

міжнародних актів щодо захисту прав і свобод людини, прийнятих у період 1948-1980 років; саме ж українське законодавство в досліджуваній сфері почало формуватися у 90-х роках 20 століття, а українське судочинство лише з 2006 року почало активно враховувати європейську судову практику при ухваленні рішень, що стосуються досліджуваної проблематики.

Акцентовано, що ефективність правового урегулювання застосування негласної роботи правоохоронними органами залежить від здатності об'єднувати та спрямовувати позитивні чинники, які супроводжують дії правової норми, і блокувати ті, що перешкоджають. Розрізненість правових актів, які фрагментарно урегульовують правові засади застосування негласної роботи, негативно впливає на ефективність використання отриманих результатів у сфері боротьби із злочинністю, що пропонується вирішувати шляхом уніфікації їх положень з метою однакового застосування негласних методів правоохоронними органами у боротьбі із злочинністю у відповідності до європейських правових стандартів. Дотримання або ж виконання останніх для виключення умов провокації кримінального правопорушення (злочину) чи підбурювання до злочинної діяльності в частині урегулювання правової поведінки негласних працівників в злочинному середовищі є доволі проблематичним в умовах складної кримінальної ситуації, яка сьогодні склалася в Україні, оскільки лише пасивна поведінка негласних працівників не тільки не сприяє виявленню кримінальної активності і фіксації злочинних намірів співучасників, а, навпаки, здебільшого викриває їх перед злочинним світом, чим ставить під загрозу життя та здоров'я не лише негласних працівників, але й їхніх близьких.

Для підвищення ефективності боротьби із злочинністю в Україні обґрунтовується необхідність урегулювання на законодавчому рівні загальних засад допустимої правової поведінки негласних працівників в частині розширення меж їх повноважень із використанням активних форм викриття кримінальної активності осіб в злочинному середовищі.

Ключові слова: підбурювання, провокація, негласний працівник, правомірна поведінка, пасивне очікування

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FORMALIZATION OF HUMAN RIGHTS TO DIGNIFIED LIVING CONDITIONS IN INTERNATIONAL AND NATIONAL LEGAL ACTS

Abstract. The novelty of the article is to substantiate which living conditions should be considered as decent given the social orientation of the state economy, as well as as a figure of decent living conditions in terms of the main duty of the state to assert and ensure human rights and freedoms. The essential criteria of decent living conditions and their unification in the form of

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global indices of living standards and quality of life are clarified; the system of criteria (indicators) of decent living conditions in the context of three generations of human rights (tangible and intangible benefits) is considered.

It was found that at this stage among scholars and practitioners there is no in the understanding of the category of “decent living conditions”, there is no legal definition of this concept. The concept of “decent standard of living” is very illusory, relative and differentiated in different countries. Depending on the extent to which the rules of law established by the state correspond to natural rights and human freedoms, a measure of democracy and justice is determined. For the purpose of constitutional reform in Ukraine, it is expedient to apply innovative approaches to filling the construction the “right to decent living conditions” with content.

Decent living conditions are an integrated concept that encompasses many heterogeneous and non-quantifiable factors. This concept covers the totality of all forms of human activity and embodies the synthesis of material (adequate nutrition; clothing; housing; medical care; social services; improvement of living conditions; adequate housing; security; electricity; water supply; transport; communications, etc.), spiritual and creative aspects; life (the level of realization of the inner potential of man, his intellect, creative meaning of life, etc.). The development of society as a whole is more and more determined by the level of human knowledge and abilities.

The true meaning of the concept of “decent living conditions”, which comes from the existing in the public and individual consciousness of human dignity, social justice, freedom and equality should be understood as guaranteed and protected by the state natural and inalienable human right to own and enjoy sufficient tangible and intangible benefits. It is necessary to ensure the possibility of comprehensive implementation of its biological, social and spiritual needs.

The criteria for decent living conditions at the constitutional level are determined by the obligations of the state to the person. Inherent attributes of decent living conditions are unified global indices of living standards and quality of life. The system of criteria (indicators) of decent living conditions should be considered in the context of three generations of human rights (tangible and intangible benefits).

The system of criteria for decent life should contain two groups: 1) criteria that characterize the level of fulfillment by the state of its obligation to provide the decent living conditions for its citizens; 2) criteria that characterize the level of human performance of duties to live with dignity (lead a decent life). Since the first group of criteria for the decent life is determined by the obligations state’s to man, its essential attributes are such categories as a decent or sufficient standard of living and quality of life. Accordingly, this group of criteria, in turn, is divided into two subgroups: 1) contains criteria for a decent (sufficient) standard of living, which means an indicator that characterizes the quantity and quality of goods and services consumed by man, the degree of basic needs; 2) contains criteria that characterize the quality of life, which means an integrated indicator designed to characterize the social well-being of the individual, satisfaction with civil liberties, human rights, security of life, level of protection, realization of human potential, intelligence, creativity, etc.: the first block of indicators characterizes the level of adequacy of intangible benefits acquired as a result of the realization of human rights of the second and third generation; the second block – the level of satisfaction of citizens with intangible benefits acquired as a result of the realization of the rights of the first generation; the third block – the level of guarantee and protection of the right to a dignified life.

The second group of criteria for a decent life is subjective, their implementation already depends mainly on the person. This group of criteria is focused on a decent way of life, which means a way of life when a person not only has knowledge about the content of social norms accepted in society (moral, religious, legal, etc.), but also consciously fulfills them.

The duty of the state to ensure inalienable human rights is an integral part of the true meaning of the rule of law. There is a gradual formalization of the concept of decent living conditions in international and national legal acts. The principle of the rule of law and human rights are recognized by two aspects of the same principle – the freedom to live in dignified conditions. There is a definition of the range of inalienable human rights on the basis of the Constitution of Ukraine.

Keywords: *human rights, decent living conditions, index of standard and quality of life, three generations of human rights, rule of law*

Introduction. The constitutional and legal category of “decent living conditions” is used in the modern world as a human right and an integral characteristic of a legal state. The right to decent living conditions is aimed at ensuring dignity, reliable protection of rights and fundamental freedoms. The

decent living conditions in the preamble of the Constitution of Ukraine is among one of the main tasks of the state, the right to a decent life is possible only if the full range of rights and freedoms based on such inalienable and inviolable human rights as the right to life, personal dignity and freedom.

At this stage, among scholars and practitioners there is no unambiguity in the understanding of the category of “decent living conditions”, there is no legal definition of this concept. The very concept of “decent standard of living” is very illusory, relative and differentiated in different countries. Depending on the extent to which the rules of law established by the state correspond to natural human rights and freedoms, a measure of democracy and justice is determined. For the purpose of constitutional reform in Ukraine, it is expedient to apply innovative approaches to filling the construction the “right to decent living conditions” with concrete content.

The meaning of democracy is lost, and its stability is threatened when there is a lack of trust, the human person is devalued, human rights are narrowed. History has shown that a democracy without values very quickly turns into overt or covert totalitarianism.

In fact, the need to develop the integrity of the human person motivates us to uphold such high values that govern every organized and mature human society: truth, justice, love and freedom. The higher the well-being of citizens and the more consistently civil rights and freedoms are ensured, the stronger and more democratic the state is. Therefore, the state can be interpreted as a tool that provides and guarantees the personal and social search for good. The need for law and order in the socio-political life of society is due to human nature.

Analysis of recent research and publications. N. Rao and J. Min about the material preconditions for human well-being and the standard of living with dignity. Researchers have identified a set of universal material conditions for achieving basic human well-being, along with indicators and quantitative thresholds that can be applied to societies based on local customs and preferences. The problem of a decent standard of living is revealed in terms of basic justice, the approach to capacity and basic needs (2018).

A. Ayala and B. Meier developed a human rights approach to food and food security, in particular, identified legal mechanisms for the “domestication” of relevant international human rights standards through national policies. Recognizing food safety as a determinant of public health. The authors identified important links between the four main elements of food security and the regulatory attributes of the right to health and the right to food (usefulness, accessibility, acceptability and quality) (2017).

Some legal aspects of decent living conditions have been covered in the works of foreign authors. In particular, the concept and criteria of a decent life and the concept of a decent standard of living were developed by V. Barsukova and I. Pavlova (Barsukova, 2016, & Pavlova, 2015). A. Novikova revealed the issue of a decent standard of living as a factor in minimizing human rights risks and ensuring the security of the constitutional order (Novikova, 2018). G. Shajhutdinova researched the concept of a decent standard of living according to the European Social Charter (2012).

K. Casla argued that human rights and civic responsibilities are mutually reinforcing ideas in health emergencies. The author, based on rights and responsibilities, and taking as a starting point the principle of non-retrogression of human rights, justified the need to define positive commitments to protect and implement economic and social rights in response to a serious public health crisis (Casla, 2020).

I. Cruz, A. Stahel and M. Max-Niff revealed the issues of a systemic approach to development, based on the paradigm of human development (Cruz et al., 2009). D. O’Neill, A. Fanning, W. Lamb, and J. Steinberger have developed the issue of

the “good life” that intersects with decent living conditions (O’Neill et al., 2018).

Rejecting innovative subjectivist and cultural relativistic approaches, L. Doyal and I. Gough in their work “Theory of Human Needs” argue that people have common and objective needs for health and autonomy and the right to their optimal satisfaction (Doyal, 1991). Basson’s work highlights the problematic issues of the state’s obligations in international law related to the right to an adequate standard of living for people with disabilities (2017).

I. Ali’s research touches on the issue of personality traits that affect innovation among people and satisfaction with the perception of life (subjective well-being). The author proposed a conceptual model of life satisfaction (2019).

Our study also covered the aspect of sustainable global use of material resources according to the article by S. Bringezu. The author focuses on how a secure workspace for global resource use materials can be delineated based on available general economic material flow indicators (Bringezu, 2015).

It should be noted that the problem of the right to decent living conditions is one of the few studied, as evidenced by the lack of special monographic studies that would fully and objectively cover it. In addition, at the level of legal regulation, such an inalienable element of the true meaning of the integral concept of “decent living conditions of man” is missed, as a spiritual and creative feature that cannot be quantified.

The purpose of this work is to reveal some aspects of the concept of decent living conditions that have been formalized in international and national legislation.

Formulation of the main material. Decent living conditions are a value and a common duty based on a reasonable and moral social order. The provision of decent living conditions by the state is based on an understanding of the essence of the human person, which is made possible by recourse to natural law (principles and values prevailing in nature and society).

Human rights, in particular the right to decent living conditions, is constitutional protection and a natural dimension of constitutional development. In addition, this is fully consistent with the provisions of Article 29 of the Universal Declaration of Human Rights. It is worth nothing that its first part states: “Everyone has responsibilities to a society in which the full and free development of his personality is possible”. Therefore part 2 of this article states that the enjoyment of the rights and freedoms must be consistent with the rights and freedoms of other members of society. This, in turn, establishes a link between the rights and the observance of certain responsibilities (A. Novikova, 2018).

The understanding of human well-being follows from the philosophical tradition of Eudaemonia, in contrast to hedonism. Eudaemonia refers to the process of good living, prosperity, the ability to fully participate in society. It is necessarily a social process that takes place over time, so long-term sustainability is especially important for well-being. Another important characteristic of the so-called “good life” is that there is a clear distinction between needs and their satisfaction, between basic capabilities and specific functions (I. Cruz, A., Stahel, & M. Max-Neef, 2009).

There are now more than seven billion people on Earth. Mankind strives for happiness, health and prosperity. The UN predicts that by 2050 the world’s population will grow to 9.8 billion people. Our planet has “boundaries”, and their intersection endangers human life. The amount of resource consumption and its relationship to quality of life are extremely important issues. In a unique research published in Nature Sustainability, Dr. Daniel O’Neill and colleagues at the University of Leeds to address these issues by establishing the relationship between social performance and environmental pressures. Social indicators include basic needs such as food, electricity and sanitation, as well as more complex aspects of well-being such as life satisfaction. For each of the social indicators, have identified a domestic threshold that depicts a “good life” (O’Neill et al., 2018).

The definition of “food security” includes food safety, which is recognized as a key link between food and health. The food security has been outlined in

terms of “safe” and “nutritious”. The Food and Agriculture Organization of the United Nations (FAO) emphasizes the food safety an important component of food security. The provisions cited above defined food security in the world in 1996 at the Food Summit. Food security is closely linked to water, sanitation and hygiene. Lack of access to safe drinking water, sanitation and hygiene can lead to infectious diseases such as diarrhea and other intestinal diseases, which can significantly impair the person’s ability to absorb essential nutrients (A. Ayala, & B. Meier, 2017, V. Barsukova, 2016).

The principle of the rule of law presupposes the obligation of the state to ensure the inalienable human rights enshrined in the Universal Declaration of Human and Civil Rights, enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms, and the International Covenant on Civil and Political Rights.

The rule of law and human rights are inextricably linked. The rule of law is a mechanism for the implementation of human rights that contributes to the implementation of the principle of human rights. This inseparable link was fully recognized by Member States since the adoption of the UN Universal Declaration of Human Rights in 1948, which has proclaimed that “everyone has the right to such a standard of living, including food, clothing, shelter, medical care and the necessary social services, services necessary to maintain the health and well-being of herself and her family, and the right to unemployment, sickness, invalidity, widowhood, old age or other loss of livelihood due to circumstances beyond her control” (Art. 25) (United Nations General Assembly 1948). The provisions are rightly interpreted as the right to a decent standard of living.

The protection of human rights is one of the six basic criteria of the rule of law, which is approved in the document of the Venice Commission “Rule of Law Checklist”. In addition, such elements as: legality; legal certainty; prohibition of arbitrariness; access to justice; non-discrimination and equality before the law (The Venice Commission, 2016).

Some aspects of the concept of decent living conditions have been formalized in international and national acts. Constitutional and legislative regulation of the right to decent living conditions is consistent with international law.

Thus, in accordance with the content of paragraph 1 of Art. 11 of the International Covenant on Economic, Social and Cultural Rights, as well as Art. 25 of the Universal Declaration of Human Rights, decent living conditions include adequate nutrition, clothing, housing, medical care and necessary social services necessary to maintain the health and well-being of man and his family, as well as the right to steady improvement of living conditions (United Nations General Assembly, 1966).

International human rights law recognizes the right of everyone to an adequate standard of living, including adequate housing. The Committee on Economic, Social and Cultural Rights has issued several general comments explaining the components of this right: the right to decent housing (general comments 4 and 7), the right to food (general comment 12), the right to water (general comment 15), as well as the right to social security (general comment 19). Through these general comments, the Committee clarifies what criteria must be met in order to achieve a decent level of the right to housing, food and water and provides a single comprehensive interpretation of these rights in accordance with international law.

The problem of sufficient living space should be decided on the domestic level. National guidelines for minimum living space in rich but densely populated countries should be chosen as a guide. For example, in Taiwan, the recommended minimum living space ranges from 7-13 m² per person, depending on the number of members. In Korea, the minimum standard is 12 m² for one person and 8-10 m² for each additional member (N. Rao, & J. Min, 2018).

The Declaration on Social Progress and Development (Adopted by UN

General Assembly Resolution 2 542 (XXIV), 11 of December, 1969) reaffirms that the purpose of social progress and development is the continuous improvement of the material and spiritual standard of living of all members of society while respecting and exercising freedoms (Part II. Goals). All peoples and all peoples, regardless of race, color, sex, language, religion, nationality, ethnic origin, marital or social status, political or other beliefs, have the right to live in dignity and freedom and to enjoy the fruits of social progress and must in turn contribute to it (Article 1) (United Nations General Assembly, 1969).

According to Art. 14 of the Convention on the Elimination of All Forms of Discrimination against Women (as amended on 06.10.1999): “States parties must take all appropriate measures to eliminate discrimination against women in rural areas in order to guarantee the right to adequate housing, especially housing, sanitation, electricity and water supply, transport and communications” (United Nations, 1951). The Committee on the Elimination of Racial Discrimination recognizes the right of everyone, regardless of race, color, national or ethnic origin, to enjoy, inter alia, the right to housing, as well as the right to social security and social services (United Nations, 1951).

In addition, some documents aimed at protecting people in certain circumstances also contain provisions concerning decent living conditions. For example, the Convention relating to the Status of Refugees provides for the right to housing (Article 21), government assistance and support (Article 23) and social protection for refugees (Article 23). The right to an adequate standard of living is also enshrined in Additional Protocol № 1 to the Geneva Conventions, which deals with the protection of victims of international armed conflicts (Article 54, Protocol no. 2, Article 14).

International legal acts in the field of protection of the rights of the child also do not ignore the right of the child to a sufficient standard of living, although they do not contain the wording “decent standard of living”. For example, the provisions of Part 1 of Article 27 of the Convention on the Rights of the Child, every child is entitled to the standard of living necessary for his or her physical, mental, spiritual, social and moral development.

Article 28 of the Convention on the Rights of Persons with Disabilities deals with a standard of living. States Parties recognize the right of persons with disabilities to an adequate standard of living not only for themselves but also for their families. The Convention discloses the concept of a decent standard of living, which includes adequate food, clothing and housing, as well as the continuous improvement of living conditions. Contracting states are committed to take appropriate measures to ensure and promote the implementation of this right without any discrimination on grounds of disability (Y. Basson, 2017).

According to the World Bank findings (“World Disability Report”), there is a general perception that people with disabilities tend to be the poorest in their respective social contexts. The approach used to assess the level of poverty faced by people with disabilities cannot consist of a numerical assessment alone. It must take into account the distribution of resources, the level of inequality, and the level of social isolation. Only then can a balanced conclusion be drawn about the position of people with disabilities in relation to other members of the same society. It should also be noted that poverty in itself creates an additional exception. Thus, poverty and disability are not only interrelated but also cyclical, and it is this cycle that needs to be taken into account when implementing poverty reduction schemes for people with disabilities (Y. Basson, 2017).

The European Social Charter also uses the concept of a decent standard of living. In the context of the right to a fair remuneration (in paragraph 1 of Article 4) the Committee on Social Rights, which analyzes and collects data on the implementation of the Charter by states, noted that the very concept of “decent standard of living” is very illusory, relative and differentiated in different states. In

the fifth supervisory cycle, the Committee set a “limit of dignity”. The Committee has determined that the minimum allowable earnings should be 68 % of the average earnings in a given country. If the amount of earnings falls below this percentage, the Committee takes into account the availability of social, family and educational benefits, as well as tax benefits for those who receive low wages in the country (Council of Europe, 1996).

The International Labor Organization (ILO), the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO) have also dealt with specialized UN agencies with rights related to the standard of living. At the disposal of these organizations there are certain tools for the protection of appropriate standard of living. Notably, there were adopted such ILO documents as no. 117 on social policy and no. 169 on local and tribal people. The UN Guiding Principles on Refugees and Internally Displaced Persons require competent authorities to ensure safe access to : essential food and drinking water, housing, appropriate clothing and basic health services and sanitation.

It is worth to note that the appropriate physical and mental health are essential conditions for optimal social participation. Without such participation, mankind has no chance to prosper. We learn who we are and what we can do to people through our interactions with others. The level of loss of potential for such interaction due to physical and mental illness is growing. Not only our immediate health and well-being are at stake (L. Doyal, & I. Gough, 1991, p. 49).

The United Nations General Assembly adopted 4 of December 1986, the Declaration on the Right to Development, recognizing development as a comprehensive economic, social, cultural and political process aimed at continuously improving the well-being of all peoples and nations through their participation in development and equitable distribution.

In the final document of the United Nations Conference on Sustainable Development (Rio + 20) 2012 “The future we want”, the heads of state reaffirmed the importance of ensuring freedom, peace and security, respect for all human rights, including the right to development and the right to a decent standard of living (paragraph 8) (United Nations, 2012).

Attempts to expand the true meaning and specify the provisions of paragraph 4 of the preamble of the Constitution of Ukraine, namely the words “decent living conditions” were made in decisions of the Constitutional Court of Ukraine. In particular, the Constitutional Court of Ukraine has already applied such constructions as “sufficient standard of living for oneself and one’s family”, “right to a sufficient standard of living”, “ensuring the welfare of all citizens”, “(additional) guarantees of social protection”, “sufficient conditions life”, “a decent standard of living”, “creating appropriate conditions for the maintenance and upbringing of children”. The main problem is that socio-economic and cultural rights are recognized as inalienable, but their standard level is reduced too unacceptable to the people, but acceptable to the state.

According to technical and legal rules, the undefined notion of “decent living conditions” should be determined by using the well-known and established in world practice terms “standard of living”, “quality of life”. Quite often the legislator makes mistakes when trying to define certain terms, which are special legal constructions, and not well-known and widely used. The most notable common mistake is to define the unknown through the unknown. Thus, the concepts of “standard of living”, “quality of life” are part of the scope of the concept of “decent living conditions”, but do not exhaust it. “Standard of living” and “quality of life” are concepts that partially intersect, the volume of one is partially included in the volume of another and vice versa. In addition, the provisions of paragraph 4 of the preamble of the Constitution of Ukraine are systematically related to the norms that enshrine personal, political, socio-economic and cultural rights (Constitution of Ukraine, 1996).

In the basic law of Germany there are no formulations “decent standard

of living”, “sufficient standard of living”. At the same time, the articles enshrine provisions that indicate the social orientation of the state. For example, in Article 6 lists some state guarantees for families, children, and mothers. The situation is similar with the basic law of Estonia, which in Articles 27 and 28 only lists some aspects of the state’s obligation to support parents, children, and citizens in need of additional protection due to old age, disability, poverty, and so on. The Basic Law of Kuwait also enshrines the right of everyone to an adequate standard of living in Article 205, without deciphering what is necessary to maintain such a standard of living. Interestingly, the constitutions of Egypt and Morocco, on the contrary, do not contain general provisions on living standards, but establish those minimums that ensure a sufficient standard of living: adequate housing (Article 31 of the Moroccan Constitution), the right to water, healthy and adequate nutrition (Article 79 of the Constitution of Egypt) (A. Novikova, 2018).

It is obvious that the provision of a decent (sufficient standard of living) by the state depends on the available material resources. For example, countries such as Japan and Germany are currently developing policies to increase resource productivity. As the use of natural resources increases, so will social and environmental conflicts. Monitoring of such conflicts, for example through the Eject project, shows that many, if not most, of these involve human-induced materials, from mining and abiotic processing, or from biomass and land to waste management issues (S. Bringezu, 2015, p. 47).

It seems important to form a certain benchmark of the standard of living, which would be appropriate to the possibility of development and realization of the individual, as well as its involvement in cultural capital, based on general vision of the individual as a creative subject. This view, in our opinion, differs from the perception of an individual as a simple creature that consumes resources. However, such a vision contributes to the formation of some indicator that meets not only the basic needs of the Maslow pyramid, but also its “higher” levels.

At the same time, such an indicator should be limited due to the possibility of finding a number of resources that provide the opportunities described by us for the development and realization of personality. Nevertheless, without equating a decent standard of living with a standard of living that meets all the needs of the individual (which due to the unlimited needs is not possible to achieve), we make it possible to determine some indicator that corresponds to this level. This concept, it seems to us, should correspond to certain objective quantitative indicators (I. Pavlova, 2015, p. 198).

The most common ratings and indices of quality and living standards used in Ukraine and abroad are: Human Development Index (HDI); English Human Development Index (HDI); the Quality-of-Life Index, developed by the Economist Intelligence Unit, which is based on a methodology that links the results of subjective assessments of life in countries to objective determinants of quality of life in those countries; the study uses 9 factors of the quality of life to determine a country’s esteem (health; family life; public life; material well-being; political stability and security; climate and geography; job security; political freedom; gender equality); the prosperity index of the world according to the prosperity rating of the Legatum Institute (The Legatum Prosperity Index); Satisfaction with Life Index (SWL) was created by British analytical sociopsychologist Adrian White and is based on data from his methodological study of various surveys and indices on the level of happiness of citizens; The Happiness Index (HPI) is an international index that shows the well-being of people around the world.

It seems that the system of criteria for a decent life should include two groups:

- 1) criteria that characterize the level of fulfillment by the state of the obligation to provide decent living conditions for its citizens;
- 2) criteria that characterize the level of human performance of duties to live with dignity (lead a decent life).

Since the first group of criteria for a decent life is determined by the obligations of the state to man, its essential attributes are such categories as a decent or sufficient standard of living and quality of life. Accordingly, this group of criteria, in turn, is divided into two subgroups:

1) contains the criteria of a decent (sufficient) standard of living, which means an indicator that characterizes the quantity and quality of goods and services consumed by man, the degree of satisfaction of basic living needs;

2) contains criteria that characterize the quality of life, which means an integrated indicator designed to characterize the social well-being of the individual, satisfaction with civil liberties, human rights, security of life, level of protection, realization of human potential, intelligence, creativity, etc.: the first block of indicators characterizes the level of adequacy of intangible benefits acquired as a result of the implementation of human rights of the second and third generation; the second block – the level of satisfaction of citizens with intangible benefits acquired as a result of the realization of the rights of the first generation; the third block – the level of guarantee and protection of the right to a dignified life (V. Barsukova, 2016, p. 134).

The second group of criteria for a decent life has a subjective character, and their fulfillment already depends mainly on the will of a person. This group of criteria is focused on a decent way of life, which means a way of life when a person has not only knowledge of the content of social norms accepted in society (moral, religious, legal, etc.), but also consciously fulfills them.

The emergence of second-generation rights has influenced the concept of human rights, because their implementation does not depend on the absence of coercion, but on the wealth of resources. That is, if the first generation of rights is based on a negative understanding of freedom, the second generation of rights is associated with the justification of a positive concept of freedom. After all, a person cannot be politically free if he or she is economically dependent, and vice versa. Thus, the free development of man is possible only under the condition of “freedom from need” (V. Barsukova, 2016).

The concept of life satisfaction is fundamentally subjective, as each person has a unique set of criteria for what constitutes a full life. Although the concept of success in life has relatively more objective criteria, such as family, good health and a successful career, life satisfaction is strongly associated with unique human circumstances in seven key areas of life, including family, health, social relations, work, financial situation, self-worth and leisure (I. Ali, 2019, p. 40).

The Declaration on the Right and Duty of Individuals, Groups and Bodies of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms of 1998 freely speaks of individual responsibility for the protection and promotion of democracy, human rights and social and international order. This broad idea of citizenship is useful for understanding the difference between a legal obligation and a civil obligation. As individuals, we have a legal claim to certain rights and are obliged to respect the rule of law, even though the law restricts our rights, as this is necessary and proportionate (K. Casla, 2020).

Conclusions. Decent living conditions are an integrated concept that encompasses many heterogeneous and non-quantifiable factors. This concept includes the totality of all forms of human activity and embodies the synthesis of material (adequate nutrition; clothing; housing; medical care; social services; improvement of living conditions; adequate housing; security; electricity; water supply; transport; communications, etc.), spiritual and creative aspects; life (the level of realization of the inner potential of man, his intellect, creative meaning of life, etc.). The development of society as a whole is increasingly determined by the level of human knowledge and abilities.

The true meaning of the concept of “decent living conditions”, which comes from the existing in the public and individual consciousness of human dignity, social justice, freedom and equality should be understood as guaranteed and protected by

the state natural and inalienable human right to own and enjoy sufficient tangible and intangible benefits. These are necessary to ensure the possibility of comprehensive implementation of its biological, social and spiritual needs.

Criteria for decent living conditions at the constitutional level are determined by the obligations of the state to a person. Indispensable attributes of decent living conditions are unified global indices of living standards and quality of life. The system of criteria (indicators) of decent living conditions should be considered in the context of three generations of human rights (tangible and intangible benefits). The Rule of Law Checklist of the European Commission for Democracy through Law (Venice Commission), approved at the 106th plenary session of the Venice Commission (March, 11-12, 2016), is used as a tool to help to measure quality indicators of the rule of law, including on the basis of indicators to ensure decent living conditions for every citizen in the Member States of the Council of Europe.

The duty of the state to ensure inalienable human rights is an integral part of the true meaning of the rule of law. There is a gradual formalization of the concept of decent living conditions in international and national legal acts. The principle of the rule of law and human rights are recognized by two aspects of the same principle – the freedom to live in dignified conditions. Determining the range of inalienable human rights on the basis of the Constitution of Ukraine is problematic, as it enshrines inalienable human rights along with social, economic and cultural, which do not belong to the category of inalienable, but can be recognized as such only in the future.

Conflict of Interest and other Ethics Statements

The author declare no conflict of interest.

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ФОРМАЛІЗАЦІЯ ПРАВА ЛЮДИНИ НА ГІДНІ УМОВИ ЖИТТЯ В МІЖНАРОДНИХ ТА НАЦІОНАЛЬНИХ ПРАВОВИХ АКТАХ

Анотація. Метою статті є розкриття деяких аспектів поняття гідних умов життя, які були формалізовані в міжнародних і національних правових актах. Новизна статті полягає в обґрунтуванні, які умови життя людини слід вважати гідними з урахуванням соціальної спрямованості економіки держави, а також що є показником гідних умов життя людини в аспекті головного обов'язку держави затверджувати та забезпечувати права і свободи людини. З'ясовано неодмінні атрибути гідних умов життя та їх уніфікацію у формі глобальних індексів рівня життя і якості життя; розглянуто систему критеріїв (показників) гідних умов життя в контексті трьох поколінь прав людини (матеріальні та нематеріальні блага).

Гідні умови життя – це інтегроване поняття, яке охоплює багато різномірних і таких, які не піддаються кількісній оцінці факторів.

Дійсний зміст поняття “гідні умови життя”, яке походить від наявних у суспільній та індивідуальній свідомості уявлень про людську гідність, соціальну справедливість, свободу та рівність треба розуміти як гарантоване і захищене державою природне та невідчужуване право людини користуватися достатньою кількістю матеріальних і нематеріальних благ, необхідних для забезпечення можливості комплексної реалізації її біологічних, соціальних і духовних потреб.

Критерії гідних умов життя людини на рівні Конституції детерміновані зобов'язаннями держави перед людиною. Неодмінними атрибутами гідних умов життя є уніфіковані глобальні індекси рівня життя і якості життя. Систему критеріїв (показників) гідних умов життя доцільно розглядати в контексті трьох поколінь прав людини (матеріальні та нематеріальні блага).

Обов'язок держави – забезпечити невідчужувані права людини, які є складовою частиною дійсного змісту принципу верховенства права. Відбувається поступова формалізація поняття гідних умов життя в міжнародних і національних правових актах.

Принцип верховенства права і права людини визнаються двома аспектами одного і того ж принципу – свободи жити в гідних людини умовах. Визначення кола невідчужуваних прав людини на підставі Конституції України є проблематичним, оскільки в ній невідчужувані права людини закріплені поряд із соціальними, економічними і культурними, що не належать до категорії невідчужуваних, а можуть бути визнані такими тільки в перспективі.

Ключові слова: права людини, гідні умови життя, індекс рівня та якості життя, три покоління прав людини, верховенство права

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