

# *International-Legal Aspects of Protection of Human and Civil Socioeconomic Rights*

Khizr Davlatov

Department of International Law and Comparative  
Jurisprudence  
Russian-Tajik Slavonic University  
Dushanbe, the Republic of Tajikistan  
davlatov.khizr@gmail.com

Nilufar Imomova

Department of International Law and Comparative  
Jurisprudence  
Russian-Tajik Slavonic University  
Dushanbe, the Republic of Tajikistan  
nilufar-2010@mail.ru

Umed Mamadamonov

Department of International Law and Comparative Jurisprudence  
Russian-Tajik Slavonic University  
Dushanbe, the Republic of Tajikistan  
mumed@yandex.ru

**Abstract**—This paper studies the issues arising due to protection of human rights in a contemporary context. A special focus is put on economic human and civil rights. For a long time, in academia an opinion prevailed that civil and political rights are the core of the human rights system. In this paper, the authors' opinion is stated that socioeconomic rights take a key position in this system. Texts of multilateral international legislation concerned with human rights advocacy were analyzed separately. Their specifics were established and measures for subsequent implementation were identified. The authors have also analyzed operation of the critical UN mechanisms aimed at protection of social and economic human rights. Main threats to stable existence of the global system of the human right protection as a whole have been identified.

**Keywords**—socioeconomic rights; law-governed state, international law, UN

## I. INTRODUCTION

During its history, human civilization traveled a long way to form an efficient system aimed at protection of the basic human rights and freedoms. At that, this statement is applicable not only to national, but also to international institutions of human rights advocacy.

In this century, the issues of protection of human rights take a key position in the general range of global questions. Moreover, it can be affirmed that the trend for improvement of human rights advocacy mechanisms is likely to continue.

Nowadays, the protection of human rights is holistic. As an example, one may accentuate such areas in this field as protection of rights of women and children, migrants, persons with disability, etc. Such legal relations cover a wider range and, consequently, could not shy away from the questions related to trade and economy as a whole.

We believe that a significant part of problems in the question of formation and establishment of the foundation of

democratic society, as well as building a truly law-governed state are strongly interrelated with the socioeconomic problems of the country. The states that have a large portion of their population below the poverty line are unable of creating effective human rights protection institutions in the short-run and provide complete adherence to most of the international standards in this field. Thus, the state policy in the field of human rights protection shall be supported by a similarly effective policy in eradication of poverty. In this context, it is an appreciate moment to recall the words of F. Hayek, Nobel Prize laureate in Economics: "Political freedom is not worth having without economic freedom" [1].

Throughout history, the concept of the human rights was formed in most of the states in the context of personal and political liberties (right to life, right to freedom and personal integrity, etc.). This evolution of understanding and development of the human rights has its logic: it is necessary to proclaim the basic body of human rights first (first generation rights), and to establish the socioeconomic rights later (second generation rights). International legislative acts stipulate the binding power of all the generations of the human rights. That is, no rights, liberties and responsibilities recognized by the state are held in opposition or interpretation against each other, as together they form the legal status of a person [2]. We subscribe to this position full-heartedly. Undoubtedly, historically, the institution of the human rights was not formed uniformly and thus the first generation rights initially prevailed over the second-generation rights. Nowadays, however, it is necessary to consider all the categories of the human rights as a unified and integrated system, where separate fields shall not have exceptional and prioritized nature with respect to other rights.

Some researchers believe that socioeconomic rights shall have their own classification. For example, V.A. Chetvertin proposes several classification criteria.

His first group includes socioeconomic freedoms characterized with the concept of *status negativus* (that is, it includes natural and inalienable rights). For example, it is the private property and inheritance rights; land ownership rights; freedom and sanctity of ownership; sanctity of property and responsibility to pay legally imposed taxes; freedom of enterprise; proscription of noneconomic coercion to labor; the right to education.

His second group includes socioeconomic rights to free personal self-actualization with others in the field of labor relations, characterized with the concept of *status aktivus* (rights to protection in the field of these legal relations). For example, it is the right to collective bargaining and strike.

The third group includes socioeconomic rights as declarations devoid of legal sense, not creating court-defendable rights. There we have declarative statues on the goals of socioeconomic policy of the state. Part 1 of Article 37 of the Constitution of the Russian Federation declares everybody's right to manage their capabilities to labor, select business occupation and profession [3].

Thus, we may say that in the academic circles, the problem of classifying and revealing the nature of the socioeconomic rights is quite relevant and requires further detailed studies.

### 1. Purpose of the study

In the context of globalization and rapidly changing world, it is necessary to realize that together with technological development and progress, new threats to humanity will arise. We believe that the problem of encroaching against human rights is one of the most important and significant among such threats.

It is misguided to believe that in our era of digital technologies, ubiquitous creation of rights advocacy mechanisms and increased value of human life, there is no more danger to the institution of the human rights. Vivid examples of existing serious problems in this field are such glaring facts as 1994 Genocide in Rwanda, a series of armed conflicts in the territory of former Yugoslavia accompanied with serious breaches of the human rights in the European continent, military persecution, killings and forced deportation of Rohingya in Myanmar, etc..

One of the major objectives of the study is to identify the significance and necessity to understand the importance of the whole complex of the human rights without any conventionalities and separate hierarchy of some rights over others.

The institution of the human rights shall be perceived as an integral whole. The legal status of a person shall be to the maximum extent specified and implemented in the national legislation of each state that considers itself a part of the civilized international community.

### 2. Research methods.

The methodological foundation of the study lies in general and specific scientific methods of inquiry: procedure of comparative law research; specific sociological, systemic

structural, formal logical and logical legal methods; statistical analysis and generalization.

## II. RESULTS AND DISCUSSION

Through the history of development of the institute of the human rights and international practice, the concept of the legal nature of the socioeconomic rights often underwent changes.

Initially, an opinion prevailed that provision of the socioeconomic rights would require interfering with the first-generation rights. This approach appeared during the development of the UN's Universal Declaration of Human Rights, various covenants on human rights and other international legislative acts pertaining to human rights advocacy.

During this period, there were doubts about distinguishing the socioeconomic rights in a separate group of the human rights and introducing it into the most important international agreement – The Universal Declaration of Human Rights of 1948 [4]. At later stages, a question arose on necessity to enshrine this group of rights as mandatory signatory powers of international agreements. Development and adoption of the covenants lingered on for two decades. The cause was the position of some states. It was believed incorrect to include with the mandatory rights those rights that depend on the economic status of the state. Implementation of such rights would require certain budgetary spending.

Negative attitude of some states to socioeconomic rights found its expression also in works of some researchers. For examples, the rights and freedoms embodies in Article 2 of the International Covenant on Civil and Political Rights shall be implemented immediately. Considering this Covenant, researchers note that it does not define any specific legal obligations for consignatory powers. It is stated that there are only some landmarks given, while the states shall expend some efforts to achieve them. To support their position, they quote item 1 of Article 2 of the Covenant that states the liability of the state “to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures” [5].

The social rights were deemed as less important and non-mandatory to provide. This provision meant that in case obstacles arise during their exercise, they will not be protected in court and their enforcement largely depend on state authorities. The Soviet Union disagreed with such approach, thus the Covenant on Economic, Social and Cultural Rights was adopted in 1966. Many UN documents also acknowledged the mandatory nature of the socioeconomic rights.

Currently, UN member countries acknowledge the provision of the Covenant that the ideal of a free human person, liberated of fear and distress is attainable if measures are taken and all the generations of the human rights are provided to their full extent.

Admitting the binding nature of provisions of the Covenant, some theorists state that economic status of states of the modern world is unable to provide efficient exercise of the socioeconomic rights as enshrined in the major international legislation.

Above we predominantly considered international legislation adopted after the World War II and in the middle of the 20th century, however it should be noted that with development of more and more new international agreements in the field of human rights protection, the question of socioeconomic rights advocacy found its reflection in the texts of many multilateral agreements.

In 1979, the Convention on the Elimination of all Forms of Discrimination Against Women [6] was adopted, which was a milestone event for the issue of protection of the most vulnerable category of citizens. Until the 20th century, women had not had the full scope of rights as men did. The first progressive steps on the path to repair the unjust state of things were put in place in the late 19th and early 20th century. The Suffragette movement that fought for granting the voting rights to women played a large role. Besides that, suffragettes opposed discrimination of women in the political and economic sphere on principle. The Suffragette movement of the early 20th century did not vanish without a trace. The first countries to grant women voting rights were New Zealand (1893) and Australia (1902) [7]. This trend continued throughout the century. Early 20th century revolutionary events in Russia played an important role in strengthening women's rights. For example, with formation of new Soviet Republics in the territory of Central Asia with predominantly Muslim population and a specific attitude to the question of a place of woman in society, Soviet authorities applied the emancipation policy locally and introduced secular elements to the issues of women's participation in the social life of the state.

Adoption of the Convention on the Elimination of all Forms of Discrimination Against Women in 1979 gave a new impulse to development of not only basic, but socioeconomic rights of women as well. In the text of the Convention, it is noted that the signatory powers shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- a) The right to family benefits;
- b) The right to bank loans, mortgages and other forms of financial credit;
- c) The right to participate in recreational activities, sports and all aspects of cultural life. (Article 13).

The process of international protection of the socioeconomic rights affected other areas of advocacy activity on behalf of the international community.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was adopted by the UN in 1990 [8] At large, it rested against the principal provisions of such international legislative acts as The Universal Declaration of Human Rights

of 1948 and the International Covenant on Economic, Social and Cultural Rights of 1966, but at the same time, it contained innovations in the area of enforcement of socioeconomic human rights. For example, the text of the convention stated that migrant workers have the right to transfer their earned income and savings, in particular such sums that are necessary to maintain their families, from their country of employment to the country of origin or any other country. Such money transfers shall proceed in accordance with procedures stipulated by applicable legislation of the relevant state and in accordance with applicable international agreements. At that, it was separately noted that the relevant states shall take adequate measures to facilitate such money transfers. (Article 47). In addition, the provisions of this Convention bind the signatory states to take the proper measures to avoid double taxation of the earnings and savings of migrant workers and members of their families (Article 48).

Modern problems of migration are rather acute, at that, there is no reduction in the migration flows globally. This is facilitated by various prerequisites. For example, Ye.V. Kiselyova identifies political, socioeconomic and historical factors in increased migration [9]. We subscribe to this position full-heartedly. These factors get especially relevant against the background of arising regional and global crises.

The 2006 Convention on the Rights of Persons with Disabilities may be given as another example of measures taken by the UN to protect the socioeconomic human rights [10]. It separately recognizes that persons with disabilities have the right to work, including the opportunity for labor in such conditions, which are open, inclusive and accessible. The countries shall take necessary measures to facilitate employment and career of persons with disabilities (Article 27), besides, the persons with disabilities have the rights to an adequate standard of living, including adequate food, clothing and housing, as well as social security, including reduction of poverty and state housing programs (Article 28).

Another positive trend is a fact that today the human rights are protected not only by means of international agreements, but also by tailored international mechanisms. UN, undoubtedly, plays a major role in it. However, besides this universal organization, work of equal importance is performed by such institutions as European Court of Human Rights, Commonwealth of Independent States, World Trade Organization and a number of other organizations, both in the UN's orbit and independent regional creations.

The main criteria for enforcing the socioeconomic human rights are economic indicators of the country. Enforcement of socioeconomic rights depends on how disciplined the state is in performing its duties in the area of socioeconomic policy.

International control over protection of these rights is less significant in comparison with protection of civil and political rights.

Control over exercise of socioeconomic rights is objectively difficult. They are quite specific and depend on the stability of the socioeconomic status of the country. Their feature is in lower universality, that is, they cover only some categories of population; a large number of non-binding

formulations of basic provisions is allowed, such as adequate standards of living, just and favorable standards of employment, adequate living, as well as dependence of their enjoyment on the state of resources and economy.

Enjoyment of these rights require an active position of the state, taking measures of material and procedural nature. It differs them from civil and political rights where the main feature is freedom from intervention.

According to provisions of the International Covenant on Economic, Social and Cultural Rights (Articles 16—25), the countries are bound to provide reports to the UN Secretary General on measures undertaken with the aim of bringing the provisions of the Covenant to life and on progress achieved in the socioeconomic field. The Secretary General, in their turn, directs them for considerations to Economic and Social Council and specialized institutions.

Such procedure is currently the only form of control over enforcement of the socioeconomic human rights. Besides, control over enforcement of the socioeconomic rights and freedoms meets specific difficulties due to relatively recent development of this group of rights and certain ambiguity of basic guaranties contained in the international legislative regulations on these issues.

Recently, we saw increased activity of international bodies tasked with control over state compliance with commitments in the field of basic economic and social human rights. Within the framework of the Subcommittee on Prevention of Discrimination and Protection of Minorities, several special reports were prepared, covering such issues as food security, eradication of poverty, facilitation of exercising women's rights, etc. In 1985, a committee on economic, social and cultural rights of the Economic and Social Council was created. Its actual activity started in 1987. The committee is an independent control body and is authorized to examine reports from states, draw general conclusions from them and report them to the Economic and Social Council.

On the one hand, the socioeconomic rights provide corresponding activity of population; on the other hand, they provide protection against risks. All the while, there are no large contradictions between these aspects of policy management. The values of economic freedom and equality get public recognition and embodiment in the common system of inalienable human rights and freedoms, on par with the values of social justice, integration, mutual responsibility of state and citizen. The guaranties for exercise of the socioeconomic rights are an important prerequisite for stable existence of a law-governed state in its democratic and social form.

It appears that the above-listed characteristics suggest marking this group of human rights as secondary, derivative from the civil rights; however, it is far from truth. The socioeconomic rights are as basic as the civil and political rights. Only their joint enforcement may ensure the legal status of a person where existence of the individual will be free and comfortable.

The task of a state is not in complete provision of its citizens with all benefits, but in supporting the majority of

citizens, assistance through hardships of life, providing possibility to participate in social life as equals.

The state shall provide each person with the minimum adequate standards of living. In the international law, a system of such minimum standards has formed: a salary level, standards of housing, employment, nutrition, education, social security, medicine, cultural level.

### III. CONCLUSION

Human welfare, life and health are the major national resources. Efficient policy in protection of the basic human rights is impossible, if the socioeconomic situation and basic social needs are forgotten.

In the conclusion of this study, it is necessary to touch upon a question of importance of respect for private property on behalf of the state. We believe that respect for the private property is a foundation stone in the building of a truly democratic state.

The role and significance of the socioeconomic rights in the modern world grow constantly. The measures to protect this category of rights are taken not only on national level, but also by the international community as a whole. Within the framework of the UN, the Millennium Declaration was adopted, declaring a range of global goals, which humanity approaches as a whole. It includes a separate set of questions related to development and eradication of poverty. The Declaration, in particular, sets such goals as:

- by 2015, cutting in half the proportion of the global population with the income of less than one dollar per day and the proportion of population suffering from famine; also, by the same term, cutting in half the proportion of the global population without access to safe drinking water, including due to insufficient funds;
- provide that by the same term, children globally, both boys and girls have possibility to get the primary school education to the full extent, at that, girls and boys shall have equal access to all the levels of education;
- By the same term, achieve reduction in maternal mortality by three quarters and mortality among children under 5 by two thirds as compared to their current levels [11].

Without getting into specifics of the Declaration, let us note that it is virtually the next complex measure of the global community that is completely relevant to the idea that society and state may develop paying special attention to economic well-being of citizens in conjunction with decisive steps towards strengthening the system of human rights advocacy.

### References

- [1] F.A. von Hayek, "The Road to Serfdom: Russian Edition", Preface by N.Ya. Petrakov. Moscow: Ekonomika, 1992. 118 pp.
- [2] S.A. Lubennikova, "The concept and content of the socioeconomic human and civil rights", *Annals of BSU*, No. 2, pp. 217-221, 2015.
- [3] V.A. Chetvertin "Constitution of the Russian Federation: Issue-centered commentary", ed. Moscow, 1997. pp. 236-255.
- [4] The Universal Declaration of Human Rights. // Retrieved from: [http://www.un.org/ru/documents/decl\\_conv/declarations/declhr.shtml](http://www.un.org/ru/documents/decl_conv/declarations/declhr.shtml)

- [5] "International Covenant on Economic, Social and Cultural Rights, dated 16.12.1966", Bulletin of the Supreme Court of the Russian Federation, No. 12, 1994
- [6] Convention on the Elimination of all Forms of Discrimination Against Women. Retrieved from: [http://www.un.org/ru/documents/decl\\_conv/conventions/cedaw.shtml](http://www.un.org/ru/documents/decl_conv/conventions/cedaw.shtml)
- [7] "Emancipation of women", Encyclopedic Dictionary of Brockhaus and Efron: In 86 volumes. (82 core volumes and 4 additional volumes). Saint Petersburg. <http://www.brocgaus.ru/text/116/131.htm>
- [8] International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Retrieved from: [http://www.un.org/ru/documents/decl\\_conv/conventions/migrant.shtml](http://www.un.org/ru/documents/decl_conv/conventions/migrant.shtml)
- [9] Ye.V. Kiselyova, "International Legislative Regulation of Migration [Text]: Study Guide", Moscow: RUDN, 2012. 34 pp.
- [10] Convention on the Rights of Persons with Disabilities // Retrieved from: [http://www.un.org/ru/documents/decl\\_conv/conventions/disability.shtml](http://www.un.org/ru/documents/decl_conv/conventions/disability.shtml)
- [11] Millennium Declaration of the United Nations Organization. Adopted by the resolution 55/2 of the General Assembly on September 8th, 2000. Retrieved from: [http://www.un.org/ru/documents/decl\\_conv/declarations/summitdecl.shtml](http://www.un.org/ru/documents/decl_conv/declarations/summitdecl.shtml)