

TRENDS IN LEGAL REGULATION OF SOCIAL PROTECTION AS A PILLAR OF DECENT WORK AND A MOVING FORCE OF SUSTAINABLE DEVELOPMENT

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Abstract

Purpose of the study: The purpose of the article is to identify trends in the legal regulation of social protection at the global, regional and national levels in the process of achieving decent work and sustainable development. The object of the study is the sphere of social protection as a pillar of decent work and a moving force of sustainable development, and its subject is the mechanisms of legal regulation of this sphere at the global, regional, and national levels.

Methodology: The methodological basis of the research is dialectics, synergies, and hermeneutics. The research methods cover a system of general scientific and special legal means and methods of knowledge, method of abstraction and generalization, analytical, formal-logical, and logical-semantic approaches.

Main Findings: It is proved that it is advisable to apply a synergistic approach to identifying and defining trends in the legal regulation of social protection as a pillar of decent work and a moving force of sustainable development. It is determined that in developed, developing countries and countries with economies in transition, there is a need to prepare modern National Social Protection Strategies at the legislative level or to improve existing strategies, taking into account the provisions of the 2030 Sustainable Development Programme and the ILO Decent Work Programme.

Applications of this study: The results of this research can be used to formulate public policy in social security and labor in Ukraine. Ideological findings will improve labor legislation. The research algorithm will be useful for students as well as graduate students in the study of labor law problems.

Novelty/Originality of this study: The originality of this research is the use of a synergistic approach for the consideration of social protection as the foundation of decent work and the moving force of sustainable development. This approach is unconventional in the science of labor law. It helped to identify important areas for improvement of legal regulation of social protection at the global, regional, and national levels.

Keywords: *Legal Regulation, Decent Work, Social Adaptation, Sustainable Development, Social Protection, Social Services.*

INTRODUCTION

To implement the concepts of sustainable development and decent work in all countries of the world in the context of constantly changing forms of work organization and increased labor migration, it is necessary to create a stable and reliable social protection of workers. On the one hand, sustainable and reliable social protection must be strong in terms of financial-based and the effectiveness of its organizational and legal forms. On the other hand, such social protection should be sensitive to the manifestations of both traditional and non-traditional social risks, regardless of the number of its manifestations. Sustainable and reliable social protection of employees should free them and their families from fear and uncertainty in the future, and encourage increased participation in the labor market. And further, such social protection, based on the principles of social solidarity and differentiation of social risks, will help to change the dependency attitude of vulnerable groups, turning them from passive recipients of social assistance to active workers or self-employed persons. It is particularly difficult to create sustainable and reliable social protection in developing countries and countries with economies in transition. In such countries, the financial situation is very difficult, also the legal regulation of social protection is not yet sufficiently effective and perfect, which does not contribute to reducing extreme poverty in all its forms and manifestations. For developed countries, the support and improvement of existing modern sustainable and reliable social protection systems and their high-quality legal support, is also an urgent task, since the forms of work organization are constantly being transformed in the transition from post-industrial economies to information and produce new and new challenges to social and labor and social protection relations.

The insufficient number of scientific developments on the content of social protection as a pillar for decent work and a moving force for sustainable development, and the imperfection of its legal regulation in this context, actualizes the topic of this work.

In this context, it is necessary to note the common challenges of the realities of our world that governments have yet to face and which the UN Secretary-General pointed out in his report on progress towards achieving the sustainable development Goals of May 8, 2019. Firstly, despite the availability of jobs, 8 percent of the world's workers and their families still live in extreme poverty. Secondly, only 22 percent of the unemployed receive cash unemployment benefits ([United Nations, 2019, p. 6](#)). Thirdly, many workers around the world are exposed to unnecessary risks in their work. According to the latest data from about 55 countries, there is an average of 3 fatalities per 100.000 employees and 889 non-fatal injuries per 100.000 employees ([United Nations, 2019, p. 17](#)). It is important to note that modern fundamental and applied research is aimed at developing a global and universal system of social protection of the population under the influence of the concepts of decent work and sustainable development. These research papers focus on its content, levels, a key role in achieving sustainable development and decent work, as well as issues of governance and legal regulation. It is necessary to indicate that the most significant results of these studies.

The theoretical basis of social protection, its core, is the theory of social risk. Any state always helps to minimize its manifestation. However, in developing countries and countries with economies in transition, modern theory and practice of social risk management are aimed only at countering the risk of "loss of income", while the risks of "quality of life" are not covered and are not taken into account by this system ([Berezina, 2019](#)). This is fundamentally contrary to the concepts of sustainable development and decent work.

Today, in many countries, it is not established at the constitutional level that the right to social protection is guaranteed not only by receiving social benefits but also by providing social services to citizens. That social service, " which consists in the timely and effective provision of social measures (assistance, support, services, etc.) to citizens and in the creation of a network of entities that provide social services to persons in difficult life circumstances of a social nature " ([Ranevych, 2019](#)). In this regard, the quality of life of vulnerable groups of the population, such as people with disabilities and the elderly, is significantly deteriorating.

Currently, many different actors in the field of social protection of employees are actively showing themselves. The employer as a subject of social protection is one of them. Its legal status in this capacity has not been fully investigated. On the one hand, the employer is an obligated subject of social protection of employees in the framework of labor relations, as well as potential and former employees in the framework of the state social policy on employment, material security, and recovery of working capacity ([Tymofii, 2019](#)). On the other hand, it is not always a socially responsible subject of social protection of employees and often tries to save money on non-compliance or improper implementation of social protection measures, which calls into question its belonging to this status, especially in developing countries and countries with economies in transition.

The European Union's social protection system is considered the most advanced in the world. Many countries that have chosen the European integration vector of development, including Ukraine, are experiencing difficulties in the process of harmonizing national social legislation with regional standards of the European Union in the field of social protection. The relevance of this is directly enhanced by the requirements that the European Union puts forward to its potential participants ([Maliuga, 2019](#)). Also, permanent changes in social legislation are not a guarantee of increasing the level of social protection for everyone, including employees. The effectiveness of such harmonization is possible only with financial stability and growth of the state's economy, which in practice is not always possible.

Social protection in countries with different levels of human development involves the provision of both contributory and non-contributory social assistance benefits. Low-cost non-contributory benefits are usually provided to those who have an income below a certain level. Therefore, according to recent observations in the world's poorest countries, which are located on the African continent, "social protection, in the form of a noncontributory minimum is also important" ([Conceicao, 2019](#)). This conclusion suggests that without the support of the entire world community, such countries will not be able to overcome poverty on their own.

Social protection of the population should a priori be a priority of state policy in highly developed countries of the world. However, even in such countries, there may not be an effective social protection system. The reasons for this are the reluctance and lack of motivation of the political elite in the development of the social sphere ([Kubrak, 2019](#)). State policy is sometimes more focused on creating a favorable image in the international arena, but the image of its citizens may not be interesting to it at all.

Modern social protection due to the emergence of new forms of employment, such as working on digital platforms, has not been adapted to the specific situation and needs of such workers to realize the human right to social security for all. Current social protection coverage for workers on digital crowd work platforms reveals significant gaps in social security coverage ([Behrendt, 2019](#)), which cannot be replaced either by the introduction of a universal basic income or by individual savings mechanisms. Governments need to guarantee universal social protection throughout life for all at the legislative level.

The lack and poor quality of social protection for women are some of the main current problems in developing countries. It is women who are more likely to work in the informal sector than men, so they are mostly left without old-age pensions. Their reproductive function also prevents them from earning income during the prenatal and postpartum periods. Many developing countries have introduced social protection programs to protect poor people from social and

economic risks, but despite women's often greater need, the programs are generally less accessible to women than to men (Cameron, 2019). This problem remains unresolved at the national level in these countries.

The problem of legal regulation of social protection of migrant workers as a component of their decent work is one of the requested scientific directions of modern research. It is not uncommon for some governments, even in developed countries, to view the fragmented nature of the multilateral migration system as a costly "toxic problem" (Amelicheva, 2020).

The problems of social protection of internally displaced persons are being studied no less actively today, including those that affect the imperfection of legal regulation of social protection relations of this category of persons. There are some opportunities for social protection programming to be tailored to help reduce the vulnerabilities of these groups, before departure, during the journey, upon arrival in a country of destination, and at the point of return (Sabates-Wheeler, 2019).

Research of the distant work as a legal category and the mechanism of legal regulation of this form of atypical employment its exceptional value in nowadays complex social and economic conditions of Ukraine's and other country's development. (Vyshnovetska et al., 2018).

Ineffective social policy in the sphere of social protection in the process of achieving sustainable development and decent work is one of the main causes of "poverty of the population in its extreme manifestation-poverty for pensioners" (Soloviev, 2019). With the development of digital technologies and the reduction of wage labor, this problem is now growing like a snowball, which requires a more thorough scientific approach to its study.

All the above-mentioned modern research is of great importance and will serve as a basis for further development of theoretical foundations and determining trends in the legal regulation of social protection of the population at the global, regional and national levels in the process of achieving decent work and sustainable development in science in general, and in this work in particular.

The *purpose of the article* is to identify trends in the legal regulation of social protection at the global, regional, and national levels in the process of achieving decent work and sustainable development. The *object* of the study is the sphere of social protection as a pillar of decent work and a moving force of sustainable development, and its *subject* is the mechanisms of legal regulation of this sphere at the global, regional, and national levels.

METHODOLOGY

The methodological basis of the research is dialectics, synergies, and hermeneutics. Dialectics is the philosophical basis for further development of the concepts of sustainable development and decent work (based on which the theoretical and legal approach to the modern concept of social protection in the field of labor has significantly changed). Synergies are used to analyze the legal regulation of social protection in the process of achieving decent work and sustainable development at the global, regional, and national levels. Hermeneutics is used to explain some of the legal rules governing social protection relations in the field of decent work.

The research methods cover a system of general scientific and special legal means and methods of knowledge that provide objectivity, system, and comprehensive study of the legal regulation of the social protection system in the field of achieving decent work and sustainable development at the global, regional, and national levels. The method of abstraction and generalization is used in the process of clarifying the definition of social protection. The study of the essence and content of social protection as a pillar of decent work and a moving force of sustainable development is carried out using analytical, formal-logical, and logical-semantic approaches.

RESULTS AND ITS DISCUSSION

Philosophical and legal views on social protection as a pillar of decent work and a moving force of sustainable development.

The transition of humanity from the "philosophy of consumption" that prevailed in the 20th century to the philosophy of sustainable development significantly changes the attitude of world human rights organizations and governments of most countries of the world to the social protection of all, and first of all, the economically active population. In the light of the above, I. Nemtsov's thesis that "new living conditions and new environment of the 21st century (under the weight of global problems) come into conflict with the person of the 20th century, new education, new views on the world, new legislation are necessary" deserves support (Nemtsov, 2015).

In response to new challenges to humanity, States Members of the United Nations and the International Labour Organization have set themselves the important task of strengthening social protection for all by supporting the 2030 Sustainable Development Programme and the ILO Decent Work Programme (International Labour Organization, 2008).

In the 2030 Sustainable Development Programme, several Sustainable Development Goals (combating poverty and hunger, improving health care, and striving for decent work) are directly linked to strengthening social protection for all. In the ILO Decent Work Programme, strengthening social protection is also considered the most important foundation

for decent work, along with full and productive employment, respect for labor rights and the prohibition of discrimination, and increased social dialogue.

Based on these policy documents of such world-famous human rights organizations, the theoretical and legal approach to the concept of social protection at the global, regional, and national levels is changing significantly. Under the influence of these documents, most states, primarily developing countries and countries with economies in transition, are already transforming their social policies and improving national legislation in the field of social protection, or are preparing to do so soon.

Thus, it is now necessary to clarify the structure and composition of such a complex concept as social protection in the sense of a pillar of decent work and a moving force of sustainable development. In the study, it is necessary to reveal the content of the concept "social protection" first, and then the categories "sustainable development" and "decent work" at the doctrinal level.

1. Social protection of the population is "a system of economic, legal, organizational and other measures of the state to ensure the social rights and guarantees of citizens, the action of which is aimed at taking care of the state and society for citizens who need assistance due to age, health, social status, insufficient provision of means of livelihood" ([Nagrebelyni & Bolotina, 1998, p. 558](#)). Also, in legal science, there is no dispute that "social protection as a function of the state is reflected in many constitutions, which is one of the signs of the social principle of the state structure" ([Goncharov, 2009](#)).

However, it must be pointed out that today social protection is a system of measures implemented not only by the state in the face of its bodies in the field of pensions, employment, social insurance, state social assistance, but also by entrepreneurs, trade unions, workers' movements, and human rights public organizations as participants in the social dialogue. Employees also share economic responsibility for providing social protection at work.

It's true, any state cannot function effectively without a well-established system of social protection, without a long-term social policy in this area.

For entrepreneurs, social protection is necessary as one of the ways to motivate labor, since it allows meeting not only the physiological but also the existential, social needs of workers ([Mnacakanyan, 2016](#)), which allows work to become more and more worthy.

Trade unions, workers' movements, and human rights organizations are implementing important measures to implement the basic level of social protection for the economically active population in four main directions. The first direction of their measures is to raise the awareness of employees about their social protection rights. The second direction serves to unite unorganized and isolated workers in trade unions and to obtain official recognition of them as participants in the social dialogue in the field of promoting the idea of a basic level of social protection and its implementation. The third direction of these measures concerns advocating and supporting legislative changes aimed at implementing the basic level of social protection. The fourth direction is monitoring the implementation of national laws and international standards, the obligations stemming from ratified ILO Conventions by governments, as well as holding these governments accountable if they fail to meet the task ([Coleman, 2011, p. 7](#)).

[Zykina \(2014\)](#) focuses on the fact that "employees through their work and the wages received for it as an equivalent of personal labor contribution to social production contribute to the formation of a social protection system" (p. 18). When workers lose their jobs and become unemployed, reach retirement age and retire, they move into the category of socially vulnerable segments of the population, whose social protection is no less important than the social protection of workers.

It is important to emphasize that social protection as a modern category is characterized not so much by dependence and paternalism, as by a balanced redistribution of economic responsibility among a large number of subjects of the social protection system (insurers, insured persons in the social insurance system, social security agencies, both state and non-state, participants in social dialogue, and employees). Gradually, the benefits needy on a pro bono basis is replaced by a range of other active models of social help to get out of poverty as many families (households), "to encourage people to find a way out of poverty and to boost economic activity" ([Goncharuk, 2012](#)).

2. Sustainable development is a revolution in values, the meaning of which is a spiritual transformation of the individual. The values of sustainable development are characterized as follows: the harmony of man with nature, for which humanity must stop its expansion into nature; the harmony of man with society, for which the individual must balance his egoistic claims with the interests of the collective, society, and the state; the harmony of man with himself, which implies finding the meaning of life and happiness ([Mantatov & Mantatova, 2015](#)). It should also be noted that for sustainable development, first of all, it is necessary to create a more equal society at all levels of the human organization without exception. A guaranteed minimum standard of living should be an inalienable right of any citizen ([Gizatullin & Troitskii, 1998, p. 128](#)).

Thus, it can be concluded that the social orientation of sustainable development is inextricably linked to the social protection of all. Today, the scientific community takes it for granted that social protection is a pillar of decent work and a moving force of sustainable development.

3. Decent work in the literature often referred to as an ideal, the achievement of which is due to the elimination of the deficit indicators (unemployment, poverty exists, etc.) ([Zykina, 2014, p. 29](#)), or the phenomenon due to which the alignment of interests between wage labor and capital to achieve effective social and economic development and provide a new, higher standard of living ([Kudrin, 2014, p. 190](#)). It should be pointed out that such approaches do not consider decent work in the context of human rights but as a means of ensuring economic growth and stability.

[Simurina \(2018\)](#) states: “decent work is a characteristic of working conditions in which the recognition of human dignity occurs by providing the state with such labor rights and freedoms, as well as guarantees of their implementation, the content of which is perceived by employees as an adequate and desired level of safety and security in conditions of economic and organizational dependence on the employer” ([p. 76](#)). It should be noted that this definition of decent work is developed based on a humanistic approach, rather than an econometric one, which undoubtedly improves the theoretical and legal understanding of this phenomenon. However, even in this definition, decent work is not considered a right to decent work in the context of human rights.

No matter what approach is used to define decent work, social protection is always a permanent part of it. This component in achieving decent work is no longer limited to helping the poor. In many countries, especially those with a very high level of human development, the social protection system for low-income families is rapidly expanding the implementation of various social adaptation programs and social contracts based on the plan to achieve financial self-sufficiency of families ([Kravchenko, 2019](#)).

Thus, the synergistic approach proposed in this study to considering social protection as a pillar of decent work and a moving force of sustainable development is unconventional in the science of labor law. However, this approach allows us to identify important areas for improving the legal regulation of social protection at the global, regional, and national levels.

Trends in the legal regulation of social protection as a pillar of decent work and a moving force of sustainable development in the world.

The 2030 Sustainable Development Programme and the ILO Decent Work Programme are based on international standards for strengthening social protection in the process of achieving decent work and sustainable development, which proclaim the right to social security as a universally recognized human right. First of all, articles 22 and 25 of the Universal Declaration of Human Rights ([United Nations, 1948](#)) and articles 9, 11 and 12 of the International Covenant on Economic, Social and Cultural Rights ([United Nations, 1966](#)) should be mentioned in this context.

By the 2030 Sustainable Development Programme and the ILO Decent Work Programme, the international community has committed itself to create minimum levels of social protection and universal social security systems. The International Labour Organization has developed the Strategy "Social security for all: creating minimum levels of social protection and universal social security systems" (the ILO Strategy).

This ILO Strategy is two dimensional and includes the following elements:

1. Horizontal dimension-creating and maintaining a minimum level of social protection as a fundamental element of national social security systems (guaranteed universal access to essential health services and basic income guarantees following the Social Protection Floors Recommendation, 2012 ([International Labour Organization, 2012](#)). The horizontal dimension of the ILO Strategy (national minimum levels of social protection) is "accelerated implementation of national minimum levels of social protection, which provide basic guarantees of social security for all those in need, access to essential medical services, and guarantees of income at a level not less than the legally established minimum" ([International Labour Organization, 2011](#)).

Following paragraph 5 of the Social Protection Floors Recommendation, 2012, national minimum levels of social protection should, at a minimum, include the following four guarantees established at the state level: (a) guarantees of access to essential health services, including maternity protection; (b) guarantees of basic income for children, ensuring access to food, education, care, and other necessary goods and services; (c) basic income guarantees for persons of economically active age who are unable to earn sufficient income, including as a result of illness, unemployment, pregnancy and childbirth, and disability; and (d) basic income guarantees for the elderly ([International Labour Organization, 2012](#)).

2. Vertical dimension-implementing strategies to expand the coverage of social security systems, ensuring that they are gradually extended to as many people as possible following ILO standards (gradual increase in the level of protection following the Social Security (Minimum Standards) Convention, 1952 (No. 102) and higher standards). When creating universal social protection systems, countries should strive to achieve the range and amount of payments specified in the Social Security (Minimum Standards) Convention, 1952 (No. 102) or other ILO Conventions and Recommendations in the field of social security, if they provide for higher standards ([International Labour Organization, 2013](#)).

Regional standards such as the European Social Security Code ([Council of Europe, 1990](#)) and the European Social Charter ([Council of Europe, 1996](#)) also have a great influence on the formation of national strategies for social protection

(social security). These documents also contain higher social security standards. Based on these regional standards, one of the world's best social models of the European Union has been formed, the main component of which is highly developed social protection systems. The European Union's social model is defined as "values that include democracy and individual rights, free collective bargaining, a market economy, equal opportunities for all, social protection and solidarity" ([Commission of the European Communities, 1994](#)). The positive experience of implementing regional European Union standards in the field of social protection on the example of a functioning successful social model of the European Union makes it possible to assert the following. These regional European Union standards are now a compass in the field of social protection, primarily for countries that have become an associate member of the European Union, in particular, for Ukraine, Moldova, Georgia, and others.

Thus, in developed, developing, and transition countries, governments should develop up-to-date national strategies for universal social protection or improve existing strategies, taking into account all of the above documents.

Trends in the legal regulation of social protection as a pillar of decent work and a moving force of sustainable development at the national level: the example of Ukraine.

According to Decree No. 722/2019 of the President of Ukraine of September 30, 2019 "On the Sustainable Development Goals of Ukraine for the period up to 2030" ([President of Ukraine, 2019](#)), Ukraine continues to ensure compliance with the Sustainable Development Goals of Ukraine for the period up to 2030. These Sustainable Development Goals of Ukraine generally coincide with the Global Sustainable Development Goals for social protection.

Recently, Ukraine, as a state with a transitional economy, has made a big step forward in its development as a social state by ratifying the European Social Charter, the 1952 Convention on minimum standards of social security (No. 102).

On the one hand, Ukraine already has a developed system of legislation on pension provision, mandatory state social insurance, provision of state social assistance, and social services. On the other hand, many of these acts do not meet the new trends in the legal regulation of social protection in the process of achieving decent work and sustainable development, taking into account the European integration vector of the state's development. Despite the adoption by Ukraine of many modern strategic and conceptual documents on overcoming poverty ([Cabinet of Ministers of Ukraine, 2016](#)), reforming the system of providing social services ([Cabinet of Ministers of Ukraine, 2012](#)), ensuring active and healthy longevity of the population ([Cabinet of Ministers of Ukraine, 2018](#)), there is still no single National Strategy for Social Protection for all.

Ukraine and the International Labour Organization are currently developing the fifth ILO Country Programme on Decent Work for Ukraine for 2020-2024, and its priorities have already been identified. One of the four priorities of this Programme is to strengthen social protection. Several important outcomes are planned to be achieved by 2024. Firstly, social protection should be extended to the low-income part of the population engaged in the informal economy. Secondly, the state must provide stable and sufficient resources to finance the social protection system. Thirdly, the level of benefits should correspond to the real cost of living for benefits with a real cost of living ([Darden, 2019](#)).

Thus, the priority strategic task in improving the legal regulation of social protection in Ukraine for all, primarily for the economically active population, is to develop a National Social Protection Strategy. Taking into account the demand in the scientific and practical environment for a codified act in the field of social security and labor in Ukraine, it would be correct to develop this act and the National Social Protection Strategy, simultaneously using unified terminology and coordinating all the fundamental issues of social protection as a pillar of decent work and a moving force of sustainable development.

CONCLUSION

Social protection as a pillar of decent work and a moving force of sustainable development is an insufficiently studied phenomenon in the science of labor law. The use of a synergistic approach to identifying and defining trends in the legal regulation of social protection as a pillar of decent work and a moving force of sustainable development at the global, regional and national level is unconventional in the methodology of labor law, but effective for obtaining the results of this study.

Firstly, taking into account the 2030 Sustainable Development Programme, the ILO Decent Work Programme, the ILO Strategy "Social security for all: creating minimum levels of social protection and universal social security systems", international and regional social security standards, the following trends in the legal regulation of social protection in the world are identified. In developed, developing, and transition countries, there is a general tendency to develop modern National Strategies for Universal Social Protection or to improve existing ones, taking into account the above-mentioned documents.

Secondly, the example of Ukraine in the context of the concept of sustainable development revealed some trends in the legal regulation of social protection at the national level (today, legislation is being improved in the field of social services, poverty reduction, active and healthy longevity of the population). However, in Ukraine, the above-mentioned ILO Strategy is practically not involved in lawmaking. Legal regulation of social protection as a pillar of decent work for the economically active population of Ukraine is not carried out at the proper level (the legislation does not provide for

new active models of social assistance and social adaptation programs). In this regard, it is proposed to develop a National Strategy for Universal Social Protection, with the help of which it will be possible to eliminate all the identified shortcomings of legal regulation of this sphere in Ukraine.

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AUTHORS CONTRIBUTION

Liliya Amelicheva was the principal researcher who conceived the idea; has researched the trends in the legal regulation of social protection as a pillar of decent work and a moving force of sustainable development at the national level on an example of Ukraine; Viktor Olefir & Galyna Ierkohave analyzed the philosophical and legal views on social protection as a pillar of decent work and a moving force of sustainable development. Svitlana Vyshnovetska & Ganna Petrenko has studied and generalized trends in the legal regulation of social protection as a pillar of decent work and a moving force of sustainable development in the world.

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