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DIFFICULTIES OF INTERPRETING THE CONCEPT OF "HUMAN RIGHTS": A LOGICAL AND PHILOSOPHICAL ASPECT

Background. The article examines the concept of human rights. This concept in modern philosophical discourse is both vague and imprecise. Although most authors recognize the lack of unanimity in the definition of the concept of human rights, few have tried to find out the reasons for this situation. The purpose of this study is to identify the sources of the problematic definition of the concept of human rights by means of a logical analysis of the concept and to propose ways to overcome the identified difficulties in the interpretation of this concept.

Methods. A philosophical hermeneutic approach combined with a comparative and terminological analysis of the concept of human rights was used in the study.

Results. Human rights discourse is fundamentally open: it is normatively undetermined, and anyone can join it. It is therefore inevitably polyphonic and multilingual. As a result, this discourse contains very different understandings of the most important thing: what human rights really are. Efforts to find a universal definition of the concept of human rights seem to be an attempt to unite under one roof things that are poorly or not at all combined: different ontological understandings, different scopes of the concept, and different logical characteristics.

Conclusions. The difficulty of logical analysis of the concept of human rights, i.e. its assignment to a specific type, and its unambiguous interpretation and definition, is related to: 1) the lack of definition of the limits of scope of the concept of human rights in philosophical discourse and the insufficient definition of the limits of this concept as a legal notion; 2) the need to assess the legitimacy of the retrospective extrapolation of the term 'human rights' to the entire body of works created before the adoption of the Universal Declaration of Human Rights, in which it was not used (in the Ukrainian context, this aspect is not obvious due to historical and linguistic peculiarities); 3) different ontological understanding of human rights by different actors in the discourse that makes it impossible to combine their positions under the same umbrella (e.g. according to one position, human rights are seen as anthropological attributes of a person; according to another, they are norms regulating social relations).

The above testifies to the complexity of an unambiguous logical characteristic of the analyzed concept. It seems that the situation does not allow for a single definition of the concept of "human rights". It is assumed that it is not a single concept, but a plurality of concepts. In this case, the position of the discourse participant in relation to a certain system of criteria and its justification may be a way to overcome the difficulties we have identified.

Keywords: human rights, concept of human rights, legal concept, logical analysis of a concept, vagueness, impreciseness.

Background

The concept of human rights in modern philosophical discourse is both vague and imprecise. Human rights as a *legal concept*, with some reservations, can overcome the problem of imprecision, but it still remains vague. As a result, the very use of the term "human rights" itself can lead to equivocation and, consequently, to serious misunderstandings. At the present stage of the discourse, this problem seems fundamentally unsolvable.

Although most authors recognize the lack of unanimity in the definition of the concept of human rights, few have tried to find out the reasons for this situation. The purpose of this study is to identify the sources of the problematic definition of the concept of human rights by means of a logical analysis of the concept and to propose ways to overcome the identified difficulties in the interpretation of this concept.

Methods

A philosophical hermeneutic approach combined with a comparative and terminological analysis of the concept of human rights was used in the study.

Results

The problem of vagueness is well-known in various types of contemporary discourse. It has been addressed by such researchers as T. Williamson, R. Keefe, S. Shapiro, R. T. Cook, R. Sorensen, and others. Among the Ukrainian scholars who have dealt with this issue are O. Shcherbina, I. Khomenko, O. Sharko.

Expressions that have disputed cases of application are said to be vague (Sharko, 2018, p.4). G. Frege speaks

metaphorically of vague concepts as "an area that had not a sharp boundary-line all round, but in places just vaguely faded away into the background" (Geach, &, Black, 1970). As Sharko writes, "vague (in modern logic and philosophy of language) are those predicates whose limits of application are fundamentally uncertain. For such predicates, no clear line can be drawn to separate positive extension from negative extension" (Sharko, 2018, p. 37). Impreciseness refers to the indefiniteness of the semantic meaning of a name (Khomenko, 2010, p. 33). Iryna Khomenko points out the presence of linguistic expressions that are both imprecise (a name whose objective meaning cannot be clearly defined) and vague (a name whose semantic meaning cannot be clearly defined). Therefore, it is impossible to clearly establish the class of objects that these expressions denote, and the meaning of such names lacks certainty.

Charles Beitz uses Rorty's phrase that human rights are "a fact of the world". He writes of human rights as an emergent social practice that is not yet mature and established. This practice is both discursive and political, it expresses the idea of social justice and is a common language of morality. However, he notes that the boundaries of this discursive community are indistinct, there are no rules for inclusion or exclusion from this community, and therefore the understanding of the idea of human rights itself is unavoidably undefined (Beitz, 2009, pp. 1–12).

In fact, in the case of Ukrainian society, we can see that the discursive practice around human rights has taken over all aspects of modern life. It can be observed both at the

level of everyday language and at the level of specialised discourses (philosophical, political, legal, etc.). Human rights permeate all aspects of life. It is difficult to find a person who does not refer to this concept, or at least can say that they have never heard of it. The "practice of human rights" touches everyone's life, even if they are not aware of it: the ability to gather for a rally, to criticise the authorities, protection from arbitrary detention, and privacy in one's own home – all this shapes the world we live in.

At the same time, only a small proportion of people can define what human rights are. In those cases where someone can (usually specialists, but not even every lawyer), such definitions create an inconsistent polyphony, and in the most extreme cases such definitions can directly contradict each other.

German philosophers Georg Lohmann and Stefan Gosepath, in their introduction to a collection of works on the philosophy of human rights, emphasise that there is no single, universally accepted definition of human rights. They note that although there is an international debate on the understanding of human rights, there is no agreement in this area and the generally accepted understanding of human rights is highly uncertain (Gosepath, & Lohmann, 2012, p. 16–18). We turn to several other sources to illustrate this point. This will be illustrative, as it is not possible to provide a complete overview of the full range of approaches within the scope of this paper.

Let us begin with the opinion promoted by the Council of Europe as one of the most influential international organisations in the world in charge of human rights. Human rights are defined as super claims distinct from the other rights. These claims are not dependent on promises or guarantees by another party. "An acceptance of human rights means accepting that everyone is entitled to make these claims... Human rights are inherent to all human beings as a birthright... A human rights claim is ultimately a moral claim, and rests on moral values... Without human rights, we cannot achieve our full potential. Human rights simply extend this understanding on an individual level to every human being on the planet. If I can make these claims, then so can everyone else as well" (Brander et al., 2020, p. 384).

Winston Langley in the Encyclopedia of human rights issues since 1945 defines human rights as an international term that refers to certain moral and legal entitlements, which all human beings are said to have. "These rights differ from others that individuals have been recognized to have throughout human history... By virtue of membership in the human family, one is said to have rights that are inherent, that is to say, rights that are an inseparable part of what it is to be truly human" (Langley, 1999, p. 143–144).

James Nickel, author of the respective article in the Stanford Encyclopedia of Philosophy, defines human rights as norms that aspire to protect all people everywhere from severe political, legal, and social abuses (Nickel, 2019).

Burns H. Weston in his article for Encyclopedia Britannica writes of human rights as rights that belong to an individual or group of individuals simply for being human, or as a consequence of inherent human vulnerability, or because they are requisite to the possibility of a just society. He continues: whatever their theoretical justification, human rights refer to a wide continuum of values or capabilities thought to enhance human agency or protect human interests and declared universal in character, in some sense equally claimed for all human beings, present and future (Weston, 2023).

The Ukrainian Philosophical Encyclopaedic Dictionary defines human rights as a set of fundamental moral and legal norms that formulate the principles of relations

between an individual and society represented by government institutions. Human rights define the scope of negative and positive obligations assumed by a state governed by the rule of law (Human Rights, 2002, p. 506).

As defined by the authors of the collective monograph "Human Rights: Socio-Anthropological Dimension", human rights are certain opportunities that are necessary to meet the needs of human existence and development in specific historical conditions, are objectively caused by the level of development of society, and should be universal and equal for all people (Rabinovych, 2006, p. 117).

In the article "Human Rights in Globalization" for the Great Ukrainian Legal Encyclopaedia, L. Udovychuk defines them as legal opportunities for a person to take certain actions to satisfy his or her spiritual and material interests, to ensure his or her existence and development, which have specificities related to the peculiarities of the content of the globalization process (Udovychuk, 2017, p. 603).

In his article for the Great Encyclopaedic Legal Dictionary, Y. Shemshuchenko defines human rights as the defining principles of the legal status of a person. They belong to a person from birth and therefore are natural and inalienable. Without these rights, a person cannot exist as a full-fledged social being (Shemshuchenko, 2007, p. 669).

An important moment in the history of human rights is the period after the end of the Second World War and the giving of a positive form to human rights. During this period, the Universal Declaration of Human Rights was adopted and proclaimed by the UN General Assembly on December 10th, 1948 (Universal Declaration of Human Rights, 1948).

A manual provided by the Human Rights Education Youth Programme of the Council of Europe notes that philosophers may continue to argue about the nature of human rights, but the international community started its astonishing commitment to human rights through the adoption of the Universal Declaration of Human Rights in 1948 (Brander et al., 2020, p. 385).

The Universal Declaration established a particular list, content, and wording of what are sometimes referred to today as human rights standards and became a bridge from abstract theoretical and philosophical debates to further legal formalisation. Based on the Universal Declaration, the European Convention on Human Rights of November 4th, 1950 (further in the text – ECHR) (Council of Europe, 1950), the International Covenant on Civil and Political Rights (further in the text – ICCPR) (International Covenant on Civil and Political Rights, 1966), the American Convention on Human Rights (*American Convention on Human Rights, "Pact of San Jose"*, 1969), and several other universal and regional international human rights treaties were subsequently adopted.

It may seem paradoxical, but the adoption of the Universal Declaration not only failed to eliminate the problem of the vagueness and imprecision of the concept itself but on the contrary, manifested and amplified it.

The French philosopher Jacques Maritain witnessed the preparation of the text of the Universal Declaration. He was authorised to write the introduction to the collection of works "Human Rights: Comments and Interpretations". Maritain noted, "Where it is a question of rational interpretation and justifications of speculation or theory, the problem of Human Rights involves the whole structure of moral and metaphysical (or anti-metaphysical) convictions held by each of us. So long as minds are not united in faith or philosophy, there will be mutual conflicts between interpretations and justifications. In the field of practical conclusions, on the other hand, agreement on a joint declaration is possible, given an

approach pragmatic rather than theoretical and cooperation in the comparison, recasting and fixing of formulae, to make them acceptable to both parties as points of convergence in practice, however opposed the theoretic viewpoints. <...> It is not reasonably possible to hope for more than this convergence in practice in the enumeration of articles jointly agreed" (Maritain, 1948, p. 1).

Thus, the Governments had agreed on the formulation of a certain list of norms which, in the extensional context, clearly belong to human rights. However, there is no agreement that even the adopted in such a way list is complete. In fact, even the scope of this concept is not defined. It is not defined either within the limits set by international treaties or in general philosophical discourse.

For example, a comparison of the list of norms contained in the Universal Declaration of Human Rights, the European Convention on Human Rights, and the International Covenant on Civil and Political Rights already reveals certain differences. We can ignore those differences that can be overcome by interpreting the existing norms (for example, the right to recognition of legal personality under Art. 6 of the Declaration and Art. 16 of the Covenant, which can probably be interpreted as an element of the right to respect for private life under Art. 8 of the European Convention), but this does not solve the problem: the Declaration refers to the right to a nationality (Art. 15), whereas neither the Covenant nor the European Convention guarantees such a right, either explicitly or implicitly (Art. 24 of the Covenant contains only a narrow formulation on the right of the child to acquire a nationality). Article 21 of the Declaration and Article 15 of the Covenant provide for the right to take part in the conduct of public affairs, including access to the public service of one's country, while the European Convention guarantees only the right to participate in legislative elections. These examples are not exhaustive and have been provided in the context of only three international human rights protection instruments, which can be considered analogous to each other to some extent. In fact, the list of international human rights treaties is much longer than we have just quoted (Beitz, 2009, p. 26–27). As the list of such treaties grows, so does the list of differences. It is worth noting that the differences also relate to the list of countries that have agreed to a particular international treaty. In this sense, only the Universal Declaration of Human Rights is truly universal.

The above shows that the scope of the concept of "human rights" is not sufficiently defined, even as a legal concept. The scope can be narrowed by specifying the treaty in question.

However, if we go beyond the understanding of the analysed concept as a purely legal one, the scope of the concept of "human rights" ceases to be clear. The legal concept of human rights is only a "dry residue": the fact that the norms and rules that make up the scope of the legal concept of human rights actually belong to this category is not discussed. However, the discourse on human rights exists actively beyond these boundaries and is not limited to analysing the content of the positive provisions of international treaties.

The above can be demonstrated by discussions about the human rights generation and human rights inflation. In particular, 3 generations of human rights are generally recognised. They include civil and political rights as the first generation rights, social, economic, and cultural rights as the second one, and solidarity rights as the third generation (Brander et al., 2020, pp. 397–400; Zieck, 1992).

Nevertheless, a discussion regarding the fourth generation also emerged (Risse, 2023, pp. 137–159; Baroni, 2024).

At the same time, there is pressure from a number of political movements to expand the list of human rights to include new areas, which leads to inflation, "devaluation" of human rights (Nickel, 2019). The understanding of which norms should be considered human rights is thus blurred. Similarly, the wording of the articles of the Declaration adopted by the governments is rather vague, which has also created a lot of ambiguity.

If we go back to the legal concept of human rights as defined by the European Convention or the ICCPR, we can speak of human rights as certain obligations of states or governments. This definition needs to be elaborated, but it reflects the main generic characteristic. The grounds for such a definition can be found in the text of the above-mentioned treaties – Article 1 of the European Convention or Article 2 of the ICCPR. In particular, Article 2 of the ICCPR provides that each State Party to the Covenant "undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant". Article 1 of the European Convention provides that "the High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in <...> this Convention."

However, this definition becomes questionable as soon as we turn to the so-called second-generation human rights. Such rights are enshrined in the texts of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) or the European Social Charter (Revised) (ESC). Article 2 of the ICESCR provides that "each State Party to the present Covenant undertakes to take steps <...> **to the maximum of its available resources**, with a view to achieving progressively the full realization of the rights recognized in the present Covenant" (International Covenant on Economic, Social and Cultural Rights, 1966). Article 1 of the ESC contains even more conditional wording: "the Parties **accept as the aim of their policy**, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles <defined in the Charter> may be effectively realized can be effectively exercised" (Council of Europe, 1996).

When we speak of second-generation human rights in terms of state obligations, we lose their main content: the subject of these obligations is no longer so much the realisation of the rights themselves, but only measures to ensure the exercise of certain rights in the future, taking into account economic opportunities (it should be acknowledged that the Charter contains more specific obligations in some respects, but in general they are not as direct as those provided for in the ICCPR or the ECHR). The main difference is that, unlike other generations of human rights, first-generation rights do not require the state to expend large amounts of resources, as they mainly relate to the state's non-interference in certain sets of freedoms.

Other phenomena, however, pose a much greater problem in defining the content of the concept. Since the adoption of the Declaration, along with the approval of the list of norms, implicitly declared the rejection of existing theories or philosophical positions as a justification of human rights, human rights have found themselves in the position of survivors of fire: they survived but lost all previous achievements. All previous justifications of human rights can be compared to Wittgenstein's ladder, which was thrown away as soon as the roof was reached.

Meanwhile, almost immediately after the Declaration was adopted, the debate about whose ladder was actually helping to achieve the goal was revived. Even Maritain himself could not resist making statements such as "Shall we try to reestablish our faith in human rights on the basis of a true philosophy? This true philosophy of the rights of the human person is based upon the true idea of natural law". "Sorry that we cannot find another word" (Maritain, 1951, p. 80, 84). This example demonstrates that despite the existence of the agreement on a certain list of norms and their wording, theoretical and philosophical discussions continued with renewed vigour, remaining in the format of irreconcilable positions.

The term "human rights" itself only comes from the Universal Declaration (Weston, 2023). This is not easy to understand in the Ukrainian context, given the certain terminological insensitivity of the Ukrainian language to the difference between words naming man and human being. This difference can be seen in the terms "Human Rights" and "Rights of Man". Richard Rorty, in his book *Human Rights, Rationality and Sentimentality*, describes the development of human rights by distinguishing between "man-animal", "man-child" and "man-woman" (Rorty, 1993, p. 134).

The very phrase "Rights of Man", which was common before the Second World War, was to some extent a reflected the neglect of the role of women in society. Therefore, the terminological change marked a real transition to a universal concept of human rights. The latter term also works better for gender diversity.

But it also raises the question of the validity of extending the term "human rights" to philosophical concepts that did not use it. Locke, for example, wrote of "natural rights" or "natural law" and did not use the term "human rights" (Locke, & Shapiro, 2003). The French Declaration of the Rights of Man and of the Citizen concerned only the rights of the citizens of the Republic, not all human beings (French Declaration of the Rights of Man and of the Citizen, 1789).

Some researchers talk about the genesis of human rights, starting from the time of ancient Greece and Rome, and argue that certain philosophers reflected on this very thing (Weston, 2023; Langley, 199, p. 144).

Maritain, among other things, mentions the existence of a conflict between "new" and "old" human rights which he finds partly artificial. He supposes that the antagonism derived either from the passion for theoretical disputes or the absolutist human rights rhetoric of the 18th century (Maritain, 1948, p. 1). Although Maritain finds this distinction to be somewhat far-fetched, Samuel Moyn argues that the difference between modern human rights as we know them today and the concept that existed before 1948 is sharp (Moyn, 2010, p. 12).

Defining the concept of human rights requires formulating its essential features. At the same time, what exactly are the essential features depends on the worldview and the relationship with the basic categories of a particular philosophical position. For example, the concepts of "God" or "fate" will have different meanings in Marxist and religious contexts. In other words, the definition of a concept depends on its ontological understanding in a particular philosophical system. In this sense, it is important for us to list the main categories used by the respective philosophical system, their interconnection, and the place of the concept of "human rights" among these categories.

Alain de Benoist notes the difference in the ontology of understanding human rights. He argues that the first human rights theorists tried to justify human rights by claiming that they derive from human nature. Modern approaches give

more weight to the social nature of man (Benoist, 2011, p. 105). "An individual is an isolated knot, a person is the entire fabric that is outside this knot, a fragment of the total fabric that constitutes the real... It is undeniable that, without the knots, the fabric would come undone; but without the fabric, the knots would not even exist" (Panikkar, 1982, p. 100).

As Beitz has noted, the human rights discourse is fundamentally open: it is normatively indetermined, and anyone can join it (Beitz, 2009). Unlike most other discourses, it concerns every human being, and it is not limited to specialised knowledge, as is the case in traditional scientific disciplines. Anyone can participate in it, and many do. Politicians, lawyers, philosophers, human rights activists, businessmen, and laypeople are just some examples of its contributors. It is therefore inevitably polyphonic and multilingual.

Since human rights discourse is not normatively defined, no one runs the risk of being ostracised. The worst that can happen is that certain views are ignored. As a result, this discourse contains very different understandings of the most important thing – what human rights really are.

At one end of the spectrum, human rights are seen as anthropological attributes of human beings; at the other, they are norms that regulate social relations. Some scholars insist on the continuity of the idea of human rights almost from antiquity, while others believe that human rights after the Universal Declaration have little in common with anything that came before. The question arises as to the possibility and relevance of the Enlightenment language of Locke and other philosophers of that period to today's discourse.

All this looks like an attempt to unite under the umbrella of human rights things that are poorly or not at all combined: different ontological understanding, different scope of the concept, different logical characteristics. For example, in terms of the logical characterisation of the concept human rights can be an abstract or concrete concept (as an anthropological property and as norms defining social relations), singular or general, collective or non-collective.

We suggest that the search for a universally accepted definition of human rights may prove unproductive (at least, at the current stage of discourse development). Instead, it may be more productive to recognise that there are several different definitions of the concept and to try to identify a list of criteria that determine the position of a particular participant in the discourse and thus, to some extent, overcome the general vagueness.

Discussion and conclusions

In our opinion, the difficulty of logical analysis of the concept of human rights, i.e. its assignment to a specific type, and its unambiguous interpretation and definition, is related to:

- the lack of definition of the limits of scope of the concept of human rights in philosophical discourse and the insufficient definition of the limits of this concept as a legal notion;
- the need to assess the legitimacy of the retrospective extrapolation of the term "human rights" to the entire body of works created before the adoption of the Universal Declaration of Human Rights, in which it was not used (in the Ukrainian context, this aspect is not obvious due to historical and linguistic peculiarities);
- different ontological understanding of human rights by different actors in the discourse that makes it impossible to combine their positions under the same umbrella (e.g. according to one position, human rights are seen as anthropological attributes of a person; according to another, they are norms regulating social relations).

The above testifies to the complexity of an unambiguous logical characteristic of the analyzed concept. It seems that the situation does not allow for a single definition of the concept of "human rights". According to the above, we can assume that it is not a single concept, but a plurality of concepts. In this case, the position of the discourse participant concerning a certain system of criteria and its justification may be a way to overcome the difficulties we have identified.

Authors' contribution: Olena Shcherbyna – supervision, manuscript editing; Serghiy Zayets – investigation, data curation, resources, methodology, manuscript writing (original draft preparation), formal analysis.

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СКЛАДНОЩІ ВИТЛУМАЧЕННЯ ПОНЯТТЯ "ПРАВА ЛЮДИНИ": ЛОГІКО-ФІЛОСОФСЬКИЙ АСПЕКТ

Вступ. Досліджено поняття прав людини, яке у сучасному філософському дискурсі є одночасно неясним і неточним. Хоча більшість авторів визнають відсутність одностайності у визначенні поняття прав людини, мало хто намагався з'ясувати причини такої ситуації. Мета цього дослідження – шляхом логічного аналізу поняття "права людини" виявити джерела проблематичності його визначення та запропонувати способи подолання виявлених складнощів у тлумаченні цього поняття.

Методи. У процесі дослідження використано філософсько-герменевтичний підхід у поєднанні з порівняльним і термінологічним аналізом поняття "права людини".

Результати. Зазначено, що дискурс прав людини є принципово відкритим: він є нормативно невизначеним, і до нього може долучитися будь-хто. Тому він неминуче поліфонічний і багатомовний. Як наслідок, дискурс містить дуже різні розуміння найголовнішого: чим насправді є права людини. Спроби знайти універсальне визначення поняття прав людини видаються спробою об'єднати під одним дахом те, що погано або зовсім не поєднуються: різні онтологічні розуміння, різний обсяг понять, різні логічні характеристики.

Висновки. Складність логічного аналізу поняття прав людини пов'язана з: 1) невизначеністю обсягу поняття "права людини" у філософському дискурсі та недостатньою визначеністю його меж як юридичного поняття; 2) необхідністю оцінювання правомірності ретроспективного поширення терміна "права людини" на весь корпус відповідних праць, що створені до прийняття Загальної декларації прав людини, в яких цей термін не вживали (в українському контексті цей аспект не є очевидним через історичні та мовні

особливості); 3) різним онтологічним розумінням прав людини різними учасниками дискурсу, що унеможлиблює об'єднання їхніх позицій під однією парасолькою (зокрема, згідно з однією позицією, права людини розглядають як антропологічні властивості людини, згідно з іншою – як норми, що регулюють суспільні відносини).

Зазначене свідчить про складність однозначної логічної характеристики аналізованого поняття. Видається, що така ситуація не дозволяє дати єдине визначення поняття "права людини". Проте можна припустити, що це не єдине поняття, а множина понять. У цьому разі позиція учасника дискурсу щодо певної системи критеріїв та її обґрунтування може бути способом подолання складнощів, які ми виявили.

К л ю ч о в і с л о в а : права людини, поняття "права людини", юридичне поняття, логічний аналіз поняття, неясність, неточність.

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