

# SOME ASPECTS ON THE LEGAL INTERPRETATION OF THE FOURTH GENERATION OF HUMAN RIGHTS

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**Introduction.** Today, humanity is at a new stage of evolutionary development. The scientific and technological revolution of the late XX - early XXI centuries, accompanied by incredible discoveries in medicine, biology, genetics, the rapid development of information and communication technologies and the popularization of digital space have led to significant changes in human consciousness, which introduced and a new generation of people called "generation Z". All this led to the modernization of social relations, including legal. At the same time, the issues related to the use of the Internet, virtual reality, euthanasia, sex change, organ transplantation, artificial insemination, cloning have become increasingly popular. The need for regulation of new social phenomena gave rise to the fourth generation of human rights (here and after - FGHR).

The recent changes in social and legal relations require the transformation of human rights legislation and justify the need to introduce new rules of law that will regulate new aspects of human life. At the same time, the rights that make up the content of the fourth generation are the subject of disputes among scholars, especially because of their ambiguous moral assessment [5: 26]. We suppose that the main problem of this phenomena is that the fourth generation of human rights are still not fully recognized by the international community and they need to be regulated properly.

Today there is an argument about the feasibility of research and further consolidation of the modern generation in scientific environment, however, it should be mentioned that appropriate regulation of human rights, bringing them into a line with modernity is one of the most important aspects of improving the legal systems of all countries, contributes to the harmonious existence of society at all.

**Review of recent publications.** It should be noted that the following scientists have devoted their scientific works to the issue of research of the general theoretical aspect of FGHR: O.O. Barabash, S.B. Buletska, A.B. Vengerova, Y.A. Dmitrieva, M.V. Koval, O.G. Kushnirenko, A.P. Semitko, M.P. Tyrina, D.M. Shebanitz, D. Krylova, T. Popovich etc. However, taking into the account the young nature of the modern generation of human rights, its research causes a number of new questions for scholars regarding its concept, characteristics, classification and feasibility of regulation. All the mentioned above needs further research of FGHR.

**Objectives of the paper.** Certain aspects of the research topic, in our opinion, remain out of due attention, so the article reveals some aspects of information human rights, namely, the right to the Internet, the right to be forgotten, the right to be protected from unwanted information; as well as analyzes the general theoretical aspect of the fourth generation of human rights (concepts, essence, characteristics, meaning and approaches to classification) and states their role in the legal discourse.

**Results of research.** The traditional classification of human rights, developed by the French scholar Karel Vasak, consists of three generations: the first includes civil and political rights, the second consists of socio-economic and cultural rights, the third consists of collective rights or the rights of "solidarity", while for human rights defenders the rights themselves are a key object of legal protection. However, despite the processes taking place in the world today, it is difficult to disagree with N. Mushak, who considers that the concept of human rights is dynamic and therefore constantly evolving [7 :298].

It should be noted that there is no exact definition of FGHR in the scientific literature. However, the analysis of its characteristics allows us to interpret the modern generation as generated by the evolution of social processes, especially the results of

the scientific and technological explosion of the late XX - early XXI century, a range of human rights, including the right to sex change, organ transplantation, cloning, same-sex marriage, artificial fertilization, euthanasia, a child-free family and independent of government interference in religious, moral, and the right to virtual reality and access to the Internet [4 : 129].

As for the classification of the modern generation of human rights the opinions of scientists are divided into three camps: one proposes to assign only somatic rights to the fourth generation, the second - only information, and the third - both somatic and information. Supporters of the first approach include into FGHR the right to die, the human right to dispose its organs, reproductive rights (positive - artificial insemination and negative - abortion, sterilization), the right to change sex, the right to clone the whole body and individual organs, transplantation, euthanasia. They are also defined as "the protection of human rights in the field of bioethics" or "the protection of human beings from the threats posed by experiments in the field of genetic inheritance." M. Tyrina offers to distinguish biological rights from the FGHR - those that are determined by the biological structure of the human body and its biological needs [13 :730-731].

Another position is accepted by the scientists I. Diorditsa, Y. Dmitriev who call FGHR the information rights and connect them with the process of informatization, technology and development of virtual reality in general. Information law as a branch of law defined as a set of rights directly related to the development of information and communication technologies and the formation of the information society, which is relevant to the legal doctrine in the modern development, and information rights as a measure of possible behavior in the information sphere; as state-guaranteed human capabilities to meet their needs in obtaining, using, disseminating, protecting and protecting the amount of information necessary for life.

However, such scientists as D. Shebanitz [10], M. Koval [4], D. Krylova [5] do not agree that these two groups of rights should be separated and propose to refer to the fourth generation of human rights the right to sex change, organ transplantation, cloning, same-sex marriage, artificial insemination, euthanasia, a child-free family and independent of state interference in religious and moral matters, as well as the right to

virtual reality and access to Internet, and also the information rights. This concept is the most appropriate, because both groups of rights correspond to the essence of the modern generation. In addition, this classification is most often used in the scientific literature.

Therefore, among the list of fourth generation of human rights, two groups of rights were formed: somatic and information. However, such classification is provisional, and FGHR list may be expanded.

According to the researchers, human rights play an exceptional role in information freedom. Law is seen as the means that with the help of special legal methods allow a person to realize information freedom, providing a person with a number of opportunities, using which, he will be able to realize his inherent information freedom.

Information human rights can be defined as certain human capabilities necessary to meet the information needs of his life and development in specific historical conditions, which are objectively determined by the achieved level of the development of society and information and communication technologies, provided by socially conditioned responsibilities of other actors and are protected by public authorities.

Here it is necessary to clarify the relationship and correlation of the concepts of "information rights and freedoms" and "information rights and freedoms of citizens".

At the same time, human rights are fundamental, they are inherited by all people from birth, regardless of whether they are citizens of the state in which they live, while the rights of a citizen include those rights that are assigned to a person only by virtue of his citizenship. So, every citizen of a state has the full range of rights that belong to universally recognized human rights, as well as endowed with all the rights of a citizen recognized in that state.

Human rights are the natural capabilities of the individual, providing the necessary conditions for his life, human dignity and freedom of activity in all spheres of public life, and civil rights is a set of opportunities enshrined in regulations that determine the degree of freedom of a subject who has a permanent political and legal relationship with a particular state.

Consequently, the main problem of FGHR today is the lack of scientific validity and lack of legal consolidation, which causes a collapse in the perception and proper interpretation of the essence of this phenomenon.

Taking into the account all mentioned above it follows that FGHR are generated by the evolution of social processes, especially by the results of the scientific and technological explosion of the late XX - early XXI century, a range of human rights, including somatic and information rights, are dynamic in nature and require immediate attention of the law makers for a more accurate interpretation.

Information rights and freedoms were first announced in the Universal Declaration of Human Rights, approved and proclaimed by the UN General Assembly on December 10, 1948.

The European Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, November 4, 1950) sets out the provisions enshrining information rights and freedoms in Article 10:

1. Everyone has the right to freedom of expression. This right includes freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent states from licensing broadcasting, television or cinematographic enterprises.

2. The exercise of these duties, which imposes duties and responsibilities, may be accompanied by formalities, conditions, restrictions or sanctions established by law and necessary in a democratic society in the interests of national security, territorial integrity or public order, in order to prevent disorder and crime, to protect health and morals, to protect the reputation or rights of others, to prevent the disclosure of information obtained in confidence, or to ensure the authority and impartiality of justice [2].

The right of every person to information, i.e. the right to seek, to receive, to transmit, to make and to disseminate information freely and in any lawful manner, is guaranteed by the constitutions of most states. This right logically follows from the universally recognized principle of international law of respect for human rights and fundamental freedoms. There are several points of view on the content of the right to

information in scientific circles. Some researchers consider the right to information is only in the field of openness of state bodies, understanding this right as a citizen's ability to receive official information of state bodies, which the latter have in connection with the exercise of their powers. Other scholars argue that the right to information comes from freedom of speech.

Undoubtedly, digitalization is becoming the most important factor in the social and economic growth of any country and in general is a modern trend of development.

Under such conditions, there is a need to ensure the security of basic tools of the digital society - protection of electronic signatures, payments, tokens, sim-cards, online services, protection of information in electronic clouds, databases, development of cryptography and authentication technologies, protection of electronic document management system , information transmission channels, server protection, security of commercial and state electronic platforms, protection against threats of influence through information channels on aircraft, weapons, transport, the latest technologies, etc.

In 2011, the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights (Guiding Principles), the first international instrument to assign companies the responsibility to respect human rights. The Guiding Principles state that governments must put in place good policies, laws, and enforcement measures to prevent companies from violating rights, that companies must refrain from negatively impacting rights, and that victims of corporate abuses must have access to effective remedy. As part of this responsibility, the Guiding Principles require companies to undertake due diligence to identify and manage their negative human rights impacts.

In modern conditions, achieving a balance between state secrets and the right of the public to know in a global world, changed by efforts to fight terrorism and the spread of digital technologies, is ensured, in particular, by implementing the Global Principles on National Security and Freedom of Information and indicating what information held by the State may be lawfully kept secret and what information should be disclosed [11].

**Conclusions.** Recognition of FGHR rights will require a clear mechanism for its implementation. It is necessary to understand which of these rights are really necessary for the existence and development of mankind or its part, and which are potentially dangerous and may cause irreparable damage to future generations and human civilization in general [8:270].

Entering the electronic era, society is careless in defining in legislative and regulatory documents fundamental to its understanding of concepts such as "information", "information resource", "information security". The analysis of global trends in human development in the XXI century allows to argue that the further development of states will take place under conditions of enormous technological and psycho-emotional challenges and risks.

It is necessary to define clearly cases of restriction of information rights and freedoms of the person and the citizen in legislation. Otherwise, the constitutional norms enshrining the rights and freedoms of man and citizen will be of an exclusively declarative nature.

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