

Transformation of the content of human rights under the influence of globalisation

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Abstract. Human rights have transcended the realm of individual-state relations, becoming a constructive element of state legal systems and promoting the integration of social and legal relations, leading to the emergence of previously unknown human rights. Therefore, it is necessary to develop a legal understanding of them, considering contemporary realities. The purpose of the study is to describe and characterise the latest human rights within the framework of the general theory of law and the state. The methodological basis of the study is civilisation and socio-philosophical approaches, within which analysis, synthesis, and modelling methods were used. The essence of distinguishing generations of human rights boils down to the gradual realisation and resolution of issues of human legal status in a changing reality. Social relations, complicated by historical development, will give rise to new problems in human legal status. Attention is drawn to the close connection of human rights with the sphere of health protection, which arose as a result of scientific and technological achievements in biology and medicine, discussing rights to artificial insemination, euthanasia, organ transplantation, cloning, and gender change. The impact on fundamental human rights through the digitisation of law is analysed. The idea of the universality of human rights harmoniously interacts with the universality of digital technologies, so in the era of digitisation, the content of human rights and the related values do not change, and human rights themselves can become a unifying target perspective in determining attitudes towards new technologies. The main trends in the development of human rights in the conditions of globalisation are

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modelled, including the universalisation and unification of human rights, the complication of mechanisms for ensuring human rights at the international level, and the increasing importance of judicial law in protecting human rights at the supranational level. The paper focuses on the dependence of globalisation processes on transforming national legal systems in war conditions. The practical value of the study lies in its potential to incorporate the trends in human rights development within the context of globalisation into specific topics covered in courses on state and legal theory, philosophy of law, and the creation of relevant educational and methodological resources

Keywords: digital rights; somatic rights; gender autonomy; euthanasia; donation; organ transplantation; globalisation; human rights

Introduction

The universal nature of globalisation extends its influence not only on the economic, financial, informational, and technological spheres, where it manifests in its most developed form but also on other aspects of societal life, including law. Globalisation allows states to explore new dimensions of development and horizons of legal policy. This is particularly evident in human rights, which, experiencing the ambiguous impact of globalisation, is developing contradictorily. On the one hand, globalisation has an indisputable positive impact, enriching and filling the social experience with new content. On the other hand, legal norms are being increasingly standardised, fundamentally altering the character of global, local, universal, and national relationships. New scientific achievements in information and communication technologies and healthcare, which have become essential attributes of globalisation, have shaped new types of human rights. This inevitably affects the content, functioning mechanisms, and forms of manifestation of these rights, significantly actualising investigation in this field. Moreover, it is important to emphasise that the high dynamism of global processes and their influence on the development of human rights precede the analysis of the obtained results and their scientific exploration. The issue of modernising human rights in the context of the place of war in the overall architecture of globalisation is also relevant.

Considerable attention is paid to the analysis of human rights in the literature on the philosophy of law, history, and theory of law. O. Barabash (2022), investigating human somatic rights through the prism of property rights to one's body, concludes that human somatic rights are characterised by the fundamental ability to dispose of one's body – to conduct its “modernisation,” “restoration”, “fundamental reconstruction”, change the functional capabilities of the organism, change gender, transplant organs, which can be interpreted as a reflection of the natural exchange and interdependence of one's body with other bodies and the environment, reflecting the possibilities of self-determination and self-fulfilment. This position is echoed in the studies of E. Richardson and B. Turner (2011), who propose to differentiate the right to the body in the following triad: (1) the right to the integrity of the body (i.e., the right to oneself); (2) the right to purchase, sale, or preservation of parts of the body (in the case of transplantation, donation, or sale of organs); (3) the right to “particles” of the body (DNA codes, genetic material belonging to human reproduction, such as egg cells, sperm).

O.V. Petryshyn and O.S. Gilyaka (2021) analysed theoretical and practical aspects of human rights development in the digital transformation era. In their study, the main focus is on new rights such as the right to be forgotten, anonymity, protection of personal data, access to digital knowledge and

relevant education, including rights related to the protection of genetic information and participation in property turnover in the digital sphere. Y.S. Razmetayeva (2020) drew attention to the jurisdictional aspects of rights protection in the conditions of wide use and accumulation of data, the increasing influence of business structures and their implications for human rights and the global effect. J. Grimmelmann (2006) highlights the human right to virtual reality, which he defines as the basis not only for complex computations but also for human imagination, a wide range of sensations, perception of art, and so on. Thus, “virtual reality” can potentially relate to various situations in which a person feels in a certain environment, and accordingly, it can act as a sphere of human rights. However, the essence and classification of human rights as belonging to the so-called fourth generation of rights have not been sufficiently explored, hence the need for the development of a certain generalised view on human rights as an element of a modern globalised society.

The purpose of the study is to explore the genesis of the modern generation of human rights and to form a general theoretical vision of the main trends in the development of human rights, determined by globalisation processes.

Materials and methods

The methodological basis of the study is reflected in the application of dialectical and systemic-philosophical methodology. Dialectical methodology defines the development of research principles and methods, especially in the context of socio-philosophical analysis. It is based on the principles of development and interaction of contradictions and the unity of theory and practice in legal theory and human rights concepts. This study uses a civilisational approach and a method of interrelation of the historical and logical. Systemic-philosophical methodology, in turn, defines corresponding approaches and methods in modern science. This paper uses a systematic approach, structural-organisational and system-structural analysis. Scientific and philosophical methods of analysis and synthesis are also applied to carefully examine the problem of human rights transformation in historical and modern contexts. Overall, the study uses a socio-philosophical approach, considering the problem from different perspectives and in the context of its social and philosophical aspects. The modelling method is critical. It enables the examination of human rights in their entirety and in connection with other aspects to identify regularities and make generalisations, thereby creating a theory of human rights in the general context of legal theory.

The normative basis of the study consists of international documents, specific laws, and regulations of Ukraine and European Union countries. Among these documents, the Vienna Declaration and Program of Action (1993), Charter of

Fundamental Rights of the European Union (2000), Law of Ukraine No. 2231-IV “On the Prohibition of Human Reproductive Cloning” (2004), and Law of the French Republic “On the Modernisation of Healthcare System” (2016) are of particular importance. To examine international experience in the field of human rights protection in specific areas, The Madrid Resolution on organ donation and transplantation (2011) was analysed, which declares national responsibility for meeting the needs of patients and the principle of self-sufficiency in donor organs, which is proposed to be considered as a guiding principle for all countries involved in organ donation and transplantation activities. The mentioned international documents and national laws are key sources for analysing the transformation of the content of human rights under the influence of globalisation. They stimulate the harmonisation of legal standards in EU countries and influence the development of national legislation, indicating the adaptation of legislation to new challenges and the transformation of norms and standards in the context of globalisation. These documents provide the context and framework for understanding the development of legal norms and standards on a global scale and at the national level, which helps to better understand the impact of international and national regulations on the transformation of human rights in the context of globalisation.

Results and discussion

Genesis of human rights generations. Globalisation as a multi-level and multi-faceted phenomenon is interpreted differently: on the one hand, it is considered a historical process; on the other hand, it is a way of universalising the world or destroying national sovereignties and borders. Currently, globalisation is recognised as one of the main trends in the development of modern civilisation, which entails the identification of a new object of study - the world as such and also requires each study to be embedded in the framework of the global context, as each sphere of society’s life is increasingly interdependent with many other elements of the world.

The impact of globalisation on law manifests in several aspects: 1) it causes the transformation and improvement of legal institutions, individual norms, and society as a whole; 2) it leads to fundamental changes in both law itself and its theories, which necessitates the implementation of a pluralistic approach to understanding modern law; 3) it demonstrates the variety of ways and forms in which globalisation influences law, leading to the internationalisation of law through its reception, harmonisation, and unification; 4) it focuses on the influence not only on national but also on international law, its nature, sources, content, mechanism of action, etc.

A considerable object of the influence of globalisation is the social phenomenon of human rights, which have always been and remain influenced by the material and other conditions of society’s life that surround them and are reflected in the economic and social environment of each state. It is widely recognised in legal doctrine that there are three historical generations of human rights: the first generation includes inalienable personal and political rights; social, economic, and cultural rights are attributed to the second generation; and the rights of solidarity and collective rights of peoples belong to the third generation (Malozhon, 2021). Since their inception, these generations have transformed theories, scientific teachings, and local

documents into verbally recognised models of behaviour enshrined and recognised by the global community. This triad of human rights remains relevant and does not lose its significance. Still, it no longer perfectly reflects the modern processes of human rights development, which suggests the emergence (rooting) of a new, fourth generation of rights that requires the formation of new international legal institutions to ensure these rights.

Researchers have different views on the rights attributed to the fourth generation. Some opinions suggest that these include: the right to suicide and euthanasia (considered as components of the right to die); human rights related to procedures such as cloning and other advanced technologies in biology; information and communication rights; the right to peace, nuclear and environmental safety, space, etc.; the right to change one’s sex, organ transplantation, creation and use of virtual information, and more (Dzebuchuk & Ignatova, 2019); the right to use virtual reality, same-sex marriage, artificial insemination, a child-free family, and a life free from state interference (Shebanits, 2015).

In scientific literature, in addition to the term “human rights of the fourth generation”, the term “somatic rights” is used, reflecting human rights related to their ability to dispose of their own body, including aspects such as the right to euthanasia, organ transplantation, cloning, the use of reproductive technologies, etc. According to Y. Turiansky (2020), the main feature of these rights is their direct connection to the human body. The right of individuals to dispose of their bodies includes: the right to determine the characteristics of the functioning and expression of the integral body-organism; the right to perform such actions with corresponding organs or tissues; the right of individuals to dispose of those biological components that have already been separated from their bodies, such as tissue parts, DNA, blood, sperm, etc. S.B. Buletsa *et al.* (2014) emphasise that rights in the field of health care are very controversial, as on the one hand, they help solve specific human problems, such as infertility and the need for organ transplantation, but on the other hand, they can pose a threat to future generations, especially when it comes to cloning.

Human rights of the fourth generation are much broader than the concept of somatic rights, as they also encompass legal issues related to virtual reality. It is important to focus on the features of the legal nature of individual human rights attributed to the fourth generation. Much attention is paid to the examination of fourth-generation human rights in health care, which are closely related to human life and health and have arisen due to the rapid development of science and technology in areas such as biology and medicine. Human rights in the field of health care typically have the following characteristics: they are personal non-property rights; their emergence is due to scientific progress, and their implementation requires the use of innovative medical technologies; they are closely related to human dignity; they are aimed at preserving human health or are related to human health (Buletsa *et al.*, 2019). Today, this category can include rights to artificial insemination, euthanasia, organ transplantation, cloning, and sex change. It is worth noting that the main argument put forward by euthanasia supporters is that according to the concept of human rights, every person has the right to dispose of their own body and life, which includes the right to make decisions about euthanasia. This area, according to some scientific sources, is called

“biojurisprudence” and is the most recent field in the general theoretical discussions on human rights (Tokarczyk, 2012).

The right to sexual and gender autonomy is defined as a person’s right to freely choose ways of self-determination and self-identification, regardless of their sexual orientation and gender identity (Gerbut, 2019). This right cannot be limited by social morality, public order, traditional family values, or the interests of the child, as international norms, the practice of the European Court of Human Rights (ECHR), and the current conditions of societal development indicate the obsolescence and irrelevance of such arguments. According to O.V. Razgon (2016), regulating the family rights of transgender individuals creates certain difficulties in terms of legal succession regarding property and personal rights in family legal relationships.

The most controversial and contradictory right by its nature is the right to cloning. While human reproductive cloning is legislatively prohibited in most countries due to concerns about its harmfulness and lack of research, therapeutic cloning has received positive recognition and has found its legislative regulation. For example, the Law of Ukraine, “On the Prohibition of Human Reproductive Cloning” (2004), introduced a ban specifically on human reproductive cloning, while therapeutic cloning is allowed.

Therapeutic cloning aims to create cells or tissues for medical purposes, and it is an exception when considering the possibility of human cloning to save the lives of many people who were born naturally. Nevertheless, the need for prior legal regulation in this area arises due to the risks and consequences of cloning technology, which impact the current generation and the future. There are also noteworthy debates in scientific circles regarding the right to dispose of one’s organs and tissues after death, particularly in the field of transplantology (Richardson & Turner, 2011; Langer *et al.*, 2012).

The practice of retrieving donor materials from deceased individuals varies in different countries worldwide. There are two main approaches to postmortem donation in the international community. In the first case, called “informed consent”, consent for postmortem donation must be obtained during a person’s lifetime, and/or such consent must be expressed by the deceased’s relatives. The United States, the United Kingdom, Germany, and Ireland follow this approach. The second option, called “provided consent”, is considered more humane in many countries. This approach assumes that people automatically become post-mortem donors if they did not expressly object to it during their lifetime. For example, on January 26, 2016, France adopted a new law “On the Modernization of Healthcare System” (2016), according to which all deceased citizens aged 18 and older are automatically considered organ donors from January 1, 2017. The previous requirement for doctors to ask family members about the deceased person’s intention to donate organs was abolished by the Public Health Code. A National Refusal Register was also introduced, where citizens who do not wish to donate their organs after death can record their decision. Thus, the legislative regulation of the right to dispose of one’s organs and tissues has made significant progress, and this legal position is generally consistent with moral norms.

The implementation of information and communication technologies (ICTs) also creates new challenges for the realisation of fundamental human rights and freedoms. Terms

such as “digital rights”, “right to the virtual space”, “right to the internet”, “cyber-human rights”, and others are encountered in scientific discourse. Digital human rights may include the right to access the internet, the right to be forgotten, the right to protection against unwanted information, and others. For example, in the context of ensuring human rights on the internet, a modern state must address three main tasks: not to hinder the free exercise of human rights through the internet and refrain from restricting them (e.g., avoid censorship); protect the lawful use of information and communication technologies from cyberattacks by others; and ensure and promote lawful access to information and communication technologies, including providing access to the internet for disadvantaged individuals (Sartor, 2017).

According to Y.S. Razmetayeva (2020), “digital human rights” has two meanings. The first involves understanding rights that are directly related to the use of digital technologies or contain a virtual component. The second demonstrates rights that are considered fundamental in the digital context. With this in mind, it can be argued that among the main digital rights are such fundamental principles as freedom of speech and expression, privacy, access to information, participation in governance processes, as well as rights such as the right to be forgotten, the right to anonymity, and even the right to access the Internet.

Thus, information and technology-driven social relations fundamentally transform modern reality. As a result, such reality becomes virtual; in other words, it acquires new images and personal characteristics and becomes metaphorically rich, which elevates the individual to a qualitatively different level of development and simultaneously immerses them in an environment of certain archetypes, narratives, symbols, and signs (digitalisation). Therefore, absolutely new human rights emerge, form, and begin to exist, and the tendency to change the legal status of a person is dictated by the dynamic conditions and rapid transformations of the present (Andrushenko, 2022).

It is reasonable to argue that individuals can and should control the impact that digital technologies have on social relations, including human rights. The mode of human rights can (and should) contribute to the development of a comprehensive understanding of regulating new technologies and serve as a “marker” for regulating information and communication progress, shaping the spectrum of goals to be achieved.

Thus, all the above-mentioned rights arising from scientific progress can conditionally be attributed to the rights of the fourth generation. However, discussions arise among politicians, scientists, and other members of society regarding the necessity and limits of implementing such rights. Notably, the Council of Europe, the EU, and some other international organisations have expressed clear positions on this issue. For example, the Charter of Fundamental Rights of the European Union (2000), Article 3, paragraph 1 states that everyone has the right to physical and mental integrity. Paragraph 2 of this article specifies certain requirements regarding the application of medical and biological advancements: (a) voluntary and properly documented consent of the person concerned in accordance with the rules established by law; (b) prohibition of eugenics, especially its part aimed at human selection; (c) prohibition of using the human body and its parts as a source of profit; (d) prohibition of human reproduction by cloning.

Criteria for recognition and vector of human rights development. An important criterion for the recognition and legislative consolidation of modern human rights is their value and moral component. It should be emphasised that along with the development of modern rights, societal and personal values change, and moral-ethical norms are transformed. Such changes depend on historical circumstances and the socio-cultural environment in which people live. It should be acknowledged that this variability and evolutionary nature contribute to the fact that values that have passed societal approval and are recognised in specific life conditions as the most effective remain “alive”, while unstable ones are eliminated. As V.V. Borshchenko (2023) rightly noted, the negative impact of globalisation on values implies that these values acquire a purely conditional nature, meaning they can easily change under the influence of the environment. As a result, the development of so-called value relativism occurs, according to which all societal and personal values are balanced and considered equal. Consequently, value relativism is established, where all values acquire a relative nature and are recognised as equal while the criteria for their evaluation gradually diminish.

When considering moral values separately, it is quite understandable that each state and each nation form them in their own way, so they have a national character and differ. It is worth noting that morality, like religion, tends to change over time. However, although morality and religion were perceived differently in different historical epochs, they are still more stable than legal norms. According to M.V. Savchyn (2018), human rights are grounded in moral legal doctrine, where the main criterion is the justification of individual freedom. On the other hand, the perception of rights is possible through a procedural context based on ensuring equal access to legally protected material goods and spiritual wealth. Another aspect of understanding rights is a substantive approach that can reconcile the contradictions of moral and procedural approaches, thereby demonstrating law through human dignity.

It is important to agree with the position of O.I. Malozhon (2021), according to which, due to changes in globalisation, each state becomes dependent on certain principles of regulating social relations through the rights of the new generation. This means that the state, firstly, must ensure free access to the Internet and virtual reality as such; secondly, must not interfere with the religious and moral-ethical preferences of the individual (of course, if they do not contradict the law and do not pose a threat to the state and its citizens); thirdly, must establish and maintain a balance between respecting the rights of minorities and ensuring a favourable demographic situation; fourthly, must guarantee the individual the right to dispose of their own body and life, up to the right to a dignified death; fifthly, must not interfere with the human right to their uniqueness and identity (including that of an unborn child); sixthly, must stimulate scientific development based on the basic principles of bioethics – humanism and human-centeredness.

Clarifying the main trends in their development is important for the most profound and comprehensive understanding of human rights’ existence and functioning in globalisation conditions. This allows determining not only the human rights of today but also the prospects and areas of their development in the future. M.Y. Shchyrba (2016) identifies several main features of modern changes in the insti-

tution of human rights and freedoms, including changes in the content of human rights influenced by global problems of globalisation, as well as the universalisation of human rights, difficulties and inconsistencies in the implementation of the mechanism of international regulation of human rights, a change in the subject of influence in the context of human rights, the mismatch of universally recognised human rights standards with new trends, and the granting of full-fledged subject status endowed with corresponding rights and freedoms to future generations.

A dominant position is that among the trends at the global level, the trend of universalisation and unification of human rights should primarily be distinguished. Such a seemingly logical decision, unfortunately, remains a subject of intense debate in the scientific sphere. The main problem is to find a balance (hybrid) of the universality of human rights. Representatives of the first “pole” emphasise that even under the conditions of modern large-scale globalisation, due to local and regional civilisation specificity, humanity is still not ready to establish universal approaches to human rights; universalisation, to some extent, contributes to the emergence of regressive changes in law, caused by excessive convergence of national legal systems. Representatives of the other “pole” adhere to the position that globalisation is an obvious dominant factor shaping common human interests and values, and based on this, the problem of creating a single universal system of rights for all humanity objectively arises (Blumenson, 2020).

It should be noted that the Vienna Declaration and Program of Action (1993) remains the basic document for the development of the universalisation of human rights, which provides that all human rights are universal, indivisible, interdependent, and interrelated. The world should perceive human rights (considering the processes and trends of globalisation) on the principles of equality and justice, with the same understanding, respect, and attention. Admittedly, one should not forget about the national and regional peculiarities of legal systems, that is, legal traditions. However, in doing so, each state (despite its political, economic, cultural, and other social systems) is obliged to guarantee and protect all human rights, fundamental freedoms, and legitimate interests.

This position is important in the context of each situation involving the realisation of human rights: it concerns the granting of a universal character to human rights within the world community, i.e., endowing them with globalisation opportunities in connection with political, economic, cultural, and other systems. In this context, the state should encourage and guarantee all human rights and freedoms. International standards should eliminate differences in the mechanism for implementing these rights and freedoms at both the national and supranational (global) levels, which will demonstrate and confirm their universality (Dashkovska, 2019).

Supporting the development trend of the universalisation of “fourth-generation” human rights, one should consider that, in the wave of globalisation, new human rights are being formed, which can only become “universal” standards over time. Currently, they are only gaining specification and testing for society’s needs, undergoing “polishing” at the regional and national levels. The universalisation of human rights should only take place based on a pluralistic approach to these rights rather than abstract postulates.

Along with the trend of universalising and unifying human rights, the tendency to prioritise the principles of law as regulators of Public Relations is becoming more pronounced in the context of globalisation. This concerns not only the principles of international law but also the principles of relations that are formed and established, in addition to states and alongside them, among various subjects, which in the scientific literature are called “participants in globalisation” (international universal organisations, international non-governmental organisations, national and supranational institutions) (Tavis, 2002).

In addition to the aforementioned trends, there are other trends at the global and regional levels that manifest themselves in various forms. Particularly noteworthy is the trend of strengthening the role and significance of judicial law in protecting human rights at the supranational level. It is not accidental that the concept of forming a single “global jurisprudence” in the modern world, the goal of which is, firstly, to promote the process of universalisation and unification of human rights at the global and regional levels, and secondly, to attempt to preserve the “legal principles of national and local culture” and maintain a “balance of values” between individual independence and effective judicial governance (Slaughter, 2003), has become a reality and a working programme. In this aspect, special interest is drawn to progressive forms of protection emerging in the field of transnational information and communication technologies. Various online contracts, online platforms, online arbitration, blockchain arbitration, and other legal institutions are being adapted to or emerging from the new society, and the characteristics of such rights and relations include their connection with different legal systems, a high degree of autonomy of their participants, including in the choice of applicable law and dispute resolution method (Reed & Angel, 2011). Thus, regardless of legal systems, under the influence of objective circumstances, there is an increasingly evident trend towards strengthening the role of both judicial law and its sources in highlighting the level of human rights protection in particular.

Considering the trends in the development of globalisation in the field of human rights, it is important to recognise that globalisation depends on changes in national legal systems during wartime. Events during wartime are factors of ambiguous processes that were previously inconspicuous. Analysing this situation, it should be noted that two trends can be observed: firstly, globalisation processes do not cease during wartime, and there is a “confirmation of the recognition of the ‘potential’ of the globalisation paradigm and an understanding of their universal value in conditions of war” (Rogova, 2022). Secondly, there is a transformation of practically all subsystems of the national legal system, including normative and ideological ones (Vasiliev *et al.*, 2023). In addition, a factor influencing the development of the globalisation of human rights is the nature of the interaction between politics and law within national states and at the global level of international legal order. However, the situation during wartime does not always indicate adherence to universal legal principles in the implementation of state and international policies by aggressor countries.

Conclusions

Human rights should be considered a legal construct that establishes a system of “individual-state” relations in a given space and time, characterised by dynamic development, reflecting the historical evolution of the individual’s place and role in society. Global processes significantly transform all generations of human rights, as their legal nature goes beyond the jurisdiction of one state and acquires international status. The so-called fourth generation of human rights is characterised not only by the transformation, modernisation, or inversion of the content of already universally recognised human rights but also by the development of new rights characterised by social and sometimes moral novelty. “New” human rights are based on modern achievements in scientific and technological progress, going far beyond the differentiation of national principles and historical and cultural character. Each such “innovation”, most of which are currently limited regionally, has the right to exist and must undergo filtration by time and societal demand.

Global processes of society’s digitalisation do not change human beings’ essence, basic demands, and values. Therefore, human rights can (and should) become the target unified guidelines for determining the attitude towards various modern technologies, which involves analysing whether their use complies with fundamental human rights. Relativism in human rights, which denies the possibility of their universality, focuses on the primacy of diversity of beliefs and moral judgments and denies possible transculturality, which dissolves in globalisation. Respect for human beings is the foundation of human rights, and respect for the individual’s cultural values is also required. This pluralistic ideal envisages a wide range of permissible actions and ways in this field. The goal of the universality of human rights is primarily the universality of their protection from injustice, while the pluralistic approach is the philosophy that arises from the need to understand, respect, and achieve consensus among individuals with different views and values. Key trends in the evolution of human rights within globalisation include the drive towards universalisation and standardisation, the complexification of international legal frameworks regulating human rights, and the enhanced role of judicial systems in safeguarding human rights at a supranational scale. Moreover, one cannot ignore the dependence of globalisation on the transformations of national legal systems during wartime.

The study mentions only a few facets of the evolution of new human rights paradigms influenced by globalisation within the legal domain, suggesting ample opportunities for deeper investigation. One promising area for exploration lies in analysing human rights, particularly in areas like neurotechnologies, which may lead to the development of legislative frameworks such as neuro-law.

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Conflict of interest

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References

- [1] Andrushenko, O.P. (2022). Problems of human rights protection arising from global transformations. *Information and Law*, 4(43), 126. doi: 10.37750/2616-6798.2022.4(43).270073.

- [2] Barabash, O. (2022). [Somatic rights in the human rights system: the right to own one's body](#). *Law of Ukraine*, 2, 108-121.
- [3] Blumenson, E. (2020). [How are human rights universal?](#) Abingdon: Routledge.
- [4] Borshchenko, V.V. (2023). [Features of the formation of modern humanrights](#). In *The legal dimension of constitutional and criminal jurisdiction in Ukraine and the world: 6th legalreadings: materials of the nternational Annual Scientific Distance Conference* (pp. 9-11). Odesa: Odesa National University.
- [5] Buletsa, S.B., Menjul, M.V., & Panina, Y.S. (2019). [Legal nature and content of the fourth generation of human rights in the field of health care](#). *Scientific Bulletin of Uzhhorod National University. Series: Law*, 55(1), 110-114.
- [6] Charter of Fundamental Rights of the European Union. (2000, December). Retrieved from https://www.europarl.europa.eu/charter/pdf/text_en.pdf.
- [7] Dashkovska, O. (2019). Human rights in a globalized world: Universalism or relativism? *Legal Bulletin*, 4(11), 5-13. [doi: 10.32837/yuv.v0i4.935](https://doi.org/10.32837/yuv.v0i4.935).
- [8] Dzebchuk, A.V., & Ignatova, A.V. (2019). The fourth generation of human rights: Problematic aspects of implementation of some of them in Ukraine. *Young Scientist*, 11(75), 19-22. [doi: 10.32839/2304-5809/2019-11-75-5](https://doi.org/10.32839/2304-5809/2019-11-75-5).
- [9] Gerbut, V.S. (2019). [The right to sexual orientation and gender identity: Essential content and guarantees of protection](#). Uzhhorod: Lyra Polygraph Center.
- [10] Grimmelmann, J. (2006). Virtual borders: The interdependence of real and virtual worlds. *NYLS Legal Studies Research Paper*. Retrieved from <https://ssrn.com/abstract=868824>.
- [11] Langer, R.M., Cohen, B., & Rahmel, A. (2012). History of Eurotransplant. *Transplantation Proceedings*, 44(7), 2130-2131. [doi: 10.1016/j.transproceed.2012.07.125](https://doi.org/10.1016/j.transproceed.2012.07.125).
- [12] Law of the Republic of France No. 2016-41 "On the Modernization of Healthcare System". (2016, January). Retrieved from https://extranet.who.int/mindbank/download_file/6146/e104b274db399a103ae7d79eab6e81289d2df544.
- [13] Law of Ukraine No. 2231-IV "On the Prohibition of Human Reproductive Cloning". (2004). Retrieved from <https://zakon.rada.gov.ua/laws/show/2231-15#Text>.
- [14] Malozhon, O.I. (2021). The fourth generation of human rights in the context of Ukrainian modernity. *Legal Scientific Electronic Journal*, 12, 41-44. [doi: 10.32782/2524-0374/2021-12/6](https://doi.org/10.32782/2524-0374/2021-12/6).
- [15] Petryshyn, O.V., & Gilyaka, O.S. (2021). Human rights in the digital age: Challenges, threats and prospects. *Bulletin of the Academy of Legal Sciences*, 1, 15-23. [doi: 10.37635/jnalsu.28\(1\).2021.15-23](https://doi.org/10.37635/jnalsu.28(1).2021.15-23).
- [16] Razgon, O.V. (2016). [Violation of family rights of transgender persons in the context of human rights doctrine](#). *Eurasian Academic Research Journal*, 5(5), 33-47.
- [17] Razmetayeva, Y.S. (2020). Digital human rights and the problems of extraterritoriality in their protection. *Law and Public Administration*, 4, 18-23. [doi: 10.32840/pdu.2020.4.2](https://doi.org/10.32840/pdu.2020.4.2).
- [18] Reed, C., & Angel, J. (2011). [Computer law: The law and regulation of information technology](#). Oxford: Oxford University Press.
- [19] Richardson, E., & Turner, B. (2011). [Bodies as property: From slavery to DNA maps. Body lore and laws: Essays on law and the human body](#). London: Bloomsbury Publishing.
- [20] Rogova, O. (2022). Globalization and changes in the legal system of Ukraine in the conditions of war. *Public Law*, 3(47), 101-108. [doi: 10.32782/2306-9082/2022-47-14](https://doi.org/10.32782/2306-9082/2022-47-14).
- [21] Sartor, G. (2017). Human rights and information technologies. In R. Brownsword, E. Scotford & K. Yeung (Eds.), *The Oxford handbook of law, regulation and technology* (pp. 424-450). New York: Oxford University Press. [doi: 10.1093/oxfordhb/9780199680832.013.79](https://doi.org/10.1093/oxfordhb/9780199680832.013.79).
- [22] Savchyn, M.V. (2018). [Modern trends in constitutionalism in the context of globalization and legal pluralism](#). Uzhhorod: RIK-U.
- [23] Shchyrbra, M.Y. (2016). [Signs of transformation of human rights in the context of globalization of society](#). *Bulletin of Lviv Polytechnic National University. Series: Legal Sciences*, 837, 378-382.
- [24] Shebanits, D.M. (2015). [Modern problems of the theory of "generations of human rights" in the context of European interstate integration](#). *Scientific Bulletin of Uzhhorod National University. Series: Law*, 31, 57-61.
- [25] Slaughter, A.A. (2003). [Global community of court](#). *Harvard International Law Journal*, 44(1), 202-203.
- [26] Tavis, L. (2002). [Corporate governance and the global social void](#). *Vanderbilt Journal of Transnational Law*, 35, 501-506.
- [27] The Madrid Resolution on Organ Donation and Transplantation. National Responsibility in Meeting the Needs of Patients, Guided by the who Principles. (2011). *Transplantation*, 91(11), 29-31. [doi: 10.1097/01.tp.0000399131.74618.a5](https://doi.org/10.1097/01.tp.0000399131.74618.a5).
- [28] Tokarczyk, R. (2012). [The laws of birth, life and death. Basics of biojurysprudence](#). Warsaw: Wolters Kluwer Polska.
- [29] Turiansky, Y. (2020). [Somatic rights as the newest legal category](#). *Law and Society*, 1, 110-115.
- [30] Vasyliiev, S., Kysko, F., & Nikolenko, L. (2023). Economic ideology as an innovative potential of the change process. *Baltic Journal of Economic Studies*, 9(3), 33-40. [doi: 10.30525/2256-0742/2023-9-3-33-40](https://doi.org/10.30525/2256-0742/2023-9-3-33-40).
- [31] Vienna Declaration and Program of Action. (1993, June). Retrieved from https://zakononline.com.ua/documents/show/167622_167622.

Трансформація змісту прав людини під впливом процесів глобалізації

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Анотація. Права людини вийшли за межі взаємовідносин особистості з державою, перетворилися на конструктивний елемент державно-правових систем та сприяють інтеграції суспільних і правових відносин, що призводить до виникнення раніше не відомих прав людини. Тому необхідно розвинути юридичне уявлення про них з урахуванням сучасних реалій. Метою дослідження є опис та змістовна характеристика новітніх прав людини в рамках загальної теорії права і держави. Методологічною основою дослідження стали цивілізаційний та соціально-філософський підходи, в межах яких використано методи аналізу, синтезу та моделювання. Сутність виділення поколінь прав людини зводиться до послідовного усвідомлення та розрішення проблем правового статусу людини у дійсності, що змінюється. Суспільні відносини, що ускладнюються з історичним розвитком, будуть обумовлювати нові проблеми у сфері правового статусу особи. Звертається увага на тісний зв'язок прав людини зі сферою охорони здоров'я, що виник внаслідок наукових і технологічних досягнень у біології та медицині, йдеться про права на штучне запліднення, евтаназію, трансплантацію органів, клонування та зміну статі. Проаналізовано вплив на фундаментальні права людини через цифровізацію права. Уявлення про універсальність прав людини гармонійно взаємодіє зі всезагальністю цифрових технологій, тому в епоху цифровізації зміст прав людини та пов'язаних з ними цінностей не змінюється, і саме права людини можуть стати уніфікуючою цільовою перспективою при визначенні ставлення до нових технологій. Моделюються основні тенденції розвитку прав людини в умовах глобалізації, до яких належить універсалізація та уніфікація прав людини, ускладнення механізмів забезпечення прав людини на міжнародному рівні, посилення значення судового права щодо захисту прав людини на наднаціональному рівні. Акцентовано на залежності глобалізаційних процесів від перетворень національних правових систем в умовах війни. Практичне значення роботи полягає у можливості врахування тенденцій розвитку прав людини в умовах глобалізації в окремих темах навчальних курсів з теорії держави та права, філософії права та для розробки відповідних навчально-методичних матеріалів

Ключові слова: цифрові права; соматичні права; гендерна автономія; евтаназія; донорство; трансплантація органів; глобалізація; права людини