

CLASSIFICATION OF FUNDAMENTAL HUMAN RIGHTS. RIGHT TO LIFE

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Abstract

The research of Human rights, their genesis, social roots has always been and remains an important problem during the mankind's historical development and continues to be the political, legal, or philosophical subject of the research. Human rights are being formed and developed with the development of mankind. The first codified laws, which include human rights norms, "Laws of Hammurabi", were established as early as 4000 years ago. It consisted of 282 laws and law was an unprecedented phenomenon in the ancient period of law artifacts, it is also considered to be the first version of the Code and contains the human rights norms.

From the principles and purposes of the laws of Hammurabi, it is expressed that human rights do not have anything in common with the content of the present human rights, but the existence of these laws played a major role in the development of the justice system. From the beginning, they were the development, refinement, improvement and harmonization of the justice acts during the human history. Human rights have an important place in the international treaties and conventions.

Keywords: Human rights, human freedom, justice act, sanction measures

The main features of the classic functions of human rights were set up by the well-known German lawyer Eleneque. In his opinion, human rights have the following basic functions: status negativus; status pozitivus; status aqtivus.

status negativus means individual's freedom from the state , the following status protects the free scope of the person, the basic rights of these terms shall be interpreted as the protective right.

According to *status pozitivus*, an individual has the right to require the state to carry out certain actions. The state should protect fundamental rights of not only government, but also others violation.

status civilus means the right of individual's participation in political activities (the electoral right and etc.). Politically significant freedom (freedom of opinion expression, right of meeting, etc.) are often referred to not *status negativus*, but *status civilus*, because the individuals are involved in the process of democratic formation.

International conventions impose negative and positive obligations on the state about human rights. If there were violations of the supported European conventions of human rights by the individual or legal entity, the State is obliged to ensure the effective protection of rights; otherwise, the state will be responsible for it.

The task of the main right is to bind the government. Its activity is acceptable within the framework of society, but there is no absolute freedom. Fundamental rights can be realized only within the specified limits. Although the possibility of restricting the main right of the text is often not considered in the Constitution, this does not mean that we are dealing with an absolute right. The main scope of the constitutional policing is determined at the beginning. The legislator cannot limit the scope of basic rights willfully, even if the constitution may consider such restriction for admittance. The

main limitation of the right is permitted under the public interest and the principle of proportionality. Proportionality principle means that the goal, which seeks the right to restrict, should be constitutional; an appropriate means for achieving goals and legal action should be acceptable; used means should be necessary to achieve the constitutional goals. Objectives and means should be with a reasonable ratio to each other.

Differentiation of human rights is possible in various ways, but in terms of their use it can be divided into three groups:

a. Inherent or absolute rights, which may not be limited in any condition, including the war and emergencies. These are: the right to life, torturing, inhuman and humiliating treatment or punishment prohibition, prohibition of slavery, prohibition of retroactive punishment;

b. reduced or relative rights - government may allow some limitations only during the war or emergency situations or existing definite circumstances, as a rule it is specified in the relevant article. It is not allowed to limit these rights with reference to the general public interest;

c. Rights that may be limited by the limited norms, such as, for example, public order, national security - and the public health and moral in peaceful time. These limited norms refer to the defined group and it does not require any special action to fulfill by the government.

Theorists of law divide the human rights into three main categories: political, social and economic. Such division of a system belongs to a well-known Czech lawyer Karel Vsaks who was the first Secretary-General of International Human Rights Institute in Strasbourg in 1979; Conditionally Human Rights are divided into four groups in the Universal Declaration of

Rights, the Georgian Constitution government classifies human rights into three groups: personal, social - economic and political.

Human rights has the most important place in all modern and democratic countries, therefore, if the rights are more guaranteed and larger by the state the people are more valuable for this country.

When we are talking about a concrete example of the human rights, we should consider the following two factors: the legal guarantees and protection of human rights and the actual implementation of it.

The most important source of Georgia's human rights and the recognition is constitution; the second chapter is dedicated to human rights and fundamental freedom. This chapter is recognized and guaranteed by the state as the most important rights and freedom such as right to life, freedom, inviolability of human honor and dignity, inviolability of freedom of speech, freedom of thought, conscience, religion, and others.

It is indicated in the 39 Article of the Constitution that the State does not deny other universally recognized human and citizens' rights and freedom, which is not mentioned in the Constitution, however, originally, they are based on constitutional principles. The Constitution establishes the means of rights protection, the system of court and provides other important principles.

The most important source of human rights are the international treaties with the constitution, the Constitution recognizes the power of the internal legal acts in relation to the prevailing law, or international agreements to which Georgia is a party. Its hierarchy is higher than inner state act.

Georgia is the participant of the following international agreements, declarations and Conventions: the International Declaration of Human Rights; European Convention of Human Rights and Freedom; the

Convention of Economic Social and Cultural Rights, Convention of Civil and Political Rights, Convention of Discrimination against Women, Convention on the Prevention of Torture and Inhuman or Degrading Treatment against the use of punishment; the Universal Declaration of the Rights of the Child, and others.

We draw attention to the following aspects in this paper: the right to life, right to the place of residence, the right of correspondence, the moving right and etc.

The basic issue is right to life, as well as the physical inviolability and human freedom. The rights protect the biological and natural basis of human existence

Right to life is the fundamental and absolute right which is not subjected to any deviations, except for cruelty during the military actions, as well as the execution of the death penalty imposed by a court of law for which the law provides a measure of punishment - the death penalty in some countries

To protect the right to life is the main task and the guiding principle of any State, according to Article 15 of the Constitution "life is the inherent right of human and it is protected by law. The death penalty is prohibited. Human life is the most valuable benefit, which determines its biological existence, and it would be impossible to use other rights without it, therefore the right to live is a logical precondition to all other rights and the protection of great value. However, the legal aspects of protecting the right to life consists of various components, including the most important death penalty, euthanasia and abortion issues

The death penalty, as the last resort of punishment was abolished in Georgia on November 11, 1997, adopted by Parliament by law "on the special act of the sentence - the complete abolition of the death penalty." The

adoption of this law was caused by the aspiration to become a member of the Council of Europe, and assert their human rights legislation to harmonize with European standards. On June 17, 1999, Georgia signed the 16th Protocol to the Convention for the Protection of Human Rights and Freedom, the death penalty in peace time, on May 3, 2002; Georgia signed a protocol on the 13th record of the abolition of death penalty. Also on March 22, 1999, Georgia acceded to the International Covenant on Civil and Political Rights, 2nd Optional Protocol on the “abolition of death penalty “, which came into force on June 22, 1999. Thus, Georgia with the inner state norms took the responsibility for the international obligations, which totally eliminated the death penalty as a special punishment in peaceful or war conditions, but the phrase “the death penalty until the final abolishment “remained in the constitution, which had the impression that the death penalty was not abolished that was withdrawn after the amendment in 2006, now harsh punishment - the death penalty is finally abolished. Based on the right to life the issue of euthanasia remains a matter of discussion with its legal, political, medical, ethical and religious aspects in the world. "Euthanasia means the painless killing of a human suffering from an incurable and painful disease. Word for word it means “calm, happy and painless death.” Euthanasia may be conducted by the active and passive forms, during the active euthanasia medical personnel or other persons can cause the death of a patient. For example, giving a lethal injection of a large dose of medicine, and switching other artificial breathing apparatus off. Passive euthanasia is the termination of the treatment of patients, non-interference in the disease process, despite the fact that some European countries legalized euthanasia; the European Court of Human Rights does not recognize its eligibility. Euthanasia with its active and passive forms is prohibited by the law. Euthanasia is not considered to be admissible by the Georgian legislation and the legitimacy of

euthanasia is not on the agenda. An important component of the right to life is the issue of legal regulation of the artificial termination of pregnancy and abortion. In accordance with Georgian Law – Article 139 in paragraph 2 "Health Care": Voluntary termination of pregnancy is permitted only in a licensed health care facility by the licensed doctor, if the duration of pregnancy is not more than twelve weeks, and if she had a preliminary interview in a medical facility and within three days of deliberation from the interview to the operation. The artificial removal of foetus is permitted in the specified conditions, if it is occurred in the breach, it is qualified as an illegal abortion, and the sanction measures are much lower against it than in case of deliberate murder of born children. Right to life is the inherent and guaranteed right by the Constitution and it is not allowed to limit it even in the emergency and during the war. Exceptional is the situation when life is considered to be a counterweight to life. For example, the state can eliminate a person's life being dangerous for others. In all other cases the state cannot do it by the only negative obligations to refrain from infringing human life, but also it has positive obligations to take all appropriate measures to ensure the lives of individuals under its jurisdiction.

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