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OLEKSANDR A. LYUBCHIK[1], PETRO S. KORNIIENKO[2],
ZHANNA O. DZEIKO[3], NATALIIA A. ZAHREBELNA[4],
VITALII A. ZAVHORODNII[5]

On the Definition, Content, and Essence of the Term "Human Rights"[6]

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Abstract

The ambiguity of understanding and use of the term "human rights" reduces the effectiveness of the law-making and law enforcement activities of state and international bodies, creates negative conditions for the formation of the unified worldview and legal position of future lawyers and representatives of other humanities. This article aims to define, formulate the content and describe the legal essence of the term "human rights," and to substantiate the thesis about the harmfulness of the legal science, law-making and law enforcement use of this term with different meanings. The leading method of research is the method of analysis, which allows one to study the subject, imaginatively dividing it into constituent elements, and to consider each of the selected elements separately within a single whole. This article presents the argumentation of the need for a single wording, understand-

1 Oleksandr A. Lyubchik – Department of State and Legal Disciplines, Luhansk State University of Internal Affairs named after E.O. Didorenko (Ukraine); e-mail: lyubchik8189@sci-univ.com; ORCID: 0000-0002-0962-8799.

2 Petro S. Korniienko – Department of Philosophy and Social-Humanitarian Disciplines, National Academy of Statistics, Accounting and Audit (Ukraine); e-mail: korniienko8189@neu.com.de; ORCID: 0000-0003-1629-2303.

3 Zhanna O. Dzeiko – Department of Theory and History of Law and State, Educational and Scientific Institute of Law, Taras Shevchenko National University of Kyiv (Ukraine); e-mail: dzeiko8189@edu.cn.ua; ORCID: 0000-0002-9834-1895.

4 Nataliia A. Zahrebelna – Department of the Educational Process, Institute of Continuing Education, Taras Shevchenko National University of Kyiv (Ukraine); e-mail: zahrebelna8189@acu-edu.cc; ORCID: 0000-0002-1266-2066.

5 Vitalii A. Zavhorodnii – Department of Theory and History of State and Law, Dnipropetrovsk State University of Internal Affairs (Ukraine); e-mail: zavhorodnii8189@edu-knu.com; ORCID: 0000-0001-5340-7267.

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ing, and use of the legal term "human rights." The materials of the article have practical value for the effective implementation of the law-making and law enforcement activities of state and international bodies, for the formation of the unified worldview and legal position of future lawyers and representatives of other humanities, as well as for a correct and clear explanation of problems with the implementation and protection of human rights.

Keywords: human freedoms, the meaning of the term "human rights", the essence of the term "human rights", the ambiguity of the understanding and use of the term "human rights".

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ZHANNA O. DZEIKO, NATALIIA A. ZAHREBELNA,
VITALII A. ZAVHORODNII**

O definicji, treści i esencji terminu „prawa człowieka"[7]

Streszczenie

Niejednoznaczność rozumienia i używania terminu „prawa człowieka" zmniejsza efektywność działań organów państwowych i międzynarodowych w dziedzinie stanowienia i egzekwowania prawa. Powstają przez to negatywne warunki dla tworzenia się jednolitego światopoglądu i pozycji prawnej przyszłych prawników i przedstawicieli innych nauk humanistycznych. Niniejszy artykuł ma na celu zdefiniowanie i sformułowanie treści oraz opisanie esencji terminu „prawa człowieka", a także uzasadnienie tezy o szkodliwości używania tego pojęcia w różnych znaczeniach w naukach prawnych oraz przy stanowieniu i egzekwowaniu prawa. Główną metodą badawczą jest metoda analizy, która pozwala na przestudiowanie tematu, podzielenie go w pomysłowy sposób na części składowe oraz na uwzględnienie każdego z wybranych elementów w ramach jednej całości. Artykuł przedstawia argumentację za potrzebą ujednolicenia słownictwa, pojmowania i używania prawniczego terminu „prawa człowieka". Materiały w artykule mają wartość praktyczną dla skutecznego wdrożenia działań organów państwowych i międzynarodowych w odniesieniu do stanowienia i egzekwowania prawa, dla tworzenia się jednolitego światopoglądu i pozycji prawnej przyszłych prawników i przedstawicieli innych nauk humanistycznych, a także dla właściwego i zrozumiałego wyjaśnienia problemów ze wdrożeniem praw człowieka i z ich ochroną.

Słowa kluczowe: wolności człowieka, znaczenie terminu „prawa człowieka", esencja terminu „prawa człowieka", niejednoznaczność w pojmowaniu i używaniu terminu „prawa człowieka".

[7] Badania wykorzystane w artykule nie zostały sfinansowane przez żadną instytucję.

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Introduction

The ideas of democracy that are embracing humanity around the world today cannot be imagined without the regulation, guarantee, and protection of human rights. Therefore, the definition of this term, its content, essence, legal consolidation and features of application by state and supranational bodies and use by an individual becomes an urgent issue. To the journalist's question about what is being lost in the process of modern social transformations, the prominent British sociologist Z. Bauman[8] answered: "We have lost confidence." The scientist also added that in Ukraine today is concentrated in a sense "everything that happens in the world." Such uncertainty is generated by uncertainty, which is entirely relevant and unclear in legal regulation. Many scholars have paid attention to terminological certainty in the legal field, but much remains to be done to address this issue, both at the national level and in the editing of international law.

As S. Rabinovych[9] states: "In the constitutional law of Ukraine, the principle of legal certainty belongs to the unwritten components of the principle of the rule of law, which, according to the legal positions of the Constitutional Court of Ukraine (CCU), serves to ensure the inviolability of constitutional human rights. This approach to the understanding of the principle of the rule of law by the CCU is confirmed by its Decision of 02.06.1999 No. 2-v/99,[10] Decision of 22.09.2005 No. 5-rp/2005.[11]

The Venice Commission has adopted a "Rule of Law Checklist." According to it, legal certainty is achieved by the presence of the following components:

- availability of legislation
- its predictability
- availability of court decisions
- stability and consistency of the law and its application in practice

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8 Z. Bauman, *The end of the world is the lack of certainty in the future*, 2012, https://ukr.lb.ua/culture/2012/04/19/146824_zigmunt_bauman_kinets_svitu_tse.html (access: 17.12.2021).

9 S. Rabinovych, *Legal uncertainty in acts of constitutional proceedings: Pro et contra*, "Ukrainian Journal of Constitutional Law" 2017, 1, pp. 44–49.

10 Decision of 02.06.1999 No. 2/99, Bulletin of the Constitutional Court of Ukraine, https://zakon.rada.gov.ua/laws/show/v002v710-99#Text (access: 17.12.2021).

11 Decision of 22.09.2005 No. 5/2005, Bulletin of the Constitutional Court of Ukraine, https://zakon.rada.gov.ua/laws/show/v005p710-05#Text (access: 17.12.2021).

- the absence of retroactive force of law
- protection of legitimate expectations
- compliance with the principles of nullum crimen sine lege and nulla poena sine lege
- compliance with the principle of res judicata.[12]

As we can see, the accessibility and predictability of human legislation are determined by the most important elements of creating the rule of law in any state. Therefore, terminological certainty as a component of the accessibility and predictability of legislation plays a key role in ensuring the rule of law and ultimately ensuring human rights.

Consider, at first glance, a simple and clear term – "human rights." It is human rights, their definition, enshrined in current legislation, the possibility of use, guarantee, and protection by the state – is a recognized measure of democracy, the level of development of civil society in it. Representatives of various humanities (philosophy, sociology, political science and others) often use this term in different, including in opposite senses, which leads to negative consequences regarding the certainty of terminology, clarity of the subject and the value of the findings of such studies.

Investigating this question, I.S. Zagoruy[13] points to the following meanings of this term: "Human rights are considered: as a fundamental idea (phenomenon) that reflects the human dignity inherent in each person, exists on a universal level outside the law and is seen as a moral and social right and at the same time as a sub; effective law established by law; defining principles of a person's legal status; the concept that characterizes the legal status of man in relation to the state, its capabilities and claims in certain areas of public life; as values that are protected on the basis of the principle of equality and without discrimination; the most important component of the socio-cultural civilization system, the style of civilization, the foundations of society and the state, its constitutional order."

The fact that there is a single and clear concept of the term "human rights" is confirmed by the well-known German philosophers G. Lohmann and S. Josepat,[14] who point out that the correct understanding of the concept of human rights is constantly debated, national representatives in international bodies argue human

[12] Venice Commission, Rule of law checklist, 2016, http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)007-e (access: 17.12.2021).

[13] I.S. Zagoruy, *The concept of "human rights": Theoretical and legal approaches to understanding human rights*, "Bulletin of Luhansk State University of Internal Affairs named after E.O. Didorenko" 2016, 2(74), pp. 66–82.

[14] G. Lohmann, S. Josepat, *Introduction/philosophy of human rights*, Kyiv 2012.

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efforts, and often too transparent attempts to make one or another concept of human rights an instrument of certain political interests so far indicate a very uncertain common understanding of human rights.

S. Dobriansky (2001) also concludes that the concept of human rights has recently become so ingrained in political and legal and even domestic communication, and it has become so common for use in policy documents of various political actors its semantic load sometimes seems self-evident that to the naked eye. However, this is far from the case, as evidenced, in particular, by the practice of the judiciary of Ukraine or the European Court of Human Rights (references to such court decisions are given in the original source).

Well-known information sites add even more pluralism to the definition, essence and content of the term "human rights." Thus, according to the Russian-language website version of *Wikipedia – a free encyclopedia*: "Human rights are rules that protect the dignity and freedom of each individual."[15] The Ukrainian-language version of *Wikipedia – a free encyclopedia* states: "Human rights – a set of freedoms and legal opportunities due to the existence of man in society."[16]. As stated in one of the world's most authoritative encyclopedic publications, *Britannica*, under the heading *Defining human rights*[17]: "To say that there is widespread acceptance of the principle of human rights is not to say that there is complete agreement about the nature and scope of such rights, or, indeed, their definition. Among the basic questions that have yet to receive conclusive answers are the following: whether human rights are to be viewed as divine, moral, or legal entitlements; whether they are to be validated by intuition, culture, custom, social contract, principles of distributive justice, or as prerequisites for happiness or the achievement of human dignity; whether they are to be understood as irrevocable or partially revocable; and whether they are to be broad or limited in number and content."

M. Nowicki,[18] chairman of the board of the Helsinki Foundation for Human Rights, one of the world's most famous human rights defenders and human rights educators, said: In the same study, he adds that there are two main groups of

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[15] Wikipedia, *Human Rights* (the Russian-language version), https://ru.wikipedia.org/wiki/%D0%9F%D1%80%D0%B0%D0%B2%D0%B0_%D1%87%D0%B5%D0%BB%D0%BE%D0%B2%D0%B5%D0%BA%D0%B0 (access: 17.12.2021).

[16] Wikipedia, *Human Rights* (the Ukrainian-language version), https://uk.wikipedia.org/wiki/%D0%9F%D1%80%D0%B0%D0%B2%D0%B0_%D0%BB%D1%8E%D0%B4%D0%B8%D0%BD%D0%B8 (access: 17.12.2021).

[17] *Defining human rights*, [in:] *Britannica*, 2021, https://www.britannica.com/topic/human-rights/Defining-human-rights (access: 17.12.2021).

[18] M. Nowicki, *What are human rights*, 1997, http://osvita.khpg.org/index.php?id=1070823914 (access: 17.12.2021).

"human rights": substantive and procedural rights. Substantive rights are specific freedoms and rights that belong to a person: freedom of speech, conscience, religion, choice of residence, the right to education, and others. Procedural rights are available to man ways of action and related institutions that allow the individual to seek from the authorities to respect freedoms and exercise rights, i.e., in this study there are contradictions with all other researchers:

- First, the field of knowledge has nothing to do with the definition of the term "human rights."
- Second, allocates human freedoms, as from human rights.
- Third, how can the field of knowledge belong to man?
- Fourth, "procedural human rights" are ways of doing things and related institutions. This definition raises more questions than answers.

At the same time, the Universal Declaration of Human Rights[19] (hereinafter referred to as "the Declaration") enshrined in the preamble. As we see, the terms "human rights" and "human freedoms" have a separate meaning and significance for the authors of the Declaration. The Constitution of Ukraine also stipulates in Article 3: "Human rights and freedoms and their guarantees determine the content and direction of the state".[20] That means that the Constitution also divides these concepts. However, neither the Declaration nor the Constitution of Ukraine, as well as any international document, contain definitions of the concept of "human freedom" or "human rights."

Such pluralism in the use and content of the important term "human rights" in no way contributes to clarity, both in scientific papers and in regulations, does not contribute to a holistic understanding of future scholars on the essence of human rights, the effectiveness and protection of human rights today.

Methodological Framework

Regarding the definition and essence of the term "human rights," there are scientific studies of representatives of various humanities. The philosophical approach was tried by scholars such as G. Lohmann and S. Josepat.[21] Legal research on the

19 UN General Assembly, The Universal Declaration of Human Rights, 1948, https://www.un.org/en/about-us/universal-declaration-of-human-rights (access: 17.12.2021).

20 Verkhovna Rada of Ukraine, Constitution of Ukraine, 1996, https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text (access: 17.12.2021).

21 G. Lohmann, S. Josepat, op. cit.

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nature and content of human rights has been conducted by such scholars as: M.I. Kozyubra,[22] A.M. Bandurka,[23] M.V. Vitruk,[24] S. Dobryansky,[25] M.P. Rabinovich,[26] O.G. Kushnirenko and T.M. Slinko,[27] I.S. Zagoruy,[28] and others. For the most part, the philosophical approach to defining the meaning and essence of the term "human rights" focuses on the origin, meaning, and variety of human rights, without focusing on the clear wording of this term and its difference from others. Representatives of legal science sometimes try to distinguish a separate term from existing human rights – "human freedom."

The following methods were used in the research process: theoretical (analysis; synthesis; concretization; generalization; method of analogies; comparative method); empirical (study of the content of regulations and international legal agreements, other international documents, judicial decisions, scientific articles of famous scientists who have studied the essence, content and definition of the term "human rights").

The study of the problem was conducted in three stages.

At the first stage, a theoretical analysis of the views of non-legal scholars (representatives of such sciences as philosophy, sociology; political science) on the definition, content and essence of the term "human rights." Different approaches to the interpretation of this term were identified and the thesis about the ineffectiveness and sometimes harmfulness of such an approach, which does not allow potential users of scientific literature to formulate a single and holistic understanding of the subject and features of human rights as a special legal term. The elements that make up the legal essence of the term "human rights," the "basic" legal definition of this term, the problem, purpose and research methods were identified.

At the second stage, the works of representatives of legal science on the use of the term "human rights" were studied, the thesis about the inexpediency of using the term "human freedom" in legal literature, in texts of normative acts of national legislation and acts of international law was substantiated, with an additional content load in comparison with the term "human rights." Research work was carried out, the conclusions received in the course of the considered normative documents and theoretical scientific works were analyzed, checked and specified.

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22 M.I. Kozyubra (ed.), *General theory of law: Textbook*, Kyiv 2015.

23 Bandurka et al., *Theory of state and law: A textbook*, Kharkiv 2018.

24 M.V. Vitruk, *The legal status of the individual in the USSR*, Moscow 1985.

25 S. Dobryansky, *Human rights and freedoms: classical doctrine and modern concept (to comparative characteristics)*, "Bulletin of Lviv University. Legal Series" 2001, 36, pp. 3–7.

26 M.P. Rabinovich, *Human rights and their legal support. Tutorial*, Kyiv 1992.

27 O.G. Kushnirenko, T.M. Slinko, *Rights and freedoms of man and citizen: Textbook*, Kharkiv 2001.

28 I.S. Zagoruy, op. cit.

At the third stage the theoretical and practical conclusions were specified, the received results were generalized and systematized, concrete offers on definition of the legal term "human rights," features of its use, legal fixing, content and essence of this term were formulated.

Results and Discussion

Legal View on the Definition, Meaning, and Essence of the Term "Human Rights"

The legal definition of "human rights," which is governed by legal doctrine, the national legislator and which is used in international instruments – this should be the only concept that has a legal nature. Jurisprudence does not have the same privileges as other humanities in defining and using legal terms with different content. The knowledge, the terminological tools that legal science generates, must describe with surgical accuracy the peculiarities of the emergence, change or termination of certain legal relations, belonging (or non-belonging) of certain rights to certain subjects of law (including man). The consequences of variability in the definition of legal terms that may arise in this case – is not only distorted human destinies, but sometimes the deprivation of human life. And if, in the case of protection of the rights of a particular person, the lawsuit to national or international courts will indicate that the defendant violated: the area of knowledge; a fundamental idea (phenomenon) that reflects human dignity; values that are protected on the basis of equality and non-discrimination and other non-legal definitions – the protection of such "human rights" cannot even be dreamed of.

We will get the same result if we formulate in the claim the need to protect a certain "human freedom." Therefore, if a certain person (potential plaintiff) is interested in the following issues:

- the circumstances of the term "human rights"
- what sciences and with what alternative sense it is used
- the state gives them to man or nature itself (god); should they (theoretically) be equal in any person in the world; whether the state (in principle) can limit (deprive) them
- the importance of these rights for each person and for society as a whole; how many generations of "human rights" – such answers are the prerogative of philosophical research, representatives of political science and sociology.

If a person asks questions: a clear definition of the term "human rights"; its content (constituent elements, structure); ways of realization of each element of own

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subjective right; definition of specific powers that make up a specific subjective right; ways and procedure for their protection – such issues are solved by legal science. From this we must draw the following conclusion: "human rights" in the legal sense – are one's subjective rights, which arise only on the basis of current legislation of a particular country, they are provided (by establishing appropriate to these rights legal obligations of other entities) and are protected. With regard to subjective rights, the doctrine has a unanimous position, subjective law is a legally guaranteed measure of possible behavior of a person who has the following constituent elements (structure):

- the right to positive action – the ability to determine their lawful conduct (for instance, the exercise of property rights, the owner decides how to own or use the object of ownership)
- the right to demand – the ability to demand certain behavior
- the right to claim – the opportunity to seek assistance from a state body in the event that the obligated party does not fulfill its obligations, when without the intervention of the subject with the authority not a subjective right can be exercised (for instance, the right to receive a pension).[29]

As we can see, all the selected elements of the term "subjective rights" confirm the thesis that human rights are exclusively those or other options for possible behavior in a particular case provided by the rules of law that apply to that person in a particular place, in a particular period of time. One could state unanimity in the legal camp on the concept of "human rights," but some authors of these sources do not associate the terms "human rights" and "subjective human rights" and indicate the following:

> "…human rights are recognized by the world community goods and living conditions that a person can seek from the state and society in which he lives, and whose provision is real in terms of human progress."[30]

However:

- first, it does not matter for a particular person whether the world community recognizes his or her right to vote, for instance, if he or she lives in a country where women or other sections of the population do not have the right to vote.

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[29] M.I. Kozyubra (ed.), op. cit.; S.D. Gusarev, O.D. Tikhomirov (eds.), *Theory of state and law: Tutorial*, Kyiv 2017; A.M. Bandurka et al., op. cit.

[30] M.I. Kozyubra (ed.), op. cit.

- secondly, the term "good" in the legal literature is defined by the term "objects of legal relations."

The object of legal relations is the goods, for the receipt, transfer or use of which the subjects of law enter into legal relations for the purpose of receipt, transfer or use of which the subjects of law enter into legal relations.[31] Objects of legal relations are certain material and spiritual goods that are recognized by the state through laws and are able to satisfy the interests of the subjects of legal relations.[32]

The first source of human rights refers to intangible goods, as follows: "Intangible goods (personal and social): life, health, honor and dignity, freedom, inviolability of home, human and civil rights, the constitutional order, public order and safety, environment, good governance, etc."[33] The second source of intangible objects includes the products of intellectual creativity, honor, human dignity, moral and psychological condition, national identity, and so on. It is honor and dignity, not the right to honor, the right to dignity. The second approach to the essence of benefits is supported in another textbook: "…mutual subjective rights and legal obligations are called objects of legal relations."[34] In this source, all possible objects of legal relations are divided into the following types:

- means of production
- consumer goods (food, clothing, housing, etc.)
- products of spiritual (intellectual) human creativity; personal intangible benefits of a person – health, name, life, honor, dignity
- behavior of certain subjects – the opportunity to attend classes in an educational institution, performances in the theater, determining the behavior of the subject of the offense;
- the results of the behavior of the subjects – repair of household appliances, construction of a house;
- money and securities
- condition of natural objects.

As we can see, human rights are neither a good nor an object of legal relations. Human rights (subjective rights) are not the good itself (social good), it is a legal instrument that a particular state provides to a particular person, who, if necessary, can implement it and receive a specific social good to meet his needs. Human rights

[31] Ibidem.

[32] A.M. Bandurka et al., op. cit.

[33] M.I. Kozyubra (ed.), op. cit.

[34] S.D. Gusarev, O.D. Tikhomirov (eds.), op. cit.

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are always part of the content of a legal relationship, but not the object of the legal relationship. Also, the subjective right to a name is referred to the objects of legal relations in another textbook. It states: "personal intangible goods: life, security, honor, dignity, recreation, education, health, freedom, the right to a name, inviolability of home, etc." That means that among the other benefits that are suddenly listed there was the subjective human right. Why then did not list the "right to life," "right to health," and others. Therefore, the object of the legal relationship is the name itself, not the right to the name.

Third, human rights are not living conditions, but their existence and proper implementation can lead to improved living conditions. Another textbook rightly states: "Acts of direct realization of rights and obligations are the actual behavior of the subjects of legal relations related to the exercise (realization) of their rights and obligations. There are two possible results of the response to legal regulation:

- active – actions that are allowed (for instance, to participate in government elections);
- passive – refrain from prohibited actions (for instance, do no harm)

If active actions realize rights, there is a use of legal norms. If the active actions fulfill the responsibilities, there is compliance with the law.[35] It is important to note that when committing an offense, it is not the subjective rights of a person (to property, life, health, name, etc.) that are violated, but the rules of law that enshrine these subjective rights. The consequence of such an offense is the inability of the subject (person) to legally actually exercise their own subjective rights, i.e., there is a *de facto* inability to physically take action to exercise the subjective right, but the legal ability to act legally has not changed.

Yes, the owner of the thing, even after its theft, continues to be the owner of the thing. Offenses can also cause damage or destruction directly to the objects of legal relations, i.e., social benefits that are protected by law: things, life, health, name and more. The most subjective human rights are only opportunities (legal) to act in one way or another enshrined in law, they will always be unchanged, even at the time or after the offense. Contrary to the above position on the definition of the term "human rights" in the legal literature there is a direct definition of human rights (subjects of law) as their subjective rights, namely: "Norms (authorizing) of objective law provide for certain rights of subjects rights, in other words, their subjective rights as guaranteed by law, the state of a certain type and to some

[35] Ibidem.

extent possible, legally permissible behavior (for instance, the right to entrepreneurial activity)."[36]

However, this textbook addresses another controversial issue regarding the nature of human rights. It is stated: "Human rights are the so-called natural law in its modern understanding, modern interpretation, modern existence in theory and practice. Human rights are its inalienable measure of freedom, inalienable opportunities (socio-economic, political, cultural, etc.) of its free development, free life, free self-determination. Enshrined in international acts, these rights exist regardless of their recognition by a state."[37] That means the complex formula of the essence of the term "human rights" is again indicated. Human rights are a natural right; it is an integral measure of freedom; these are inalienable possibilities; exist regardless of their recognition by a state.

First, natural law (even if we agree with this philosophical concept) does not refer to the definition of the term subjective human rights, but to law as an alternative to positive law. Modern theories of natural law (so-called revived natural law) are based on the ideas of the divine order of existence (neo-Protestantism), self-realization of the higher objective mind (neo-Hegelianism), a priori values (phenomenalism), the nature of things (neo-Kantianism), the existence of abstract man historical legal understanding (hermeneutics), etc.

The natural-legal approach to understanding the law focuses on law as a spiritual, super-positive phenomenon, ideals of justice, morality, individual freedom, equality, inalienable human rights, social harmony and other values without which law is simply unthinkable.[38] In addition, the concept of natural law is the result of the creative efforts of philosophers, who do not set themselves the task of clearly defining the term "human rights," they focus on where the law came from, what value it has, whether it is negative in theory and others.

Secondly, the question arises why an integral, why a measure of freedom, an integral opportunity? There are also negative subjective rights, and these are also human rights. Even "fundamental rights" are negative, for instance, the Constitution of the Russian Federation states:

- "1. Everyone has the right to life. 2. The death penalty may be established by federal law as an exceptional measure of punishment for particularly serious crimes against life until the accused is granted the right to have his case tried by a court with the participation of jurors" (Article 20)

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[36] A.M. Bandurka et al., op. cit.

[37] Ibidem.

[38] S.D. Gusarev, O.D. Tikhomirov (eds.), op. cit.

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- "1. Everyone has the right to liberty and security of person. 2. Arrest, detention and detention shall be permitted only by a court decision. Until a court decision, a person may not be detained for more than 48 hours" (Article 22).

This is to say that even in the case of when the right to life is negative, there is only another order. The ratios of "human rights" and "human freedom" are considered in paragraph 3.3. Article 29 of the Constitution of Ukraine also states: "Everyone has the right to liberty and security of person. No one may be arrested or detained except by reasoned decision of a court and only on the grounds and in the manner prescribed by law. In the event of an urgent need to prevent or stop a crime, the authorities authorized by law may use detention as a temporary measure of restraint, the validity of which must be reviewed by a court within seventy-two hours."[39] As we see that the right to liberty and the right to personal integrity can be deprived, the issue is also only in order. So, what is the inalienability of human rights? The question is open.

Thirdly, if international acts enshrine some subjective rights (human rights), and the legislation of a particular country does not give such a right to a person, then this person legally and in fact does not have a corresponding subjective right and, of course, he can not to implement in this country. If she leaves this country, her legal status will change and she may have other subjective rights in another country. What is the reason to believe that: "Enshrined in international instruments, these rights exist regardless of their recognition by a state"? As already mentioned, subjective human rights are a measure (variants) of possible behavior by which a person can exercise where he lives, in the country whose right to this person applies, and not somewhere in another country, whose right does not apply to him or her. Specific behaviors are given the right to be exercised by a particular country, and if specific international legal acts are part of the national law of that country, only then do the subjective rights enshrined in international instruments arise in that country.

N.I. Matuzov,[40] exploring the essence and problem of defining the meaning of the terms "right in the objective sense" and "right in the subjective sense," points out the following: "The difficulty, however, is that two different phenomena are denoted by one word – 'law'. This dualism is both confusing and difficult to perceive reality. Before us is a homonym word (homonyms are terms that have the same sound, but different meanings). Of course, it would be better to designate two different concepts (law, as a rule of law and law, as the ability of a certain person

[39] Verkhovna Rada of Ukraine, Constitution of Ukraine…

[40] N.I. Matuzov, A.V. Malko, *Theory of state and law: Textbook*, Saratov 2004.

to act or use some kind of benefit) in different terms." This is what happens in some foreign languages. For instance, in Georgian – *samartali* and *ufpleba*, in English – *law* and *right*. In other languages, as in Russian, these legal phenomena are expressed in one term (in French – *droit*, in Italian – *diritto*, in German – *Recht*), which obliges in each case to clarify in what sense the term "law" was used. There is also no word in the Russian language that would denote a phenomenon called "subjective right."

The epithets "objective" and "subjective" help to clarify the concepts. There is a valid opinion about the need for a clear delineation of concepts in which there is the word "right," but the author further states: "The system of rights, freedoms and responsibilities of citizens meaning, or subjective law."[41]

The author also refers to subjective rights as legal obligations, which does not correspond to the position of Ukrainian and most other legal professionals. This approach, in turn, contradicts his thesis: "Law as a norm, law, state institution and law as a possibility or authority of subjects to behave in a certain way within these institutions – this is the essence of the distinction between objective and subjective."[42] In this thesis, the content of subjective law no longer contains "legal obligations." This approach to the definition of "subjective law" does not add certainty to its essence and the possibility of uniform use. The author further adds: "Law in the subjective sense is those specific opportunities, rights, requirements, claims, legitimate interests, as well as obligations that arise on the basis and within this legislation on the part of participants in legal relations."[43] This thesis again refers to the content of subjective law legal obligations. Moreover, it lists as equivalent the following elements of subjective law: specific opportunities, rights, requirements, claims, legitimate interests. The structure of subjective law allegedly consists of some other "rights" and even "legitimate interests." However, the doctrine separates the concepts of "subjective rights" and "interests".[44] The structure of subjective human rights consists of specific powers to act accordingly. Using the formula that a subjective right consists of rights (obviously subjective) will lead to cognitive dissonance of its users.

There is no consensus on the term "human rights" among English-speaking scholars either. Thus, the *Stanford Encyclopedia of Philosophy*[45] (2021) gives the following definition: "Human rights are norms that seek to protect all people everywhere

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41 Ibidem.

42 Ibidem.

43 Ibidem.

44 V.S. Shadrin, *Ensuring the rights of the individual in the investigation of crimes*, Moscow 2000.

45 *Human Rights*, [in:] *Stanford Encyclopedia of Philosophy*, 2021, https://plato.stanford.edu/entries/rights-human/ (access: 17.12.2021).

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from serious political, legal and social abuse." The encyclopedia further insists: "Examples of human rights are the right to freedom of religion, the right to a fair trial in the event of a criminal charge, the right not to be tortured and the right to education." The concepts of objective law ("these are norms") and subjective rights are mixed again, and they are listed below.

H. Shu[46] believes that human rights relate to "the lower limits of permissible human behavior" and not to "great aspirations and lofty ideals." P. Marchal[47] expresses the following opinion that the term "human rights" is currently used to denote two different points: one is a guarantee given in positive law; the other is a moral claim that is supposedly innate to humans. These two elements are usually combined, which means that they have the necessary connection. L. Hankin[48] points out: "Political forces have put forward major philosophical objections, bridging the gap between natural and positive law, turning natural human rights into positive legal rights." W. Duaz[49] points out: "or normative social representations that could allow people, at least at the level of intent, to evaluate and organize their relationships and interactions."

Analysis of the views of well-known legal scholars suggests that today there is no single approach to the definition of the term "human rights." Understanding the importance of this term for the resolution of specific legal cases and the need to regulate specific legal relations, it is advisable to clearly articulate this term and enshrine it in national and international law. The very understanding that the term "human rights" is purely legal, has a special legal meaning (structure) and is used to clearly define the legal status of a particular person, in a particular place, and at a certain time – should stop the discussion between scholars on the content of this term. The terms "moral law," "right of the stronger," "divine law," "natural law" are not used in lawmaking and law enforcement and therefore not the subject of legal research. The legal nature of the term "human rights" is due to the fact that only in the presence of law (rules of law) established or sanctioned by a particular state, the actual existence of any subjective human right. No subjective human right can exist if it is not provided (by the state in law) with the obligations of other subjects of law not to violate or promote the realization of this subjective right of a particular person.

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46 H. Shu, *Fundamental rights*, 2nd ed., Princeton 1996.

47 P. Marchal, *Two types of rights*, "Canadian Review of Political Science" 1992, 25(4), pp. 661–676.

48 L. Hankin, *Human rights today*, Boulder, CO 1978.

49 W. Duaz, *Human rights: general content and differences in positioning*, 2004, https://www.scielo.br/j/ptp/a/QJ5svFQsGTbGvT9hrmZJzWM/?lang=en#ModalTutors (access: 17.12.2021).

In conclusion, human rights are one's subjective rights, i.e., the limits (options, measures) of possible behavior in specific legal relations, which are established by the current legislation of a particular state or the rules of international law, which are part of the law of a particular country.

Comparison of the Concepts of "Human Rights" and "Human Freedoms"

The relationship between the concepts of "human rights" and "human freedom" is also characterized ambiguously not only by scholars of philosophical, political science and sociology, but also by well-known jurists. There are the following approaches to their relationship:

They are concepts that have the same meaning.

M.V. Vitruk[50] points out that the rights and freedoms of the individual are materially determined, legally enshrined and guaranteed opportunities for the individual to own and enjoy specific social benefits: socio-economic, spiritual, political personal. P.M. Rabinovich[51] defines human rights and freedoms as certain human capabilities necessary for existence. These scientists put the same meaning in different terms. The legal literature directly indicates the inappropriateness and even harmfulness of the use of the term "human freedom" in jurisprudence, "this concept goes far beyond legal concepts and institutions."[52] S. Dobryansky[53] comes to the following conclusion: "Further development of the concept of human rights has led to the fixation of fundamentally new human capabilities, for which the use of the term 'freedom' no longer seemed adequate given their specific nature."

A.S. Avtonomov[54] also opposes the separation of the concepts of "human rights" and "human freedom", which argues that human rights and freedoms constitute a single institution and are equally subject to regulation and protection. The right opinion was expressed by P.M. Rabinovych[55]: "However, the difference between

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[50] M.V. Vitruk, op. cit.

[51] M.P. Rabinovich, op. cit.

[52] O.A. Lyubchik, *Human rights and freedoms: problems of definition and correlation*, [in:] *Legal science and state formation in Ukraine in the light of modern globalization challenges: history, theory, practice (to the 25th anniversary of the Constitution of Ukraine)*, Materials of the All-Ukrainian Scientific-Practical Conference (Mariupol–Kryvyi Rih, June 2021), Mariupol 2021, pp. 189–193.

[53] S. Dobryansky, op. cit.

[54] A.S. Avtonomov, *Human rights, human rights and law enforcement*, Moscow 2009.

[55] P.M. Rabinovych, *Fundamentals of the general theory of law and the state. 5th edition, with changes. Tutorial*, Kyiv 2001.

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rights and freedoms as social phenomena, as well as between the relevant concepts (if we do not consider them identical) is still not clearly clarified, even at the general theoretical level." Therefore, the terms "rights" and "freedoms" are practically used as synonyms. And if the meaning of the concept of human rights is revealed here through the philosophical category of "opportunities," then this interpretation of it probably also embraces the concept of human freedoms.

These are different concepts.

This is indicated by O.G. Kushnirenko and T.M. Slinko.[56] "Freedom is a philosophical and legal category, which means an individual or organization chooses options for their behavior. Freedom is the opportunity to use and dispose of one or another social good, value, to satisfy one's own interest or some vital need in such a way as not to violate the rights of others." In confirmation of his own opinion, the author refers to the Constitution of Ukraine, which states: "Everyone has the right to liberty and security of person" (Article 29); "Everyone is guaranteed the right to freedom of thought and speech, to freely express their views and beliefs" (Article 34); "Everyone has the right to freedom of thought and religion" (Article 35), and others. He also adds: "It should be borne in mind that the Basic Law gives a person freedom in such a way that it can not be used against the interests of society, the state and other citizens."[57]

The author lists human rights (as indicated by the Constitution), but concludes that these are listed "human freedoms." The word "freedom" in this context of defining human rights is used by the legislator to mean "the ability to choose one's own behavior," but it is a "subjective human right", that is, the Constitution could indicate not "the right to freedom of speech," but "the right to express oneself at one's own discretion," not "freedom of worldview," but "the right to one's own (personal) worldview." The author further acknowledges: "The above allows us to conclude that a clear distinction between "rights" and "freedoms" is difficult, as more often the whole sphere of political rights with clearly defined powers is also called "freedoms." According to legal scholars, the differences in terminology are rather traditional, which developed in ancient times (18th–19th centuries).[58]

These terms are also distinguished by other scholars: "The enshrinement in the Constitution of certain opportunities of citizens in the form of rights or in the form of freedoms is mainly due to the definition of non-interference in the life of civil society, the individual. This area involves protection by the state from possible

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[56] O.G. Kushnirenko, T.M. Slinko, op. cit.

[57] Ibidem.

[58] Ibidem.

illegal interference by government agencies, officials, individuals, and their associations. In the realization of freedoms (for instance, freedom of religion), a person is as independent as possible."[59] states: "Human rights and freedoms are natural and inalienable, given to him from birth, recognized as the highest value and are not exhaustive." The differences between these terms are obvious to the author, but the reasons for this are not investigated.

Other scholars substantiate their position in more detail, arguing that the law must be reflected in an official document, freedom, on the contrary, can exist without formalization, which, as a rule, limits it and introduces it within certain limits, ie it is an absolute claim. people who belong to him from birth and do not depend on the will of the state.[60] They also argue that the law corresponds to the active duty of the state to create conditions for the realization of the right to its realization. When the relationship between man and the state is correlated with the concept of "freedom," then the duty of the state is passive – not to interfere in the sphere of freedom; active action makes the bearer of freedom. In this case, it is only on the initiative of the ruler of freedom that the state can interfere with the actions of other entities that illegally restrict his or her freedom.

It is true that scholars do not explain what "absolute harassment" is and how the state should act to protect "freedoms" without the initiative of their owner (for instance, if it is impossible to show this initiative), or what is the procedure for public authorities if human rights are violated or freedoms (wait for the application or one can already defend oneself). As such "significant" differences in these concepts have already been found, why not all concrete possibilities of the person (at least only constitutional) were carried to freedoms.

One concept is part of another.

Yu.M. Rizhuk[61] points out: "We believe that the legal categories of 'rights' and 'freedoms' should be correlated as general (freedoms) and individual (rights). Thus, first, the grain of these categories is in both the first and in the second case the ability of a person to make his own choice; secondly, rights and freedoms are categories that are possessed to some extent by an individual, a person, a citizen. In our opinion, the justification is not very convincing, in addition, the author points out: "The above allows us to conclude that a clear distinction between 'rights'

59 N.I. Matuzov, op. cit.

60 V.M. Obukhov, E.V. Chaikin, A.Kh. Gatiev, *Theory of government and rights: Textbook for universities*, Moscow 2002.

61 Yu.M. Rizhuk, *On the issue of legal understanding and the essence of the conceptual foundations of natural human rights and freedoms*, "Scientific Bulletin of Public and Private Law" 2017, 2, pp. 11–15.

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and 'freedoms' is difficult because the entire sphere of political rights with clearly defined powers also called 'freedoms.' According to lawyers, the differences in terminology are rather traditional, which have developed since ancient times.[62]

An interesting point of view is offered by E.A. Lukasheva,[63] arguing that rights and freedoms are identical in their legal nature and system of guarantees. Both terms outline the social capabilities of a person. The difference in terminology is traditional, historically formed in the 18th–19th centuries. And a clear distinction between these concepts is difficult to draw because the entire sphere of political rights with precisely defined powers is also called freedoms. But at the level of constitutional legislation, in her opinion, the differences between these categories are obvious, because the term "freedom" is intended to emphasize the broader possibilities of individual choice, without outlining its specific result. So, in accordance with the Constitution of the Russian Federation: everyone is guaranteed freedom of conscience, freedom of religion … (Article 28); everyone is guaranteed freedom of thought and speech (part 1 of Article 29); everyone has the right to freely dispose of their abilities for work, to choose their type of activity and profession (part 1 of Article 37). The term "right" defines specific human actions (the right to participate in the management of state affairs, the right to elect and be elected).

Such different views on the definition of the terms "human rights" and "human freedom" in our opinion significantly affect the clarity and consistency of existing scientific concepts, threaten the legitimacy and uniformity of law enforcement activities of both national and supranational judicial and other law enforcement agencies.

Universal Declaration of Human Rights: Essence, Meaning, Problems of Wording Legal Terms

The Universal Declaration of Human Rights (Declaration) was adopted by UN General Assembly Resolution 217 A (III) of December 10, 1948. The idea of its creation was based on democratic and cultural ideals of mankind, absorbed the provisions of such well-known documents in the field of human rights protection as the English Bill of Human Rights in 1689, the US Declaration of Independence in 1776, the French Declaration of Human and Civil Rights in 1789. and the American Bill of Human Rights in 1791. This famous and very important document

62 Ibidem.

63 E.A. Lukasheva (ed.), *Obshchaia teoriia prav cheloveka*, Moskva 1996.

was adopted at a time when the world community was looking for legal mechanisms that would not allow the horrors of World War II to be repeated.

Examining the history of the Declaration N. Mustafayva[64] argues that Western countries, guided primarily by the provisions of the French Declaration of Human and Civil Rights of 1789, as well as the US Constitution of 1787 proceeded from the need to recognize the natural nature of fundamental human rights. Given the fact that these documents contained a list of civil (personal) and political rights, Western delegates objected to the inclusion of economic and social rights in the draft document. The USSR, on the other hand, based on its basic law, the Constitution of 1936, advocated the inclusion of this category of human rights in the Declaration. Moreover, absolutizing the principle of state sovereignty, the Soviet delegation opposed the recognition of the natural nature of human rights, based on the positivist approach that human rights are received from the state, which at its discretion enshrines them in law.

V.A. Kartashkin,[65] examining the content of the Declaration, points out that in drafting and adopting the Universal Declaration, as well as other documents in the field of human rights, "states with different social systems deliberately did not clarify the content of many concepts discussed and did not give them class definitions." Thus, "in their definition was embedded universal democratic and universal content, acceptable to all." Contradictions in the positions of the parties were largely the reason why many articles of the document are of a general nature. The declaration was adopted in the form of a resolution of the UN General Assembly and is not binding, but recommendatory. However, the document was developed and adopted at a time when the ideals of democracy, humanism and respect for human rights were not universally recognized. Therefore, the Declaration was conceived as a model for the formation of state legislation in the field of human rights protection.[66]

H. Hannum[67] also points out: "The Declaration is the main international document, which is a kind of reference point, the moral authority of which is beyond doubt. On its basis, a number of international universal and regional human rights treaties have been adopted, as well as the national constitutions of many states. A number of states use the provisions of the Declaration as rules of law that can

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[64] N. Mustafayva, *Universal Declaration of Human Rights – 70. Thank you for being alive!*, 2018 https://russiancouncil.ru/analytics-and-comments/columns/global-governance/vseobshchey-deklaratsii-prav-cheloveka-70-spasibo-chto-zhiva-/#detail (access: 17.12.2021).

[65] V.A. Kartashkin, *International protection of human rights. Human rights: textbook*, Moscow 2009.

[66] H. Hannum, *Status of the Universal Declaration of Human Rights in domestic and international law*, „Russian Bulletin on Human Rights" 1999, 11, 14–21.

[67] Ibidem.

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be used by national courts" (Austria, Italy, Belgium, USA). However, most legal systems in the world do not recognize the provisions of the Declaration as both treaty and customary rules of international law, and therefore, "motivations rejecting the Declaration as a source of mandatory rules" are frequently found in national judicial decisions.

The following conclusions can be drawn as to the place of the Declaration in the system of sources of international law and systems of national law. This document is an important, timely, influential impact, but it was not designed to clearly define legal terms and was not legally binding even for signatory countries. However, the wording of the Declaration, including human rights and freedoms, was automatically incorporated into the national constitutions of many countries, laying the groundwork for decades of scholarly debate on the relationship between the terms "human rights" and "human freedoms."

A more detailed study of the Declaration shows that it not only lacks a definition of the term "human freedom," but also uses this term sometimes as an alternative to the term "human rights," sometimes as its constituent element, such as Articles 18 and 19. In the same way, the Constitution of Ukraine in Article 3 and others uses this term, which has never been clearly formulated by legal science and has not been the subject of protection in law enforcement practice.[68] We must agree with the opinion of D.V. Slinko,[69] who points out that the concept of "freedom" goes far beyond legal concepts and institutions. In jurisprudence, this concept is directly related to the choice of individual options for their behavior (legal or illegal). The criterion for such behavior is the rule of law.

Legal Consolidation of the Term "Human Rights" in National and International Law

Many legal scholars have spoken about the importance and need to improve the terminology used in legal science and legal practice. However, the use of terms with double or triple meaning by different sciences, and even more so in regulations and international treaties, is harmful and inappropriate. Unification of terminology is the only way to create uniformity in the application and application of the rule of law, this way can lead to the creation of effective mechanisms for the protection of human rights, will enable everyone to understand and use the rules of international law and national law. Therefore, it is impossible to agree with the long-standing scientific and normative uncertainty of the relationship between

68 O.A. Lyubchik, op. cit.

69 D.V. Slinko, [in:] Bandurka et al., op. cit.

the terms "human rights" and "human freedom." Thus the influential and legally binding (for signatory countries) International Covenant on Civil and Political Rights, adopted by General Assembly resolution 2200 A (XXI) of 16 December 1966 in Article 2 states:

1. „Each State Party to the present Covenant undertakes to respect and ensure to all persons within its territory and under its jurisdiction the rights recognized in the present Covenant, without distinction as to race, color, sex, sex, language, religion, political and other beliefs, national or social origin, property status, birth or other circumstances.
2. Unless otherwise provided by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary measures, in accordance with its constitutional procedures and the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to exercise the rights recognized in the present Covenant." Everything is clear and understandable, but reading paragraph 3 of Article 2 of this Covenant we see the following:
3. Each State Party to the present Covenant undertakes:
   a) „To ensure that any person, rights and freedoms recognized in the present Covenant have been violated, an effective remedy, even if the violation has been committed by persons acting in an official capacity."[70]

That is, all the rules of logic and common sense are violated, i.e, the Covenant respects, ensures, protects "human rights" but ensures "human rights and freedoms."

Additionally, Article 3 of the present Covenant states: "The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant. Such inconsistency in the use of terms does not contribute to the clarity of this Covenant, which is already legally binding on signatory countries."

Given the results of the study, we propose to unify the term which means "a person's ability to act (behave) at his or her own discretion within the existing law" as human rights (subjective rights), and the term "human freedom" in the law not to apply. It is also necessary to enshrine in the Constitution of Ukraine the definition of human rights. Thus, part 2 of Article 3 of the Constitution of Ukraine[71] should be worded as follows: "Human rights and their guarantees determine the content and direction of state activity. The state is accountable to man for his activities.

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[70] UN General Assembly, International Covenant on Civil and Political Rights, 1966, https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx (access: 17.12.2021).

[71] Verkhovna Rada of Ukraine, Constitution of Ukraine…

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The promotion and protection of human rights is the main duty of the state. The right of each person consists of: the ability to choose options for their own behavior, which allows for the current rule of law; the ability to require others not to interfere with the implementation of selected options for lawful conduct; opportunities to demand from the competent authorities to ensure and protect the chosen human options for lawful conduct.

As shown in this study, the use of the term "human rights" is not uniform among scholars representing not only such sciences as philosophy, political science, sociology and others, but also in legal science, and among human rights defenders at the national and international levels. This term is used to mean a legal institution, but it is clear that the difference between the terms "human rights" and "legal institution of human rights" is the same as between the concepts of "property" and "property rights." Similarly, the term "human rights" is associated with the term "social institution of human rights", specific social benefits, human freedoms, requirements and more. However, most legal scholars understand the term "human rights" in the legal sense as the possibilities of a particular person enshrined in the rules of law that apply to such a person. Therefore, "human rights" are part of the content of legal relations and are subjective rights of the subjects of legal relations, i.e., opportunities to: act personally in the manner prescribed by law; require other entities to ensure or not to violate the implementation of subjective rights; require the competent authorities to ensure and protect lawful actions to exercise subjective rights.

This study embodied an attempt to first distinguish the legal approach to the definition of the term "human rights" from the approaches of scholars in other humanities. It was argued that jurisprudence, unlike other branches of science, in defining terms sets other, more specific and responsible tasks and gives all other sciences a clear definition and structure of legal concepts, their legal nature and limits of use, clear features and differences from related concepts. The quality of legal terms is a necessary element of their uniformity of understanding and use, which is a necessary condition for the effectiveness of law-making and law enforcement activities, which ultimately results in effective protection of human rights.

The study also showed that the use in scientific (including legal) works and legislation of many countries of the term "human rights and freedoms" is the result of borrowing terminology from the Universal Declaration of Human Rights, which had at the time of its adoption and, in some countries, to date, great importance and authority. However, this document is not legally binding on the signatory countries and in the process of its conclusion the authors did not aim to define with legal clarity all the applied terms. Among such philosophical and political terms were "human rights and freedoms." Norms of international law and norms

of Ukrainian legislation do not define the term "human freedoms," legal scientific sources interpret this term either through a philosophical approach (without a clear definition and list of "human freedoms") or the definition coincides with the meaning of the term "human rights."

This article formulates the definition, structure and essence of the term "human rights," its differences from other (similar) terms, proved the inappropriateness, and sometimes harmfulness of the use of the term "human freedom" in international and national law and legal science. concepts. Also in this study, specific proposals were formulated to amend the Constitution of Ukraine, the definition and content of the term "human rights."

Conclusion

At the end of this study, it can be argued that the protection of human rights at the international level and at the level of individual countries can not be considered satisfactory due to terminological uncertainty not only in the works of non-legal scholars, but also in legal research. This uncertainty is the basis for contradictory legal concepts, unclear wording in the law. In this study, the thesis was substantiated about the inappropriate use in legal research and in the creation of tools of legal technique (including clear uniform wording of legal terms) approaches of other (non-legal) branches of science, which not only do not help clarity and clarity of legal definitions, but vice versa stretch the problems of clear wording for decades.

The legal term "human rights" is one of the main and significant ones in legal science. It is a basic term in international law and the law of any country, and therefore, the substantive uncertainty of this term, its essence and constituent elements, differences from others similar concepts pose a significant threat not only to the development of concepts of human rights protection but also to the imperfection, blurring and incomprehensibility of the current normative material both nationally and internationally.

This study proved that the doctrine did not formulate a clear and uniform definition and essence of the term "human rights," its components and qualitative features in comparison with the term "human freedom." The authors, who claim that freedoms and human rights are different legal terms, not only did not offer a clear definition of the term "human freedom", but could not even list which "freedoms" are enshrined at least in the Constitution of Ukraine. Similarly, the problem of uncertainty of the term "human freedom" is present in international law. Such terminological uncertainty is nothing more than a mechanical copying into national constitutions of the wording of the Universal Declaration of Human

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Rights, which during the post-World War II confrontation between the USSR and Western countries was adopted not to create a clear legal basis for human rights.

Analysis of approaches to the definition of the term "human rights" allows us to conclude that the problem of its legal definition is artificial, which is that some legal scholars, fascinated by the philosophical concept of natural human rights, do not try to give clear definitions to improve legal science and lawmaking. and law enforcement agencies with clear tools of legal technique, but simply want to express themselves in a new way, or emphasize the urgency of the problem without giving clear and understandable answers to ways to solve it. As a result of this study, the following suggestions can be made for the definition, meaning and essence of the term "human rights":

- human rights in the legal sense – are one's subjective rights, i.e., the ability to act in one way or another (measure, options for possible behavior) are directly provided by law, which apply to the person during the implementation of these actions
- human rights in the legal sense exist only if they are secured by the legal obligations of other subjects of law, which must ensure these rights or not interfere with their exercise. Such legal obligations arise only on the basis of the rules of law in force in a particular state
- human rights are components of the content of legal relations and cannot be objects of legal relations
- deprive of subjective human rights can only be a competent authority and only in a lawful manner, other subjects of law (including competent authorities) can only interfere with the implementation of certain subjective rights. In this regard, when it comes to creating obstacles for a person to exercise his subjective rights, it is advisable to use the term "protection of the legitimate realization of human rights" instead of the phrase "protection of human rights"
- for the sake of clarity and uniformity in the results of law-making and law-enforcement activities we consider it necessary to enshrine in the Constitution of Ukraine in Article 3 the following addition: "Everyone's right consists of: the ability to require others not to interfere with the implementation of selected options for lawful conduct; opportunities to demand from the competent authorities to ensure and protect the options chosen by a person for lawful conduct."
- for the purpose of uniformity of law-making and law-enforcement activity, the term "human freedom" should not be used in law-making and law-enforcement activity in Ukraine, or, otherwise, the definition of this term should be clearly and clearly enshrined in current legislation.

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