

The human rights system: a holistic understanding and meaning

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Abstract. The article is a continuation of the material previously published by the authors on the foundations and content of human rights activities and is devoted to the consideration of the concept of the human rights system. Analyzing various positions on this issue, the authors come to the conclusion that they do not reveal the signs of human rights activity as a system, limiting themselves to listing arbitrarily selected processes and phenomena. According to the authors, the necessary elements arising from their essence of human rights activities include: the need to protect human rights, subjects of human rights activities, human rights will, human rights activity, human rights relations, their implementation and the achievement of the final result in the form of asserting human rights as a social reality. These components together and consistently taken together form the necessary elements of the human rights system as a single functioning whole.

Keywords: protection of human rights, human rights activities, subjects of human rights activities, human rights relations, human rights system.

This article is a continuation of the material published a little earlier, where the authors tried to substantiate the idea that human rights activity, like any social

activity, has its origins in the form of real social needs, which are not always realized in their real sense [1, p. 63-68]. Human rights abuses are most commonly associated with human rights violations, but this approach has been shown to be narrow and one-sided.

Human rights, which acquire a special meaning and significance due to the fact that they assert in social reality the status of a person as the highest value of a civilized society and determine the possible forms of realizing a person's creative potential as the main driving force of our time, constitute one of the spheres of functioning of the integral content of law. This content includes the processes of the formation of legal needs, their expression in various official and unofficial sources of legal norms, the implementation of law in the behavior of subjects of social life, the identification of the facts of offenses, the implementation of legal responsibility and the maintenance of the required law and order.

The need for the protection of human rights may arise at any stage of the functioning of this content, in the event that the course of its normal functioning is deformed by various kinds of anomalies of law [2, p. 170-180]. These anomalies can be caused by objective factors, including special historical circumstances - economic, financial and political crises, wars, epidemics, etc., but most often stem from subjective factors, where the level of legal culture of the country's population and interest play an important role. ruling elites in the establishment of legal principles, regardless of their economic, financial, political, ideological interests.

The need to protect human rights in the event of anomalies in law is realized through the implementation of a special kind of human rights activity, the purpose of which is essentially to eliminate deformations in the content of law and to establish human rights as a social reality in accordance with the level of development of social relations and public consciousness achieved by society. Therefore, human rights activity cannot be reduced to a simple response to certain violations of the current legislation, it has a broader content in terms of its goals and refers to the entire process of the substantive structure of law and, in a certain part, intersecting, does not coincide with law enforcement activities.

In this article, we will consider another aspect of human rights protection associated with its manifestation in reality as a special human rights system. The concept of the human rights system is substantiated in different ways in modern Russian legal literature.

So, according to T.M. Kalinina, in methodological terms, we are talking about the relationship between the special (the human rights system) and the general (the legal system). If the concept of "legal system" in science is quite stable, then the term "human rights system" needs to be clarified. The author proposes to understand the human rights system as "a set of methods and means of protecting human rights and freedoms, existing in the form of a complex of interrelated human rights sectors, norms and institutions; subsystems of humanitarian legislation and human rights institutions; subsystems of humanitarian information, education, accumulation, storage, reproduction and development of humanitarian ideology"[3, p. 6].

Let us make some preliminary considerations about these statements. First of all, it is difficult to share the author's optimism regarding "stability" in the Russian legal theoretical consciousness of the concept of a legal system. Let us recall that its content in the Russian legal literature varied from a system of formalized legal norms to a set of legal awareness, legal norms and legal relations. The fact that this concept has a rather different meaning becomes obvious when you look at works on the types of legal systems of our time [4].

Methodologically, it should be noted that the concept of the legal system of society was developed in the Soviet, and then in the Russian legal literature as a kind of opposite to the narrowly normative concept of law. N.I. Matuzov and A.V. Malko, for example, noted: "If law is traditionally understood as generally binding norms emanating from the state, then the legal system is a broader reality, embracing the entire set of internally coordinated, interconnected, socially homogeneous legal means (phenomena) with the help of which the official (public) power has a regulatory, organizing and stabilizing effect on social relations,

people's behavior. This is an integrating category that reflects the entire legal organization of society, an integral legal reality"[5, 83].

It is unlikely that even here, with the exception of a clear methodological orientation, the concept of the legal system of society can be considered fully established, since such concepts that allow various theoretical interpretations, such as "legal organization of society" and "legal reality", are taken as the basis for its definition. In any case, it was not possible to find a fixed definition of these concepts in the work cited by us.

As for the content of the human rights system derived from the legal system of society, in the concept under consideration we see just a set of terms about very vague phenomena and processes, such as human rights branches of law, humanitarian education and information, etc., which, for some reason, form a system; not because the author called them a complex of interrelated means.

In approximately the same vein, but with a different set of elements, P.V. Anisimov, L.V. Medveditskov, understanding by it "a set of human rights elements: legal norms; competent subjects of human rights relations; human rights methods, methods and special legal means; as well as activities aimed at a legally effective impact on public relations deformed as a result of human rights violations, in order to achieve a state of legal protection of human rights by ensuring, suppressing, restoring violated human rights and punishing the perpetrators"[7, p. 44].

Here a similar question arises: why, on what basis does this particular set form a human rights system, why the authors did not add any other elements here, for example, human rights legal status or human rights awareness.

The human rights system is defined somewhat differently by V.N. Kartashov, understanding by it "a single complex of interconnected state and non-governmental organizations and individuals (human rights defenders) and legal phenomena (law, legal awareness, legal culture, various types of legal practice, etc.), with the help of which the protection is effectively and efficiently carried out

(protection, etc.) the rights and legitimate interests of people and their associations"[6, p. 12].

This definition shows an attempt to directly link the human rights system with the components of the legal system of society (law, legal awareness, legal culture, legal practice) and highlight the human rights system as its special part, within which the rights of people and their associations are protected. However, the matter does not go further than such a general statement, and the specificity, its own components of human rights activity as a system remain undefined.

We believe that the considered provisions have one methodological problem. They deliberately and consistently did not carry out the idea of consistency in relation to the object under consideration - human rights activity. A basket of apples can also be viewed as a complex or collection of certain objects. However, this aggregate is not a system, unlike, for example, a clock or a human body. In a systemic phenomenon, you can always find a clearly fixed set of elements that have a single source, are interconnected in a certain regular sequence, forming in this connection a single functioning whole.

It is precisely this logical sequential connection of the necessary elements of human rights activity, arising from one source, as a result of which a single functioning whole in the form of a human rights system is formed, is not revealed in the positions under consideration. As a result, the definitions of the human rights system presented in them are positioned as a random, changeable set of phenomena and processes in any sequence, which, perhaps, are necessary, but this need remains scientifically unproven.

Not being able to reveal in detail the necessary constituent elements of the human rights system within the framework of the article, we will briefly point out their content and logical sequence, within which the human rights system forms a special independent integral branch of the legal system of society.

The first thing that should be paid attention to is the source of human rights activity - the need to protect human rights, which can appear at any stage of the functioning of the content of law if the course of its normal functioning is

deformed by various kinds of anomalies. The emergence of the need to protect human rights constitutes the primary element of the human rights system.

This need is recognized by the interested subjects of social life, which can be individuals and their various associations (organizations), both public and state. The presence of actors interested in identifying the need to protect human rights is the next necessary step in the human rights system. It should not be assumed that if there is a need to protect human rights, all absolutely social actors are interested in realizing it; for a number of them, deformations of the content of law, leading to violation of human rights, can bring additional economic, financial, political or ideological benefits, and they are rather interested in their preservation.

Following the presence of subjects of human rights activity, a necessary step in the structure of the human rights system is the human rights will of these subjects, aimed at changing the existing situation and establishing human rights as a social reality. The needs of human rights protection can remain an element of individual, group or public consciousness, as long as they are not expressed as the will of subjects with clearly defined goals.

Human rights will is the thinking of the subjects identified above, which includes the conscious needs of protecting human rights, which is expressed in human rights actions, the social activity of these subjects, using certain methods, ways and means to achieve their goals. They can be of a legal, organizational, ideological or other nature, depending on what elements of the content of the law are deformed and cause the needs of the protection of human rights.

Human rights actions give rise to the next necessary step in the structure of the human rights system - human rights relations, which link the subjects of human rights activities with other subjects of social life. Within the framework of these relations, which are, as a rule, legal in nature, there is a correction of social ties, leading to the deformation of the content of the law, and their implementation results in the satisfaction of the initial need and the establishment of human rights as a social reality.

The need to protect human rights, the subjects of human rights activities, human rights will, human rights actions, human rights relations, their implementation and the achievement of the final result in the form of asserting human rights as a social reality - all this together and consistently taken forms the necessary elements of the human rights system as a single functioning whole.

In conclusion, we note that the position presented is not simply to call human rights activities a system and to offer a random set of phenomena and processes that are part of it, based on subjective preferences. It consists in defining a coherent relationship of the necessary elements of human rights work that lead to the achievement of its goals.

In this process, the features of the human rights system are manifested, its natural connection with the legal system of society, it becomes possible to clearly identify the problems and failures of individual stages of human rights activities, their timely correction and, therefore, more effective functioning of the human rights system as a whole.

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