

HUMAN PRINCIPLES OF LAW AS UNIVERSAL NORMATIVE FUNDAMENTALS (THE ISSUE OF SUBJECTIVITY OF THE UKRAINIAN PEOPLE)

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Abstract: Given that the law recognizes a system of social order, a means of social harmony, a way, and a means of preventing and settling disagreements, it is necessary to build the principles of law accordingly. The principles cover all legal issues: ideas, norms, and relationships, ensuring their logic, consistency, and balance. In addition, legal principles synthesize the world and historical experience of the legal development of the country and the world legal system. The purpose of the academic paper is to determine the scientists' standpoint in the public law sphere in Ukraine and European countries regarding the features of the principles of law as universal normative fundamentals in terms of their introduction in the practical implementation of the subjectivity of the Ukrainian.

Keywords: subjectivity of people, universal human principles, attitude towards a person, schools of natural law, universal principles of law, development of universal human values.

1 Introduction

The new trends in global social development that emerged at the end of the XX and the beginning of the XXI centuries assigned the jurisprudence several complex theoretical and practical tasks, the solution of which, to a great extent, depended on the choice of the strategic direction of further development of the society. The most important of these tasks is the determination of the substantive characteristics of the future world order, and the creation of the necessary mechanisms and procedures for its construction and functioning. The statement of the mentioned problem is also connected with the global transformation of the surrounding world in terms of actualizing humanistic ideas of its development.

Universal human principles are the main idea of law. Considering that this standpoint was and is of a rather important, general nature, it can be considered a fundamental legal principle. By historical conditions, legal principles are transformed into norms based on which social practice was formed, the core of which in recent decades is the humanistic legal principle.

In the theoretical part of the present research, the concepts, components and features of establishing universal principles of law are substantiated.

The practical part of the research includes establishing the features of the order of emergence and formation of universal principles of law. It clarifies the most defining universal principles of legal regulation. These principles are essential for considering the issue of the subjectivity of the Ukrainian people. They are a priority from the perspective of the importance of their observance as the principal normative principles of the subjectivity of the Ukrainian people. It also contains the importance of different ways of implementing the universal principles of law from the viewpoint of their practical reflection in the norms of Ukrainian legislation.

The survey results have made it possible to reach conclusions regarding certain aspects of the emergence and formation of universal principles of law.

In particular, the questionnaire has proven that universal principles of law should be sought in the texts of legal norms with the help of logical thinking, analysis and search for social-economic ideas containing legal principles, the presence of which in legal norms is one of the fundamentals of the law-governed state. At the same time, the most defining universal principles that are important for considering the subjectivity of the Ukrainian people are the recognition of human interests as the highest social value, and the recognition that all people are born free and equal. The questionnaire has also proven that the basis of universal legal principles is primarily their democratic and humanistic tradition, and, to a lesser extent, historical continuity. During the research, the respondents also determined that introducing the universal principles of law into the Ukrainian national legislation was particularly important. The Verkhovna Rada of Ukraine agreed to the binding nature of Ukraine by an international treaty in which these principles are enshrined and their consolidation in the regulatory legal acts of Ukraine, primarily in the Constitution and laws of Ukraine.

2 Literature Review

The fact of enshrining the humanist idea in the legislation of Ukraine makes it possible to talk about the existence of universal legal principles as the main prerequisites for forming the legal base. The development of legal science and practice in Ukraine in recent decades is based on universal principles enshrined in the legislative text (Kisselburgh, L. & Beever, J. (2022).

The principles of law reflect the fundamentals of the legal system, its development trends, on which the law should be based. Universal human principles of law reflect its objective characteristics, determined by the laws of development of a specific society and its historically inherent interests, needs, contradictions and compromises. On the other hand, legal principles reflect the subjective perception of law by members of society, their moral and legal viewpoints, feelings and needs, which are expressed in various doctrines, theories and directions of legal understanding. Therefore, the principles of law should be considered considering both the unity and specificity of its norms, as well as the positions developed in legal and philosophical sciences regarding the general concept of objective and subjective law (Pech, 2022), (Winkler, 2022).

The attitude towards a person characterizes universal human legal principles as the highest value. The following provisions of the humanistic legal concept stand out as principles, namely:

- a person should not be a means of achieving a goal;
- all people are born free and equal;
- a person has the right to personal integrity;
- no one can be found guilty of a crime other than by a court decision (presumption of innocence);
- implementation of rights by a citizen should not violate the rights of other citizens (Ripple et al., 2017).

It is important to note that the essence of these principles is formed throughout the history of law; they have been applied in different historical conditions indicating a certain regularity of their development (Grabowska-Moroz, 2022).

Universal principles of law are not based on an arbitrary social order but on the legal system, considering its democratic and humanistic orientation (Elsuwege & Gremmelprez, 2020).

The general state legal doctrine of Ukraine examines the basic principles of law, in particular:

- the rule of law, which should be defined as the official recognition of the existence of law outside institutional forms;

- an equal and fair measure of freedom, which is formulated in generally understood and applied norms for self-regulation of social relations;
- ensuring the internal balance of the legal system, integration and differentiation of its elements;
- consistency of the features of the legal system and the legal structure in general;
- justice, humanity and democracy of legislative and judicial power (Niemi, 2021).

The unification of universal ideas contributed to the formation of a particular system of legal principles at the global level due to their causality by the international, supra-national, and pan-civilization stages of development. In the scientific, legal literature, considerations are expressed that, taking into account the features of legal principles as a specific legal category, they embody the world experience of permitted development, the experience of civilization and universal human values (Stein & Bantekas, 2021), (Grossi, 2022), (Donnelly, 2022).

The purpose of the research is to determine the standpoint of scientists conducting scientific activities in the field of public law in Ukraine and European countries regarding the specifics of the practical implementation of universal principles of law as universal normative fundamentals of the subjectivity of the Ukrainian people.

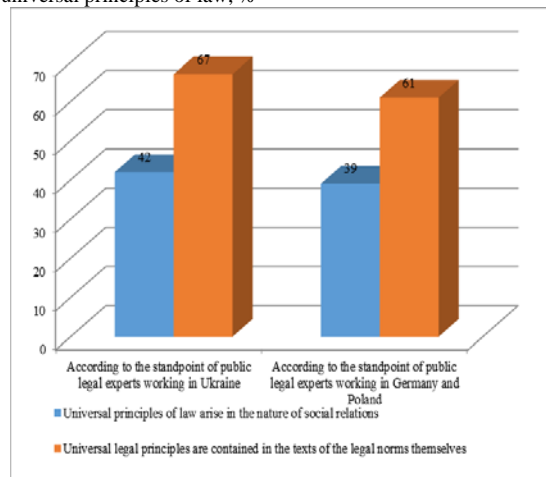
3 Materials and Methods

A practical study of compliance with universal principles of law when considering the subjectivity of the Ukrainian people was conducted by surveying 611 practicing lawyers in the field of public law in Ukraine, Germany, and Poland. The survey was performed using the SurveyNuts service.

4 Results

During the survey, the scientists' standpoint regarding the nature of universal law principles was clarified (Figure 1).

Figure 1. The nature of the emergence and formation of universal principles of law, %



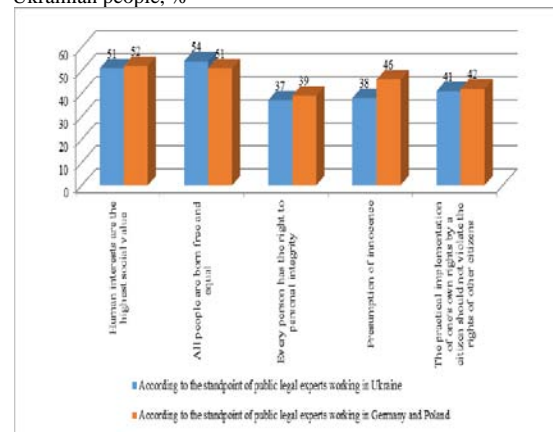
Source: compiled by the authors

According to the survey participants' standpoint, currently, in the conditions of rapid globalization and the active formation of the legal sphere, universal principles of law, both from the viewpoint of scientists working in Ukraine and legal experts conducting scientific and practical activities in European countries, should be sought in the texts of the legal norms themselves with the help of logical thinking, analysis and search for social-economic ideas containing legal principles. According to the respondents' standpoint, such a positivist understanding of law is one of the fundamentals of the law-governed state.

One of the critical issues to be studied in the process of surveying is the study of the most defining universal principles that are important for considering the subjectivity of the Ukrainian people (Figure 2).

A critical issue to be studied in the survey process is establishing priorities of certain aspects of universal principles from the perspective of the importance of their observance as the principal normative principles of the subjectivity of the Ukrainian people (Figure 3):

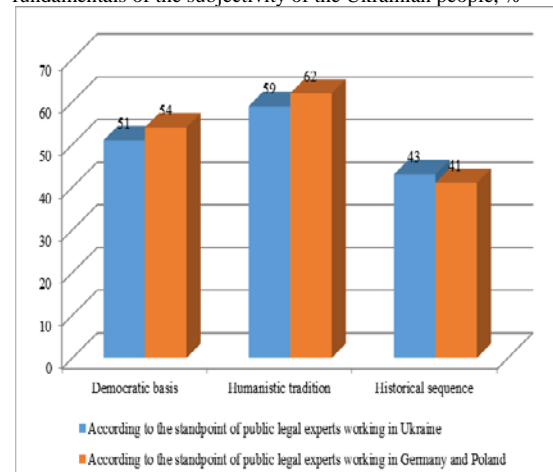
Figure 2. The most defining universal human principles that are significant for consideration of the issue of the subjectivity of the Ukrainian people, %



Thus, as can be seen from Figure 2, these principles are as follows:

- human interests are the highest social value;
- all people are born free and equal.

Figure 3. The main aspects of universal principles from the perspective of their observance as the main normative fundamentals of the subjectivity of the Ukrainian people, %



Source: compiled by the authors

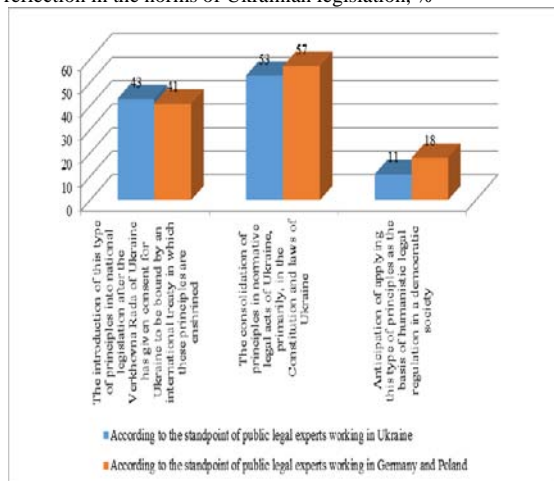
Therefore, the survey has proven that, from the viewpoint of legal experts, the basis of universal legal principles is primarily their democratic and humanistic tradition and, to a lesser extent, historical continuity.

In the course of the research, the respondents were asked to determine the role played by different ways of introducing universal principles of law into Ukrainian national legislation (Figure 4).

5 Discussion

In legal principles, the element of generalization inherent in the idea, which goes beyond the partial one, can be very clearly traced. Then the principles turn into norms, being embodied in them. A law can be considered legal if it embodies democratic legal principles. Principles permeate the entire law enforcement process. Legal principles combine the result of legal development; incorporate the inseparable connection of the past, present and future (Tran & Jarvinen, 2022).

Figure 4. The importance of different forms of implementing universal principles of law from the perspective of their practical reflection in the norms of Ukrainian legislation, %



Source: compiled by the authors

Universal human values, as a rule, constitute a value-normative system established in the process of the formation and development of the society, reproducing the results of the natural interaction of ideals and interests of all social strata and groups of society or the world community (Beqiraj & Moxham, 2022).

They act for the national legal system as the principal normative principles on which the legal system as a whole should be based, and their implementation ensures the development of the society in the context of universal human values, taking into account the best international legal experience (Andrade, 2021).

National and universal human values are natural values that by their nature and significance, are global (problems of peace, disarmament, international economic order, etc.). The highest values include, in particular, material, spiritual and social-political values that have national and universal significance, namely: peace, human life, values of the social order, ideas of justice, freedom, observance of people's rights and responsibilities (Zyberli, Schaffer, Lingaas & Madrigal, 2022).

Universal human principles are basic legal principles, ideals determined by a certain level of global development of civilization, which progressively embody the products of the legal history of humanity and are widely recognized in international normative documents. These principles include, in particular, as follows: protection of fundamental human rights and freedoms, equal legal status to the state and the law, the rule of law as an act of normative expression of the will of the highest representative body of state power or direct expression of the people's intention, the unity of legal requirements and the fulfillment of duties by people and other subjects of public life, the administration of justice by independent courts, application of legal liability only in case a person is guilty, having committed an unlawful act (presumption of innocence of a person) (ECC, 2019).

It should be emphasized that the introduction of universal human principles into national legal practice takes place, in particular:

through Ukraine's fulfillment of international obligations (universal legal principles enshrined in international treaties applicable to Ukraine and generally recognized principles and norms of international law are established); as a particular perception of elements of the advanced global or European experience of legal regulation without a formal legal basis; in the process of bringing the legislation of Ukraine in line with the bill of interstate regional communities, in particular, the European Union (general principles of law set out in the General Principles of European Union Law) (Council of the European Union, 2020), (ECC, 2019).

It should also be taken into account that universal human legal principles, unlike all other norms requiring national implementation, require their concretization in the national legal system. They need a mechanism for transferring such principles from a high abstract level into accordance with national legal conditions (Hansen, 2022), (MacDonald & MacDonald, 2020).

In the international and domestic law of democratic states, human rights are considered the highest legal interest, and their provision is a priority of the state. One of the most significant matters of state security is the issue of ensuring compliance with the rights and freedoms of a person and a citizen. A system of legal norms cannot claim to legal status if it is not supported by the guarantee of liberty and equality of human and citizens' rights. Therefore, human rights are traditionally considered in legal literature in the context of the law-governed state and the rule of law (O'Brien, Ferguson & Marisa McVey, 2022), (Lorion, 2019).

6 Conclusions

Therefore, the analysis of the scientific literature on the research topic and the questionnaire results have determined that the consistency of the legal system with universal legal principles, their consolidation in national legislation and their application in legal practice is a criterion for defining a democratic and legal state. As a legal state, Ukraine strives to enter the world and European legal space, which requires the implementation of these principles in national legislation and legal practice.

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