consumer rights, etc.; the legislation in the field of cultural rights: educational laws, science, cultural heritage, museums, etc. (the factor of structuring and specialization of the national constitutionally legislative array of the state in the sphere of human rights.-Auth.);

– international acts (bilateral and multilateral) in the human rights sphere as a component of the national legal system. To the peculiarities of the human rights legislation in different countries at the present stage there may be referred:

A) the insurance of the legal guarantees for the full employment of human rights;

B) the development of the Constitutional Court;

C) the formation of international and national human rights institutions; the development of new democratic institutions, in particular the Institute of Ombudsman (the institutional support factor for the implementation of the national constitutionally legislative array of the state in the sphere of human rights.-Auth.);

– special attention to the human rights teaching in the system of continuous education is determined by the fact that human rights education involves:

a) the implementation of the system of effective measures aimed at the formation of the young people's knowledge and skills in the specialized field;

b) effective information on human rights;

c) formation and development of culture in this field;

d) training in this rights (in the context of forming appropriate stereotypes of behaviour);

e) propaganda of these rights (factor of the system of teleological dominant in the realization of the national constitutionally legislative array of the state in the sphere of human rights. – Auth.);

– in this sense, human rights education acts as an inalienable human right, which has special significance for:

a) observance of human rights;

b) reduction of human rights violations;

- c) creation of an effective system of prevention of such offences;
- d) the formation of a democratic legal state and just society;
- e) the formation of a general culture in the human rights sphere;
- f) the formation and strengthening of the international legal worldview in the human rights sphere (factor of direct influence of human rights on the awareness of their rights and responsibilities and on the formation and development of a particular personality. – Auth.);

– human rights education in Ukraine should pursue the following teleological dominants:

- a) the formation and strengthening of the respect for human rights;
- b) comprehensive development of the feelings of human values in the individual, citizen;

- c) ensuring the effective participation of everyone in the socio-economic, political and cultural life of society (the factor of the impact of human rights education on the formation and development of a specific personality.-Auth.);

– the action program in the field of human rights training sets tasks to assess needs, develop strategies, develop a national program, develop educational material, strengthen the role of the media, promote the Universal Declaration of Human rights, etc. (the factor of the impact of organizational and organizational-legal forms of human rights teaching on the effectiveness of such training. – Auth.).

Thus, the settling of the factors associated with human rights phenomenology and its strategic role and value in the existence and stable functioning of the human society makes it possible to outline the basic directions of support and provision of the studied phenomenology, namely:

- A) doctrinal provision;
- B) social welfare;
- C) normative support;
- D) institutional and structural support;
- E) substantive provision;
- F) resource support.

We believe that the totality of these factors is of the most significant importance in the formation of the strategy of human rights study in the educational field. Moreover, it is reasonable to consider that these approaches should be adhered to when working on the preparation of educational, methodological, methodical, didactic and propedeutic human rights materials. (Nenkov et al, 2017; Mussapirov et al, 2019; Petrova et al, 2018; Uteubayev et al, 2018).

The fundamental in this work is the preparation of educational and methodical materials on the discipline “human rights”, which must be mandatory in the field of school and higher educational forms. This is determined not so much by its importance as an additional means of legal socialization, but rather by the

possibility of purposeful and direct individual and individual-group theoretical and methodological assimilation and practical application of the relevant knowledge.

In addition, the discipline which should be submitted in high school and the first courses of the higher educational institutions has its own peculiarities, distinguishing it from all other special disciplines, which are included in the curriculum:

- the discipline “Human rights” has its specific, unique content which differs it from other academic disciplines, because its topicality includes social (moral, normative, political, economic, etc.) phenomena and objects that are objectively necessary for people to organize their everyday life, which form its meaningful content and define the life priorities – honor and dignity, human rights and responsibilities, their historical development, moral and philosophical, political and legal, cultural foundations, legal nature; measures preventing offences in the human rights sphere, restoration of the violated rights; the general nature of human rights guaranteeing and many other issues;

- in the framework of studying the discipline “Human rights” in the secondary education system the main attention should be drawn to familiarizing with the basic concepts of the human rights phenomenology, with their classification on the basis of subject-functional approach, with “generations” of human rights, with the key international legal standards relating to human rights and obligations of the national state on their implementation in the national legislation system, as well as with the order of the constitutional rights and freedoms employment, the fulfillment of the constitutional responsibilities by an individual as a citizen, that is with the basic postulates of the human rights theory, which studies the essence, genesis, historical development, system, content, guarantees of realization and importance of human rights as a social value;

- in the framework of studying the discipline “Human rights” in the higher education system the main focus should be on clarifying international and national human rights legislation, developing the practice of ensuring human rights by the case of the countries of the world. In this case, human and civil rights are studied on the basis of political and legal exercises in contextualizing the historical retrospectives. An important element of the study here is the comparative characteristic of the conformity of the national human rights legislation with the state's international legal obligations, as well as the systematic analysis of the international legal standards in the human rights sphere in contextualizing opportunities to improve national legislation and bring its norms in line with them;

- it should be understood that the discipline “Human rights” is complex, because it: a) is based on the achievements of all social sciences (the universal criterion. – Auth.); b) is a kind of systematic unity of philosophical, moral, legal and political knowledge (the complex criterion. – Auth.); c) has a large practicological potential, because it has “direct outputs” to the life situations that arise in the life of every individual – a citizen or any other, which has a different legal condition (the

praxeological criterion. –Auth.); d) is fundamental to building a reasonable and optimal system of communicative interaction of a person with other members of society, primarily local, that is, with the inner circle (the communicative criterion. – Auth.); e) contributes to the formation of the system of existential teleological dominants (the existential and teleological criterion. – Auth.);

- the key issue in teaching the discipline “Human rights” is to study all aspects of human and civil rights, freedoms and responsibilities;

- training in the framework of the discipline “Human rights” contributes to the effective assimilation of the knowledge and skills in the human rights sphere; promotion of the respect for a person, his rights, freedoms, honor and dignity; development of the skills of protection against offenses, realization of their subjective rights and freedoms;

- the given discipline has a great perspective, because it is supposed to involve the study of the human rights generations, the development of which proves that the catalogue and content of human rights are in a permanent state, including the rights of “the first generation” (having been constituted since XVIII – XIX cent., personal and political rights and freedoms); the rights of “the second generation” (having been constituted since late in XIX cent., socio-economic rights and freedoms); the rights of “the third generation” (having been constituted since the second half of XX cent., “collective” rights, undertaken by the communities, for example, the right to peace, healthy environment, etc); the rights of “the fourth generation” (having been constituted since 1980s, information human rights); the rights of “the fifth generation” (the process of the constitution began in the late 1990s and is still in progress, somatic human rights) (Kofman, 2019);

- in the process of studying the discipline “Human rights”, we consider it necessary to use the materials of the European Human Rights Program (HELP), developed by the Council of Europe in accordance with the recommendations of the Committee of Ministers of the COE (2004)²⁾, in order to assist the member states of this largest international regional organization uniting 47 states of the continent³⁾, in the implementation of the European Convention for the Protection of Human Rights and fundamental freedoms of 1950, the European Social Charter (revised) in 1996 and other European standards at the national level of by studying;

- to maximize the achievement of the goal it is necessary to widely employ the modern information-communication and pedagogical technologies, media and the Internet materials. Interactive methods of learning, independent search of knowledge by students, performance of various independent works, various forms of extracurricular work, as a rule, contribute to the increase of knowledge, skills and abilities of students. (Popova, 2016; Petrova et al, 2019; Jarmuševiča et al, 2018a; Jarmuševiča et al, 2018b; Linde& Petrova, 2018).

Summarizing the research on the strategy of the human rights study in education field, the following conclusions can be drawn:

– proceeding from the fact that the human rights phenomenology is recognized by the world community as “one of the higher values of human civilization, encompassing a variety of aspects of individual public life” (Baimuratov, 2009), the strategy of the human rights study in education is not only of national but also of international significance;

– the factor that actualizes the inclusion of human rights in the system of modern education is globalization as the factor of internationalization of national law enforcement and legal globalization as its new form, which is aimed at the unification of international and national approaches in understanding the role and significance of the human rights phenomenology;

– the factor that complicates the inclusion of human rights in the system of modern education is the presence of appropriate dichotomy in relation to this problem. On one hand, some of the representatives of the doctrinal and political circles deny its relevance, and, at the same time, the role of human rights is absolutized, and more specifically, the focus is on the political rights and freedoms of the person, while there is levelled the role and significance of other rights – civil, economic, social, cultural, ecological – which also play a significant role in the formation of a stable everyday life of a person;

– the main purpose of human rights education is seen as the formation of the humanistic worldview, a sense of humanity, civil responsibility, a deep understanding by people of all their rights, freedoms and responsibilities;

– the system of human rights training and education in democratic states is an alienable part of the process of education humanization, – and this process is aimed at increasing the attention to a person, conditioned by the growth of the requirements objectively caused by the real situation prevailing in the democratic legal nationhood activity;

– the strategic understanding of human rights education will greatly contribute to the improvement of the spiritual and moral state of society, as human beings, who have rights and can use them – represent the humanistic ideal, to achieve which should aspire not only every specific personality but all the nations.

NOTES

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✉ **Prof. Anush Balian, Doctor of economic sciences**

<https://orcid.org/0000-0003-2190-2022>

Vice-president

National Academy of Agrarian Sciences of Ukraine

Kiev, Ukraine

✉ **Dr. Nataliya Seysebayeva**

<https://orcid.org/0000-0002-6496-2554>

Zaporizhzhya National University

Zaporizhzhia, Ukraine

✉ **Dr. Natalia Efremova, Assoc. Prof.**

<https://orcid.org/0000-0003-0497-2619>

National University “Odessa Law Academy”

Odessa, Ukraine

E-mail: tigp58@yandex.ua

✉ **Dr. Liliia Danylchenko, Assoc. Prof.**

<https://orcid.org/0000-0002-7933-6185>

Odessa National Medical University

Odessa, Ukraine