

## **Protection of rights as a type of social activity: concept, content, forms**

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**Abstract.** The article sets out the task of substantiating the understanding of the protection of human rights as a social need caused by the processes of deformation of law. According to the authors, this need unfolds into a special type of social activity - human rights activity, which is meaningfully correlated with different elements of the functioning of law and is aimed at establishing human rights as a social reality. The author points out the inadequacy of the approach to human rights activities, as generated exclusively by the facts of violations in the field of human rights. A distinction is drawn between human rights activities and law enforcement activities.

**Keywords:** human rights, protection of human rights, human rights activities, content and forms of human rights activities, human rights activities and law enforcement activities.

Protection of human rights and freedoms is one of the most widespread terms in the public consciousness, which is used in the political aspect, when, for example, they talk about the protection of the rights of refugees and internally displaced persons; in the sociological aspect, when discussing the protection of the rights of women or minors; in the economic aspect, when they talk about protecting the rights of the poor or protecting the rights of equity holders; in the international aspect, when they raise the issue of protecting the rights of the Russian-speaking population in other countries.

The specific meanings behind these aspects of human rights protection may vary depending on the stage of development of society, the historical situation; attention to them sharply increases in a crisis situation and is often artificially fueled by irresponsible political structures or sensationally unhealthy mass media.

However, this multidimensional, transient and sometimes superficial meaning does not eliminate the key issue of the social and legal nature of the protection of human rights, which is enshrined as an independent principle by the world community in the main international documents on human rights, primarily in the Universal Declaration of Human Rights adopted by the UN General Assembly in 1948.

The protection of human rights is enshrined in documents of the constitutional level of civilized countries, including the Declaration of the Rights and Freedoms of Man and Citizen, adopted by the Supreme Soviet of the RSFSR on November 22, 1991. In the Constitution of the Russian Federation of 1993, art. 2 states that "a person, his rights and freedoms are the highest value. Recognition, observance and protection of human and civil rights and freedoms is the duty of the state."

Why, along with the recognition and observance of human rights, a special type of social activity appears - the protection of human rights, is it necessary for the existence and development of society, what are the main elements of the content and forms of this type of activity - we will try to give at least thesis answers to all these questions in the proposed material, based on the characteristics

of the current legal system, primarily Russian, and the achievements of legal science.

At first glance, it seems that the reasons giving rise to the need for the protection of human rights lie exclusively in the field of delinquency.

So, according to the interpretation of V.M. Raw, the human rights activity of the state and its bodies is a response to violations of the legal order committed in society and begins from the moment law enforcement and other state bodies begin to actively combat illegal acts, the conditions and reasons that give rise to them. Consequently, "the object of human rights activity is the sphere of illegal acts" [1, p. 426].

V.M. Syrykh also offers a list of goals that the state is guided by in the implementation of human rights activities, namely: 1) suppression of committed offenses; 2) ensuring the real execution of violated subjective rights; 3) identification of persons committing illegal acts and taking measures of state coercion against them; 4) proper execution by the guilty persons of measures of criminal or administrative punishment, disciplinary or civil liability; 5) the adoption of preventive measures against persons who have committed objectively illegal acts [2, p. 427].

This position undoubtedly deserves attention, since violations in the field of human rights, indeed, give rise to the need for the reaction of society and the state in the form of protection of violated rights. However, does this aspect cover other social circumstances that give rise to the need to protect human rights?

How to deal with those situations when there is a public need for the recognition of human rights, but the right is not recognized. Let us refer here to a classic example of non-recognition of the right to private entrepreneurial activity in Soviet times, although private entrepreneurial activity itself in various forms existed in the form of flea markets, sewing clothes at home, underground consumer goods workshops, etc. There is no offense here, but there was a need to protect such a right.

Or how to interpret situations when the law, on the one hand, is enshrined, but does not operate due to the fact that it is not specified in the current legislation. Let us cite here as an example the constitutional right from the Soviet era to judicial appeal against the actions of officials, which was not implemented for a decade due to the absence of a concretizing law. There is also no offense here, and the need to protect human rights is clearly revealed.

Let us take another situation when a right is enshrined in legislation, there are concretizing normative acts, but there are no social conditions for the realization of this right. An illustrative example is the constitutional right to housing in the Soviet era, which was unrealizable in clearly defined forms. Formally, there seems to be no offense, but the need to protect the right arises.

We believe that the emergence of the need to protect human rights is associated not only with offenses; it has a broader social base and appears as a need to assert human rights as a social reality at different stages of the functioning of the content of law.

Law, aside from the details of the various proposed concepts, in the end is a special type of social activity aimed at streamlining, settling the most important social ties by forming general rules of behavior, their coordination among themselves, various forms of implementation in the behavior of subjects of social life, revealing facts offenses and implementation of legal responsibility. All of the above elements form a single content of law, with the adequate functioning of which a balance of interests of the main social forces is achieved, the stability of social ties and conditions are created for the normal functioning and development of society.

Human rights constitute one of the directions of the functioning of this integral content, which acquires a special meaning and significance due to the fact that it affirms the status of a person in social reality as the highest value of a civilized society and determines the possible forms of realizing a person's creative potential as the main driving force of modern society. It is clear that the need for

the protection of human rights can arise at any stage of the functioning of the content of law, from the formation of a legal need and ending with the maintenance of the required law and order if there are appropriate reasons.

The reasons that lead to deviations from the normal course of the deployment of the content of law in the field of human rights can be summed up in one term - these are various kinds of anomalies of law. They can be objective factors that are associated with an insufficient level of development of a given social system or special historical circumstances - economic, financial and political crises, wars, epidemics, etc.

But mainly the anomalies of law are associated with subjective factors, with the fact that law, including in the field of human rights, is created by specific people who have a certain level of legal culture, possessing a given set of legal knowledge and a degree of legal experience. It is also impossible not to pay attention to the fact that people who create law in social life have their own private economic and political interests, adhere to a certain ideology and moral convictions. Among these powerful social factors, legal needs, including in the field of human rights, which are of a universal nature, do not always become dominant and determine the vector of development of society.

Making a conclusion, we state that the protection of law has its source in certain social needs and its emergence is associated with various kinds of anomalies that arise during the development of the content of law in the field of human rights. The need to protect human rights in the event of anomalies is realized through the implementation of human rights activities, the purpose of which is to assert human rights as a social reality. It is important to emphasize these points, since they are key to understanding the peculiarities of the protection of law and human rights activities, the content and forms of the latter.

It has already been said that human rights activities cannot be reduced to responding to certain violations of the current legislation. Human rights activities, according to their goals, have a broader content and refers to the entire process of the substantive structure of law, starting from the formation of legal needs, the

creation and coordination of legal norms, their implementation, the identification of the facts of violations and the implementation of legal responsibility. It refers to this whole process to the extent and in that part, in which at various stages of the deployment of the content of law, anomalies appear that impede the assertion of human rights as a social reality.

Human rights activity in its form is aimed at eliminating these anomalies and creating conditions under which the process of asserting human rights as a social reality could be carried out in accordance with the social conditions achieved by society, the level of development of public consciousness and legal culture.

Human rights activities in terms of content and forms in the public consciousness, and often in legislation, are used in a meaning close to law enforcement. For example, Article 45 of the Constitution of the Russian Federation says that "state protection of human and civil rights and freedoms in the Russian Federation is guaranteed." Article 46 - that "everyone is guaranteed judicial protection of rights and freedoms". But article 52 introduces the term "protection" - "the rights of victims of crimes and abuse of power are protected by law."

In the Code of Criminal Procedure of the Russian Federation, the terms "protection" and "protection" are enshrined in Art. 6, which provides for "protection of the rights and legitimate interests of persons and organizations who have been victims of crimes", as well as "protection of an individual from illegal and unjustified accusations, convictions, restrictions on his rights and freedoms." At the same time, Article 11 of the Code of Criminal Procedure of the Russian Federation is called "Protection of human and civil rights and freedoms in criminal proceedings".

In scientific thinking, a scatter of positions is also noticeable in the ratio of human rights activities and law enforcement activities. So, A.V. Malko considers human rights policy to be a special kind of law enforcement policy [2, p. 16]. N.V. Vitruk considers justified the identification of the concepts of law enforcement and

legal protection, using the term "protective and protective public activity" [3, p. 366].

E.V. Janusz writes that "the concepts of "law enforcement" and "human rights activities" may be identical, but the resolution of this issue depends on the subject of the encroachment. If we are talking about the protection and protection of the law itself as a regulator of social relations, then these concepts are identical. If we are talking about the protection of the subjective rights of citizens, the restoration of violated rights, then the concepts are not identical and "law enforcement" does not include "human rights activities", since the first is carried out everywhere and always, is expressed in a passive form (by consolidating the norms of law, establishing prohibitions and liability for their violation), while the protection of the rights, freedoms and legitimate interests of subjects of law is possible only in violation of the law and only in an active form (by going to court, making a decision, seizing property, etc.) [4, p. 38 - 46].

We believe that the correct approach to the relationship between the concepts of human rights activity and law enforcement activity can be developed only taking into account the origins and content of human rights activity, as well as law enforcement. Of course, one can completely equate human rights and law enforcement activities, but only if the state is considered the only demiurge of the right, and all the right is reduced to the normative acts it creates.

If law is understood as something more, namely a process that begins with legal needs and ends in the corresponding legal order, where the legal norms enshrined in normative acts play the role of an undoubtedly important, but intermediate link, then the protection of law conceptually acquires a wider and deep meaning, covering all links of this process.

Since law, understood in this sense, has always been, is and will be the business of the people, of all segments of the population of a country, where the state plays the role of a separate governing link derived from the people, then the people themselves will be the main real subject of human rights protection.

As for law enforcement, it was and will be the business of primarily state structures, mainly special law enforcement agencies, which the people entrust with the implementation of certain functions associated in this case with protecting against violations of the current legislation, while retaining full power in the country.

Therefore, the protection of human rights, human rights protection and protection of law, law enforcement, which have a similar content as types of social activity, do not completely coincide with each other. They overlap in the part where the activities of law enforcement structures ensure the protection and, accordingly, the protection of human rights in cases of detection of violations in this area and the implementation of relations of legal responsibility.

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