

TRANSHUMANISM AS A LEGAL CATEGORY

Myroslava Bielova, Dmytro Byelov

DOI: <https://doi.org/10.61345/1339-7915.2023.6.1>

Annotation. The authors argue, transhumanism in relation to human somatic rights is characterized, firstly, by the belief in the possibility of creative transformation of the human body and nature by the people themselves, and secondly, by the belief in the possibility and permissibility of using the latest technologies to improve the human body and nature, - thirdly, in the conviction of the need to use the latest technologies in order to solve a number of problems with human health. The very new possibilities of man, which arose as a result of scientific and technical progress, become the source of an anthropological crisis. The transhumanism movement appeared on the basis of this crisis situation. At the same time, innovations, innovative processes and innovative activities require a thorough understanding. This especially applies to innovations focused on drastic changes in the human body and nature. At the same time, on the one hand, we intend to spread biomedical technologies for the “improvement” of man, which also implies in the perspective of creating a just and regulated community, on the other hand, these technologies themselves become an obstacle to this goal, generating new forms of inequality and injustice.

Key words: human rights, rights of the fourth generation, humanism, transhumanism.

1. Introduction.

The rapid development of science and technology, their achievements affect all spheres of social life, posing new challenges to humanity. All this, on the one hand, forces us to adapt to new realities, with another – transforms our worldview, forming an updated system of priorities, in fact, values. In the context of the above, the problem of “transhumanism”, which is gaining a global character, is of particular scientific interest. Scientific interest is also strengthened and explained both by the novelty of the issue itself and by its lack of research in domestic legal doctrine [1].

The main goal of transhumanism is the constant improvement of a person, based on the latest achievements of scientific and technical progress. To achieve this goal, transhumanism offers:

- to support technical progress;
- study the achievements of science and technology, timely prevent dangers and risks that may accompany the implementation of these achievements;
- expand the freedom of each individual person, using scientific and technical achievement;
- to remove as much as possible, and ideally to cancel the aging and death of a person, to give him the right to decide for yourself when to die and whether to die at all;
- oppose teachings and organizations that have goals opposite to the ideas of transhumanism.

2. Analysis of scientific publications.

First of all, let's note that the term “transhumanism” was proposed by the English biologist J. Huxley in 1957. Modern Western transhumanists consider J. Bernal, B. Russell, O. Stapledon, and P. Teilhard de Chardin to be their predecessors. The philosophical basis of transhumanism is the rejection of

the substantial paradigm of human existence and the transition to the functional paradigm, which originates in the philosophy of I. Kant and E. Cassirer.

In its modern form, transhumanism as a worldview that appeals to the achievements of science and technology was mainly formulated in the lectures of FM-2030 (F. Esfandiari). Contribution to its development in the 1960s and 1980s made by R. Ettinger, M. Minsky, E. Drexler. Among modern scientists promoting transhumanism, especially the issues of cloning, artificial intelligence, rebooting consciousness, cryonics, it is worth mentioning Oxford University philosophy professor N. Bostrom.

3. The aim of the work.

The authors set themselves the goal of revealing certain features of modern transhumanism as a legal category.

4. Review and discussion.

In the context of the above, it is worth focusing attention on such a new category of law (and not only) as transhumanism. It should be noted that the topic of the future person is one of the most acute and relevant today. Acceleration of the pace of life, the rapid flow of scientific and technical progress, global socio-economic, political and environmental problems prompted representatives of the humanities to offer options for a new philosophical and scientific understanding of the range of issues that concern the population to the greatest extent. Transhumanism is one of the most controversial futurological teachings today [2]. Representatives of this direction define transhumanism as a rational, based on understanding the achievements and prospects of science, a worldview that recognizes the possibility and desirability of fundamental changes in the human condition with the help of advanced technologies in order to eliminate suffering, aging and death and the need to significantly strengthen physical, mental and psychological capabilities a person [5].

D. Kovba and E. Hrybovod write that a number of questions arise before the scientific community as modern technologies (for example, genetic engineering, cryonics, artificial intelligence, etc.) appear, capable of changing the usual understanding of man and his nature over time. Technological changes are transforming the theory of humanism, expanding its classical postulates, and according to some scientists, replacing them altogether. The idea of transhumanism appears on the wave of another scientific and technological revolution, and as institutional and categorical integrity is formed, it becomes part of the modern information society. The need for a complex analysis of the phenomenon of transhumanism appears as a result of the search for ethical, value, legal and political mechanisms that determine the possibility and expediency of using new technologies, up to the radical modification of a person and the appearance of a "post-human" [6, p. 39].

Meanwhile, the so-called "cyborgization" of a person, i.e. the merging of the natural with the artificial, is already observed today. V. Emelin singles out two directions of modern cyborgization of man. The first direction is medical, aimed at helping a person who has lost any organs or their functions by replacing them with artificial implants or by implanting microchips. The scientist claims that today "approximately every tenth resident of highly developed countries has synthetic prostheses and implants – pacemakers, defibrillators, heart valves, knee joints, not to mention silicone implants." The second direction is based on the idea of modifying the capabilities of a healthy person with all kinds of technical additions that have direct contact with the human body. Today, these tools are most actively implemented in the military sphere [7, p. 63].

In modern scientific discourse, the issue of transhumanism is also actively discussed. B. Yudin tries to consider the relationship between transhumanism and humanism, to determine how these philosophical trends are related, whether transhumanism can be considered a continuation or a certain form of traditional humanism [8]. The problem of alienation through the prism of transhumanism as a direction of social philosophy is explored in the works of D. Davydov [9], O. Rybakov and S. Tikhonova [10]. D. Dubrovsky emphasizes neuroscience, namely the direction of "reading the brain"

as a way to overcome the global crisis of earthly civilization [11]. It should be noted that the ideas of transhumanism are raised within the framework of discussions devoted to academic biomedical ethics and the development of biotechnology. Thus, the research of R. Belyaletdinov is devoted to the philosophical and ethical analysis of biotechnologies and the risks that may arise, as well as to bioethics in general [12]. V. Kuttyrev expresses a sharp criticism of the ideas of transhumanism, continuing the rhetoric about the change of personality in the era of transmodernity [13].

Today, American scientists note the significant role of bioethics in the physiologically aging European society, in which elderly people predominate. They call for acceptance that population aging is morally important and causes ethical problems in many aging societies, consider the proposal to eliminate the problems of gerontosophy and social injustice with the help of biotechnology and the ethics of transhumanism. According to the American authors, bioethics, along with many other disciplines, can influence demographic changes and contribute to the struggle for political decisions that can improve the experience of aging and human life. This creates a concept of good citizenship in an aging society that goes beyond health care [14, p. 23]. In this regard, the term "concept of solidarity" is known in the medical literature as a way of implementing the requirements of justice and equal treatment in health matters. It includes such modern medical developments as health information databases, biobank, personalized medicine and donation of organs, tissues, cells and blood [15, p. 542].

Yu. Melyakova and S. Zhdanenko note that a separate branch of anthropological freedom is, in turn, freedom of pleasure. It stands at the forefront of all attainable freedoms of the posthuman [16, c. 126]. One of the main tasks of transhumanism, formulated at numerous international forums of the Association of Transhumanists and enshrined in its official declarations, is "increasing the level of human happiness", including by fighting against suffering. Among the recommended means of achieving pleasure are anxiolytics (means against fear and anxiety), analgesics (means against pain), entactogens and antidepressants (means for short-term suppression of negative feelings), doping and nootropics, as well as technologies expected by the scientific world, which will be assigned the task of increasing human satisfaction. Among these: telepresence systems, brain-computer interfaces, neuroprosthetics and brain modeling, transfer of the human "I" to a synthetic substrate – an artificial body (body-avatar), etc. [17].

The transhumanistic model of freedom does not at all resemble the moral freedom of humanism, since the anthropological concept and the entire system of values will be completely reformatted today [16, p. 126]. The ideal and goal of transhumanism, A. Horyachkovska points out, is a posthuman (she is also a subject of postpostmodernism) – a new biogenetic species, in theory modified and perfected to the absolute extent that it is able to abandon its own body and exist in non-metric verbal forms as informational structures in computer networks (as artificial intelligence, metamind) [17].

Thus, the space of freedom of a modern person is rapidly expanding, going far beyond the limits of social reality. The freedom of a transhuman includes his personal mental and neurophysiological states, biochemical and molecular-biological processes. Being their potential bearer, bearer and hostage, a person becomes their authorized moderator ("the right to dispose of one's own body") [16, c. 127]. Such a situation seems possible only against the background of the general trend of pragmatic identification of phenomena of immaterial nature as objects of market relations (that is, objects of possession, acquisition, purchase and sale). A person's abilities and attributes, which he possesses, can be as much a means of enrichment as his property. The same principle of commercialization became the basis for the legalization of biotechnological manipulations with the human body in principle, including the dead (commodification of it as a medical product and the subject of biotechnological tricks). The human body in its transhumanistic freedom becomes an attractive resource for economic investment [18]. The idea of the body as biomaterial and resource is based on the expansion of personal human rights, on the one hand, and on the tendency of total commercialization of all spheres of life, on the other (supply of biospecimens for banks, patenting of genes, existence (including illegal) of the market of human gangs and tissues) [19].

According to S. Ranish: "Transhumanism today is a slogan for various cultural, political, philosophical and digital movements that promote technofuturistic ideas of the transgression of human biology"



[20, p. 12]. Transhumanism, writes V. Vovk, was finally formed as a trend only at the end of the last century, defending the idea of victory over death and aging, choosing the latest technologies as a basis. The 20th century became revolutionary for European culture, as the following “turns” took place within its borders: scientific, linguistic, visual, etc., and at the turn of the 20th-21st centuries, the “anthropological turn” became characteristic, which manifests a qualitatively new attitude of a person to his own body, which emphasizes all manifestations of the flesh. Each epoch, each society concentrates its essence in ideologies, worldviews that express themselves in philosophy, in science, in legal systems, in literature, in art, in religion, in rules of conduct, as well as in their ideas about physical beauty, proclaiming the famous laws of beauty, thus constructing a type which they regard as ideal. Modern transhumanist tendencies, supported by technological progress, lead to the fact that “the body, as a soma, as a local autopoietic biosystem is annulled”, a person is not a “somatic automaton”, he “does not live according to the instinctive program that is generated by the body – the soma, – it is against the posited unity and non-contradiction of the natural world” [21, p. 69].

At the same time, Yu. Turyansky rightly points out, the doctrine of transhumanism, which provokes the restriction of individual freedom for the sake of hypothetical future ideals, also does not meet the legal standards of a developed society. Deviation to the idea of extremes is not an acceptable option, but finding the “golden mean” is very difficult, because the sphere of contact is too narrow. Law, public institutions and legal policy should determine the vector of development of a new generation of somatic rights. This requires not only a general strategic vector of the development of the latest technologies, but also scrupulous attention to each right from the somatic group, a clear indication of the acceptability / unacceptability of the opportunities provided to humanity by global technological transformations. In this regard, the statement that convergent technologies are the leading means of securing the future for humanity should be taken with caution. The revealed contradiction of goals and means makes it necessary to find a third way, which involves increasing the responsibility of a person for his own future, preserving his evolutionary biological certainty and the maximum realization of somatic rights [22, p. 130-131].

5. Conclusions.

1. Transhumanism in relation to human somatic rights is characterized, firstly, by the belief in the possibility of creative transformation of the human body and nature by the people themselves, and secondly, by the belief in the possibility and permissibility of using the latest technologies to improve the human body and nature, – thirdly, in the conviction of the need to use the latest technologies in order to solve a number of problems with human health.

2. The very new possibilities of man, which arose as a result of scientific and technical progress, become the source of an anthropological crisis. The transhumanism movement appeared on the basis of this crisis situation. At the same time, innovations, innovative processes and innovative activities require a thorough understanding. This especially applies to innovations focused on drastic changes in the human body and nature. At the same time, on the one hand, we intend to spread biomedical technologies for the “improvement” of man, which also implies in the perspective of creating a just and regulated community, on the other hand, these technologies themselves become an obstacle to this goal, generating new forms of inequality and injustice.

References:

1. Bielov D.M. Bielova M.V. Systema zakhystu prav i svobod liudyny i hromadianyna: doktrynalni ta normatyvni osnovy. Naukovyi visnyk Uzhhorodskoho natsionalnoho universytetu. Serii «Pravo». 2022. Vyp. 74. S. 85–90. [in Ukrainian]
2. Rohach O.Ia., Bielov D.M. Zmina suchasnoi paradyhmy ukrainskoho prava v umovakh viiskovoi ahresii z boku RF. Naukovyi visnyk UzhNU. Serii «Pravo». Vypusk 70(2). 2022. S. 136–141. [in Ukrainian]

3. Byelov D., Hromovchuk M., Berlinger D. Modern doctrine of constitutionalism and classification of human and civil rights and freedoms: some aspects. *Visegrad Journal on Human Rights*. 2021. Issue 3. S. 34–37.
4. Hromovchuk M., Transhumanism as a category of somatic human rights. *Visegrad Journal on Human Rights*. 2021. Issue 6. S. 40–44.
5. Vvedeniye v transhumanizm. URL: <http://transhuman.ru/biblioteka/vvodnyematerialy/vvedenie-v-transgumanizm> [in Russian]
6. Kovba D.M., Hrybovod E.H. Teoretycheskiye aspekty fenomena transhumanizma: osnovnyye napravleniya. Nauchny zhurnal «Dyskurs-Py». 2019. № 3 (36). S. 38–52. [in Russian]
7. Emelyn V.A. Kyborhyzatsiya y ynvalydyzatsiya tekhnolohychesky rasshyrennoho cheloveka. Natsionalnyi psykholohycheskyi zhurnal. 2013. №1 (9). S. 62–70. [in Russian]
8. Iudyn, B.H. Transhumanizm – nashe budushchee? *Chelovek*, 2013. (4), 5–17. [in Russian]
9. Davydov, D.A. Obrechenny humanizm? Razmyshliaia nad knyhamy Yu.N. Kharary «Sapiens» y «Homo Deus». *Svobodnaia mysl*, 2018. (6), 33–46. [in Russian]
10. Rybakov, O.Iu., Tykhonova, S.V. Problema otchuzhdeniya v sotsyalnoi fylosofyy ranneho transhumanizma. *Vestnyk Saratovskoho hosudarstvennoho sotsyalno-ekonomycheskoho unyversyteta*. 2012. (5), 196–200. [in Russian]
11. Dubrovskiy D.Y. Perspektivy neironauchnykh podkhodov k probleme soznaniya (v sviazy s narastaniem hlobalnoho kryzysa zemnoi tsyvylyzatsyy). *Fylosofskiye nauky*, 2018. (3), 99–109. [in Russian]
12. Belialetdynov R.R. Chelovek transhumanystycheskoho peryoda: novye kontseptsyy cheloveka v epokhu byotekhnolohyi. Hlobalnoe budushchee 2045. Konverhentnye tekhnolohyy (NBYKS) y transhumanystycheskaia evoliutsiya. 2013. 228–236. [in Russian]
13. Kutyrev, V.A. Kuda sdvyhat humanytarnyi vektor? *Humanytarnyi vektor*, 2012. 3(31), 9–16. [in Russian]
14. Berlinger N., Solomon M.Z. Becoming Good Citizens of Aging Societies. *Hastings center report*. 2018. Vol. 48. Attachment 3. P. 22–29.
15. Gould C. C. Solidarity and the problem of structural injustice in healthcare. *Bioethics*. 2018. Vol. 32. Issue 9. P. 541–552.
16. Meliakova Yu.V., Zhdanenko S.B., Posthumanystycheskaia kultura skvoz pryzmu estestvennykh prav cheloveka. *Visnyk Natsionalnoho yurydychnoho unyversytetu imeni Yaroslava Mudroho* № 3 (46) 2020. S. 128–144. [in Russian]
17. Horiachkovskaia A.N. Fylosofiya transhumanizma: o surrohatakh bytia, pokhshchenyy ydentychnosty y evtanazyi chelovechestva. *Visnyk Kharkivskoho natsionalnoho unyversytetu imeni V. N. Karazina. Seriya: Teoriia kultury i filozofii nauky*. 2014. № 1092, vyp. 50. URL: <http://periodicals.karazin.ua/thcphs/issue/view/209> [in Russian]
18. Poliakova O.V. Kommodityfikatsiya mertvoho tela: etyko-pravovye aspekty. URL: <http://cyberleninka.ru/article/n/kommodifikatsiya-mertvogo-tela-etiko-pravovyeaspekty> [in Russian]
19. Popova O.V. Chelovek, eho tsena y tsennost: k probleme kommodityfikatsyy tela v nauchnom poznanyy. *Epistemolohyia y fylosofiya nauky*. 2016. T. 49, № 3. S. 140–157. URL: <http://cyberleninka.ru/article/n/chelovek-ego-tsena-i-tsennost-kprobleme-kommodifikatsii-tela-v-nauchnom-poznanii> [in Russian]
20. Ranisch R., Sorgner S. L. *Introducing Post – and Transhumanism*. Frankfurt am Main: Peter Lang, 2015. P. 7–28.



21. Vovk V.M. Somatychni prava yak klaster yurydychnykh harantii «samovlasnosti» v konteksti transhumanizmu. *Filosofski ta metodolohichni problemy prava*. 2020. № 2. S. 68–72. [in Ukrainian]
22. Turianskyi Yu.I. Somatychni prava liudyny v suchasni doktryni konstitutsionalizmu: teoretyko-pravove doslidzhennia. *Dys. dokt. yuryd. nauk za spets. 12.00.01 «Teoriia ta istoriia derzhavy i prava; istoriia politychnykh i pravovykh uchen»*. Natsionalnyi universytet «Lvivska politehnika» Ministerstva osvity i nauky Ukrainy, Lviv, 2020. [in Ukrainian]

Myroslava Bielova,

doctor of legal sciences, associate professor

Department of Constitutional Law and Comparative Jurisprudence

Faculty of Law

«Uzhgorod National University»

ORCID: 0000-0003-2077-2342

Dmytro Byelov,

Doctor of Law, Professor,

Professor of the Department of Constitutional Law and Comparative Jurisprudence

Faculty of Law

«Uzhgorod National University»

Honored lawyer of Ukraine

ORCID: 0000-0002-7168-9488