

# PRINCIPLE OF HUMANISM AND HUMAN RIGHTS

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**Annotation.** Human and civil rights have emerged as a crucial legal institution, evolving through constitutional law, legal theory, and various legislative sectors. This institution gained prominence in the latter half of the 20th century, both nationally and internationally. It represents one of the most significant achievements in society's legal development, tracing back to ancient times and culminating in its current status as an essential feature of democratic, rule-of-law states.

However, the contemporary approach to democracy's principles is considered somewhat outdated. There's a global need to reassess established concepts and develop fresh perspectives on equality, justice, and protection.

The enduring stability of human and civil rights protection is rooted in scientifically and practically tested principles. This concept's viability and progressive nature stem from a blend of legal, moral, traditional, and other social regulatory norms. Such an approach helps prevent legal negativity from dominating the legal system and curbs legal nihilism and indifference.

Legal principles serve as indicators of law's development and starting points for legal regulation. They should reflect fundamental values, embodying the essence of "ideal" law. These principles aim to ensure ideological consistency in lawmaking, law enforcement, and overall legal order, guiding the legal system towards universal ideals like democracy, justice, equality, humanism, and individual freedom.

Humanism, as a legal concept, views humans as supreme, self-sufficient, and self-aware beings. It manifests in at least two ways: as a moral requirement for human behavior and as a recognition of human beings as the highest social value within the state.

**Key words:** human rights, constitutional principles, constitutionalism, humanism.

## 1. Problem statement.

Human and civil rights are the most important institution that has developed not only in constitutional law, but also in legal theory and other sectoral legislation. In the second half of the 20th century, this institution came to the forefront, both domestically and internationally. The institution of human and civil rights and freedoms represents one of the most significant outcomes of the legal development of society, from ancient times to the present day, when human rights have become an indispensable attribute of a democratic rule-of-law state. Adhering to the legal concept of human rights in its modern sense, T. Zhivulina writes, the Constitution declared the human, their rights and freedoms as the highest value. In modern states, human and civil rights and freedoms are guaranteed not only by the Constitution and other national legislation but also in accordance with universally recognized norms and principles of international law. This is an extremely important provision, as the universally recognized norms and principles of international law and international treaties of the respective state are proclaimed as part of its national legal system [1, p. 12].

The modern approach with declared principles of democracy is somewhat outdated, and the whole world needs to rethink the acquired and search for new approaches to understanding equality, justice, protection, etc.

The necessary stability of the concept of protection of human and civil rights and freedoms is achieved by relying on a system of principles tested by science and practice. The vitality and progressiveness of this concept are formed through a combination of legal, moral, traditional, and other socio-regulatory norms. Considering such an approach will prevent legal negativity from becoming a dominant phenomenon of the legal system and will restrain the onslaught of legal nihilism and indifference [2, p. 55].

## 2. Analysis of recent research on this topic.

The following domestic and foreign scholars have addressed the issue of clarifying the nature of the principle of humanism in their works: P.S. Berzin, V.O. Hatseliuk, K.V. Diadiun, S.H. Kelina, V.N. Kudriavtsev, M.A. Malyhina, V.V. Maltsev, V.O. Navrotskyi, V.D. Filimonov.

**3. The authors aim** to examine the peculiarities of implementing the principle of humanism, based on fundamental human rights.

## 4. Presentation of the main material.

The term "principle" (from Latin principium) means beginning, foundation. At the same time, a principle is what underlies a certain theory of science, an internal conviction of a person, a basic rule of behavior [3, p. 547]. According to V. Dal, the word "principle" means a scientific or moral beginning, a foundation, a rule from which one does not deviate [4, p. 431]. In legal doctrine, when defining the concept of principles of law, scholars use such categories as initial theoretical provisions, basic, guiding principles (ideas), general normative-guiding provisions, leading principles, regularity, essence, coordinate system, etc. Many categories are homogeneous. Therefore, principles are general, guiding (basic, main, starting, initial theoretical, general normative-guiding, directing) provisions [5, p. 41].

Thus, principles are a kind of indicators that demonstrate the degree of development of the law itself, starting points that show the vector of legal regulation. It is clear that the principles of law should reflect and express the basic values that the law is oriented towards, carry the basis of "ideal" law. The purpose of legal principles is to ensure the ideological unity of lawmaking, law enforcement, and legal order as a whole. They permeate the entire legal system of society, orienting its development towards universally significant, most valuable ideals: democracy, justice, equality, humanism, individual freedom, etc. [6, p. 44] Therefore, historically, principles precede in time the formation of a certain historical type of law. They serve as a kind of ideological plan according to which legislation is formed and the practice of its implementation is developed [7, p. 35-36].

Principles of law, as an important element of law, inherit this quality; in other words, principles of law are characterized by systematicity. In this regard, the thesis that "principles of law must be taken in a system" is absolutely correct [8, p. 155]. Outside of systematicity, organic interconnection and interdependence of the principles of law on the one hand, and their hierarchy and interdependence on the other, it would be impossible, or rather, meaningless to speak not only about their effectiveness but even about their social significance [9, p. 239]. The systematicity of the principles of law, according to V. Kolisnichenko, means both the presence of relevant components and their connection [10]. Therefore, this property of the principles of law sets the task of their classification.

It should be noted that today there is no single list of principles of law; each author highlights their own classification and adheres to their own opinion, but almost all scholars agree that principles are objectively inherent qualities of law.

For instance, V. Khropanyuk includes social freedom, social justice, democracy, humanism, equality before the law, unity of legal rights and obligations, responsibility for guilt, and legality among the basic legal principles [11, p. 215].

L. Yavich provided the most comprehensive classification of legal principles. There is a whole hierarchy of legal principles, in which there is a certain system and subordination. Legal principles and principles of law are constantly in dialectical development and formation. For example, the principles of the rule of law emerged long before the construction of the rule of law state and only in the process of creating new legislation in Ukraine found their reflection [12, p. 44].

Thus, the state's activity should be aimed at ensuring compliance with all established human rights and freedoms. It is quite obvious that all these legal axioms are designed to ensure individual rights and civil liberties. According to E. Trukhanov's correct assertion, the fundamental principle of law should be recognized as the principle of humanism, which is a social ideal according to which the human is the key value of a democratic society, and the leitmotif and goal of the entire legal system is to ensure their rights and freedoms. Humanism is the most fundamental principle of law, meaning recognition of human value, respect for dignity, ensuring necessary conditions and opportunities for observing their rights and freedoms, striving for their well-being as the goal of social progress. It is on how this principle is implemented in law, how deeply its meaning is comprehended by public consciousness, that the further development of law and all humanity as a whole depends [13, p. 27].

In modern philosophical literature, humanism (from Latin *humanus* - humane) is understood as a system of worldview guidelines, the center of which is the human, their personality, high purpose, and right to free self-realization. Humanism determines the liberation of human possibilities, their well-being as a criterion for evaluating social institutions, and humanity as the norm of relations between individuals, ethnic and social groups, states [13, p. 134]. Humanism as a feature of world culture has enriched ethical thought by recognizing the intrinsic value of human and earthly life. From here, the idea of happiness, justice, and equality of people gradually developed [14, p. 6].

There are many philosophical definitions of humanism. One of them defines humanism as the recognition of the value of human personality, their right to free development and manifestation of their abilities, the right to freedom and happiness, affirming human well-being as a criterion for evaluating social relations [15, p. 14].

Without aiming to study the history of this phenomenon's development, we'll just note that the most successful attempt to penetrate its essence is the dialectical opposition with its antipode - anti-humanism. Anti-humanism is, above all, restrictions that prevent the growth of creativity above the level considered usual in culture and society. It appears in the form of prohibition on innovations, in proclaiming the value and inviolability of certain dogmas. The specific content of human history constantly contains different directions of people. The history of humanity can be viewed as a history of the struggle between freedom and non-freedom, slavery, creativity - with its historical limitations. And the most important element of the content of the historical process is precisely the struggle between humanism and anti-humanism [16, p. 6].

According to S. Pohrebniak, in its essence, humanism is a worldview centered on the idea of human as the highest value, an ideology that focuses primarily on the positive aspects of humans while recognizing their negative aspects that require control and limitations. In the most generalized form, humanism is a philosophical, ethical, and natural-law principle that gives human the status of absolute value [17, p. 33]. At the same time, the cited scholar correctly notes that higher humanitarian principles, determined by the essence of society and human aspiration for a high, dignified position, are realized primarily in the values of natural law. However, the researcher notes, humanism, along with freedom, justice, and equality, is undoubtedly also one of the main principles of positive law. This must be taken into account during the creation, implementation, application, and interpretation of legal norms [17, p. 34-35].

The fundamental nature and universal recognition of the principle of humanism is determined by the system of its imperatives and sub-imperatives, its structural components. When considering the formal and practical aspects of implementing the principle of humanism, we inevitably face the problem of its polystructurality, because the implementation of this principle involves the need to implement its components [18, p. 25].

One of the components, in our view, is the state of the society's moral level; achieving the highest development of society is directly related to the level of development of a member of such society, a citizen, an official, etc. In a society with a high level of morality and ethics, it doesn't matter whether these rights are formalized or not, because the realization of human rights in such a society is natural [19, p. 35].

However, it should be noted that the category of humanism is not new. Even during the Soviet Union, the existing socialist law was considered the most humane law in the world, as socialism was seen as the most progressive world phenomenon. Soviet scholars saw the humanism of Soviet law primarily in the elimination of class and social antagonisms, as well as in the formally proclaimed fundamental rights and freedoms of Soviet citizens in all Soviet constitutions [6, p. 30].

## 5. Conclusions.

Humanism, as a legal category, is a worldview that considers human as the highest, self-sufficient, and self-aware value. Humanism expresses an attitude towards humans from at least two sides: it recognizes the social value of human personality and rejects everything incompatible with such an assessment. Therefore, humanism is a certain moral requirement for human behavior, that is, a certain category of moral recognition of human as the highest social value in the state.

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