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Theology-legal value of human rights through the prism of modern types of legal understanding

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Abstract

The need for human-oriented politics and the analysis of theology-legal phenomena through the prism of anthropocentrism and the theology-oriented dimension of law and the belief therein contribute to the relevance of the research conducted. The value of human rights is crucial because there is a wide gap between the constitutional provisions that proclaim the human dimension of law and the orthodox rules and actual social relations or level of state responsibility to a person for its activities. The purpose of this article is a theoretical study of the value aspects of law in the context of the pluralism beliefexisting in modern law. General and special scientific methods of scientific cognition were used in the article. The research results provide a comprehensive study and expanded theology-philosophical and legal analysis of law as a special phenomenon of human existence and its role in affirming

universal life values and orthodox rules. As a result of this article – expand theology and legal research and comprehensive study of law as a special phenomenon of human existence and its role in affirming universal values in life.

Keywords. human rights, legal understanding, theology concepts, types of legal understanding; theology-legal value of human rights.

Introduction

Human rights are recognized as a universal form of relationship between a human, society, and the modern state (Sarana et al., 2019). Human rights make it possible to determine the limits of human social possibilities and establish the institutional and social-legal mechanism for their realization. It is now generally globally accepted that civil, political, social, economic, cultural, and other human rights are not a gift from the government or political party or any group of people but an integral property of people, which belongs to them from birth regardless of race, skin color, gender, creed, religion, language, political, and other beliefs. In other words, human rights are natural rights that are equally enjoyed by all people from birth, including fundamental rights.

It is believed that human rights and freedoms are the basis of society, the state, and its constitutional order, and they lie at the core of civilization, and thus constitute the crucial component of the socio-cultural civilization system, which determines its style; socio-economic rights are the constitutional indicators of the state welfare. It is no coincidence that provisions on human rights reveal the text of constitutions and determine the attitude of the state towards a human. Meanwhile, the state is bound by human rights as its existence, social purpose, and value are determined by the extent to which it meets the urgent needs of citizens and ensures their rights and freedoms. The legal nature of human rights is expressed in the enshrinement of provisions in international legal acts, constitutions of states, and codified acts. Human rights are considered to be universal values, but their concept is complex and multifaceted (Rusnak et al., 2020). The purpose of many adopted international agreements and conventions on human rights is to establish harmonized human rights and freedoms. The answer to the question of what human rights are in the international dimension today is contained in the provisions of international humanitarian law in force.

The modern period of development of legal science (21 century) is marked not only by the rethinking of existing legal concepts but also by the active creation of numerous new approaches to legal understanding. An intensive comprehension of the accumulated theoretical background continues, new ideas and views are formulated, and science shifts dramatically toward various spheres of human activity. Rapid social transformations (digitalization, a departure from the norms and dogmas of the past millennium) and democratic processes in all spheres of the public life of independent Ukraine promote the integration of different types of legal understanding and generate both a radical revision of legal values and renewal of methodological approaches in determining the essence, content, and forms of existence of law (Ivashchenko et al., 2018). Such trends in legal understanding are quite positive but time-consuming. Legal understanding itself is the basis of legal science and practice, i.e., their ideological foundation. The complexity of legal understanding, its ambiguity, and the pluralism of its concepts are due to the complexity of the phenomenon of law and human existence and the peculiarity of globalization processes.

It is relevant to examine state and legal phenomena through the prism of anthropocentrism and the value-oriented dimension of law and the state, and the need for human-oriented

politics arises. The principle of anthropocentrism makes it possible to direct legal practice toward the solution of urgent problems concerning safeguards for human rights. The development of the theoretical thought about a human and law arose from the idea of human rights. Currently, human rights are of vital importance at the international and national levels, and scientific approaches to the essence, value, and functions of law require rethinking in order to ensure an effective mechanism for their implementation and protection in Ukraine. In this regard, the role of legal science and philosophy is growing, or to be precise, their interdisciplinary combination, such as the philosophy of law, designed to offer ways to solve pressing scientific and practical problems. It is expedient to resort to the philosophy of law and its sections, such as axiology and anthropology of law, when there is a need to deepen and expand research on human rights.

Many scientific works, including such scholars as S.Z. Kholodniuk (2018), L. Ryabovol (2019), M.O. Yelnikova (2015), Yu.V. Kryvytskyi (2016), O.O. Verbytska (2017) are devoted to the issues of value of human rights in the context of modern types of legal understanding. The purpose of this article is a further theoretical study of the value aspects of law in the context of pluralism of modern law.

Materials and Methods

The methodological determinant of this study was formed by a system of philosophical, general, and special scientific methods and principles of cognition (methodological pluralism, cumulative scientific knowledge, organic unity of theory and practice), which were used in combination to achieve the desired purpose. The foundation of the study of various issues related to the theology-legal value of a human was a general scientific dialectical method that objectively determined the substantive and essential characteristics of the phenomenon analyzed in the article.

Technical-legal, logical-semantic, and formal methods contributed to understanding the basic concepts and categories of the research. The axiological method revealed the content of such categories as “human rights values,” “axiology of human rights,” and “anthropology.” The use of the method of analysis and synthesis contributed to the fact that the essence of human social and legal value is clarified through their awareness of the importance of natural and legal values and the need to reflect them in law. The method of synthesis made it possible to emphasize the importance of scientific thought about the integration of the value aspects of legal understanding caused by different forms of law. The authors of this article applied the system-structural method to reveal and clarify the essence of human social and legal value, which was inherent in this or that type of legal understanding.

The authors resorted to the categories of dialectics (content and form, cause and effect, general and special) to characterize the content of human social and legal value in the natural legal type of legal understanding. Dialectics also helped reveal the normative and sociological aspects of the essence of human social and legal value. The use of legal anthropology made it possible to consider the essential characteristics of the value of human rights. The method of legal hermeneutics helped interpret the socio and legal value of a human in the context of modern types of legal understanding. The normative-dogmatic method was used to determine the main directions for improving the current legislation of Ukraine and the practice of its application based on the interpretation of the concept of the social and legal value of a human as the ultimate goal of the modern development of society.

A number of articles related to the research topic were also analysed, such as “The principle of anthropocentrism in the context of modern legal understanding” (Podkovenko, 2012),

"Classification of constitutional human rights and freedoms in the context of legal understanding" (Yelnikova, 2015), "Historical and theoretical principles of reflection of social and legal value of the person in modern legal understanding" (Kholodniuk, 2018), "Legal understanding as a scientific problem: some trends of the current stage of research" (Ryabovol, L. (2019), "The role of the principles of law in ensuring the realization of human values in the normative legal understanding" (Kholodniuk, 2017), "Legal understanding as a theoretical basis for the study of legal reform" (Kryvytskyi, 2016), "Anthropologism as a principle of philosophy of law in the context of modern legal understanding (Verbytska, 2017), "Human rights in the context of legal positivism" (Stadnik & Bondar, 2019).

Results

Law is an integral part of human life, characterized by natural qualities and features. These qualities affect the internal content of the law, determine its focus on particular universal ideals, and make it humane. Obviously, the meaning and content of the law are lost without a human, their interests, and their being. The existence of a human in the world of law is the basis and indicator of the civilization of the modern legal system. This principle should become the determinant paradigm of domestic legal science and practice. In this context, an important and interesting case is Ukraine's ratification of the Istanbul Convention (Law of Ukraine No 2319-IX…, 2022) - prevention of violence against women and domestic violence. This is another step towards improving the political image of Ukraine in the international arena as a country that consistently adheres to its obligations in the field of protection of human rights and fundamental freedoms in the context of the theology-legal significance of human rights through the prism of modern types of legal understanding.

While civilized countries (which adhere to the norms of international law and theological being) are bringing their legal system closer to international standards and declaring human life and the protection of their fundamental rights and freedoms as the highest value, the Russian Federation is regressing. In March 2022, Russia announced its withdrawal from the Council of Europe (Ministry of Foreign Affairs of the Russian Federation…, 2022) – the international community, the primary task of which is the coordination of the legislation of the participating countries in order to establish democracy and norms, the obligation to ensure the rights and fundamental freedoms of people under its jurisdiction. After withdrawal, Russian citizens will not be able to apply to the European Court of Human Rights, and Moscow will have no obligation to abandon the death penalty. In the context of the theology-legal significance of human rights, Russia demonstrated absolute nihilism and contempt for all norms of international law, the principles of the rule of law, and respect for human rights. It is worth noting that the legislation of the Russian Federation introduced the Institute for the Review of Decisions of the ECtHR even before the beginning of the large-scale invasion on February 24. This judicial institution was called to ensure the implementation of human rights guaranteed by the European Convention on Human Rights. Thus, the withdrawal of the Russian Federation from the Council of Europe is also a clear indication that the existing security model of Europe and the world has no significance for this state. Furthermore, this termination of membership in the Council of Europe confirms another important legal fact, namely Russia's opposition to the entire civilized world.

The interaction between legal science and legal practice should be qualitative. It is important not to lose a person as an individual and the highest value of existence in the context of large-scale globalization processes. Human rights are primary in relation to legal rights since their purpose is to create the minimum necessary living conditions for a human. Citizens' rights and freedoms as a legal formula are connected with the most general principles of the philosophical and ethical nature on which society is built. Therefore, the law should

maximally embody the idea of a human as the highest value through the normative-value system. After all, there can be no developed society without self-sufficient and full-grown individuals who create themselves and realize their potential (Kuzheliev & Britchenko, 2016). Although eternal values and ideals of justice, freedom, equality, and goodness are embodied in law, their content also changes over time; new facets, connections, manifestations, and dimensions appear and require in-depth understanding. Numerous new or changing factors influence the understanding of civilizational, religious, moral, national, and international aspects of the law. Today the tendency of substantial diversification of legal understanding is generally recognized. At the same time, this trend is quite understandable and justified. The modern pluralistic approach to the understanding of law makes it possible to identify and disclose its features that are necessary for the establishment of humanistic principles (Tatsyi et al., 2010). The pluralistic approach also helps raise the legal content of human rights and freedoms to a qualitatively new level and develop and implement a realistic mechanism for their protection. This approach necessitates the reorientation of legal science and practice to generally accepted civilizational ideals, which are based on the pluralism of modern legal understanding and take into account various aspects of human existence in a complex globalized society.

It is essential to connect modern truly democratic principles of the further development of society with practice. Thus, a value-based approach to the problem of human legal existence has emerged in domestic jurisprudence. The authors of this article believe the value approach to the problem of modern law is inextricably linked with the anthropologization of legal science and legal practice. The fact that human rights and legal remedies are becoming a priority issue contributes to the statement above. The rights and freedoms of a human and citizen are perhaps the only systems that can reconcile a person with the surrounding society and state and help overcome their mutual alienation. Under such conditions, the law acts as a categorical imperative when the free will (freedom) of one person is compatible with the free will of another in terms of the general law of freedom (Podkovenko, 2012).

Anthropocentrism, as a general philosophical principle, states that a human is the culmination of the evolution of the universe, its center, and the highest goal of everything that happens in the world. The essence of anthropocentrism is that the center of the universe is transferred from the problems of worldview to specific human problems. This understanding of a human is based on legal anthropology. Legal anthropology is a branch of the philosophy of law that studies a personal aspect of the law, including the relationship between a person and law, a person as an object of law and their requirements for law, the structure of personal values and law as a means of embodying these values in public life, human rights and their legal protection. If interpreted literally, the anthropology of law means humanized law. The authors of the article support this statement because law loses its meaning and purpose without a person and their self-realization. Philosophical anthropology is the foundation of moral and legal philosophy (Petrov & Serdyuk, 2008). As a methodological foundation of jurisprudence, it creates an opportunity to direct legal science and practice on the problem of human existence and the formation of a person as a legal entity and an equal subject of law among other subjects of law (Tavolzhanska et al., 2020).

Philosophical and legal research is characterized by a special approach to the essence of law and provides an opportunity to comprehend its boundless spiritual and moral potential. The above is due to the depth of accumulated knowledge about the nature and essence of law and the special methodological significance of the philosophy of law for legal science and practice. The importance of the philosophy of law for this research becomes obvious when referring to its sections, such as legal axiology, legal epistemology, and legal

anthropology. The use of scientific works of philosophical and legal sections helps focus on the reality of human interests, raises issues of their implementation, and strengthens the practical orientation of jurisprudence on human interests (Moreno-Lax, 2018).

Anthropologization of domestic law necessitates the involvement in the world treasury of ideas, theories, and concepts that have an anthropocentric and humanistic dimension and are concentrated within legal anthropology. It also helps to overcome the gap existing in the field of legal anthropology and harmonize and coordinate the development of social life. The anthropological search in law has a unique value since it provides an opportunity to understand the organic combination of maximum self-worth, individuality, and universality in each individual and to identify their common denominator. Legal anthropology is designed to provide the law with a human dimension, and this is due to both practical and theoretical needs. These two groups of factors have the same source - the right to subjective, individual freedom, which is one of the fundamental principles of modern society. The tasks of modern jurisprudence are to overcome the alienation of law from a human and to promote the maximum convergence of law with the civilized and cultural foundations of society and the individual (Yelnikova, 2015).

The anthropology of law combines the problems of law and general knowledge about a human. It is safe to say that the scale of the problems a person faces in the modern world allows the anthropology of law to become one of the leading branches of law in the 21 century. The principle of anthropocentrism should become the main principle in law-making and get priority in the activities of all state bodies. It should be the meaning of life of every person and become an imperative of modern social life. Law is an inherent property of a person; it is the basis of human life, which can be interpreted as a free choice of a free person. However, human freedom is reasonable, responsible, and conscious. It is the awareness, recognition, and perception of the freedom of other equal subjects of law rather than own freedom and desires. Only high legal consciousness and the intelligent nature of a human can determine the actual effect of the anthropocentrism principle, and Greek and Roman thinkers spoke about it many centuries ago. Thus, the anthropocentrism principle makes it possible to direct legal science and practice to the issues of modern state formation, their solution, and the creation of qualitatively new, humane legislation. Anthropocentrism is essentially a philosophical viewpoint which contends that human beings are the central or most important entities in the world. This basic belief is entrenched embedded in Christianity and most global philosophies.
Anthropocentrism should become an ideological basis and a value guide for everyone through the embodiment of basic humanistic ideas. Not until then will civil society and the rule of law become a reality, and a person with their rights and freedoms will be the highest social value (Ienca & Andorno, 2017). Christianity speaks of anthropocentrism as seen in Genesis 1:26-28 where it states that God made humans in his own image and that he gave them dominion over every living thing upon the earth. Consequently many ethicists find the roots of anthropocentrism in the Creation story related in Genesis in the Judaeo-Christian Holy Bible,

Legal anthropology, which studies a human as a social being in its legal dimensions, manifestations, and characteristics, can reorient modern legal science and practice to universal values and lead to their qualitative reassessment. A lawyer-anthropologist should be primarily interested in a person within a particular community with its autonomous, separate environment and real possibilities of legal existence and self-realization rather than in an abstract person. The anthropological aspect of the philosophy of law touches upon the problem of a comprehensive understanding of a human in the legal environment and the

explanation of legal phenomena and processes through justice, love, and other philosophical categories.
The rights and freedoms of a human and citizen are perhaps the only systems that can reconcile a person with the surrounding society and state, help overcome their mutual alienation, and create conditions for such an interaction. This is the ideal of relations, which is based on mutual recognition of each other as equal subjects of law and perception of and respect for mutual freedom. The central paradigm of legal anthropology is the proclamation of a human as an infinitely unique person with a distinct individual will, which is determined by natural desires, inclinations, needs, and special interests and goals. At the same time, a modern human does not imagine their existence outside the organized human society based on law (Yermakova et al., 2023). The law and all its manifestations constitute an integral part of the dignified existence of a human. It is worth emphasizing that only a clearly expressed, morally justified, and value-oriented law has a chance to be understood, recognized, and enshrined in the system of unconditional life and ethical guidelines of a human. However, the achievement of this goal is possible only with the recognition of legal pluralism, which defines both the state and a human in all spheres of social existence as the subjects of lawmaking (Kholodniuk, 2018).

The Constitution of Ukraine (1993) is based on a qualitatively new legal ideology, which, at the same time, should be the defining principle of national legislation. Human rights and freedoms and their guarantees determine the content and direction of the state. The state is accountable to a human for its activities. The promotion and protection of human rights and freedoms are the primary duties of the state. The Constitution proclaims economic, political, ideological, and legal pluralism. Legal pluralism manifests in the inclusion of universally recognized principles and norms of international law in the legal system and in the right of a citizen to apply to international bodies for the protection of their rights and freedoms if all national remedies are used. The anthropological direction of domestic law reforms contributes to the importance of appealing to the world treasury of ideas, theories, and concepts concentrated within legal anthropology since they help to overcome the gap in global legal science and harmonize and coordinate vectors of legal forms of social life (Cook, 2020).

The anthropological search in law has a unique value since it provides an opportunity to understand the organic combination of maximum self-worth, individuality, and universality in each individual and to identify their common denominator. The value of human rights and freedoms lies in their belonging to those material and spiritual goods that are the most important for a person. Their list is determined by the Constitution of Ukraine, including the right to life, the right to respect for human dignity, the right to liberty and security of person, and so on. The importance of human rights and freedoms as legal values is out of the question since they are the principles of branches of law that generate the principles of sectoral legal institutions. Thus, the modern science of law is characterized by a variety of different types of legal understanding, i.e., scientific knowledge and explanation of law as a relatively independent, holistic, and systemic phenomenon of the spiritual life of society. Since law is a complex and multifaceted phenomenon, the process of legal understanding as closely related to it is also complicated in nature and ambiguous in its content. At the same time, the axiom of modern jurisprudence should be the postulate that law is an indisputable value of human existence. This strengthens the foundations of civilization, such as freedom, justice, dignity, and the idea of a human as the highest value (Ryabovol, 2019).

Law represents both an instrument and an independent value of culture, which occupies a worthy place among its other values. These values are the basis of human existence and determine the content of their activity and their life-affirming truths. A perfect law can hardly

exist; there are no limits to its improvement, but there is law enforcement procedure, which "expresses the measure of freedom and justice that is protected in this society, and democratic procedures provide unconditional expression: moods, feelings, intellectual achievements of the people." The assertion of the law should be humane, which means the law declares a person as the highest social value. The law also confirms and affirms humanity. At the same time, the humanization of law is not possible without the humanization of a person, which presupposes the moral development of the individual, whose perfection has no limits. When the retrospective analysis of the main milestones in the evolution of legal anthropology is missed, the vast majority of leading experts in philosophy and theory of law are inclined to the following general conclusion: "The phenomenon of law is most closely related to a human, their essence, content." At the same time, the following dependence can be noted between law and a human: the law is a system of rules that makes normal human life possible, while the basic facts of human nature make such rules necessary (Dei et al., 2020).

Numerous objective factors of the socio-cultural and socio-political order determine the actualization of legal and anthropological research. Integration and globalization processes come to the fore among them, which are inextricably linked with the need to form a single legal field. The central legal paradigm should be human rights, the purpose of which is to create the minimum necessary living conditions for a human. This is the measure of a reasonable combination of personal and public interests, which absence makes the progress of civilization impossible. Therefore, the national legal system faces the crucial task of providing a person with decent living conditions (the right to life, the right to self-expression, the right to safe movement etc) through legal means that will contribute to the formation of a self-sufficient individual as the highest social value. The comprehensive development of a human and the improvement of their qualities will lead to a radical revolution in self-perception and increase self-responsibility and responsibility to society. In turn, the anthropologization of national legislation will lead to qualitative changes in the legal system and outline the vectors of legal policy (Kholodniuk, 2017).

The anthropological approach to the origin of human rights and their sources coincides with the sociological understanding of human rights. Social relationships condition human rights. Usually, the primary task of the anthropology of law is to substantiate the idea of law as a special normative order that takes into account human nature. The above, in turn, proves the necessity of a philosophical and legal understanding of current legislation and a human as a subject of law. The authors of this article believe anthropological, legal understanding is formed within the psychological, phenomenological, existential, and hermeneutic approaches. In other words, the law is perceived as a unique form of moral experience. Any type of legal understanding is based on the appropriate concept of nature or the essence of a human. A human constitutes the main subject of law and thus is its source and essence. Human essence, nature, and mind give rise to the law as an integral attribute of social life and make it a special phenomenon of civilization. All concepts of anthropological and legal understanding also include the principle of equality in their theoretical system. Along with the historical evolution of human nature, the idea of equality in law is being transformed and rethought depending on the extent to which it corresponds to legal and social reality. It is worth emphasizing that the anthropology of law was created to provide the law with human significance theoretically and practically. The current legislation has to overcome the dispute between law and a human and achieve the reconciliation of law with society and the foundations of its existence (Sikkink, 2019).

Proponents of classical natural law always argued and remained true to their understanding of human rights as inalienable properties of a person belonging to everyone from birth. In

other words, they are recognized as natural, integral, and sacred imperatives. Thus, such understanding of human rights can be generalized as follows: the natural right of a person is their subjective right; human or natural rights are fundamental and universal moral rights; human rights are essential, inalienable rights that belong to a person from birth; human rights exist regardless of whether the state recognizes and enshrines them or not. From the point of view of normative (legal) positivism, human rights are interpreted as formally defined, legally guaranteed opportunities to enjoy social benefits, as an official measure of possible human behavior in a state-organized society (Kryvytskyi, 2016).

Human rights are in the realm of abstract possibilities of the individual and the only basis for the acquisition of subjective rights. The above means they are only opportunities for possessing subjective rights based on objective law, which arises in a person only due to a legal fact of objective law. The brief interpretation of this approach to the understanding of human rights is as follows: political subjectivity belongs to the state in the relationship between a state and person, and the interests of a person are consistent with it, i.e., individual rights are the result of domestic consensus. According to Thomas Hobbes, the state is an observant eye of the rights of sovereigns, which they receive when founding a state (Loveland, 2018). According to the socio-positivist interpretation of the phenomenon of human rights, they are understood as the socio-natural needs of a human and their interests, conditioned by these needs; these rights exist and are realized in society quite naturally. Consequently, fundamental human rights are particular human capabilities that are necessary to meet the needs of their existence and development in a specific historical context and are objectively determined by the level of development of society and provided by the responsibilities of other actors (Loveland, 2018).

Within the framework of the positivist type of legal understanding, human rights are defined as formally defined, legally guaranteed opportunities to enjoy social benefits in the area described by law, as an official measure of possible human behavior. Positivists deny the existence of natural law or innate and inalienable human rights. They believe that human rights and their scope and content are determined by the state, which gives them to a human (Sergiienko et al., 2022). From the standpoint of such an approach, the rights and freedoms of a person, public associations, and society are deprived of objective and independent meaning and stand as symbolic benefits. Similarly, at the discretion of the rulers, these benefits can be taken back. Thus, the positivist concept of the rule of law and the social concept of the legal status of a person are based to some extent on the theory of granted right associated with a system-centric understanding of the state's role in relation to a person. Other priorities in the relationship between a state and a person are defined in the non-positivist concept of legal understanding. It follows from the theory of natural law that human rights and freedoms are inalienable and belong to everyone from birth. Rights are understood as objective requirements that arise from life or ideas reflected in customs and moral and legal norms (Verbytska, 2017).

Anthropological positivism, has as its primary goal the formulation of abstract and universal laws on the operative dynamics of the social order. A law is thus essentially a statement about relationships among forces in that order. an external expression of law, draws attention to a human and absolutizes legal consciousness. In this case, it is believed law belongs to the world of the human psyche, and its study requires concentration on human mental experiences, feelings, ideas, emotions, etc. According to this theory, the law is not considered a norm or legal practice but a manifestation of legal consciousness, a phenomenon of the human psyche influenced by external factors, including legislation. Imperative emotions are the idea of one's responsibilities, which is the content of morality, but the main thing for the law is the emotion of awareness of one's rights. At the same time,

the recognition of the priority of legislation, which enshrines the scope and procedure for the implementation of human rights, does not allow going beyond legal positivism. Anthropological positivism (biological and psychological) remains in line with the empirical-positivist approach since it is associated with empirical epistemology in a broad sense and represents state-legal positivism in a narrow sense.

From the standpoint of legal positivism, a human is perceived as a thinking animal, i.e., a creature endowed with the ability to understand orders, especially the ones supported by the threat of punishment. The mind of such a person, or rather the thinking, allows for formalization, which eliminates all their subjective features. People seem to dissolve in the formally rationalized reality of the norms of positive law; their existence in law is represented by an insignificant aspect of human nature - their logical and mental side. In legal positivism, the idea of natural human rights and freedoms does not make any sense because it operates with the concept of subjective law, which is considered to be derived from the objective law established by the state. Accordingly, all human rights and freedoms belong to a person only through the state and are realized to the extent and in the manner prescribed by the authorities. This position leads to a de facto denial of the highest social value of a human, whose rights and freedoms have no supremacy, which automatically finds its manifestation in the practice of law and is expressed in the predominant role of the interests of the state.

It should be noted that legal positivism, like any other legal ideology, involves the harmonization of the interests of different social groups and is formed by spiritual, ethical, theology-legal, and cultural searches of a human, society, and state. However, the genuine connection between being and consciousness can hardly be broken because the legal ideology will not reflect the legal reality objectively in this case. Such a situation will lead to the deformation of legal consciousness and imperfect and even erroneous legislative policy. Thus, the legal ideology should reflect the progressive ideological views of its era focused on socially significant and universal values, form a proper political and legal regime, and be interconnected with the socio-historical experience of society. Thus, positivists maintain that a law does need not be moral to be a law, but rather, the law should be observed essentially because it is the law.

A notable feature of today is that human rights, as a multifaceted phenomenon that develops in unity, have acquired the status of an integrated area of legal research, which is necessary for the development of general theory and branches of law. As an original social phenomenon, they have a kind of trunk, which makes their existence possible and forms their basis. Other anatomical components grew on this “trunk” in the process of evolution and formed a system of human and civil rights. Natural rights are the core that ensures the rights and freedoms of integrity, unity, indivisibility, inviolability, and inalienability of a person. After all, it is a genetic code, modified over time, taking on traces of a particular historical time, the formation of civilization (culture), and the development of law, the features of which, of course, affect human rights (Kivunja & Kuyini, 2017).

In order to understand the nature of human rights, it is necessary to interpret these foundations from different points of view, such as anthropological, theological, philosophical, historical, and natural law. Currently, the concept of human rights is increasingly considered in a combination of several approaches in the legal literature. The said concept is mainly examined within natural law, the legal positivist theory of human rights, and social ideas about human rights. Thus, the social function of rights is substantiated. Given the above, the general theory of law describes that the level of development of the state and law in a given society determines the degree and nature of human rights development. The state, law, and

human rights are not different in essence, functions, and purpose of concepts that function independently but are fundamentally one-order, interconnected social phenomena (Stadnik, & Bondar, 2019).

Thus, the explanation of human rights requires following not only different political and legal views but also diverse methodological approaches, which creates a variety of scientific interpretations, depth, and comprehensiveness of the essence of this concept. Human rights are usually seen as particular opportunities that are necessary for human existence and development in specific historical conditions; they are objectively determined by the achieved level of human development and should be equal for all. In other words, human rights represent a common and equal for all measure (norm) of freedom (possible behavior) necessary to meet the needs of their existence, development, and self-realization. One way or another, these understandings of human rights focus on their inherent features, which are as follows: the moral and legal principles of these rights, the extent of possible behavior, limits, legal facts associated with the exercise of certain rights, procedural and procedural forms of their implementation.

The authors of this article hold human rights should constitute a mandatory component of the activity of their bearer and reflect the process and result of opportunities of a person but should not turn a person into a passive dependent (the specific sound of this idea is transferred to socio-economic rights). However, one can hardly consider them only as particular desires or goals the state aspires to. The semantic diversity of human rights is manifested in their generic distribution. Their system is differentiated on various grounds: by spheres, by genesis and generations, by carrier subjects, and so on. In addition, human rights differ in the nature of implementation (human rights are implemented in specific legal or general legal relations), the order of implementation (human rights can be implemented independently or collectively), forms of implementation, etc. A person or citizen determines the procedure for exercising certain rights. Most first-generation rights are exercised in the following way: freedom of movement, freedom of speech, freedom of religion, the right to form public associations, etc. However, there are also human rights that do not require their bearers to take certain actions, for example, the right to life, the right to respect for dignity, and so on. However, the exercise of some human rights requires particular actions to be taken by the holder of these rights and the other legally bound party, i.e., the state and society. They provide for such a procedural form as law enforcement activities of competent public authorities and officials.

Discussion

There are modernization processes of legal doctrine in modern jurisprudence due to radical changes in the socio-political paradigm in the late twentieth century (Ibrayeva et al., 2018). Search for modern approaches to the understanding of law, review and analysis of already known concepts and theories of law, and the development of new models of legal understanding reflect an important stage in the formation of modern jurisprudence. Pluralism of modern legal understanding and various models of its interpretation create opportunities for an adequate reflection of the legal reality, the features of the national state, and law-making processes. At the same time, Ukrainian society needs a well-formed legal doctrine that would become fundamental for the relevant state-building processes.

Recognition of a person as the highest social value fundamentally changes the entire legal system, giving it new features and qualities. Among such features, it is necessary to note the following: change in the internal essence of law and theoretical approaches to its understanding; the increased role of the principle of justice as an essential feature of law; the

recognition of international law as a source of national law; the recognition of human rights and freedoms as the basis of progressive and stable development of the legal system; the formation and development of civil society as the basis of the rule of law; the involvement of international mechanisms for the protection of human rights and freedoms; deepened European integration processes, which have a positive impact on the development of the national legal system (Kochkova & Dei, 2020).

In the context of modern pluralism of concepts of legal understanding, the value aspect of law reproduces the constitutional position that a human is the highest social value. This fundamental principle presupposes legal consolidation and protection of the universally recognized values of human civilization, the list of which is gradually expanding and revealing all new facets of social life. Therefore, the concept of value in law is an interdependent concept of a human. The notion and content of value lose their meaning without a human or outside a human. Legal values, such as freedom, justice, formal equality (equality in law), democracy, humanism, and human rights and freedoms are meaningful characteristics of the law itself. They are essential features of law that make it what it is and define a person as a legal being. These values are decisive today but cannot exist or function for the sole reason that they are fixed at a specific state level or given a certain formality. However, a person should put some effort in order to implement these values. First, the above involves self-awareness as a legal entity, recognition of the value and strict observance of the law in everyday life, and deep inner conviction that compliance with the law is a common good of society. Not until then can civil society and the rule of law become a reality, and law as a universal and civilizational value will be a means of creating a full-grown person.

The complexity of legal understanding, its ambiguity, and the pluralism of its concepts are due to the complexity of the phenomenon of law and human existence and the peculiarity of globalization processes. At the same time, the axiom of modern jurisprudence should be the postulate that law is an absolute value of human existence. This strengthens the foundations of civilization, such as freedom, justice, dignity, and the idea of a human as the highest value. These values are the basis of human existence and determine the content of their activity and their life-affirming truths. Therefore, even though human rights are recognized as the highest social value in modern societies, these rights should become the central and determinative criterion of the human dimension of complex and often quite contradictory globalization processes (Shevchenko et. al., 2020).

It is also crucial to identify and develop the optimal version of legal understanding for modern Ukraine, which should focus on globalization and standardization trends but not lead to the loss of national and cultural features and traditions. The law should be historically determined and morally justified and act as a value system of social development. Furthermore, legal anthropology should become the basis for modern legal understanding and theoretical jurisprudence and take an appropriate place in the legal education and practice system.

At the present stage of rethinking the classical philosophical and legal concepts, it is worth paying attention to the value aspects of the law that underlie it. Law is a phenomenon that is inextricably linked to a particular being; it functions in the depths of life, moves in time, and changes with it. Although eternal values and ideals of justice, freedom, equality, and goodness are embodied in law, their content also changes over time; new facets, connections, manifestations, and dimensions appear and require in-depth understanding. Numerous factors that influence the understanding of law are also evolving, such as civilizational, religious, moral, national, international, etc.

Modern legal understanding is developing not without the influence of ethics, which has emerged as the latest version of the hierarchy of values in the form of ethics of responsibility. The essence of the new approach is to bring to the fore such values as freedom, justice, and human responsibility for their future in the system of values. At the same time, the principle of responsibility maximizes responsibility as an integrative value for all possible perspectives, such as temporary (think not only about today) and universal (think not only about yourself but your loved ones). The following imperative of responsibility has been formed: do so that a favorable future for the integral whole to which you belong will be ensured (Rao, 2018).

The integration of different types of legal understanding generates both a radical revision of legal values and a renewal of methodological approaches in determining the essence, content, and forms of the existence of law. Given the conditions of intensive state-building processes aimed at implementing legal ideals in public life, the above is fully justified. Evidence of this is the pluralism of theories, concepts, and doctrines in modern jurisprudence, characterized by the following (and other) approaches to the definition of law: normative (positivist), natural law, sociological, axiological, anthropological, and phenomenological. Each of these approaches absolutizes a specific aspect of the manifestation of law, such as technical and legal, spiritual and moral, social, value, anthropological, and communicative. These approaches, in their combination, provide an opportunity to perceive the limitless human potential of law. Today, the view of law is cultivated as a spiritual and cultural phenomenon, a formal and meaningful embodiment of the spiritual and humanistic dimension of human existence, and such higher spiritual values as justice, freedom, goodness, legal equality, respect for human dignity, common welfare, etc.

Conclusions

A civilized, progressive development of any state in the modern world is determined primarily by the value attitude to a human, which is expressed in the degree of their freedom, security of their rights, and the availability of effective mechanisms for the implementation and protection of these rights. The most significant value to be realized is the existence of human society and the life of each person as bearing value. Such values as freedom, equality, justice, humanism, and goodness play a fundamental role in social and personal life. Such rights as the right to life, liberty, dignity, inviolability of the person, and participation in political life are necessary conditions for the organization of human life in a civilized society and, therefore, must be recognized and protected by the state. In the process of the political and legal reform in Ukraine, one cannot help but see that domestic science is still slowly influencing the solution of complex problems of modern society and the implementation of its recommendations and conclusions in public practice. In this regard, Ukraine has recently experienced a growing interest in the philosophy of law; the subject of philosophical and legal research is expanding, and the need to analyze state and legal phenomena through the prism of anthropocentrism and the value-oriented dimension of law and the state is emphasized. Furthermore, the primary orientation of policy becomes human problems. Such a situation presupposes the need for expanded philosophical and legal research and a comprehensive study of law as a unique phenomenon of human existence and its role in affirming universal life values.

The modern science of law is characterized by various types of legal understanding, i.e., scientific knowledge and explanation of law as a relatively independent, holistic, and systemic phenomenon of the spiritual life of society. Since law is a complex and multifaceted

phenomenon, the process of legal understanding as closely related to it is also complicated in nature and ambiguous in its content. At the same time, the axiom of modern jurisprudence should be the postulate that law is an indisputable value of human existence. This strengthens the foundations of civilization, such as freedom, justice, dignity, and the idea of a human as the highest value. Law represents both an instrument and an independent value of culture, which occupies a worthy place among its other values. These values are the basis of human existence and determine the content of their activity and their life-affirming truths.

The approaches the authors of this article have considered to clarify the essence of the concept of human rights (and they, given the limited scope of the article, are incomplete) make it possible to conclude that human rights are defined as a concept and a system of principles that provide conditions for human existence, norms and traditions, a measure of freedom, a component of the legal status of the person, etc. At the same time, human rights are understood as the foundations of the constitutional order, civil society, and modern civilization. Given such approaches to understanding human rights and their interpretation, human rights can be defined as a concept that forms the basis for the freedom of a person and is closely linked to it. Human rights also reflect human dignity and worth and the claim to particular opportunities (subjective rights) that make this person's life truly dignified.

Thus, the authors of this article considered variants for understanding human rights, critically generalized the leading ideas, and came to the following conclusion: human rights represent a common and equal for all measure (norm) of freedom (possible behavior) necessary to meet the needs of their existence, development, and self-realization; human rights are determined by the mutual recognition of freedom by the subjects of legal communication in specific historical conditions, do not depend on their official fixation by the state, and need recognition and guarantee by the state. The authors of this article believe that this understanding of the concept of human rights is not universal but reveals their meaning and purpose, taking into account the existing features that cover all categories of rights, including socio-economic and environmental.

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