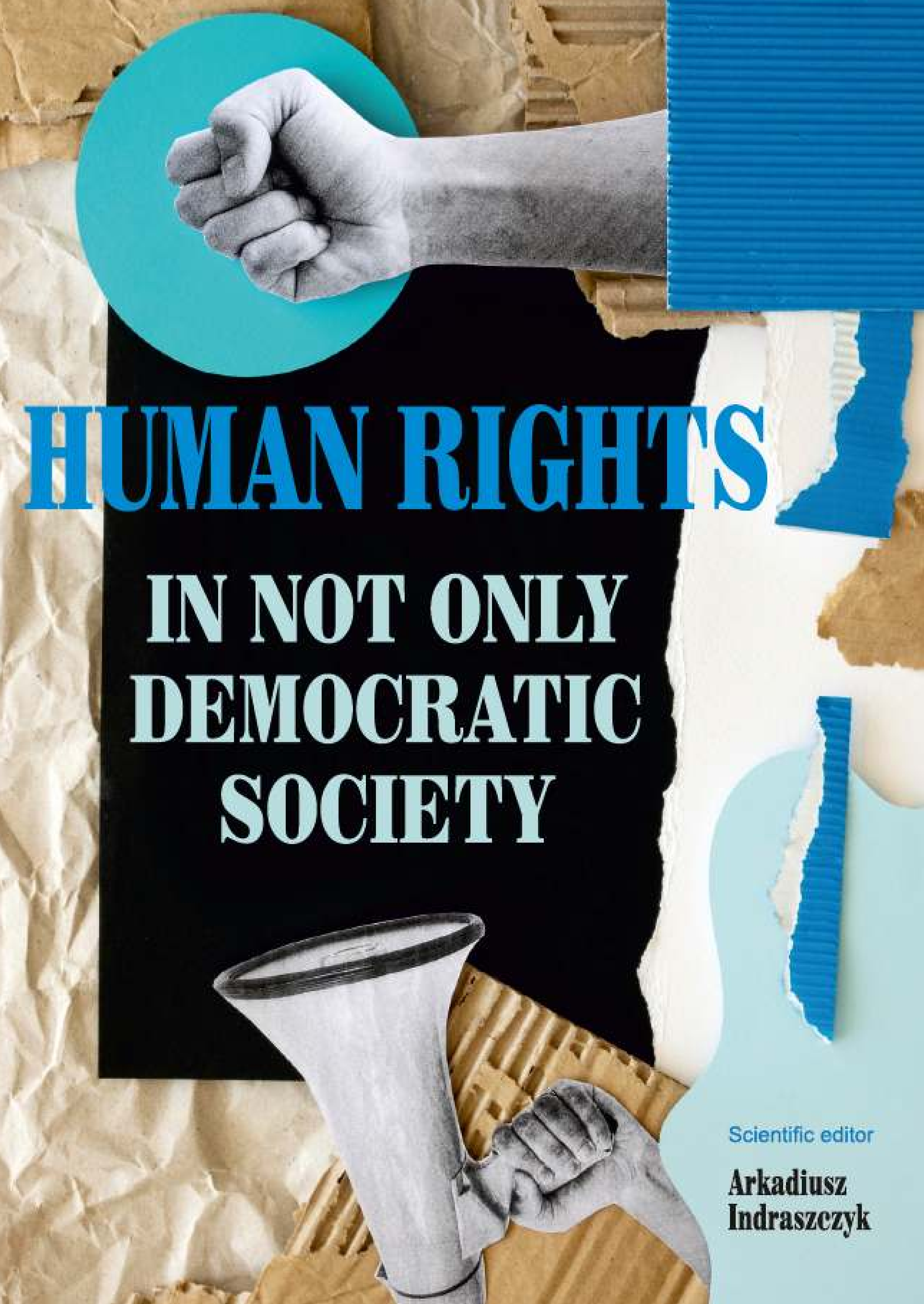

HUMAN RIGHTS

IN NOT ONLY DEMOCRATIC SOCIETY

Scientific editor

Arkadiusz Indraszczyk

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Scientific editor: dr hab. Arkadiusz Indraszczyk

University of Siedlce, Faculty of Social Sciences
Institute of Political Science and Administration

Reviewer: prof. dr hab. Jerzy Jaskiernia (Jan Kochanowski University in Kielce)

Language editing: dr Natalia Sanżarewska-Chmiel

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Arkadiusz Indraszczyk

University of Siedlce
ORCID: 0000-0001-9133-4062

INSTEAD OF AN INTRODUCTION: A FEW REFLECTIONS ON HUMAN RIGHTS

Human rights are, to borrow a metaphor from the title of Michael Ende's bestselling novel *The Neverending Story* and its well-known film adaptation, "A NeverEnding Story"[1], understood as a continuous struggle both to incorporate them into state systems and to ensure they are actually respected. The significance of these rights lies, among other things, in the recognition that they are inherent in every human being from the moment of birth, for one fundamental and indisputable reason: simply because of being human. Consequently, it might seem that once these rights have been incorporated into political systems and democratic systems have been built upon them, the problem of their violation should be significantly reduced, especially in democratic states. However, this is not the case. One of the fundamental reasons for this state of affairs is the dynamic nature of the modern world. Technological progress influences economic development, which, in its turn, leads to transformations in social relations. As a result, standards considered sufficient 50 or 100 years ago often no longer correspond to the contemporary understanding of human dignity and individual rights. Therefore, new circumstances necessitate a constant redefinition of the scope and content of individual human rights, as well as their interpretation in the context of current social and civilizational realities. In this context, Francis Fukuyama's position seems apt, as he notes that: "The more science tells us about human nature, the more consequences this has for the concept of human rights, and thus also for the structure of institutions and political actions intended to protect these rights"[2].

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[1] Michael Ende, *The Neverending Story* (Thienemann Verlag, 1979); *The Neverending* Story, directed by Wolfgang Petersen, screenplay by Wolfgang Petersen and Herman Weigel, produced in the USA and Germany, 1984.
[2] Francis Fukuyama, *The End of Man* (Znak Publishing House, Kraków 2004), 144.

This approach to human rights stems from the assumption that since they exist and we recognize them, they are not created by us but discovered. This can be compared to the functioning of the natural environment. Scientists and researchers do not create elements of natural reality, but rather discover the things and elements from which the world is built, as well as the relationships, mechanisms, and processes by which the natural environment functions. If human rights have their source in nature, then we, as human beings, strive to discover and properly interpret them. A philosopher would say that justice must be done to humanity. This is what we strive for, and this is the direction in which we take action. However, we are unable to define this justice unambiguously. Therefore, from the realm *of Iustitia* (abbreviated as *Ius*), understood as the order of justice, we derive a set of norms of positive law – *Lex*. We recognize that at the level *of Ius*, laws are relatively immutable, whereas at the level of Lex, they can take on various interpretive and institutional forms. This applies, in particular, to what a given law means for an individual and how and with what tools it should be implemented.

This issue pertains primarily to so-called second-generation human rights, namely social and economic rights. However, we must not forget that all human rights derive from the fundamental and primary right to life and the dignity of life. It is precisely through the lens of dignity that the content of individual rights is actualized and that the actions necessary for a given right to be effectively realized are determined. Take, for example, the right to housing. Today, hardly anyone would likely argue that it is possible to live a dignified life without housing, being homeless not by choice, but as a result of certain circumstances. The question arises, however: what does "having housing" actually mean? Until the mid-20th century, in developed European countries, several people sharing a room was common. And what about today? Would such a situation correspond to the contemporary understanding of a dignified life? In my opinion, definitely not. Every person should be provided with housing conditions that allow them to function with respect for privacy, safety, and autonomy, without infringing on the rights of others and without exposing themselves to harm resulting from shared living (e.g., regarding privacy).

Another example is the issue of remuneration for work. To ensure the realization of this right, a number of instruments have been introduced, such as the poverty line, the minimum wage, etc. Their levels change in line with changes in the purchasing power of money, or at least, in theory, they should be subject to such changes.

Second-generation human rights are of paramount importance because they establish minimum standards of existence intended to prevent people from falling into poverty and living in conditions that violate their dignity. In this area, there is an ongoing dialogue among employers, the state, and citizens.

And yet, the most attention is focused on first-generation rights and freedoms, i.e. political rights and freedoms, such as: the right to life, the right to liberty and personal security, freedom from slavery and forced labour, the right to resist unlawful violence, the right to a fair trial, the prohibition of arbitrary punishment, arrest, and deprivation of property, freedom of thought, conscience, and religion, the right to property, freedom from torture, freedom of association and assembly, personal inviolability, secrecy of correspondence, and the right to freedom of movement and choice of residence[3]. They form the foundation of a democratic system. Without them, citizens would not have the necessary rights and, thus, would not be able to act as the collective sovereign of the state (or other community, such as a local government). Despite this, both in the past and today, these rights are very often violated or effectively disregarded. This occurs mainly in undemocratic states, though the phenomenon is also present in democratic states.

Therefore, the question arises: why is more attention paid to first-generation rights than to the rights of subsequent generations? First, because without the former, the effective functioning of the latter rights is impossible. Second, first-generation rights define the absolute minimum of entitlements without which an individual could not be an equal participant in the political system. Third, they have a more universal scope than second-generation rights. Perhaps, this is precisely where the crux of the problem lies. The examples of second-generation rights described above can, in principle, be understood universally; however, their actual scope is determined regionally, and even locally, and depends on many factors, including cultural, economic, and social.

[3] The list of these rights provided here is conventional; in the foundational documents that today form the systems of human rights protection, such as the French Declaration of the Rights of Man and of the Citizen of 1789, the 1948 UN Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms adopted by the Council of Europe in 1950, the 2009 EU Charter of Fundamental Rights, and in national constitutions, these rights are worded slightly differently.

It is not possible to establish, at the global level, a uniform numerical value for fair pay for the same work or a uniform standard for decent housing. These figures will depend on the economic and cultural situation. In highly developed countries, they will likely be higher than in poorer countries. At the same time, in the countries of both types, as a rule, workers may be satisfied with the wages they receive, and residents can be satisfied with their housing conditions. Furthermore, as the cost of living changes, wage levels change (or at least should change). While the state has an obligation to guarantee first-generation rights, in the case of second-generation rights, it recognizes them and should strive for their fullest possible realization.

First-generation human rights and freedoms are also the foundation of democratic systems, as they ensure both the individual's ability to express opinions and the protection of that individual against the authorities' reaction to the content of those statements. Without these rights, *Demos Kratos* cannot exist. This relationship, however, is reciprocal. Without democracy, there is a lack of recognition, respect, and enforcement of human rights, which results in a reduction of citizens' rights and increased dependence on government and administrative bodies, and in extreme cases, leads to intimidation and even terrorization.

Such phenomena have also occurred in the recent past. One of the most comprehensive catalogues of human rights (civil rights) was enshrined in the Constitution of the Weimar Republic[4], i.e. the German state established after the defeat of the German Empire in World War I. However, after Adolf Hitler and the Nazi Party he led seized power, some civil rights were suspended, and the political system was transformed into a totalitarian one, in which civil rights were purely illusory.

Another example is the Polish state. The 1921 Constitution of the Republic of Poland also contained an extensive catalogue of civil rights[5]. However, this did not prevent Józef Piłsudski and his supporters from carrying out a coup d'état and, subsequently, transforming the system into an authoritarian one, in which the scope and manner of exercising civil rights were

[4] M. Labijak, "Rozwiązania prawnoustrojowe Republiki Weimarskiej w perspektywie historycznej i porównawczej [Constitutional aspects of the Weimar Republic in the historical and comparative perspective]", *Studia Iuridica Toruniensia* vol. XIV (2014): 179.
[5] Constitution of the Republic of Poland of March 17, 1921, Chapter V. General Duties and Civil Rights, Articles 87–124.

discretionary and depended on the decisions of government bodies and the state administration. This systemic change was reflected in the omission of a broad catalogue of civil rights from the 1935 Constitution of the Republic of Poland. It only stated that: "(1) The creativity of the individual is the driving force of collective life. (2) The State ensures citizens the opportunity to develop their personal values and the freedom of conscience, speech, and association. (3) The common good is the limit of these freedoms. […] Citizens owe the State loyalty and the faithful fulfilment of the duties imposed by it. […] (1) The value of a citizen's efforts and contributions to the common good shall be measured by their rights to influence public affairs. (2) Neither origin, nor religion, nor gender, nor nationality may be grounds for restricting these rights"[6].

Similar solutions were also adopted in other European countries, particularly those established after World War I, whose constitutions introduced catalogues of human rights and freedoms (referred to as civil rights). This was the case, for example, in the Baltic republics and in Spain (1931). However, these countries have experienced systemic changes that have led to restrictions on civil rights.

Current events suggest that similar trends may re-emerge. In Poland, following the introduction in 2016 of legislative changes concerning judicial reform by the so-called United Rights coalition, which unites Law and Justice (pol. Prawo i Sprawiedliwość) and Solidarity Poland (pol. Solidarna Polska), including, among other things, changes to the method for selecting the National Council of the Judiciary, doubts have arisen in legal doctrine and public debate regarding the full implementation of the right to a fair trial. Government authorities gained the ability to influence both the composition of the National Council of the Judiciary and, through the merger of the position of Prosecutor General and Minister of Justice, the functioning of the prosecutor's office[7].

Although the reform has been heavily criticised by both human rights organizations (such as the Helsinki Foundation for Human Rights) and international institutions (such as the Venice Commission), and has been the subject of decisions by international courts, including the Court of Justice of the

[6] Constitutional Act of April 23, 1935, Articles 5–7.

[7] For more on this, see Michał Wolny, Maciej Kalisz, Małgorzata Szuleka, *Koszty "reform". Funkcjonowanie wymiaru sprawiedliwości w latach 2015-2022 [The Costs of "Reform.". The Functioning of the Judiciary in 2015–2022]* (Helsinki Foundation for Human Rights, Warsaw 2022).

European Union, the situation prior to 2016, there were no significant concerns regarding the rule of law, the right to a fair trial, and the right to an independent judiciary, has not been fully restored yet.

This example shows how democratic standards and human rights can be violated relatively easily, and at the same time, how difficult, complex, and protracted the process of restoring them is.

Democracy is neither an easy nor a simple system. Transforming citizens into sovereigns of the state requires their active participation in the governance of the political system. Adopting a model of representative democracy does not solve this problem. Representatives, after all, require constant oversight and accountability for their actions. The lack of such civic engagement is one of the major challenges facing modern democratic states. Although broad social movements demanding change emerge, especially in times of crisis, they often lack sustainability, consistency, and the ability to exert long-term influence on political processes. Examples such as the so-called Arab Spring movements or the "pots and pans" revolution in Iceland show that social mobilization can lead to significant systemic changes. At the same time, other experiences, including social movements in Poland related to the defence of the constitution after 2015, point out the limited effectiveness of such actions in the long term.

The literature on the subject notes that a significant portion of citizens exhibits a low level of interest in politics, believing that the possession of modern political and economic freedoms eliminates the need for active participation in public life. Consequently, politics remains largely the domain of professional politicians. Historical experience, however, indicates that a lack of civic engagement can lead to the gradual erosion of democratic standards. Democracy, after all, is not limited to the act of voting but also encompasses the necessity of protecting and enforcing fundamental human rights and freedoms. A lack of active civic engagement in this regard may encourage the expansion of public authority at the expense of individual rights, which, in its turn, may lead to the transformation of the political system toward less democratic forms, including oligarchic ones.

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A grant for its implementation was awarded under the European Commission's Jean Monnet program. This project, speaking in the past tense, given that this monograph is one of its final outputs, was carried out from 2023 to 2026. As part of the project, open lectures, webinars, an international academic conference, and an academic debate were organized. The project results are available on the website of the Institute of Political Science and Administration, under the "Jean Monnet Program" tab[8]. The project team consisted of: Dr. Agnieszka Dybowska, Dr. Arkadiusz Indraszczyk (project leader), Dr. Monika Niedziółka, Dr. Agata Opalska-Kasprzak, Kinga Pawlik-Ajecka, M.A., Dr. Bartłomiej Suchodolski, and Dr. Łukasz Święcicki.

The monograph presents diverse perspectives on human rights. The authors of the individual chapters address different issues, all of which are united by the common theme of human rights. The chapters are arranged alphabetically by the authors' last names.

Vitalii Dankevych (Polissia National University, Zhytomyr) addresses the issue of the impact of war on human rights in the context of food security. She points out that disruptions in access to food do not occur exclusively in areas affected by military operations (including bombings), but also far beyond their borders. The reason for this situation is that Ukraine is a major food producer for the countries of Central and East Asia and North Africa.

Dr. Agnieszka Dybowska (University of Siedlce) addresses the topic of building a global civil society in the context of human rights. The author aptly notes that as knowledge of human rights spreads and these rights are incorporated into national legal systems, the level of protection for the lives and activities of individuals increases, providing them with the foundation to function as full-fledged participants in the political system. She also emphasizes the importance of maintaining and developing human rights education, without which these rights may gradually erode, and their further dissemination becomes difficult.

Prof. Tomasz Jakubiak (Catholic University of Warsaw) highlights the achievements of the Second Vatican Council regarding the protection and guarantee of religious freedom, as set forth, among other places, in the declaration "Dignitatis Humanae". The author points out that religious freedom, alongside peace, constitutes one of the fundamental pillars of

[8] Polish-language website: https://inpa.uws.edu.pl/jean-monnet; English-language website: https://inpa.uws.edu.pl/en/jean-monnet.

a lasting social order. He also draws attention to the shift in the understanding of this concept: from religious tolerance to the recognition of religious freedom as an inherent right of every person. At the same time, he emphasizes that the Catholic Church views religious freedom in both its theological and legal dimensions, and that the common good, public order, and the rights of others set its boundaries, which, however, must not infringe upon private freedom of conscience.

Dr. Michał Krawczyk (University of Siedlce) recalls the issue of human rights violations regarding religious freedom in England and Ireland (from the 16th to the 18th century), particularly through the exclusion of Catholics from participation in governance and the long-term process of gradually lifting these restrictions. The author points out that religion was used as a tool to deprive Catholic subjects of the English Crown of certain political (civil) rights, and the chapter concludes with the following: "To summarize the above considerations, it must be stated that the full realization of both political rights and freedoms, as well as freedom of conscience and religion, can be guaranteed only through the separation of the profane and the sacred, and thus through the effective separation of the state from all churches and other religious communities".

Prof. Justyna Krzywkowska (University of Warmia and Mazury in Olsztyn) discusses the issue of personal data protection in the Catholic Church in Poland, which is of paramount importance in today's world. The author highlights the coexistence in this area of European Union law, canon law, and national law, as well as the need to balance the interests of the individual and the autonomy of the Church. In her conclusions, she points out both the achievements and the challenges facing the Catholic Church in this regard.

Dr. Agata Opalska-Kasprzak (University of Siedlce) addresses the issue of justice in criminal proceedings as a normative and axiological category. The author asks whether justice in criminal proceedings should be identified primarily with the correctness of the decision (substantive justice) or with the observance of fair trial standards (procedural justice), and how these two dimensions can be reconciled in the practical application of the law. Dr. A. Opalska-Kasprzak concludes that the issue of justice in criminal proceedings is extremely complex and cannot be viewed solely as the final outcome of the proceedings, but rather as a process carried out at every stage thereof. "The final assessment of a just outcome depends not only on its content, but also on the manner in which it was achieved […]. In this sense, justice in criminal proceedings functions not only as a goal but also as a principle that constrains the process itself. Consequently, justice in criminal proceedings should be understood as a dynamic process shaped by the interaction between legal norms and axiological values".

Ivan Perepelkin (Jagiellonian University) analyses Kazakhstan's cooperation with the UN regarding the establishment of a human rights protection system in that country. In his conclusions, he notes that although Kazakhstan has adopted numerous international standards in the field of human rights protection, it still faces a number of significant challenges regarding their full implementation and practical application.

Dr. Julia Własiuk (University of Siedlce) analyses the situation regarding violations of human rights and democratic election standards in Belarus. Administrative pressure exerted since 2001, restrictions on candidate eligibility, the refusal to allow observers to participate in elections, the lack of transparency in vote-counting procedures, and the abuse of early voting mechanisms indicate, as the author argues, the systemic nature of these restrictions and the deliberate use of electoral procedures as a tool for maintaining power rather than for its democratic legitimization. Dr. Własiuk concludes the chapter with the following observation: "Simply improving the quality of electoral law or adjusting individual procedures is not sufficient to create a truly democratic electoral process. […] The institutional architecture of the Belarusian regime precludes the possibility of holding free elections, as it is based on the concentration of power in the hands of a single individual and the suppression of political competition. Under these conditions, any targeted changes are merely cosmetic in nature. Truly guaranteeing citizens' political rights and bringing the electoral system into line with international standards is possible only in the context of a profound transformation of the political system and the restoration of the fundamental principles of a democratic legal order, including institutional independence, the separation of powers, and guarantees of civic participation".

Mateusz Wyrzykowski (Catholic University of Warsaw) presents the views of Philo of Alexandria on human rights. He does so through the analysis of the treatise "In Flaccum", on the basis of which he reconstructs views on human rights and the relationship between the state and the individual in the 1st century CE. Referring to these reflections is of significant importance for demonstrating the enduring nature of the idea of human rights as natural and inalienable rights, the fact confirmed by their presence in various philosophical systems.

Dr. Krystyna Ziółkowska (University of Warmia and Mazury in Olsztyn) addresses the issue of the right to rest in the context of remote work, a problem of great relevance in today's world. The author points out that, as evidenced by numerous studies conducted in Europe, remote workers are equally, and sometimes even more, exposed to excessive stress and work overload than office-based employees. One of the causes of this phenomenon is employers' expectation that employees be constantly available. In this context, "being offline" becomes an essential tool for exercising the right to rest.

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To summarize the above considerations, it should be emphasized that human rights, though rooted in human nature and considered inalienable, are not fixed once and for all in their practical dimension. Their actual content and scope are subject to constant reinterpretation in response to changing social, economic, and technological conditions. It is precisely this dynamism that constitutes both their strength and the source of numerous challenges.

Both history and the present clearly show that even the best-designed legal and political systems do not guarantee lasting respect for individual rights and freedoms. Their protection requires not only appropriate institutions, but above all a conscious and active civil society. Without citizen engagement, democracy loses its essence, and human rights become nothing more than a declaration devoid of real substance.

That is why continuous human rights education, the development of a culture of law, and fostering a sense of responsibility for the common good are of paramount importance. Only then will it be possible to maintain and develop democratic standards and effectively protect the dignity of every human being.

Therefore, it can be said that human rights truly constitute a "never-ending story" – a story whose future course depends on all of us.

Vitalii Dankevych

Polissia National University
ORCID: 0000-0002-0522-2927

FOOD SECURITY, HUMAN RIGHTS, AND WAR: UKRAINE'S ROLE IN THE GLOBAL CONTEXT

Abstract: In this chapter, the author examines the role of human rights in ensuring food security in the context of the war in Ukraine and the country's food exports. Russia's military aggression has created serious threats to the realization of fundamental rights: the right to life, safe working conditions, adequate nutrition, social protection, and dignity. Research indicates that supporting agricultural production and the country's export potential is directly linked to ensuring workers' rights, policies promoting social inclusion, safe working conditions, and social standards. Respecting human rights in the agricultural sector means ensuring access to food for all social groups, non-discrimination in labour relations, protecting workers from war-related risks, and guaranteeing support for the families of mobilized personnel. Relatively stable regions serve as humanitarian and production hubs, host relocated enterprises, employ vulnerable population groups, ensure safe working conditions, and provide equal access to food. In this sense, food security is not only an economic category but also a mechanism for fulfilling international legal obligations.

Keywords: Ukraine, food security, human rights, war in Ukraine, global food system

Relevance of the Food Security Issue in Wartime Conditions

Food security is one of the most critical components of both national and global stability, as it directly determines the viability of states, the well-being of the population, and the effectiveness of public institutions. In the context of armed conflicts, the issue of food provision becomes even more significant, as food turns into a strategic resource that shapes not only the economic but also the political capacity of a country to withstand challenges. In such circumstances, food security transforms from a basic element of social policy into one of the key pillars of national security.

War affects every stage of the food system, from production to consumption. Damage or destruction of infrastructure, blocked transportation routes, disrupted energy supply, reduced availability of raw materials, and shortages of labor create a cascade of complex consequences. Each of these factors alone poses a threat to the agricultural sector, but their combined impact generates a systemic food security crisis that cannot be overcome without a comprehensive approach and external support.

Ukraine is one of the major players on the global food market. With 42 million hectares of agricultural land and 9% of the world's black soil reserves, the country helps meet the food needs of more than 400 million people across various regions. Ukrainian exports are particularly important for countries in the Middle East and North Africa, which are extremely sensitive to fluctuations in supply. Thus, Ukraine's food security is not only a national issue but also a global one.

The war has changed the functioning of the agricultural economy dramatically, reducing its efficiency and productivity. Hundreds of enterprises have been forced to scale down or suspend operations; some production facilities have been relocated to safer regions; and vast areas of land are either under temporary occupation or contaminated with explosive remnants of the war. These factors directly reduce domestic supply and decrease export volumes, heightening tensions in global food markets.

The problem of food security is closely intertwined with the socio-economic stability of society. Food shortages lead to rising prices, a lower standard of living, increased unemployment in the agricultural sector, and decreased purchasing power. This creates preconditions for social conflicts, political instability, and heightened vulnerability to external threats. In such conditions, food security becomes not only an economic but also a social stability issue[1].

It is also crucial to consider the war's impact on the international food system. Ukraine is a critical link in global food supply chains, and any reduction in its exports leads to shortages in the most vulnerable states. This is especially true for those countries where imports of Ukrainian grain account for more than 40% of their total food resources. Therefore, the war has far-reaching consequences that extend well beyond national borders. In wartime, control over strategic resources becomes a priority, and food plays a leading role among them. Ensuring stable supplies, preserving production capacity, and

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[1] V.Ye. Dankevych, N.V. Bondarchuk, A.Yo. Buchynska, S.O. Kostenko, V.A. Strilchuk, „European legal standards for local development: a community-oriented approach", *Journal of Community Positive Practices* XXII (Special Issue), (2022): 47–64.

guaranteeing access to food for the population become key tasks of state policy. Neglecting these aspects may lead to humanitarian crises, increased migration flows, and further destabilization of the domestic situation.

The armed conflict also brings structural changes to the agricultural sector. Traditional production schemes lose effectiveness, while logistics routes are reorganized according to military realities. Farmers are forced to adapt by changing crop structures, reducing production costs, seeking alternative sales channels, and implementing digital management technologies. These processes take place in an environment of constant risk and high uncertainty.

Ukraine's food security is not only critically important for its own population, but also for maintaining international stability. Any reduction in exports of Ukrainian grain or sunflower oil affects directly the markets in the Middle East, Africa, and Asia, potentially triggering new waves of migration and political crises. Therefore, the stability of Ukraine's agricultural sector is a factor of global security[2].

The war has exacerbated the problem of access to key production resources. Many southern and eastern territories are mined, making them unsuitable for agriculture. Fuel, fertilizer, and machinery shortages limit the ability to conduct sowing campaigns. These factors reduce significantly the competitiveness of the agricultural sector and require new adaptation strategies. Another major risk factor is the decline in the agricultural labor force. A significant share of skilled workers has been mobilized or forced to leave the country. This reduces production efficiency, limits technological innovation, and increases the burden on those who remain. Labor shortages will have long-term consequences for post-war recovery[3].

The growing risks to food security are reshaping the behavior of agricultural enterprises. They are revising production strategies, reallocating resources, and developing crisis response plans. Risk insurance mechanisms, partnerships with state institutions, and cooperation with international organizations are becoming increasingly important. Equally significant is the war's impact on domestic demand and consumption. Lower household incomes, changing consumer behavior, and rising food prices pose new

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[2] Ibidem.

[3] K. Fortin, „The Procedural Right to a Remedy When the State has Left the Building? A Reflection on Armed Groups, Courts and Domestic Law" *Journal of Human Rights Practice,* 14(2), (2022): 387–414.

challenges for the state food policy. Under these conditions, social programs, humanitarian assistance, and local initiatives aimed at supporting vulnerable groups become crucial.

The international community is closely monitoring Ukraine's food situation because global stability depends on it. The organizations working on global food security warn that even a short-term production decline in Ukraine may cause shortages and price spikes worldwide. This underscores the importance of international coordination and support for Ukraine. In wartime, food security goes beyond agricultural policy and becomes a matter of strategic governance. It requires coordinated action from the government, international partners, communities, and the private sector. Such an approach can mitigate the negative impact of war and ensure basic food needs are met even in crisis conditions[4].

Particular attention should be paid to the role of regions that have become centers of agricultural adaptation and relocation. Regions such as Zhytomyr partially compensate for losses in the south by maintaining food stability and supporting the country's export potential. This highlights the importance of the regional dimension in Ukraine's national food security system[5].

The long-term relevance of food security is not only determined by war-related risks, but also by post-war recovery needs. Rebuilding agricultural infrastructure, demining land, restoring logistics networks, and creating jobs will require significant investment and time. This makes food security a cornerstone of Ukraine's post-war development strategy. In conclusion, Ukraine's food security during wartime is not only of strategic importance for the country itself, but also for global stability. It combines economic, social, and humanitarian dimensions, forming the foundation for societal resilience in the time of crisis. Addressing this issue requires a systemic, evidence-based approach capable of sustaining food policy even in the most difficult circumstances.

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[4] M. A. Glaser, A. Y. Yastrebova, M. L. Ivleva, „The Application of International Humanitarian Law in the Resolution of a Complex Humanitarian Crisis: A Case Study of the Tigray National Regional State of the Federal Democratic Republic of Ethiopia" *Kutafin Law Review,* 10(1), (2023): 137–156.

[5] B. Kemmerling, C. Schetter, L. Wirkus, „The logics of war and food (in) security" *Global Food Security,* 33, (2022): 100634.

Thus, food security is becoming one of the key strategic priorities of Ukraine's state policy during the war. Its provision requires not only the mobilization of domestic resources but also active international support and effective coordination among all actors in the food supply chain. The resilience of the state and its ability to withstand the long-term consequences of war depend on this.

The study of food security in wartime conditions and its global dimension has deep scientific traditions and involves representatives of multiple fields – economics, law, international relations, food policy, security, and the humanities. Contemporary academic literature covers a wide range of issues: from structural changes in the agricultural sector to legal mechanisms for protecting the population during armed conflicts. A significant contribution to the development of the theoretical and analytical framework has been made by both Ukrainian and international scholars who explore national and global dimensions of food security[6].

One of the key areas of the research is the analysis of the impact of war on Ukraine's agricultural sector and global food markets. A large body of scholarly work focuses on the reduction of production capacity, the disruption of logistical chains, and the consequences of declining exports for vulnerable countries worldwide. Particular attention is paid to grain market dynamics and its role in ensuring global food stability[7].

Another important research direction examines the legal aspects of food security in armed conflict. Scholars analyze international mechanisms for protecting civilians, legal approaches to regulating the actions of states and armed groups, and issues related to access to means of subsistence during hostilities. These studies emphasize the interconnection between food security and human rights, underlining the need for strong international legal guarantees[8].

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[6] A. Khorram-Manesh, F.M. Burkle, „Civilian population victimization: a systematic review comparing humanitarian and health outcomes in conventional and hybrid warfare" *Disaster Medicine and Public Health Preparedness,* 17, (2022).

[7] N. Mamonova, S. Wengle, V. Dankevych, „Queen of the fields in wartime: What can Ukrainian corn tell us about the resilience of the global food system?" *Journal of Peasant Studies,* 50, (2023): 2513–2538.

[8] J. Kwik, „Mitigating the Risk of Autonomous Weapon Misuse by Insurgent Groups" *Laws,* 12(1), (2022): 5.

Scientific works also highlight the humanitarian dimension of war, particularly its impact on health care, access to food, and vulnerable groups. These studies focus on the humanitarian consequences of armed conflict, the violation of civilian rights, and the need for international assistance to restore essential life-support systems[9].

Many scholars focus on the international dimension of Ukraine's agricultural sector, as the country is a crucial link in global food supply chains. The research shows that a decline in production in Ukraine directly affects food security levels in dozens of countries, especially those importing Ukrainian grain and sunflower oil[10]. This confirms that the stability of Ukraine's agricultural sector is of both national and strategic global importance. Researchers also pay considerable attention to the institutional dimension of food security, examining international governance mechanisms, the role of international organizations, and legal instruments aimed at protecting food systems. In particular, they analyze the role of international humanitarian law in protecting agricultural assets, ensuring access to food, and guaranteeing civilian rights[11].

Some authors explore the moral and ethical dimensions of armed conflicts, investigating the interconnection among warfare, the use of emerging weapons technologies, and humanitarian consequences. Special attention is given to the use of autonomous weapons systems, ethical dilemmas of war, and the need to adapt international legal mechanisms to new threats[12].

The literature also addresses issues of economic resilience and risk management in the agricultural sector. This includes the development of adaptation mechanisms, analysis of domestic market potential, export diversification, and the adoption of innovative technologies to reduce

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[9] J. Milburn, S. Van Goozen, „Animals and the ethics of war: a call for an inclusive just-war theory" *International Relations,* 37 (3), (2023).

[10] D.S. Nasirkhodjaeva, O. Yatsenko, S.R. Topildiev, I. Bibla, „Global Food Security: Problems and Areas of Provision" *The Journal of International Economic Policy,* 2 (37), (2022): 7-36. DOI: 10.33111/iep.eng.2022.37.01.

[11] E.H. Nyekwere, N.A. Duson, „A Legal Assessment of the Environmental, Humanitarian, and Economic Impacts of the Russia/Ukraine Armed Conflict" *International Review of Law and Jurisprudence,* vol. 4, no 3 (2022): 46.

[12] C. Oberg, J. Goldhagen, N. Spencer, „Renewing our commitment to protect children experiencing armed conflict" *Journal of Paediatrics and Child Health,* 59 (3), (2023): 427–430.

dependence on external factors[13]. These aspects are particularly crucial for the countries under wartime pressure, as ensuring food security in such conditions is vital for population survival[14].

Many scholars emphasize the importance of strengthening national food systems through institutional reforms, the integration of innovative technologies, and the development of effective mechanisms for international cooperation. Particular emphasis is placed on legal harmonization with international standards and ensuring the resilience of domestic production[15].

Through this broad spectrum of academic approaches (legal, economic, humanitarian, and ethical) a comprehensive understanding of food security during war has been formed. This understanding encompasses both Ukraine's national interests and the global context in which the country plays a key role. The systematic contributions of scholars provide a solid theoretical foundation for developing effective public policies in the field of food security and human rights.

The Link Between Food Security and Human Rights

Food security is one of the fundamental prerequisites for the realization of basic human rights. Without access to adequate, safe, and nutritious food, it is impossible to guarantee the right to life, health, and a decent standard of living. International legal instruments, including the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, explicitly establish the obligation of states to ensure an adequate standard of living, including access to food. Thus, food security is not merely an economic category but an integral component of the human rights system.

In peacetime, access to food is seen as a complex political and socio-economic objective achieved through a combination of government programs, market mechanisms, and international cooperation. However, during the war, this issue becomes particularly acute. The destruction of production and

[13] N. Pryshliak, V. Dankevych, D. Tokarchuk, O. Shpykuliak, „The sowing and harvesting campaign in Ukraine in the context of hostilities: challenges to global energy and food security" *Energy Policy Journal,* 26(1), (2023): 145–168.
[14] V.V. Shablystyi, K.E. Kosiachenko, V.S. Berezniak, R.A. Katorkin, V.Y. Konopelskyi, „Activities of international medical and humanitarian non-governmental organizations in Ukraine under the conditions of martial law" *Christian Journal for Global Health,* 10(1), (2023): 33–42.
[15] O. Skydan, V. Dankevych, R.D. Garrett, O. Nimko, „The state of the agricultural sector in Ukraine during wartime: The case of farmers" *Scientific Horizons,* 26(6), (2023): 134–145.

logistical chains, declining export volumes, and reduced purchasing power transform food security from a development goal into an urgent humanitarian necessity[16].

Armed conflicts directly affect all components of food security: physical availability, economic access, stability, and quality of food. When a state is unable to guarantee its population a minimum food level, not only social guarantees but also fundamental human rights are violated. This is especially evident among vulnerable groups – children, the elderly, persons with disabilities, internally displaced persons, and refugees – who often have limited access to markets and social protection[17].

In such circumstances, states are forced to apply emergency response mechanisms that combine legal, economic, and social instruments. On the one hand, it is crucial to ensure an uninterrupted supply of basic food commodities; on the other hand, it is essential to guarantee that these resources are distributed fairly and without discrimination. Violating this principle leads to heightened social tension, discrimination, inequality, and human rights violations among the most vulnerable populations.

International practice shows that food security is a core element of humanitarian law and states' international obligations. Provisions of the Geneva Conventions explicitly prohibit the use of starvation as a method of warfare. This means that protecting food systems is not only an economic or social policy priority, but also an international legal obligation during armed conflicts.

The right to food is closely linked to the right to health. Inadequate or poor-quality nutrition during the war leads to increased disease rates, the spread of chronic illnesses, and higher mortality, particularly among children and the elderly. Therefore, guaranteeing food security in wartime directly affects the preservation of life and health.

Violations of food security during conflicts often have long-term consequences. Crop losses, destruction of agricultural infrastructure, and land contamination with explosive remnants of war undermine the state's ability to

[16] A.V. Stavytskyy, O.O. Prokopenko, „Modelling the food security in Ukraine" *Ekonomika,* 93(3), (2014): 102–115.

[17] A. Suryani, E. Herianti, „Purposive Sampling Technique and Ordinary Least Square Analysis: Investigating the Relationship Between Managerial Overconfidence, Transfer Pricing and Tax Management in Indonesian Stock Exchange-Listed Firms" *International Journal of Professional, Business Review,* 8(8) (2023).

ensure basic rights not only during the conflict but also in the recovery period. This creates a risk of intergenerational injustice, where future generations also suffer from the consequences of wartime food insecurity.

It is essential to understand that food security is not only about the physical availability of food but also about equality of access. In war, this is particularly critical, as hostilities often exacerbate social inequality: some groups have access to food, while others are pushed to the brink of survival. Ensuring equal access is one of the key indicators of human rights compliance[18].

International humanitarian organizations, including the Food and Agriculture Organization (FAO) and the World Food Programme (WFP), emphasize that during the war, food security becomes the first line of human rights protection. Its absence triggers a cascade of violations: from the right to life to the rights to education, work, and security. This makes food security a cornerstone of the broader human rights protection framework.

Mechanisms of international humanitarian law play a key role in guaranteeing the right to food. They require states and parties to the conflict to take all possible measures to protect civilians and ensure their access to food resources. This includes prohibiting attacks on agricultural infrastructure, protecting humanitarian corridors, and preventing the deliberate creation of famine.

In the context of Ukraine, this relationship has acquired unprecedented significance. Full-scale war has led to the destruction of supply chains, port blockades, mining of agricultural lands, and reduced production. These circumstances have affected directly the state’s ability to provide food to its citizens, especially in frontline and recently liberated areas. An additional challenge is the forced displacement of millions of citizens, which creates an uneven distribution of food resources and increased pressure on social infrastructure. Vulnerable populations, particularly internally displaced persons, face restricted access to food, which violates their fundamental rights and increases social tension. The right to food during the war is closely intertwined with other human rights, including the rights to security, freedom of movement, and human dignity. A person deprived of food is, in practice,

[18] M. Swaroop, P.K. Rawat, S.K. Mishra, R. Narain, „Sexual and Gender-Based Violence in War Crime: An Overview of International Legal Regime” *International Journal of Early Childhood Special Education,* 14(5) (2022).

deprived of the ability to exercise their other rights, making this issue central to the international humanitarian agenda[19].

In the post-war period, ensuring food security plays a decisive role in restoring human rights. The restoration of agriculture, supply infrastructure, and support programs for vulnerable populations becomes one of the key directions of post-war policy. Thus, food security not only protects rights during war but also lays the foundation for their restoration after the conflict ends[20].

The development of international mechanisms for monitoring and accountability in the field of food security during an armed conflict helps strengthen the responsibility of the parties to the conflict. International institutions are increasingly documenting violations of the right to food and related rights, laying the groundwork for holding perpetrators accountable. This confirms the close relationship between humanitarian law and food security again. The ethical dimension of this connection is equally important. Using food as a tool of pressure or blackmail during the war constitutes a violation of fundamental moral and legal norms. Such practices not only threaten millions of lives but also undermine the system of international law and humanitarian standards on which the modern world order rests.

In the global dimension, ensuring food security in wartime is a key element of international solidarity. Countries and international organizations providing humanitarian aid contribute to the protection of human rights – particularly the rights to life and food. Such assistance becomes a tool for maintaining peace and preventing further escalation of conflicts.

Thus, food security and human rights are closely interconnected both theoretically and practically. Ensuring access to food during the is not merely a matter of economic or social policy but, above all, a matter of compliance with international human rights standards. This interconnection determines the priority of food policy within humanitarian law and international security frameworks. In protracted conflicts, ensuring food security becomes one of the primary factors for stabilizing society and guaranteeing basic human rights. The ability of the state and the international community to ensure these rights does

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19 P. Thwala, „A Review of the International Law and the International Human Rights Law" *SSRN Electronic Journal* DOI:10.2139/ssrn.4166753.

20 P.H. Wise, A. Shiel, N. Southard, E. Bendavid, J. Welsh, S. Stedman, Z. A. Bhutta, „The political and security dimensions of the humanitarian health response to violent conflict" *The Lancet,* 397 (10273), (2021): 511–521.

not only determines the level of welfare, but also institutional trust, the effectiveness of the legal order, and prospects for recovery after the war.

In conclusion, food security is a key element of human rights protection in armed conflicts. It determines the level of humanitarian stability, social justice, and the legal responsibility of states toward their citizens and the international community. Through this lens, food policy in wartime acquires not only economic but also legal and ethical significance.

The Global Dimension of Ukraine's Agricultural Sector

Ukraine holds a leading place in the global food system thanks to a unique combination of natural resources, geographic location, and agricultural potential. Approximately 9% of the world's black soil reserves are concentrated on its territory, ensuring high yields of grains and oilseeds and creating a strong foundation for an export-oriented agriculture. Over the past two decades, Ukraine has increased consistently its agricultural output, ranking among the key suppliers of food to the international markets, primarily in the Middle East, Africa, and Asia.

A major competitive advantage is the country's geostrategic position at the crossroads of vital logistics corridors linking Europe, Asia, and the Black Sea basin. This supports stable export flows and deeper integration into global agri-food supply chains. The developed port infrastructure in the South, an extensive rail network, and existing logistics hubs have made Ukraine a pivotal transit center for food shipments. Before the war, more than 70% of agricultural exports were shipped by sea through Black Sea ports.

The global significance of Ukraine's agricultural sector is evident in its capacity to meet the food needs of a substantial share of the world's population. According to international organizations, exports of Ukrainian grain, particularly wheat, corn, and barley, provided food for more than 400 million people in over 100 countries. Consequently, any disruption in the production or transport of these commodities is immediately reflected in the state of global food security.

The war has radically reshaped the configuration of international food markets. The destruction of port infrastructure, blockades of maritime routes, landmine contamination, and disruptions to transport logistics have reduced exports sharply. This has caused grain shortages in the countries critically dependent on Ukrainian supplies, especially in North Africa and the Middle East, where imports from Ukraine accounted for 30% to 50% of total food resources[21].

Global markets reacted instantly: grain prices rose, stocks fell, and competition intensified among importers. This underscores the strategic character of Ukraine's agricultural sector as a pillar of global food architecture. Ukraine not only supplies raw materials, it also stabilizes price dynamics on world markets and helps avert global food crises. A key feature of Ukraine's agri-food exports is their diversified structure, which includes not only grains and oilseeds but also processed products such as sunflower oil, flour, and feed mixes. This makes the country a major supplier of both basic foodstuffs and crucial intermediate inputs for other nations' agri-food chains, strengthening Ukraine's influence on international food markets.

In the global arena, Ukraine's agricultural sector is not only an economic factor but also a political element of geostrategy. Control over food flows from Ukraine has substantial implications for regional and global stability. Therefore, the destruction of logistics chains and the blocking of exports are not only seen as economic challenges but also as threats to international security and the humanitarian balance. The growing geopolitical role of food in wartime highlights many countries' dependence on Ukrainian grain. When supplies diminish, shortages in vulnerable states can fuel social tension, political instability, and new migration waves. In this sense, Ukraine acts as a global stabilizer that helps meet the food needs of crisis-prone regions.

Beyond its direct economic effects, Ukraine's agricultural sector plays a key role in shaping international partnerships. Exports of grains and oilseeds underpin cooperation with the EU, the Middle East, China, Turkey, and a number of African countries. Agri-food trade often serves as a tool for strengthening political and economic ties, demonstrating the deep embeddedness of Ukraine in the system of global food diplomacy. An important element of the global dimension is Ukraine's participation in international agreements and initiatives on food security. The implementation of the grain initiative became a key instrument for market stabilization after the start of the full-scale war. It has shown that international cooperation can

[21] O. Yatsenko, Y. Zavadska, O. Khrystenko, T. Musiiets, O. Aksyonova, „Innovative transformations of the agricultural complex in the context of global challenges of sustainable development" *Financial and Credit Activity: Problems of Theory and Practice,* 5(40), (2011): 216–224.

effectively offset the consequences of hostilities and maintain critically important food flows[22].

Ukraine is also adapting its production and export systems to war-induced changes actively. The development of alternative logistics routes, including rail and river corridors, and cooperation with neighboring countries to expand export capacity have become strategic directions for sustaining global food supplies. This enhances the flexibility and resilience of Ukraine's agricultural sector to external shocks. Among the priority areas is the expansion of transport and storage infrastructure in the western regions of the country. These areas serve as rear logistics hubs that enable the redirection of export flows in case of a blockade of southern ports. Such a strategy helps preserve Ukraine's market positions even under wartime conditions.

The global dimension of Ukraine's agricultural sector is also defined by its impact on price stability. As 2022–2023 showed, a decline in Ukrainian exports immediately triggered price increases for wheat, corn, and other staple crops. Low-income countries, where food expenditures account for a large share of household budgets, felt this most acutely. This effect highlights that Ukraine's agricultural economy is one of the system-forming elements of the world food market.

The international community views Ukraine's agricultural sector not only as an economic partner, but as a strategic component of global security. Support for Ukraine's agricultural production, export capacity, and infrastructure has become a priority for the EU, the United States, international financial institutions, and humanitarian organizations. This reflects broad recognition of Ukraine's global role in food stability.

Scientific and technological progress also plays a substantial role. Ukrainian enterprises are actively adopting digital tools, precision farming systems, energy-efficient solutions, and innovations in agrarian management. These advances raise productivity even under conditions of armed conflict and help maintain continuity in export operations. Innovation further reduces dependence on specific logistics routes and strengthens risk management. The use of satellite monitoring, unmanned technologies, and geographic information systems allows for accurate assessment of production potential

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[22] "Global Report on Food Crises: acute food insecurity hits new highs (GRFC 2023)", URL: https://www.fightfoodcrises.net/fileadmin/user_upload/fightfoodcrises/doc/resources/GRFC_2022_FINAl_REPORT.pdf.

and effective planning of export programs, reinforcing Ukraine's position as a technologically capable player in the global agricultural market[23].

War-driven changes in Ukraine's agricultural sector are also relevant for international crisis-adaptation strategies. They demonstrate how, even under extraordinary conditions, global food chains can be upheld through the mobilization of domestic resources, partnerships, and digital solutions. International organizations are already incorporating this experience into global response plans for food challenges. In sum, Ukraine's agricultural sector is not only of strategic significance for the domestic economy but also for the stability of the global food system. It supplies critical resources, supports price equilibrium, builds international partnerships, and contributes to stronger global food security.

Therefore, the global dimension of Ukraine's agricultural sector manifests in three key planes: economic, humanitarian, and geopolitical. Economically, it is a stable supplier of grains and oilseeds; humanitarianly, it is a guarantor of food support in crisis regions; geopolitically, it is an important element of international stability. This role makes Ukraine an indispensable participant in the global food system, and protecting its agricultural potential a priority for the international community.

Food Security, Human Rights, and War: The Regional Case of Zhytomyr Oblast

Food security in wartime is one of the key indicators of social stability and of the state's capacity to guarantee basic rights, including the rights to life, a decent standard of living, and access to resources. Ensuring this requires not only effective national policy but also close attention to regional specificities, since production, distribution, and consumption of food occur primarily at the local level. In this context, Zhytomyr Oblast serves as an illustrative example of how the agricultural sector adapts to wartime conditions while preserving the core functions of the food system.

Zhytomyr is a border region with a significant agricultural component in its economic structure. Its location in a relatively safer zone made it possible to maintain agricultural production and partially compensate for war-related

[23] *V. Ye. Dankevych, N. V. Bondarchuk, A. Yo. Buchynska, S. O. Kostenko, V. A. Strilchuk,* „European legal standards…

losses in other parts of Ukraine. This feature makes the region especially important for national food security, as it performs the role of a rear food hub. Following the start of the full-scale invasion, Zhytomyr Oblast became a key center for the relocation of agricultural production from southern and eastern territories. Many enterprises moved arable areas, production equipment, and logistics operations to the region. This helped stabilize production of grains and industrial crops and preserved local employment. Thus, the region played a notable role in maintaining the country's internal food balance.

Rising production loads brought new challenges. One of them was the shortage of fuel and mineral fertilizers, which pushed farmers to adopt more frugal and efficient land-tillage technologies. Another was a labor shortfall caused by mobilization and migration. These factors significantly influenced production structure and technological processes across the regional agricultural sector.

Proximity to the northern border with the Republic of Belarus, which retains an elevated level of military risk, added another layer of vulnerability. Enterprises introduced additional security measures, prepared evacuation plans for machinery, seed material, and staff, and strengthened cooperation with local authorities on civil protection. Digital technologies play an important role in sustaining agricultural stability in the oblast. Local cooperatives and farms are actively implementing electronic land-monitoring systems, yield-management tools, and digital platforms for coordination and supply tracking. These instruments improve resource management efficiency and make the system more resilient to external shocks.

Zhytomyr Oblast has also become a showcase for developing local food chains. Due to export constraints, some producers have reoriented to the domestic market, building direct sales channels between farms and consumers. This reduced logistics risks and ensured stable food supplies for the population even when nationwide transport routes were disrupted. The social dimension is a crucial component of regional food security, namely equal access to food for all population groups. Particular attention has been given to internally displaced persons, whose numbers have grown since the war began. Food assistance is provided through local self-government networks, humanitarian programs, and partnership projects, which helps prevent local food crises and social tension.

Food security in Zhytomyr Oblast is inseparable from human rights protection. Access to food is treated as an integral part of the rights to life and dignity, and local authorities and businesses focus on securing uninterrupted supplies of basic foodstuffs. In this sense, food policy becomes an element of the regional system for protecting citizens' rights under crisis conditions. Communities and territorial associations have become key actors in ensuring food security at the local level. They coordinate farmers, logistics companies, social services, and volunteer networks. This multi-level interaction creates a flexible and adaptive response system to wartime challenges.

The Zhytomyr case shows the importance of combining economic, social, and institutional factors in the study of food security. Economic stability in agriculture supports baseline production volumes, social policy ensures fair resource distribution, and institutional capacity guarantees coordinated action. Together these elements build regional resilience under crisis conditions.

There has been a strong focus on adapting production processes. Some enterprises shifted to lower-cost technologies, optimized crop structures, and introduced precision farming and moisture-conservation systems. This not only preserved output but also increased resource-use efficiency in difficult wartime conditions.

Forming new logistics routes is another important aspect. Given risks on major transport arteries, a large share of products is currently transported by rail and local routes to western regions and European markets. This approach ensures continuity of supply even when access to seaports is constrained. Hybrid risk-management models that combine market instruments with state support are being used. The mechanisms include crop insurance, the creation of food reserves, and financial support programs for small and medium producers. These measures reduce the vulnerability of the regional food system to unpredictable external factors.

From a human rights perspective, international organizations and partnership programs play an active role. Humanitarian initiatives provide additional food sources for socially vulnerable groups and help build the capacity of local institutions. This cooperation strengthens regional resilience and improves the level of rights protection.

The Zhytomyr Oblast case underscores the significant role of regions in Ukraine's national food security system during the war. Local resilience allows the country to offset losses elsewhere, sustain economic activity, and supply the population with basic products. Therefore, food security is not only the result of centralized decisions but also of effective regional practice. This experience has both practical and analytical value. It shows how local mechanisms can be integrated into national food policy, increasing the adaptability and flexibility of state risk-management systems. Regional cases provide empirical evidence for strategic decision-making.

Thus, Zhytomyr Oblast is an example of a region that has adapted to wartime conditions while maintaining the functionality of its food system. Its role as a rear agricultural hub capable of compensating for losses in other regions highlights the strategic importance of the regional tier for national food security.

Overall, food security, human rights, and war are closely interwoven within the space of regional policy. Zhytomyr Oblast demonstrates how the combination of agricultural potential, social cohesion, innovation, and partnerships with international actors can secure sustainable development even under crisis conditions. This case can serve as a model for other regions of Ukraine and the world facing similar situations.

To study the topic “Food Security, Human Rights, and War: Ukraine’s Role in the Global Context”, an anonymous survey of 147 managers of agricultural enterprises from various regions of Ukraine was conducted. The aim was to analyze how compliance with human rights in the areas of labor and social support for employees affects the stability of the country’s food system during the war. Special attention was paid to non-discrimination, occupational safety, and social support for mobilized employees and their families. These aspects are key components of human rights protection at the enterprise level for firms operating under martial law. They directly affect staff motivation, the stability of production processes, and the ability of enterprises to maintain food output.

The results indicate that enterprises actively implementing policies of equal treatment and worker support display higher resilience to external shocks. Ensuring safe working conditions and social guarantees helps retain labor resources, a critical factor for agriculture during the war. The survey also shows that socially responsible companies are more likely to apply innovative organizational solutions, develop internal mutual aid systems, and strengthen partnerships with communities. This not only improves the protection of workers’ rights, but also secures continuity of food production.

Therefore, respect for human rights at the enterprise level is not only an ethical or legal obligation, it is also an important element in strengthening Ukraine's food security during the war. The findings suggest that socially oriented approaches to human resource management enhance the resilience of the agricultural sector and its ability to fulfill a strategic role in the global food system.

To support the analysis, a set of analytical slides was prepared, reflecting key trends and challenges faced by agricultural enterprises during the war. The first block covers changes in production volumes, capturing dynamics in 2024–2025 compared to the pre-war period. Despite significant losses of land and infrastructure damage, some enterprises partially adapted and sustained critical production of grains and industrial crops, an indicator essential for assessing the stability of Ukraine's food system.

The second block identifies the top five factors affecting agribusiness operations in wartime: fuel shortages, logistics constraints, security risks due to landmines, labor deficits, and financial pressure. These factors depress efficiency and shape new patterns of adaptive behavior, while also determining the sector's ability to supply the domestic market and exports. The third block addresses occupational safety and mine risk awareness. The regularity of safety and mine-risk training has become a key indicator of enterprise resilience to external threats. The presence of contaminated or mined land significantly affects production processes, raises costs, and poses a direct threat to workers' lives, underscoring the inseparable link between the right to safe work and food security. The next block presents the social dimension of food security, including support for mobilized employees and their families, as well as employment for internally displaced persons, veterans, and persons with disabilities. Such practices are not only expressions of corporate social responsibility, they are mechanisms for stabilizing labor resources, which directly impact the capacity to continue production under wartime conditions.

The final block evaluates the level of risk in conducting agricultural operations in frontline and rear regions. It reflects threats to worker safety, resource availability, and logistics stability. Taken together, these factors form an overall picture of the country's food security, demonstrating that the human dimension, including workers' rights, social protection, and safe working conditions, is no less important than economic indicators.

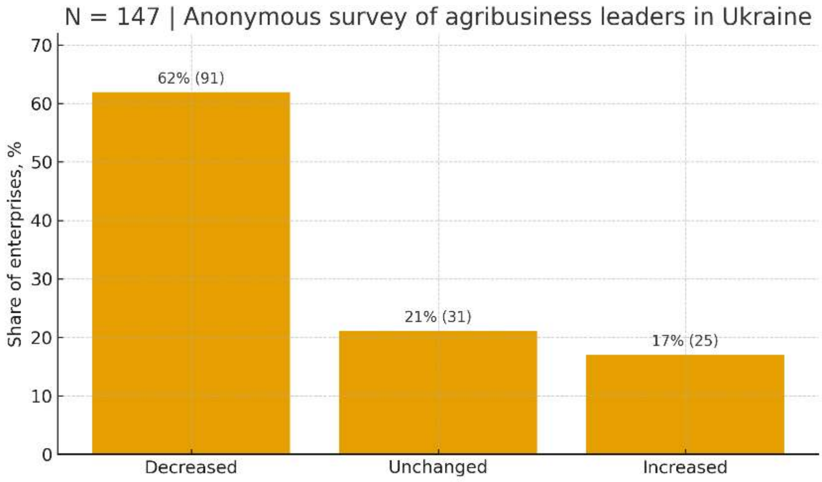

Fig. 1. Change in Production Volumes (2024–2025 vs. Pre-War Level)
Source: based on the research conducted in Zhytomyr region, Ukraine, 2025.

The chart shows the dynamics of changes in the production volumes of Ukrainian agricultural enterprises during the war. According to an anonymous survey of 147 enterprise managers, 62% of the respondents (91 enterprises) reported a decline in the production. This points out the systemic nature of war-related challenges, including reduced access to the land resources, logistical difficulties, rising production costs, and a shrinking labor force. This trend has both domestic and global implications for food security.

Approximately 21% of enterprises (31 respondents) stated that their production levels remained stable. These are primarily companies located in more secure regions, which managed to adapt their production processes through diversified supply channels, local market engagement, and the use of digital solutions. The stability of these enterprises plays a crucial role in maintaining the internal food balance.

Meanwhile, 17% of respondents (25 enterprises) were even able to increase their production volumes. This reflects the adaptive capacity of the agricultural sector: part of the business community relocated from frontline areas, adopted innovative technologies, and strengthened local supply chains. This segment is critically important for restoring national food potential and reducing the risks of global food insecurity.

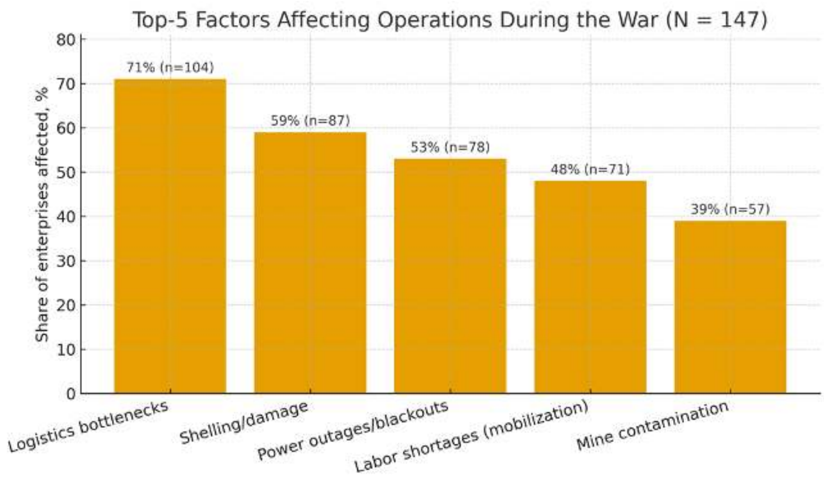

Fig. 2. Top 5 Factors Affecting Enterprise Operations During the War

Source: based on the research conducted in Zhytomyr region, Ukraine, 2025.

The chart illustrates the key challenges faced by Ukrainian agricultural enterprises under wartime conditions. The most frequently mentioned factor was logistical constraints – identified by 71% of respondents (104 enterprises). Disruption of transport corridors, destruction of infrastructure, and shortage of transport lead to delays in resource deliveries, restrictions on exports, and increased costs. This factor directly affects both domestic food stability and Ukraine's ability to maintain its position on the global market.

Shelling and infrastructure damage were ranked second, cited by 59% of respondents (87 enterprises), followed by power outages at 53% (78 enterprises). These risks directly disrupt production processes, causing potential crop losses or product spoilage, and increase costs of infrastructure restoration. Enterprises are forced to seek alternative energy supply and logistics solutions to sustain operations. Other significant challenges include labor shortages (48%, 71 enterprises), mainly due to mobilization, and landmine contamination (39%, 57 enterprises). These factors make it difficult or impossible to cultivate large areas of land, reducing the sector's production potential. The presence of mines and unexploded ordnance poses additional risks to workers' lives and requires substantial demining costs. The combined impact of these factors demonstrates how the war fundamentally reshapes the functioning of Ukraine's food system, threatening not only economic efficiency but also basic human rights such as the right to safety and decent work.

The presented chart illustrates the frequency of safety and mine awareness training among Ukrainian agricultural enterprises. 42% of enterprises (62 respondents) reported conducting such training on a regular basis. This indicates awareness of the high risks associated with landmine contamination and a proactive approach to reducing threats to the life and health of workers. Regular training enhances the staff's preparedness to act effectively in emergency situations. 37% of enterprises (54 respondents) hold training irregularly, which lowers the level of systematic safety management in the production process. Such practices may stem from limited resources, a lack of qualified specialists, or organizational challenges, but they increase the likelihood of workplace accidents and incidents.

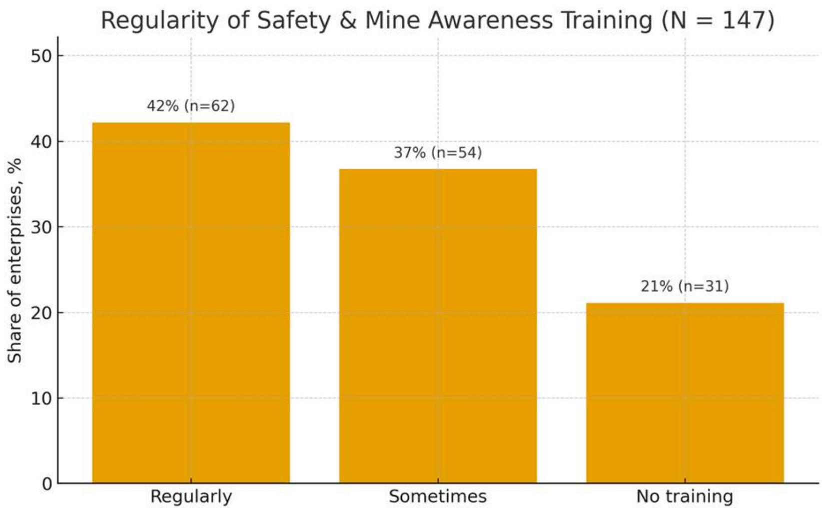

Fig. 3. Regularity of Safety and Mine Awareness Training

Source: based on the research conducted in Zhytomyr region, Ukraine, 2025.

A concerning 21% of enterprises (31 respondents) do not conduct any safety or mine awareness training. Given the extensive landmine contamination of agricultural fields, this poses a serious risk not only to workers but also to the preservation of the sector's production potential.

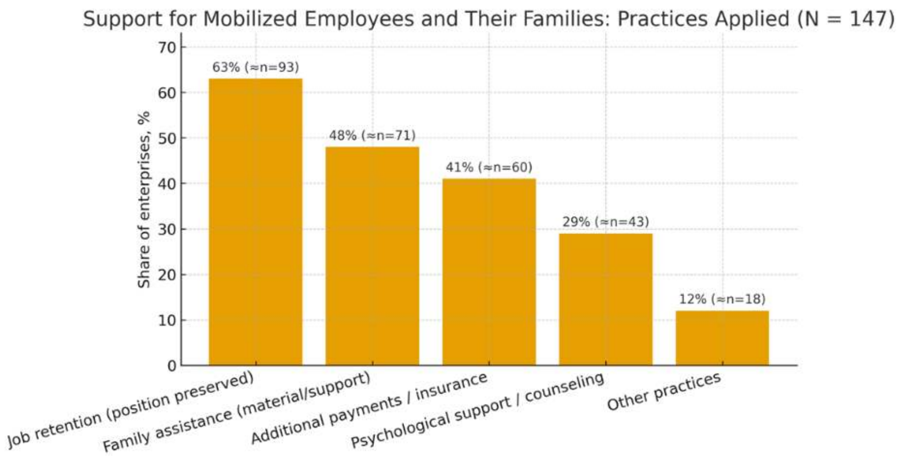

Fig. 4. Support for Mobilized Employees and Their Families: Applied Practices

Source: based on the research conducted in Zhytomyr region, Ukraine, 2025.

The chart illustrates the support practices adopted by Ukrainian agricultural enterprises for mobilized employees and their families. The most common form of support is job retention, reported by 63% of respondents (93 enterprises). This approach not only ensures social stability for the families of service members, but also helps preserve the enterprise's labor potential after the employees return from military service. It also sends an important signal to other staff members about the employer's commitment to social responsibility.

The second most widespread practices include financial assistance to families (48%, 71 enterprises) and additional payments or insurance coverage (41%, 60 enterprises). These mechanisms help alleviate the financial hardships faced by military families and provide a safety net in times of uncertainty. The presence of such measures shows that enterprises consider employee security and well-being an integral part of their sustainability strategy during wartime. Approximately 29% of enterprises (43 respondents) provide psychological support or counseling. This relatively new dimension of social policy indicates a shift toward more comprehensive support programs. Psychological assistance helps families of service members cope with wartime challenges, reduces social tension, and strengthens workplace cohesion.

Other support practices, reported by 12% of respondents (18 enterprises), include individual initiatives such as targeted assistance and joint projects with communities or volunteer organizations. Although less common, these examples demonstrate the flexibility and adaptability of the agricultural sector in addressing wartime social challenges.

Overall, the results show that a significant portion of agribusinesses integrate social support into their operations, recognizing human capital as a key resource for maintaining food security. Such practices not only strengthen worker stability, but also enhance the social resilience of rural communities during wartime.

The chart illustrates the level of involvement of vulnerable groups – internally displaced persons (IDPs), veterans, and persons with disabilities – in the activities of Ukrainian agricultural enterprises. Among respondents, 24% of enterprises actively employ IDPs, 26% employ them partially, and 50% do not hire this category of workers. This indicates the existence of logistical, organizational, and resource barriers that limit the integration of IDPs into the agricultural labor market. At the same time, the significant share of partial employment highlights the potential to expand such programs in the future.

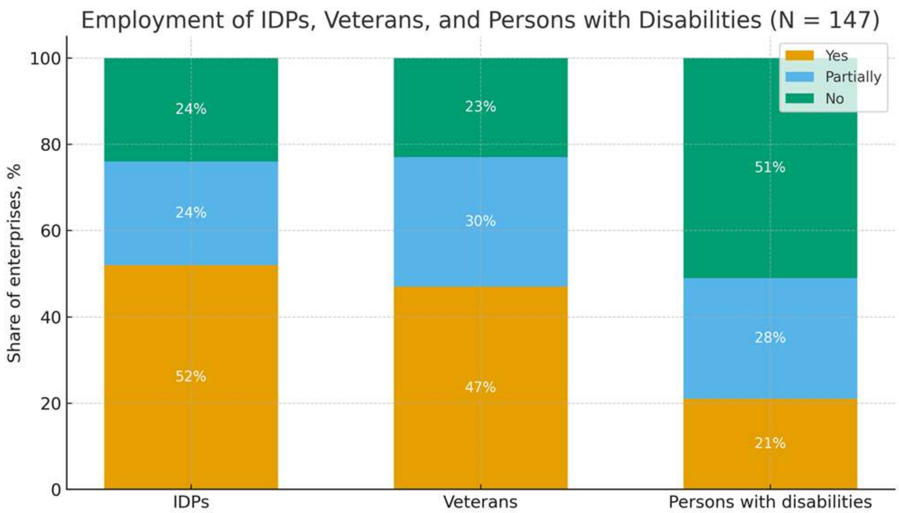

Fig. 5. Employment of IDPs, Veterans, and Persons with Disabilities

Source: based on the research conducted in Zhytomyr region, Ukraine, 2025.

Regarding veterans, 23% of enterprises provide employment opportunities, 30% offer partial employment, and 47% have no relevant programs. Considering that a significant number of veterans seek stable employment after their military service, these figures reflect the need for more active government and partnership support for retraining and adaptation programs to facilitate their transition to civilian economic activity.

An even more pronounced trend is observed with persons with disabilities: 51% of enterprises do not employ them at all, 28% offer partial employment, and only 21% provide full employment opportunities. This underscores the underdevelopment of inclusive employment policies in the agricultural sector and the need to create conditions that would allow the effective integration of persons with disabilities into production processes. The results show that, despite some positive shifts, inclusive employment remains a weak point of Ukraine’s agricultural economy. In wartime, when the labor market faces additional challenges, programs aimed at integrating vulnerable groups can become an essential element of social resilience.

Developing inclusive practices can not only reduce social tension, but also strengthen the labor potential of the sector, which is experiencing workforce shortages due to mobilization and migration. This makes the employment of IDPs, veterans, and persons with disabilities a strategically important component of Ukraine’s food security and social policy.

The chart illustrates the occupational safety measures implemented by Ukrainian agricultural enterprises under wartime conditions. The most common safety measure is the provision of personal protective equipment (helmets, bulletproof vests, first aid kits), regularly used by 68% of enterprises. This reflects a high level of risk awareness and a commitment to minimizing the consequences of potential attacks or incidents. Only 10% of respondents reported not implementing such measures, indicating a relatively high baseline level of physical safety in the sector.

The second most common measures are alert systems and shelters (regularly used by 55% of enterprises) and evacuation drills and safety briefings (regularly conducted by 38%). At the same time, 30% of enterprises implement these measures irregularly, and 15–20% do not implement them at all. This suggests the presence of significant regional or resource disparities, particularly between frontline and rear areas.

Mine awareness training deserves special attention. Only 38% of enterprises provide such training regularly, while another 42% do so irregularly. This is alarming given the scale of mine contamination, which directly threatens workers' lives and affects the ability to cultivate land safely. The high level of risk highlights the need to scale up systematic training programs and strengthen partnerships with demining organizations.

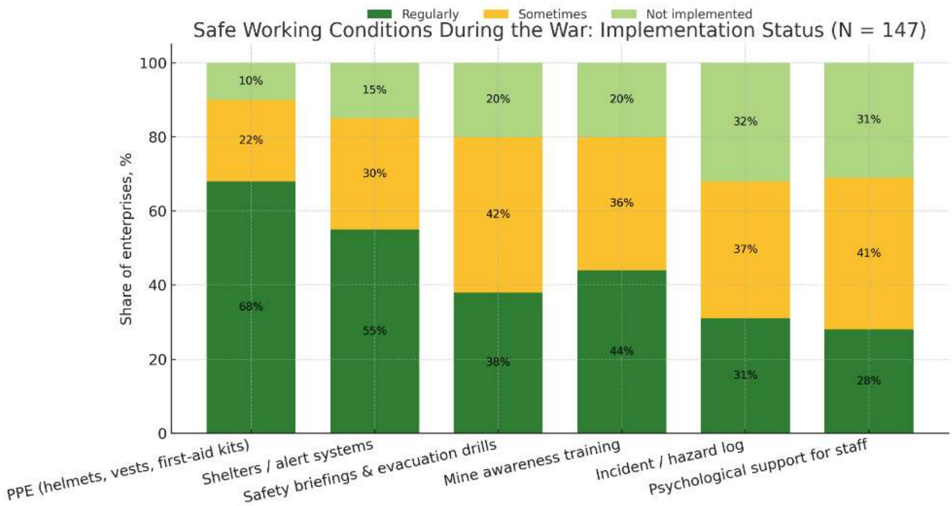

Fig. 6. Safe Working Conditions During the War: Current Implementation

Source: based on the research conducted in Zhytomyr region, Ukraine, 2025.

Less common measures include incident and hazard reporting logs (regularly kept by 44% of enterprises; not implemented by 32%) and psychological support for staff (regularly provided by only 28%; not implemented by 31%). This shows that psychological safety and risk management have not yet become fully integrated elements of corporate culture in the agricultural sector, despite their critical role in ensuring long-term enterprise resilience.

Overall, the results indicate that while basic physical safety measures have become standard for most enterprises, aspects such as psychological support and systematic risk management remain underdeveloped. Together, these findings reflect both the adaptation of the agricultural sector to wartime conditions and the areas requiring greater attention and state support.

The chart illustrates the distribution of risk levels associated with different types of agricultural operations during wartime. The highest risk indicators are observed for personnel movement across fields: 37% of enterprises classify this risk as high and another 29% as critical. This is primarily due to mine contamination, shelling, and general instability in frontline and border regions. Such a level of risk significantly affects worker safety and requires additional protective measures, including close cooperation with demining units and military administrations.

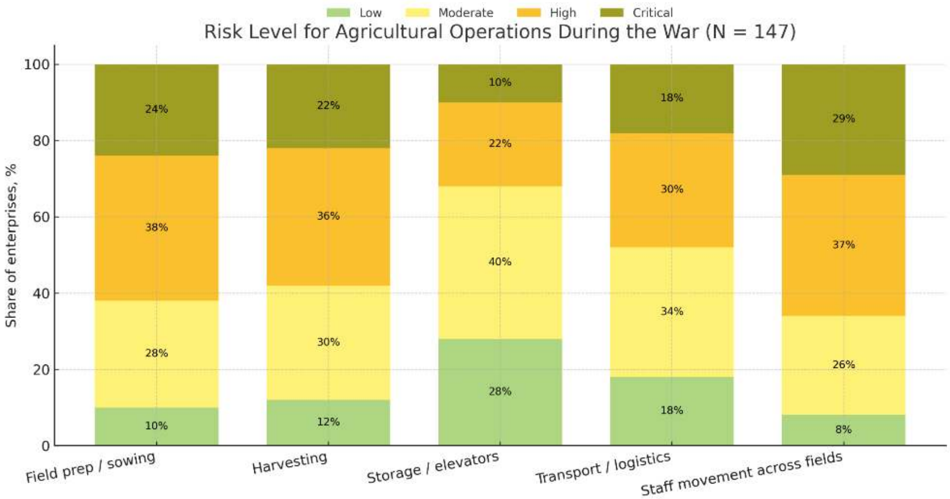

Fig. 7. Risk Levels for Conducting Agricultural Operations During Wartime

Source: based on the research conducted in Zhytomyr region, Ukraine, 2025.

High risks are also reported for fieldwork operations, such as soil preparation and sowing (38% – high, 24% – critical) and harvesting (36% – high, 22% – critical). These processes take place in open areas, which may be contaminated with explosive remnants of war or exposed to shelling threats. The risks to workers' lives in such conditions are substantial, complicating the stability of production cycles.

The lowest level of critical risk is observed in storage and elevator operations: only 10% of enterprises indicate a critical level, while 22% consider it high. This is explained by relatively safer conditions at these facilities, which are often located in rear regions, as well as the ability to shelter personnel quickly and minimize human presence. At the same time, 40% of enterprises report moderate risks, which still require attention to safety measures.

For transportation and logistics operations, the situation is intermediate: 30% of enterprises report high risk levels and 18% critical. Damage to transport infrastructure, the lack of safe routes, and mobility restrictions create serious obstacles for the effective functioning of agricultural supply chains. This not only slows down production processes, but also increases costs and operational risks.

Overall, the results show a clear differentiation of risk levels depending on the type of operation. The greatest danger is concentrated in the activities that require the presence of people in open areas. This confirms the need to prioritize enhanced safety measures for field workers, implement risk monitoring systems, and develop partnerships with demining organizations to reduce threats to food security.

A general analysis of food security, human rights, and war in the context of Ukraine's role demonstrates not only the deep interconnection between the economic resilience of the agricultural sector and humanitarian stability but also the central role of human rights as a structural element of food policy in wartime. Military aggression has created critical threats to the realization of basic rights: the right to life, safe working conditions, adequate food, social protection, and dignity. Ensuring food security has become not merely an economic task but a tool for protecting human life and maintaining social cohesion.

Upholding human rights in the agricultural sector implies ensuring access to food for all population groups, non-discrimination in labor relations, protection of workers from war-related risks, and guarantees of support for the families of mobilized personnel. Corporate social responsibility, systemic government programs, and international assistance are key mechanisms to secure these rights. Thus, food security during wartime is inseparable from the human rights dimension and must be viewed through the lens of protecting fundamental human rights.

Ukraine remains a crucial element of the global food system, serving as an example of how human rights protection can be combined with economic resilience even under extraordinary conditions. Supporting agricultural production and the country's export potential is directly linked to ensuring workers' rights, inclusive policies, safe working conditions, and social standards. In this sense, food security is not only an economic category but also a mechanism for fulfilling international legal obligations.

A regional case of Zhytomyr Oblast demonstrates that local-level human rights protection plays a decisive role in supporting food security during the war. Regions with relative stability act as humanitarian and production hubs, host relocated enterprises, employ vulnerable population groups, ensure safe working conditions, and provide equal access to food. This confirms that building an effective food security system is impossible without integrating human rights approaches at all levels of governance, from national to local.

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Agnieszka Dybowska

University of Siedlce
ORCID: 0000-0002-3865-227X

GLOBAL CITIZENSHIP IN THE CONTEXT OF HUMAN RIGHTS*

Abstract: Globalization is characterized by the intensive flow of goods, capital, information, and people, as well as the flow of ideas. Citizenship, as a legal concept, defines an individual status within a state, granting them rights and responsibilities, such as the right to vote, legal protection, and access to social services. The concept of citizenship has evolved over the centuries, from its origins in ancient city-states to modern nation-states. It has changed with the development of statehood and depending on the culture and political system of the given period. The literature also indicates that, in addition to state citizenship, there are concepts of cosmopolitanism, global citizenship, and globally oriented citizenship. Globally oriented citizenship is a more practical approach to the concept of global citizenship. It encompasses educational activities and activities aimed at understanding and addressing global issues. Globally oriented citizenship, in the context of human rights, implies the recognition that all people, regardless of nationality, have universal rights and responsibilities as members of the global community. This idea assumes that individuals should be treated with dignity and respect, and their rights should be protected regardless of national borders. Making people aware of their rights and taking action on issues that matter to them, as well as building a globally oriented citizenship, stem directly from the development of civic competences.

Keywords: human rights, state citizenship, global citizenship, globally oriented citizenship, cosmopolitanism

Introduction

Globalization, understood as a process of increasing interconnections and interdependence among countries, societies, economies, and cultures worldwide, is characterized by the intensive flow of goods, capital, information, and people, but also what is particularly important the flow of ideas. It exerts a significant impact on the life of contemporary individuals, both positive and negative. On the one hand, it opens new opportunities for economic

* This chapter is based on the following work: A. Dybowska, "Obywatelstwo globalne w kontekście praw człowieka". In *75 lat kształtowania się wielopłaszczyznowego systemu ochrony praw człowieka w Europie*, J. Jaskiernia, K. Spryszak (eds.) (Toruń: Wydawnictwo Adam Marszałek, 2026): 144-154.

development, access to technology, and cultural exchange. On the other hand, it generates challenges related to social inequalities, the loss of cultural identity, and environmental degradation.

At successive stages of civilizational development, the phenomenon of globalization reveals new dimensions. It is not possible to define it unequivocally, yet it is equally difficult to pass an authoritative judgment on its overall evaluation. Globalization has contributed to the growth of social stratification, and therefore an important task is to strive to eliminate its negative consequences while preserving the positive effects it brings[1].

In today's world, in the era of globalization, the issue of citizenship acquires new significance. Questions arise concerning dual citizenship, European citizenship, and other forms of belonging. Undoubtedly, this "new citizen" is characterized by a different type of awareness – more global in nature – engages in social activities, demonstrates tolerance and respect for diversity, and is closely associated with the idea of sustainable development.

If the "new citizen" thinks in transnational categories, then what constitutes the foundation of his/her actions? Undoubtedly, it must be universal law. Therefore, it may be assumed that human rights constitute the basis for the development of contemporary forms of citizenship. Using the method of literature analysis, an attempt has been made to verify this hypothesis.

State Citizenship, Cosmopolitanism and Global Citizenship

Citizenship, as a legal concept, defines the status of an individual within a state, granting those rights and obligations such as the right to vote, legal protection, and access to social benefits. The concept of citizenship has evolved over centuries, from its origins in ancient city-states to modern nation-states. It has changed along with the development of forms of statehood as well as depending on the culture and political system of a given period.

Today, citizenship is primarily understood as a legal bond linking an individual with a state and regulated by national law. Citizenship is usually acquired through birth, descent, naturalization, or marriage. Contemporary states generally apply two systems for determining citizenship:

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[1] J. Jaskiernia, "Opportunities and threats of contemporary globalization in the light of new conditions and its impact on the relations between the North and the South". In *The dispute over globalization*, W. Pomykało (ed.) (Warsaw: Publishing House of the Association for Cooperation Poland_East, Publishing House of the Innovation Foundation, 2023): 31-32.

- **Ius soli** (the law of the soil) – citizenship is acquired through birth within the territory of a given state.
- **Ius sanguinis** (the law of blood) – citizenship is acquired through the citizenship of one's parents.

Many states apply a mixed system combining both principles. Citizenship is associated with both rights and obligations toward the state. Citizens have the right to protection from the state, the right to vote, access to education and healthcare, but they are also obliged to pay taxes and defend the country.

At the end of the nineteenth century, individuals and their rights and freedoms became the subject of philosophical discourse once again. In the twentieth century, following the experiences of totalitarian regimes and in the context of the development of globalization processes, the concept of citizenship underwent transformation. The first supranational form of citizenship emerged citizenship of the European Union[2].

In the era of globalization and increased mobility of people and cultures, cosmopolitanism has gained importance. It is understood as an attitude of acceptance and respect for other cultures, but also as an aspiration to build a global community. Contemporary cosmopolitans often emphasize the importance of transnationality and openness to cultural diversity.

In discussions on cosmopolitanism, the transition from the classical concept of a "citizen" to that of a "citizen of the world", that is, a cosmopolitan, is usually treated merely as a territorial expansion of the concept. The term is usually traced back to its Greek origin, according to which *cosmopolites* derives from the words *cosmos* meaning an ordered world or universe and *polites* – citizen. Historians of concepts indicate that in its original form among the Cynics and Stoics the word *cosmopolites* did not have a political meaning but rather a philosophical and moral one. It represented a conscious rejection of the polis as a specific place and political order in favour of a universal space and natural law.

Therefore, a human being, understood as an inhabitant of the universe, is subject only to the authority of the *logos* permeating the world, whose principles and laws can be understood through human rationality. The very possibility of recognizing these principles already constitutes an obligation to

[2] B. Sitek. "The new quality of the right to citizenship from a global perspective" (Warsaw: SWPS Publishing House, 2017).

follow them and live in accordance with them. By its nature, therefore, the concept of the "cosmopolitan" is apolitical[3].

The literature on the subject also indicates that alongside state citizenship and cosmopolitanism there exists the concept of global citizenship. This is a broad concept that assumes awareness of global problems and a sense of responsibility for addressing them. A person who regards themselves as a global citizen understands that actions undertaken in the local community may influence the entire world. Thus, global identity is often associated with a sense of belonging to humanity as a whole rather than solely to a single nation or state.

Global citizenship and cosmopolitanism are related but not identical concepts. Cosmopolitanism is primarily a philosophical idea, whereas global citizenship has a more practical dimension. The former is more abstract, while the latter may be rooted in concrete actions and social engagement. Global citizenship may combine national identity with global identity, whereas cosmopolitanism may negate it.

In summary, cosmopolitanism is a broader philosophical idea, while global citizenship represents concrete behaviour and attitudes resulting from this idea, taking into account global problems and responsibility. Consequently, one may say that cosmopolitanism is a state of mind, whereas global citizenship represents action.

The process of globalization poses a challenge to traditionally understood identities ethnic, national, cultural, or religious. On the one hand, processes of unification occur; on the other hand, there is often an excessive strengthening of regional fundamentalisms. Extremely different approaches to this problem are presented by various thinkers.

S. Huntington propagated the thesis that culturally diverse societies cannot coexist without conflict, since they pose a threat to one another or, at least, strive for isolation within their own cultural circles[4].

An opponent of such thinking is B. Parekh, a philosopher of Indian origin associated with the London School of Economics, whose work focuses mainly on multiculturalism. He perceives globalization processes as a challenge for self-identification but attempts to create a counterbalance to various forms of

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[3] B.A. Markiewicz, "Citizen and Globalization" (ISP PAN), file:///C:/Users/DELL/Downloads/tkupiecki,+11_Markiewicz.pdf, access 01.06.2025

[4] S. Huntington. "Clash of Civilizations", translated by H. Jankowska (Warsaw, 2004); S. Huntington. "Who Are We? Challenges to American National Identity", translated by B. Pietrzyk (Krakow, 2007).

fundamentalism by emphasizing the importance of globally oriented citizenship and the need for a universal global ethics[5].

The Concept of Globally Oriented Citizenship

B. Parekh perceives a human being as embedded in numerous relationships that influence the formation of identity both at the individual and the universal level. According to him, we are simultaneously part of humanity as a whole and members of various communities – ethnic, cultural, political, and others. With regard to citizenship, which seems to be limited to a formally defined territory, Parekh shares the view that in the era of globalization, while being citizens of a particular state we simultaneously belong to two communities: the national community and the community of humanity as a whole.[3]

Parekh proposes the concept of "globally oriented citizenship". This concept differs from global citizenship or cosmopolitan citizenship because, on the one hand, it takes into account belonging to a specific community (the state) as a determinant of civic identity, while on the other hand it recognizes an individual's belonging to the broader community of humanity. A globally oriented identity does not exclude national affiliation; on the contrary, it considers it a necessary condition.

Global citizenship and globally oriented citizenship are therefore two different but related terms. Global citizenship refers to a sense of belonging to the global community, recognition of shared values, and undertaking actions for the common good regardless of national borders. Globally oriented citizenship represents a more concrete approach that emphasizes education and activities aimed at solving global problems such as poverty, climate change, or social inequalities.

Globally oriented citizenship includes educational initiatives and forms of civic activism aimed at understanding and addressing global challenges. For example, it may involve education about climate change and sustainable development, as well as activities aimed at raising awareness of the impact of human actions on the natural environment and promoting sustainable practices.

It also includes actions promoting social justice and equality, such as supporting organizations and initiatives that combat poverty, discrimination,

[5] B. Parekh. "A New Politics of Identity" (New York, 2008).

and inequality. Another important dimension of globally oriented citizenship is the promotion of peace and intercultural dialogue, which contributes to building bridges between cultures and preventing conflicts.

Parekh's concept of citizenship, in general terms, refers to a dual understanding of citizenship: in the legal sense and in the sociological sense. In the legal sense, citizenship constitutes a bond between an individual and a state. In the sociological sense, it refers to belonging to a political community characterized by specific rights and obligations.

The legal understanding of citizenship according to Parekh refers primarily to the formal dimension associated with membership in a particular state. It is a legal status that grants individuals certain rights and obligations within the framework of that state. In this sense, citizenship is a legal category regulated by national legislation.

The sociological understanding of citizenship emphasizes the individual's belonging to a political community and active participation in public life. This approach highlights the role of the citizen as an active participant in political processes rather than merely a passive recipient of rights and duties.

Parekh distinguishes several key components of citizenship:

- Legal membership
  Citizen status granted by a state, usually on the basis of birth, descent, naturalization, or marriage.
- Rights and obligations
  A set of rights and responsibilities resulting from belonging to a state and regulated by law.
- Active participation
  The role of citizens as active participants in public life who exercise their rights and fulfil their obligations.
- Political community
  A sense of belonging to a community that shares common values, goals, and interests.

Parekh emphasizes that globally oriented citizenship must be integrated with a universal human identity while simultaneously remaining connected to a specific community. Consequently, a globally oriented society, both open and rooted, based on global ethics may provide a response to contemporary challenges such as humanitarian interventions or the promotion of democracy.

In summary, global citizenship refers primarily to a certain way of thinking and feeling connected to the global community. Globally oriented citizenship, by contrast, represents a more concrete approach that focuses on educational activities and civic engagement aimed at addressing global challenges.

Universal Global Ethics

The process of globalization poses a challenge to traditionally understood forms of identity: ethnic, national, cultural, and religious. Increasingly, there is a growing recognition of the need to shape a new paradigm of citizenship based on a universal global ethics.

Parekh identifies four fundamental requirements that such ethics should meet. First, it must be sufficiently substantive so that individuals can base their moral choices upon it, while at the same time leaving room for diversity in moral life. Second, global ethics should be grounded in global consensus; this requires both respect for different viewpoints and the creation of a climate of trust. Third, such ethics should be embedded in a specific historical context, meaning that it must take into account human self-understanding, needs, aspirations, as well as social and cultural conditions. Fourth, global ethics should be limited to general principles rather than referring directly to institutions, practices, or political actions[6].

Global ethics became the subject of intensified reflection, particularly at the turn of the twentieth and twenty-first centuries. For example, the Polish philosopher J. Lipiec[7] proposed a catalogue of universal human values on which global ethics should be based. These include tolerance, security, freedom, justice, dignity, work, solidarity, beauty, truth, and love. These values should constitute the foundation for developing concrete social and economic projects as well as political solutions enabling their practical implementation.

A different approach to the formulation of global ethics was proposed by the Australian ethicist P. Singer[8]. In his reflections, Singer focused primarily on the practical implementation of the concept of global ethics, formulating it on the assumption that human beings are citizens of the world and, therefore,

[6] B. Parekh, "A New Politics of Identity" (New York, 2008).
[7] J. Lipiec, "Prolegomena of global ethics". In *The idea of global ethics,* J. Sekuła (ed.) (Warsaw, 1999).
[8] P. Singer, "Practical Ethics", translated by A. Sagan (Warsaw, 2003).

should perceive their actions from a global perspective. This concept is sometimes regarded as revolutionary, because it seeks to transform social reality in a fundamental way. Singer strongly rejects social divisions based on race, gender, or physical and intellectual ability, arguing instead for a form of conscious utilitarianism in human action.

Concepts of global ethics should be analysed from two perspectives: the individual perspective and the social perspective. The first concerns the responsibility of individuals for the decisions they make. The second takes into account the external conditions within which those decisions are made. This mechanism was clearly illustrated by E. Fromm[9], who stated that "man is both the artist and the object of his art".

Globally Oriented Citizenship in the Context of Human Rights

The idea of globalism was also expressed by I. Kant[10]. Although he did not use this term directly, he captured its essence in the formulation of the practical imperative:

> Act in such a way that you treat humanity, whether in your own person or in the person of another, always as an end and never merely as a means.

In this way, Kant gave a moral dimension to globalism [11].

It may therefore be assumed that globally oriented citizenship focuses on the human being as a citizen and is grounded in human rights. All people, regardless of nationality, possess universal rights and responsibilities as members of the global community. This idea assumes that individuals should be treated with dignity and respect and that their rights should be protected regardless of national borders.

Human rights, articulated for example in the Universal Declaration of Human Rights, are universal and belong to all people regardless of nationality. Consequently, human rights constitute the moral and legal foundation upon which the concept of globally oriented citizenship is built.

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[9] E. Fromm, "Let There Be Man. From the Psychology of Ethics", translated by R. Saciuk (Warsaw, 1994): 23.

[10] I. Kant, "Groundwork of the Metaphysics of Morals" (Warsaw, 1984).

[11] M. Szyszkowska, "The idea of globalization and realized globalization". In *The dispute over globalization…*

The realization of human rights such as the right to education or freedom of speech enables individuals to participate more fully in social and political life at both the local and global levels. At the same time, a sense of globally oriented citizenship encourages individuals to care about the protection of human rights for all people, regardless of their origin.

Actions aimed at protecting human rights such as supporting refugees, combating discrimination, or promoting education represent practical manifestations of globally oriented citizenship. Shared concern for human rights is crucial for overcoming global challenges such as poverty, climate change, and armed conflicts.

The development of a globally oriented civic attitude requires education that teaches about human rights, global problems, and the need for cooperation. Equally important is the active involvement of citizens in social and political life, at both local and global level.

Conclusions

The analysis of the subject literature confirms that human rights constitute the foundation for the development of globally oriented citizenship. The protection of these rights is guaranteed by international legal instruments such as the Universal Declaration of Human Rights, adopted by the United Nations in 1948, the International Convention on Civil and Political Rights, the International Convention on Economic, Social and Cultural Rights, and the European Convention on Human Rights, signed in Rome in 1950, which protects rights and freedoms in the member states of the Council of Europe.

Other important international documents include: United Nations conventions concerning specific groups, such as the Convention on the Rights of the Child; the Convention on the Rights of Persons with Disabilities; the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention against Torture, as well as the Geneva Conventions on the protection of victims of war.

Enabling individuals to become aware of their rights and encouraging them to take action on issues that are important to them contribute directly to the development of globally oriented citizenship and result from the strengthening of civic competences.

Civic competences are essential for promoting active and engaged citizenship in contemporary societies. They enable individuals to acquire the values, knowledge, and skills necessary to participate in democratic processes, solve social problems, and contribute meaningfully to the development of their communities.

These competences allow individuals to engage actively in social change, cooperate with others, defend their own rights and the rights of others, and critically analyse diverse situations occurring within communities. Civic competences evolve alongside social, economic, and political changes, which make continuous civic education indispensable[12].

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Tomasz Jakubiak

The Catholic Academy in Warsaw
ORCID: 0000-0003-4781-686X

RELIGIOUS FREEDOM IN THE DOCTRINE AND DISCIPLINE OF THE CATHOLIC CHURCH

Abstract: This article examines the way religious freedom is understood in the doctrine and discipline of the Catholic Church, with special attention to *Dignitatis Humanae*, the Declaration on religious freedom promulgated by the Second Vatican Council, and subsequent documents issued by the Holy See. The article shows that alongside peace, religious freedom is one of the pillars supporting an enduring social order and is based on the inalienable dignity of the human person. The teaching of the Second Vatican Council brought a fundamental change in the way this concept is understood – from the treatment of religious freedom as a form of tolerance to its recognition as an inherent right due to every human person regardless of his or her religion or beliefs. The review conducted in this article considers the Catechism of the Catholic Church and the Church's codes of canon law, which present the practical application of the principles outlined in *Dignitatis Humanae*. The article shows that the Church looks at religious freedom both in its theological as well as in its legal aspect, and describes the common welfare, public order, and the rights of other persons as factors marking the limits to religious freedom. However, such constraints must never encroach on a person's private freedom of conscience. Finally, the article draws attention to the need for further reflection and work for the effective protection of this right, both in Europe and globally.

Keywords: Religious Freedom, Code of Canon Law, Catholic Church, Second Vatican Council, Church Teaching

Introduction

A review of the official statements made recently by the popes on the Church's teaching shows a special emphasis the bishops of Rome have put on peace. This is certainly no coincidence. Our times have shown how fragile peace is nowadays, yet how profoundly people yearn for it[1]. A second issue which

[1] Leo XIV, "General Audience, 20 August 2025" [accessed December 6, 2025], www.vatican.va/content/leo-xiv/en/audiences/2025/documents/20250820-udienza-generale.html; Leo XIV, "Peace be with all of you!" [accessed December 21, 2025], www.vaticannews.va/en/pope/news/2025-05/pope-leo-xvi-peace-be-with-you-first-words.html; Francis, "Message of His Holiness Pope Francis for the LVIII World Day of Peace 1st January 2025" [accessed December 21, 2025],

stands alongside peace and is closely integrated with peace in the papal teaching is religious freedom. As the popes have repeatedly noted, peace is one of the pillars supporting an enduring social order.

A week after his election to the papacy, Leo XIV said in an address to the diplomatic corps accredited to the Holy See that we cannot consider peace only as "the absence of war and conflict", but as "an active and demanding gift [which] engages and challenges each of us, regardless of our cultural background or religious affiliation, demanding first of all that we work on ourselves"[2]. In Pope Leo's opinion,

> religions and interreligious dialogue can make a fundamental contribution to fostering a climate of peace. This naturally requires full respect for religious freedom in every country, since religious experience is an essential dimension of the human person[3].

In his 2023 address to COMECE (the Plenary Assembly of the Commission of the Episcopates of the European Union), Pope Francis said that "European unity cannot be a uniform, homogenising unity, but on the contrary, it must be a unity that respects and values the singularities, the particularities of the peoples and cultures that comprise it"[4]. So we cannot be united unless religious freedom is respected, for religion plays a special part in the development of culture. It is an integral component of national culture and shapes its foundation and aspirations[5]. Religion pervades the sphere of social and public affairs, endowing them with a profound, fundamental *raison d'être*[6].

www.vatican.va/content/francesco/en/messages/peace/documents/20241208-messaggio-58giornatamondiale-pace2025.html.

[2] Leo XIV, "Speech: Audience to Members of the Diplomatic Corps Accredited to the Holy See 16 May 2025" [accessed December 21, 2025], www.vatican.va/content/leo-xiv/en/speeches/2025/may/documents/20250516-corpo-diplomatico.html.

[3] Leo XIV, "Speech: Audience to Members".

[4] Francis, "Speech: Address to the Participants in the Plenary Assembly of the Commission of the Episcopates of the European Union (COMECE)", 23 March 2023 [accessed December 21], 2025, www.vatican.va/content/francesco/en/speeches/2023/march/documents/20230323-comece.html.

[5] M. Pabich, "Rola religii w życiu współczesnych społeczeństw w ujęciu przedstawicieli Ośrodka Myśli Politycznej", *Studia Oecumenica* 20 (2020): 394, https://doi.org/10.25167/so.2065.

[6] Z.J. Zdybicka, "Religia formująca naród", *Człowiek w Kulturze* 8 (1996): 110. For more on this, see: M.R. Abdulla, "Culture, Religion, and Freedom of Religion or Belief", *The Review Of Faith & International Affairs* 16 (2018): 102-115, https://doi.org/10.1080/15570274.2018.1535033; C.J.M. Whitea, M. Muthukrishna, A. Norenzayanc, "Cultural similarity among coreligionists within

My aim is to examine the way the Catholic Church understands religious freedom in her doctrine and discipline. In view of the article's limited space, I will concentrate on the review of *Dignitatis Humanae: The Declaration on Religious Freedom*[7] and the documents the Holy See has issued since 1965. My study will cover: 1) the subjective and objective scope of religious freedom, 2) grounds for limits to religious freedom, and 3) the relationship between the declarations countries make on religious freedom and what is practised in reality. I will conduct my research by examining the normative sources, selected papal statements, and reports issued by organizations monitoring religious freedom in the world.

In my opinion, this is a highly relevant subject for study in the context of current challenges faced by religious freedom worldwide. The rights of individuals and communities to religious freedom are being infringed more and more frequently, often in a subtle and sophisticated manner. The phenomenon has been observed in many of the reports published by organizations which monitor religious freedom, such as Aid to the Church in Need, which is a Pontifical Foundation of the Catholic Church[8]; Agenzia Fides, the information service of the Pontifical Missionary Works[9]; Knights of Columbus; In Defense of Christians[10];

and between countries", *PNAS* 118 (2021) no. 37: 1-9, https://doi.org/10.1073/pnas.2109650118; M. Jeżewski, "Korelacja między kulturą a religią", *Kwartalnik Naukowy Fides et Ratio* 24 (2015), no. 4: 57-63.

[7] Sacrosanctum Concilium Oecumenicum Vaticanum II, "Declaratio de libertate religiosa *Dignitatis humanae*", 07 December 1965, *Acta Apostolicae Sedis* 57 (1965): 90-112; English version: The Second Vatican Council, "Declaration on Religious Freedom *Dignitatis Humanae*", 7 December 1965, accessed December 21, 2025, www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vatii_decl_19651207_dignitatis-humanae_en.html [hereinafter DH].

[8] Aid to the Church in Need, "Religious Freedom in the World Report 2023", accessed December 21, 2025, https://acninternational.org/religiousfreedomreport/: From May 2021 to December 2022 infringements of religious freedom occurred in countries with a total population of 4.9 billion. The religious freedom of the inhabitants of 61 countries was seriously violated. Religious persecution occurred in 28 countries with a total population of 4.03 billion inhabitants, i.e. over half (51.6%) of the world's population.

[9] Agenzia Fides, "Missionaries And Pastoral Workers Killed In The Year 2024" [accessed December 21, 2025], https://www.fides.org/en/news/75832-missionaries_and_pastoral_workers_killed_in_2024: A total of 608 missionaries and pastoral workers were killed in 2000–2024.

[10] The Knights of Columbus, "A report submitted to Secretary of State John Kerry by the Knights of Columbus and In Defense of Christians. Genocide against Christians in the Middle East", March 9, 2016, accessed December 21, 2025, www.kofc.org/un/en/resources/communications/genocide-report.pdf.

and COMECE[11]. Significantly, anti-Christian discrimination is also on the rise in countries with a predominant Christian majority, especially wherever the profession of one's religious faith in public is at odds with a dominant ideology[12].

Dignitatis Humanae

Dignitatis Humanae: The Declaration on Religious Freedom, a document issued by the Second Vatican Council on December 7, 1965, is a milestone on the road staking out the Church's respect for religious freedom and determining its subjective and objective scope[13]. The doctrine defined in *Dignitatis Humanae* became the foundation of the Catholic Church's contemporary social teaching, especially concerning relations between the individual, community, and public authorities[14]. Hence, the examination of *Dignitatis Humanae* and some of the documents the Holy See has issued since its promulgation will help me verify my working hypothesis and draw final conclusions.

Here it will be worthwhile to recall that prior to the Second Vatican Council popes who made a statement on misguided concepts of human freedom and dignity often seemed to be against the idea of the Church acknowledging these values[15]. However, as some scholars observe, the conclusion which may be drawn from the structure of these documents is that it was only a false impression: in point of fact, these documents did not deny

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[11] Commission of the Bishops' Conferences of the European Union, "Annual Report 2023", accessed December 21, 2025, www.comece.eu/publication-comece-2023-annual-report-is-now-online/.

[12] A. Riobó, "Religious Freedom in the Papacy of Pope Benedict XVI. Seven Years of Interventions before the UN", *Teka Komisji Prawniczej PAN Oddział w Lublinie* 5 (2012): 143, https://doi.org/ 10.32084/tkp.6381.

[13] One of the Council Fathers who contributed to the final shape of *Dignitatis Humanae* was Karol Wojtyła, who spoke on five occasions during the drafting of this document. Cardinal Dulles said that at the beginning of the work on it, DH was envisaged as a defense of the Catholic Church against accusations of intolerance, but under the impact of criticism voiced by the bishops working on the draft, the Council eventually reformulated it to present the basic principles of a positive theology of religious freedom, so very different from the liberal tenets of the Enlightenment. Avery Cardinal Dulles, "John Paul II On Religious Freedom: Themes From Vatican II", *The Thomist* 65 (2001) no. 2: 162-163, https://doi.org/10.1353/tho.2001.0025.

[14] M. Kmieć, "Niezmienność nauczania Kościoła Katolickiego o wolności religijnej", *Zeszyty Społecznej Myśli Kościoła* 24 (2020): 168, https://doi.org/10.21697/CSP.2020.24.1.25.

[15] M. Rhonheimer, "Benedict XVI's 'Hermeneutic of Reform' and Religious Freedom", *Nova et Vetera* 9 (2011) no. 4: 1031-1032, 1044.

the need for religious freedom. The Holy See has never rejected the idea of religious freedom as it is expressed in its contemporary, Conciliar form, but spoke up against misapplications of the concept of freedom leading to relativism, religious indifferentism, and other philosophical or doctrinal misrepresentations. A factor which should be considered in a critical analysis of pre-Conciliar documents is the evolution in the Church's doctrine regarding relations between the spiritual and temporal power. This process was conditioned to a substantial extent by historic developments such as the fall of the Papal States in 1870 and the formal dissolution of the Holy Roman Empire in 1806. These events prompted a reconsideration of the nature and limits of secular power, and the Church's role in society.

The Fathers of the Second Vatican Council emphasized the continuity of the Church's doctrine on religious freedom, and in DH 1 wrote that "the council intends to develop the doctrine of recent popes on the inviolable rights of the human person and the constitutional order of society".

Religious freedom in the codes of canon law currently in force and in the catechism

The principles presented in *Dignitatis Humanae* were subsequently enshrined in the Church's teaching and discipline. Their continuation and development may be observed in the chief documents promulgated by John Paul II, the Catechism of the Catholic Church (CCC, 1992)[16], the 1983 Code of Canon Law (CIC, for the Latin-rite Church)[17], and the Code of Canons of the Eastern Churches (*Codex Canonum Ecclesiarum Orientalium*, CCEO, 1990)[18]. The provisions on religious freedom prescribed in them present both the elaboration of the principles set down by the Council and their practical application.

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[16] *Catechism of the Catholic Church*, 2nd Edition (Libreria Editrice Vaticana, 2011), accessed December 21, 2025, https://dn790005.ca.archive.org/0/items/catechismofthecatholicchurch/Catechism%20of%20the%20Catholic%20Church%20-%20USCCB.pdf.

[17] "Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus", 25 January 1983, *Acta Apostolicae Sedis* 75, (1983), pars II: 1-319. English edition: *Code of Canon Law. Latin– English Edition. New English Translation* (Washington: Canon Law Society of America, 1999).

[18] "Codex Canonum Ecclesiarum Orientalium", 18 October 1990, *Acta Apostolicae Sedis* 82 (1990): 1045-1363. English edition: *Code of Canons of the Eastern Churches. Latin – English Edition. New English Translation*, 2nd Edition (Washington: Canon Law Society of America, 2024).

In CCC, the issue is given a concise presentation, in a separate part of Article 1 dedicated to the First Commandment "The social duty of religion and the right to religious freedom" (CCC, no. 2104-2109). In the Codes of 1983 and 1992, the provisions concerning religious freedom are scattered throughout these documents, for example, in CIC in Cann. 747, 748, 798, and 214-232[19].

It should be noted that the Catechism addresses the rights to freedom of all persons without exception, while both Codes approach rights to freedom in a contextualized way – according to Can. 1 CIC and Can. 1 CCEO – within the life of the Catholic Church and of its faithful. All three documents refer to, and directly invoke DH on matters of religious freedom. From the point of view of canon law, DH is not only of doctrinal but also of normative import. The Declaration was created and handed down by the College of Bishops, which is the supreme church authority, approved by the Bishop of Rome and promulgated on his instruction (Cann. 336, 338, and 341 CIC).

For the codes of canon law, it should be observed that all of their provisions on religious freedom are based on the principle that the right to religious freedom is respected. However, they are connected with DH in different ways. Some are "loosely associated" with the Declaration and regulate the affairs of the community of the faithful in various circumstances. For instance, Cann. 861-862 CIC indicate the persons authorized to administer Baptism, while Cann. 912-923 CIC say who may receive Holy Communion. Others are directly connected with DH and involve a direct prohibition on the use of coercion on any person in matters of faith; for instance, Can. 748§2 CIC bans enforced conversion to the Catholic faith; Cann. 219, 573§2, 1026, 1036, and 1103 CIC prohibit coercive means to influence any person's choice of a state of life; Cann. 218 and 386§2 CIC speak of the right to freedom of scholarly research on matters pertaining to the faith and the Church's discipline; Can. 630§1 CIC requires superiors of religious institutes to recognize the due freedom of those subject to their authority regarding the sacrament of penance and direction of conscience; and Cann. 1136, 797 CIC speak of religious freedom in the family. Other provisions directly relating to religious freedom are those which define the scope of freedom the institutionalized Church enjoys (Cann. 747 and 768§2 CIC); those which define the admissible and inadmissible constraints on

[19] Due to the limited length of this article, I will not cite the provisions in CCEO, which are analogous to the provisions cited from CIC.

religious freedom (Cann. 223, 795, and 1372, no.1 CIC); and Can. 221§1 CIC., which describes the possibilities available to the faithful to claim their rights.

The Catholic Church's legislators do not prescribe rules to cover marginal phenomena. The fact that there are so many canons relating to religious freedom shows that the Church is aware of the real and potential threats to this aspect of the life of the community of the faithful. It also confirms the importance of the Church's teaching on religious freedom, which has been set in a legal framework and ascribed an enduring significance in the Church's canonical order. Thereby, not only has the Church's teaching on religious freedom been endowed with a theoretical status but it also enjoys a practical significance expressed in the provisions of canon law.

Subjective and objective scope

The Catholic Church defines the subjective and objective scope of religious freedom in *Dignitatis Humanae*, the Declaration on Religious Freedom issued by the Second Vatican Council. The Church teaches that all people have the right to religious freedom, regardless of their attitude to the Catholic faith or efforts to search for truth (DH 2; CCC, no. 2104, 2106). This is because human dignity is the foundation of the right to religious freedom (Can. 208 CIC and CCC, no. 2104). According to the Church's College of Bishops, the grounds for the Catholic doctrine on religious freedom are lodged in Divine Revelation (DH 12).

An examination of the subjective scope of religious freedom should consider the fact that it covers not only individuals but also religious communities and persons who come together for joint action. This is due to the social nature of man and religion, which requires a communal dimension of religious life. According to the Second Vatican Council, persons who undertake joint action should be protected against coercion in religious matters. For this reason people should be guaranteed the right to assemble, found and direct associations for educational, cultural, charitable and social purposes (Can. 215 CIC; and CCC, no. 2105-2106).

In view of the social nature of man and religion, the subjective scope of religious freedom also covers religious communities. Under DH 4, religious communities are autonomous and legally independent of state institutions in matters relating to public worship, aid dispensed to their members concerning the practice of their religion, the teaching of religion (i.e. their faith and religious customs, including those practised in public), and founding institutions "in which they may join together for the purpose of ordering their own lives in accordance with their religious principles" (e.g. set up institutes of consecrated life – Cann. 573-577 CIC). Their autonomy and independence should also apply to the selection, training, appointment and transferral of their own ministers (Cann. 232, 377, 794, 800, 807, and 815 CIC); communication with authorities and religious communities in other countries (Can. 365§1 no. 1 CIC); the construction of buildings and facilities used for religious purposes; and the acquisition and use of goods (DH 4, Cann. 204§2, 747, 1254, and 1255 CIC)[20].

The objective scope of religious freedom in DH has been described in two aspects: its positive and its negative aspect. The former is presented as the potential to seek truth, not only in matters relating to the Church and faith, but also in existential, axiological, and moral questions (Cann. 212§2, 218 CIC; and CCC, no. 2104)[21]. The positive aspect also extends to the protection of interpersonal relationships and the freedom of the individual in the decision-making process, allowing him to recognize and accept the truth and then regulate his life in accordance with it (Can. 748§1 CIC). The positive aspect of religious freedom is presented in DH, also as the individual's right to worship God (DH 1; Can. 214 CIC; and CCC, no. 2105).

The Council Fathers understand the negative aspect of religious freedom as the freedom of every individual "from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits" (DH 2; cf. Can. 748§2 CIC and CCC, no. 2106). Furthermore, they observe that coercion and pressure in matters of religion are exercised more frequently against poor or uneducated persons, who have more limited powers of effective defence. In the opinion of John Courtney Murray, coercion means all kinds of activities, legal or illegal, which curtail or limit freedom. Such activities

[20] For a linguistic examination of the key terms used in DH, see: M. Gilski, D. Wąsek, A. Nadbrzeżny, *Sobór na nowo odczytany, przeszłość-teraźniejszość-przyszłość, cz. 2. Dignitatis humanae, Sobór Watykański II o wolności religijnej* (Kraków: Wydawnictwo Scriptum, 2024): 245-260.

[21] Benedict XVI, Dum Dies XLIV Internationalis commemoratur pro Pace promovenda: "Libertas religiosa, iter ad pacem", no. 2, 8 December 2010, *Acta Apostolicae Sedis* 103 (2011) no. 1: 46-58; English version: Benedict XVI, "Message for the Celebration of The World Day of Peace 1 January 2011 *Religious Freedom, The Path to Peace*", December 2010 [accessed December 21], 2025, https://www.vatican.va/content/benedict-xvi/en/messages/peace/documents/hf_ben-xvi_mes_20101208_xliv-world-day-peace.html.

may take the form of psychological coercion[22]. In light of the terminology of canon law, we may say that the Council Fathers were against all forms of pressure termed *vis* and *metus* in canon law[23].

The examination of the positive and negative aspects of religious freedom shows that not only has DH defined its scope more precisely, but has also introduced a fundamental change in the way this right is understood. What makes the Declaration so important in this respect is that it progresses from the concept of tolerance to the recognition of religious freedom as the objective right of every person, a right rooted in human dignity[24].

Limits to religious freedom

The definition of the objective and subjective scope of religious freedom leads to the question of its limits. *Dignitatis Humanae* gives the criteria for the admissible constraints on religious freedom, prioritizing the need to protect the common welfare and the rights of other persons. In light of this teaching, the Second Vatican Council stresses that the system of law in force should institute provisions which are fair and enable individuals and communities to exercise their rights. The scope of these rights should be assessed within the context of a particular social situation (CCC, no. 2109). The enjoyment of the right to religious freedom, both individually and within social groups, must respect the rights of others and observe the obligations incumbent on the individual or group. We must not lose sight of the common welfare, understood as "the entirety of those conditions of social life under which men enjoy the possibility of achieving their own perfection in a certain fullness of measure and also with some relative ease" (DH 6).

This is the Council's idea in *Dignitatis Humanae* that Benedict XVI had in mind when he wrote of "the dignity of the human person, whose transcendent nature must not be ignored or overlooked" by social institutions engaged in legislation.

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[22] K.A. McBride, *Dignitatis humanae: Shaping Contemporary Interreligious Dialogue* (master's thesis, University of St. Michael's College, Toronto School of Theology, 2017): 51.
[23] T. Jakubiak, *Problem ważności przyjęcia sakramentu święceń w prawie Kościoła katolickiego* (Płock: Płocki Instytut Wydawniczy, 2020): 256.
[24] J. Nikołajew, "Zasada wolności religijnej w deklaracji Dignitatis humanae. Wybrane zagadnienia prawno-wyznaniowe", *NURT SVD* 51 (2017) no. 2: 564.

> With due respect for the positive secularity of state institutions, the public dimension of religion must always be acknowledged. […] These matters cannot be left to the discretion of the legislator or the majority. […] among the fundamental rights and freedoms rooted in the dignity of the person, religious freedom enjoys a special status. When religious freedom is acknowledged, the dignity of the human person is respected at its root […] whenever religious freedom is denied, […] human dignity is offended[25].

The scope of this right should comply with the objective moral order. The Church's teaching is continuing along the same line, with emphasis on the need to maintain a balance between the privileged position of the religion of the majority of the people and respect for the rights of religious minorities.

The Church teaches that if one religious community is accorded a special civil status within the legal order of a given society, the rights to religious freedom of all the people and all the other religious communities must be recognized and respected. The civil authorities should show concern and endeavour that the equal status of all people is never infringed on religious grounds, either overtly or indirectly (DH 6; CCC, no. 2107).

In compliance with the customary practice of safeguarding and maintaining freedom in a society in an integral condition, "the freedom of man is to be respected as far as possible and is not to be curtailed except when and insofar as necessary" (DH 7). Bearing in mind the circumstances in which it is admissible to institute legislation that may limit the full enjoyment of religious freedom, it must be stressed that such constraints may never be applied to a person's inner life, that is, his individual, private choice of a religion or worldview[26]. As Piotr Mazurkiewicz writes, the possibility of a limitation being applied to religious freedom may be justified on the grounds of the Christian thought rooted in Thomism, which is situated between individualistic liberalism and Marxist collectivism and seeks to maintain a balance between the good of the individual and the good of the community[27].

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[25] Benedict XVI, "Message for the Celebration", no. 5, 8.
[26] W. Janyga, "Wolność sumienia i wyznania". In: *Religia i polityka. Zarys problematyki*, ed. P. Burgoński, M. Gieracz (Warszawa: Instytut Politologii Uniwersytetu Kardynała Stefana Wyszyńskiego w Warszawie, 2014): 474.
[27] P. Mazurkiewicz, "Kościół w życiu publicznym". In *Kościół katolicki w przededniu wejścia Polski do Unii Europejskiej*, ed. P. Mazurkiewicz (Warszawa: Instytut Spraw Publicznych, 2003): 187.

Notwithstanding such clearly defined principles, the practical operations of many states do not always strive to uphold these ideals. The Council Fathers warned the world of the danger of a disparity between the letter of the law and actual social practice, observing that sometimes the respect accorded to religious freedom in a country's legislation may not be fully reflected in the real situation. Some countries have constitutions which formally guarantee freedom of religious worship, but in practice they do not observe this pledge. In such situations, public authorities frequently embark on operations to "deter citizens from the profession of religion and to make life very difficult and dangerous for religious communities" (DH 15). In his review of relations between Church and State in relation to the protection of the Church's due rights, Sean O'Neil observes that the Church as an institution is by her very nature susceptible to arbitrariness in the activities pursued by the State. Even though the right to religious freedom is rooted in human dignity, in practice the exercise of this right depends on decisions made by the State, as if the State were the source of the individual's and community's right to religious freedom, not just the guarantor of the right[28]. Professor Jan Woulters of the Leuven Centre for Global Governance Studies observes that the European Union jurists are facing the challenge of reconciling the right to religious freedom with the right to free speech[29].

Conclusion

On the basis of the examination of the Catholic Church's doctrine and discipline we may say that the Church's teaching on religious freedom is one of the pillars of contemporary Catholic social doctrine. With the declaration *Dignitatis Humanae* promulgated by the Second Vatican Council as its groundwork, the Church's teaching asserts that religious freedom is not merely the result of tolerance accorded by the State, but a direct outcome of the inalienable dignity of the human person, and therefore its nature is universal, intrinsic, and independent of secular authority of any kind.

Nonetheless, religious freedom is not absolute in character. The limits to religious freedom are demarcated by the principles of the common welfare,

[28] S. O'Neil, "Dignitatis humanae: The Catholic Church's Path to Political Security", *Mystērion: The Theology Journal of Boston College* 1, no. 1 (2021): 58.
[29] H. Sławiński, "Prawo do wolności religijnej i jego naruszanie we współczesnej Europie", *Studia Włocławskie* 17 (2015): 307.

public order, and the rights of other persons. However, such constraints must never be applied to a person's private and individual religious beliefs or freedom of conscience.

Adopting a definition of religious freedom in the categories both of natural law and human rights, the Church endeavours in her teaching, by means of the provisions of canon law, and in her pastoral work to secure and fully protect religious freedom. By introducing appropriate provisions in her codes of canon law, the Church asserts that religious freedom has more than just a doctrinal dimension; it also has a legal aspect. In light of the analysis conducted in this article, religious freedom turns out to be an interdisciplinary category, combining a theological, legal, and social dimension.

Scrutiny of contemporary reality shows that notwithstanding a formal recognition of religious freedom, in practice violations of this ostensibly acknowledged right occur in many countries. To paraphrase the words of Zofia Zdybicka, one must concede regrettably that attacks levelled against the Church have an astonishingly high success rate; and that the Church is being denied the right to speak up even when fundamental human rights are in jeopardy[30]. This phenomenon calls for in-depth consideration by scholarship and the search for effective mechanisms for the protection of the rights of believers both in Europe and worldwide.

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Michał Krawczyk

University of Siedlce
ORCID: 0000-0003-3923-3576

THE OATH OF SUPREMACY AND SACRAMENTAL TESTS AS INSTRUMENTS OF EXCLUSION OF CATHOLICS FROM PUBLIC LIFE IN ENGLAND AND IRELAND FROM THE MID-16TH CENTURY TO THE FIRST HALF OF THE 19TH CENTURY

Abstract: The article examines the exclusion of Catholics from public and political life in England and Ireland from the mid 16th to the mid 19th centuries. It also demonstrates that only the separation of the state from all churches and religious associations can guarantee full protection of individual freedom of conscience and religion and political rights.

Keywords: freedom of conscience and religion, political rights, sacramental test, oath of supremacy, Catholicism, history of England and Ireland

Freedom of conscience and religion is the freedom to profess or adopt a religion of one's own choosing and to manifest one's religion, individually or collectively, publicly or privately, through worship, prayer, participation in ceremonies, practice, and teaching. It also encompasses the possession of houses of worship and other places of worship according to the needs of believers and the right of individuals to benefit from religious services wherever they may be. It excludes both privileged treatment and persecution or discrimination based on religion. Religious freedom is closely linked to religious tolerance (respect for adherents of other religions and those with non-religious beliefs)[1]. Political rights and freedoms, in turn, are entitlements that allow citizens to participate in public life and decision-making processes. Key examples include the right to vote and stand for election (active and passive

[1] More on the subject of freedom of conscience and religion see: W. Brzozowski, "O pojęciu granic wolności sumienia i wyznania", *Studia Prawnicze* 171, No 1, (2007): 67-80; M. Winiarczyk--Kossakowska, Wolność sumienia i religii", *Studia Prawnicze* 147, No 1, (2001): 23-43; J. Sobczak, M. Golda-Sobczak, "Wolność sumienia i wyznania jako prawo człowieka", *Annales Universitatis Mariae Curie-Sklodowska: Politologia, Sectio K,* Vol. 19, No. 1, (2012); A. Łopatka, "Demokracja i wolność sumienia oraz wyznania", *Studia Prawnicze* 1-2 (67-68) (1981): 151-166.

suffrage), freedom of assembly, freedom of association (e.g., in political parties), and the right to petition and complain. These are typically reserved for citizens of a given state.

In discussions about human rights, individual rights and freedoms are often treated as separate issues. In particular, we often perceive freedom of conscience and religion and the right to participate in political life as two separate entities that seemingly have nothing in common. This study highlights the problem that practicing a particular religion may involve the deprivation of political rights. While many contemporary examples could be cited to illustrate this point, this study focuses on a historical example: the exclusion of Catholics from public life in England and Ireland from the mid-16th century to the mid-19th century.

The first Act of Supremacy was passed by the Parliament of England on November 3, 1534[2]. It recognized King Henry VIII as Supreme Head of the Church of England. This act was the result of a dispute between Henry VIII and Pope Clement VII. The English monarch petitioned the Pope to annul his marriage to Catherine of Aragon. The Pope's refusal, motivated more by politics than religion (Catherine of Aragon was the aunt of the powerful Emperor Charles V), resulted in Henry VIII renouncing his allegiance to the Pope. The Church in England thus severed its ties with Rome[3]. The Act of Supremacy required anyone holding a state or church office in the Kingdom of England and Kingdom of Ireland to take the Oath of Supremacy, acknowledging that the monarch was the head of the English Church. Failure to do so was considered high treason. As published in 1535, the oath read: „I, [name] do utterly testifie and declare in my Conscience, that the Kings Highnesse is the onely Supreame Governour of this Realme, and all other his Highnesse Dominions and Countries, as well in all Spirituall or Ecclesiasticall things or causes, as Temporall: And that no forraine Prince, Person, Prelate, State or Potentate, hath or ought to have any Jurisdiction, Power, Superiorities, Preeminence or Authority Ecclesiasticall or Spirituall within this Realme. And therefore, I do utterly renounce and forsake all Jurisdictions, Powers, Superiorities, or Authorities; and do promise that from henchforth I shall beare faith and true Allegiance to the Kings Highnesse, his Heires and lawfull Successors: and to my power shall assist and defend all Jurisdictions, Privileges, Preheminences and Authorities granted or

[2] Act of Supremacy 1534, Parliamentary Archives, HL/PO/PU/1/1534/26H8n1.
[3] H. Zins, *Historia Anglii* (Wrocław, 1995): 130-134.

belonging to the Kings Highnesse, his Heires and Successors or united and annexed to the Imperial Crowne of the Realme: so helpe me God: and by the Contents of this Booke"[4]. Roman Catholics who refused to take the Oath of Supremacy were indicted for treason on charges of *praemunire*. For example, Sir Thomas More opposed the King's separation from the Roman Catholic Church and refused to accept him as Supreme Head of the Church of England. He was imprisoned in 1534 for his refusal to take the oath, because the act discredited papal authority, and his refusal to accept the annulment of Henry's marriage to Catherine of Aragon. In 1535, he was tried for treason, convicted on perjured testimony, and beheaded[5]. The Oath of Supremacy was repealed by Henry's elder daughter, Queen Mary I of England, and reinstated under Henry's other daughter and Mary's half-sister, Queen Elizabeth I of England, under the Act of Supremacy 1558[6]. The Oath was later extended to include Members of Parliament and people studying at universities. In 1537, the Irish Supremacy Act was passed by the Parliament of Ireland, establishing Henry VIII as the supreme head of the Church of Ireland. As in England, a Oath of Supremacy was required for admission to offices. The requirement to take the Oath of Supremacy was confirmed by Act of Supremacy (Ireland) 1560[7]. Under the reigns of Charles II and James II, the Oath of Supremacy was not so widely employed by the Crown. This was largely due to the Catholic sympathies and practices of these monarchs, and the resulting high number of Roman Catholics serving in official

[4] "Oath of supremacy 1535", queenanneboleyn.com, https://web.archive.org/web/20140929165524/http://queenanneboleyn.com/2012/02/25/oath-of-supremacy-1535-actual-text-sir-thomas-audley/(14.10.2025).

[5] G.J. Meyer, "Tudorowie. Prawdziwa historia niesławnej dynastii" (Kraków, 2015): 230-234.

[6] Act of Supremacy 1558,In *The Statutes at Large*, vol. 2, O. Ruffhead (ed.) (London, 1763): 517-514. Text of the oath as published in 1559: „I, [name], do utterly testify and declare in my conscience that the Queen's Highness is the only supreme governor of this realm, and of all other her Highness's dominions and countries, as well in all spiritual or ecclesiastical things or causes, as temporal, and that no foreign prince, person, prelate, state or potentate hath or ought to have any jurisdiction, power, superiority, pre-eminence or authority ecclesiastical or spiritual within this realm; and therefore I do utterly renounce and forsake all foreign jurisdictions, powers, superiorities and authorities, and do promise that from henceforth I shall bear faith and true allegiance to the Queen's Highness, her heirs and lawful successors, and to my power shall assist and defend all jurisdictions, pre-eminences, privileges and authorities granted or belonging to the Queen's Highness, her heirs or successors, or united or annexed to the imperial crown of this realm. So help me God, and by the contents of this Book".

[7] H.A. Jefferies, "The Irish Parliament of 1560: The Anglican Reforms Authorised" *Irish Historical Studies* 26 (102) (1988): 128-141.

positions[8]. The centrality of the Oath was re-established under the reign of William III and Mary II, following the Glorious Revolution[9]. In 1801, retained by the United Kingdom of Great Britain and Ireland, the oath continued to bar Catholics from Parliament.

The Test Acts were a series of laws passed by the English Parliament during the Restoration period. They established the principle that only those who had received communion in the Church of England could hold public office. They also imposed various penalties on recusants, meaning Catholics and nonconformist Protestants, although in practice the latter were often exempt from the requirements of these Acts. Similar laws were also introduced in Ireland to allow the Anglo-Irish to maintain control over land, law, and politics. The earliest imposition of this test was by the *Corporation Act 1661* requiring that, besides taking the Oath of Supremacy, all members of town corporations were, within one year after election, to receive the sacrament of the Lord's Supper according to the rites of the Church of England[10]. *The Corporation Act 1661* was followed by the *Test Act 1673* (the long title of which is "An act for preventing dangers which may happen from popish recusants")[11]. This act enforced upon all persons filling any office (civil, military or religious), the obligation of taking the oaths of supremacy and allegiance and subscribing to a declaration against transubstantiation and also of receiving the sacrament of the Lord's Supper according to the rites of the Church of England within three months after admittance to office. The oath for the Test Act 1673 was: „I N, do declare that I do believe that there is not any transubstantiation in the sacrament of the Lord's Supper, or in the elements of the bread and wine, at or after the consecration thereof by any person whatsoever". The act was passed in the parliamentary session that began on 4 February 1673 (Gregorian calendar)[12]. Initially, the act did not extend to peers and members of House of Commons, but in 1678 the act was extended by a further act, the Parliament Act 1678, which required that all peers and members of the House of Commons should make a declaration against transubstantiation, invocation of saints, and

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[8] H. Zins, "Historia…": 212.
[9] *Ibidem*, p. 216.
[10] "Corporation Act" *Britannica*, https://www.britannica.com/topic/Corporation-Act(17.10.2025).
[11] "An Act for preventing Dangers which may happen from Popish Recusants", *Statutes of the Realm* Vol. 5: 1628-80 (1819): 782-85, http://www.british-history.ac.uk/report.asp?compid=47451(17.10.2025).
[12] T. Plunknett, "Studies in English Legal History" *Hambledon Press* (1983): 323.

the sacrificial nature of the Mass[13]. The effect of this was to exclude Catholics from both houses, and in particular the "Five Popish Lords"[14] from the House of Lords[15].

The oath of supremacy and the sacramental tests remained in force until the first half of the 19th century and their abolition was the culmination of a fifty-year period of slow emancipation of Catholics in Great Britain. The first Relief Act, called the Papists Act 1778, was passed. It allowed Roman Catholics to own property and to inherit land[16]. Further relief was given by an act of Parliament of 1782 allowing the establishment of Roman Catholic schools and bishops. The Roman Catholic Relief Act 1791 allowed the free practice of Catholicism subject to certain substantial restrictions designed to make Catholicism less visible in the communities where it was practiced[17]. In Ireland, the Roman Catholic Relief Act 1793 was enacted by the Irish Parliament, extending the right to vote to Catholics. Since the electoral franchise at the time was largely determined by property, this relief gave the votes to Roman Catholics holding land with a rental value of £2 a year. They also started to gain access to many middle-class professions from which they had been excluded, such as the legal profession, grand jurors, universities and the lower ranks of the army and judiciary[18].

The abolition of the Oath of Supremacy and the sacramental tests was directly related to the activities of the Irish politician Daniel O'Connell[19]. In 1823, he started a campaign for emancipation by establishing the Catholic Association. His campaign reached its climax when he himself stood for Parliament. In July 1828 O'Connell defeated William Vesey Fitzgerald, in

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[13] H. Chisholm (ed.), "Test Acts", *Encyclopædia Britannica* Vol. 26 (11th ed.) (Cambridge: Cambridge University Press, 1911): 665-666.

[14] W. Herbert, 1st Marquess of Powis, William Howard, 1st Viscount Stafford, Henry Arundell, 3rd Baron Arundell of Wardour, William Petre, 4th Baron Petre and John Belasyse, 1st Baron Belasyse

[15] J.P. Kenyon, "The Popish Plot" *Phoenix Press* (2000): 104-5.

[16] R.N. Burns, "The Catholic Relief Act in Ireland, 1778" *Church History* Vol. 32, Issue 2, (June 1963): 181-206.

[17] J. *Gerard, E. D'Alton,* "Roman Catholic Relief Bill", In *The Catholic Encyclopedia*, Vol. 13 (New York: Robert Appleton Company, 1912).

[18] T. Bartlett, "'So many wheels within wheels': the 1793 Catholic relief Act revisited", In *Ourselves Alone: Religion, Society and Politics in eighteenth- and nineteenth-century Ireland: essays presented to S.J. Connolly*, D. Hayton, A. Holmes (eds.), (Dublin: Four Courts Press, 2016): 126-136.

[19] P. Geoghegan, "King Dan: the Rise of Daniel O'Connell, 1775–1829" (Dublin: Gill & Macmillan, 2008).

a County Clare by-election, 2057 votes to 982. This made a direct issue of the parliamentary Oath of Supremacy by which, as a Catholic, he would be denied his seat in the House of Commons. Both Prime Minister of United Kingdom Arthur Wellesley, 1 st Duke of Wellington and his Home Secretary, Robert Peel, were convinced that unless concessions were made, a confrontation was inevitable. Peel concluded: "though emancipation was a great danger, civil strife was a greater danger". Fearing insurrection in Ireland, Peel drafted the Relief Bill and guided it through the Commons. To overcome the vehement opposition of both King George IV and of the House of Lords, Wellington threatened to resign, potentially opening the way for a new Whig majority with designs not only for Catholic emancipation but also for parliamentary reform. The King initially accepted Wellington's resignation and the Duke of Cumberland, brother to the King and Orange Order Grand Master, attempted to form a government united against Catholic emancipation. Although such a government would have had considerable support in the Lords, it would have had little support in the Commons, and Cumberland abandoned his attempt. The King recalled Wellington. The bill passed the Lords and became law. Roman Catholic Relief Act 1829 cancelled "certain oaths and certain declarations, commonly called the declarations against transubstantiation and the invocation of saints and the sacrifice of the mass, as practised in the Church of Rome", which had been required "as qualifications for sitting and voting in parliament and for the enjoyment of certain offices, franchises, and civil rights". For the Oath of Supremacy, the act substituted a pledge to bear "true allegiance" to the King, to recognise the Hanoverian succession, to reject any claim to "temporal or civil jurisdiction" within the United Kingdom by "the Pope of Rome" or "any other foreign prince... or potentate", and to "abjure any intention to subvert the present [Anglican] church establishment'. This last abjuration in the new Oath of Allegiance was underscored by a provision forbidding the assumption by the Roman Church of episcopal titles, derived from "any city, town or place", already used by the United Church of England and Ireland with other sectarian impositions of the act, such as restrictions on admittance to Catholic religious orders and on Catholic-church processions, this was repealed with the Roman Catholic Relief Act 1926[20]. O'Connell's success was, in a sense, a Pyrrhic victory. One of the main safeguards required for the

[20] Roman Catholic Relief Act 1926, https://www.legislation.gov.uk/ukpga/Geo5/16-17/55/enacted.

Act's passage was the Parliamentary Elections (Ireland) Act 1829. Having received Royal Assent on the same day as the Relief Act, the Act disenfranchised Irish landowners by forty shillings, raising the property threshold for shire voting to the British standard of ten pounds. As a result, "emancipation" was associated with a more than five-fold decline in the number of Irish voters, from 216,000 to just 37,000[21].

It is worth noting that while O'Connell's campaign was decisive, the shift in public opinion in Britain in favour of Catholic emancipation was also crucial. The growing strength of public opinion, expressed in newspapers and elections over the past twenty years, overcame religious prejudice and deference to the crown, first in the House of Commons and then in the House of Lords. Every House of Commons elected since 1807 has expressed majority support for Catholic emancipation, with the exception of the House of Commons of 1818, which voted on the issue only once, in 1819, and rejected the motion by two votes. Despite this, the vote in the House of Lords was consistently negative, in part because of the king's own opposition. The balance of opinion in the House of Lords shifted dramatically between 1828 and 1829 in reaction to public opinion and O'Connell's election[22].

One civil disability not removed by 1829 Act were the sacramental tests required for professorships, fellowships, studentships and other lay offices at universities. These were abolished for the English universities – Oxford, Cambridge and Durham – by the Universities Tests Act 1871[23], and for Trinity College Dublin by the University of Dublin Tests Act 1873[24]. Section 18 of the 1829 act, "No Roman Catholic to advise the Crown in the appointment to offices in the established church", remains in force in England, Wales and Scotland, but was repealed with respect to Northern Ireland (the Church of Ireland having been disestablished in 1869) by the Statute Law Revision (Northern Ireland)

[21] R.F. Foster, "Modern Ireland, 1600-1972", (London: Allen Lane, 1988), 301-302.

[22] R.W. Davis, "The House of Lords, the Whigs and Catholic Emancipation 1806-1829" *Parliamentary History* Vol. 18 Issue 1, (March 1999): 23-43; R.W. Linker, "The English Roman Catholics and Emancipation: The Politics of Persuasion" *Journal of Ecclesiastical History* Vol. 27, Issue 2 (April 1976): 151-180.

[23] Universities Tests Act 1871, https://www.legislation.gov.uk/ukpga/Vict/34-35/26/section/3 (21.10.2025).

[24] D.A. Webb, "Religious Controversy and Harmony at Trinity College Dublin over Four Centuries" *Hermathena* (1992): 95-114, http://www.jstor.org/stable/23046516 (21.10.2025).

Act 1980[25]. In February 2025 the UK Government introduced a bill in the House of Commons to repeal a clause from Section 12 of the 1829 act, to allow Roman Catholics to hold the office of His Majesty's Lord High Commissioner to the General Assembly of the Church of Scotland. The Church of Scotland (Lord High Commissioner) Act 2025 received royal assent on 3 April 2025 and Elish Frances Angiolini as first Catholic was appointed to the post on 16 May 2025[26].

It should be noted that the emancipation of Catholics did not end the issue of exclusion from British political life of adherents of a particular religion. Another significant religious group, Jews, was still deprived of, among other things, the right to sit in Parliament – each Member of the House of Commons had to swear an oath on the Bible (both the Old and New Testaments), which was, for obvious reasons, unacceptable to Jews. The political emancipation of Jews did not occur until the second half of the 19th century.

To sum up the above considerations, it should be stated that the full realization of both political rights and freedoms, as well as freedom of conscience and religion, can only be guaranteed by separating the issues of the *profanum* and the *sacrum*, and thus by effectively separating the state from all churches and other religious communities.

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[25] Statute Law Revision (Northern Ireland) Act 1980, https://www.legislation.gov.uk/ukpga/1980/59/enacted.

[26] *The London Gazette* Issue: 64740, (22 May 2025): 10530.

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Justyna Krzywkowska

University of Warmia and Mazury in Olsztyn
ORCID: 0000-0002-0667-6453

THE ACTIVITIES OF ECCLESIASTICAL COURTS IN POLAND IN THE CONTEXT OF PERSONAL DATA PROTECTION

Abstract: Article 91 of the GDPR establishes the competence to adopt national regulations aimed at strengthening the protection of the rights and freedoms of individuals belonging to a particular church or other religious association with regard to the processing of their personal data. In response, the Catholic Church adopted the General Decree of 13 March 2018 on the protection of individuals with regard to the processing of personal data in the Catholic Church. Ecclesiastical courts frequently process personal data of a particularly sensitive nature, including data relating to family life, health, religious beliefs and the intimate circumstances of the parties, especially in cases concerning the declaration of the nullity of marriage. The processing of such data is based on internal ecclesiastical law (canon law) and specific ecclesiastical regulations on personal data protection. Canon law provisions ensure the level of protection that is essentially equivalent to the EU standards. In practice, the operation of ecclesiastical courts requires strict confidentiality, restricted access to case files and adequate security of procedural documentation. Thus, the protection of personal data in ecclesiastical courts constitutes an area in which canon law, state law and the EU law intersect, requiring a careful balance between the autonomy of the Church and the individual's right to privacy.

Keywords: ecclesiastical judiciary, nullity of marriage, judge, privacy, personal data

Correlation between Canon Law and the State Legal Order

Canon law (the internal law of the Catholic Church) and the state legal order function as two distinct yet coexisting normative systems. In a modern democratic state, the relationship between these systems is based on the principles of autonomy, independence and cooperation for the common good[1]. In Poland, institutional relations between the state and the Church are expressed in Article 25 of the Constitution of the Republic of Poland, which provides that these relations are shaped on the basis of respect for autonomy

[1] T. Jakubiak, "Membership in the Catholic Church and data processing under the Personal Data Protection Act – legislative challenges". In *Personal Data Protection in the Church*, ed. S. Dziekoński, P. Drobek (Warsaw: UKSW, 2016): 125-148.

and mutual independence, while cooperating for the good of the individual and the common good[2]. The catalogue of sources of law generally applicable in Poland, as set out in Article 87 of the Constitution of the Republic of Poland[3], does not include the internal laws of religious communities, including canon law. Nevertheless, norms of canon law may affect the state legal order where such effect is recognized through consent expressed in a statute or an international agreement concluded between the representatives of state and Church authorities. Although decisions of ecclesiastical courts concerning the declaration of the nullity of marriage have no civil-law effects, they are of significant personal importance to the parties to the canonical proceedings.

The state respects the autonomy of the ecclesiastical judiciary (Article 10(3) of the Concordat[4]) and does not interfere with its decisions; consequently, it is not possible to appeal against a decision of an ecclesiastical court before a state court. As stated in Article 6(1) of the Concordat: "The creation of structures proper to the Church is the responsibility of the competent ecclesiastical authority [...]". The autonomy of the state and the Church does not imply complete isolation, as in practice there are numerous points of contact between these normative systems.

A contemporary area of interaction between canon law, and state law[5] and the EU law[6] is the protection of individual rights, including the protection of personal data. Exercising its autonomy, the Catholic Church has introduced its own regulations in this field, which must comply with the fundamental standards of national and European law[7]. Canon law recognizes the right to a good name, the right to privacy and the right to a fair trial. These norms correspond to the constitutional and statutory guarantees of human rights protection, thereby promoting coherence between the two legal systems.

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[2] P. Sobczyk, "The Church and Political Communities" (Warsaw: Santiago, 2005): 85-86.
[3] Constitution of the Republic of Poland. 1997. *Journal of Laws*, No. 78, item 483, as amended.
[4] Concordat between the Holy See and the Republic of Poland. 1998. *Journal of Laws*, No. 52, item 318, as amended.
[5] Act of 10 May 2018 on the protection of personal data. 2019. *Journal of Laws* item 1781.
[6] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). 2016. *Official Journal of the European Union*, L 119.1 (of 4 May 2016).
[7] A. Mezglewski, "Prospects and scope of implementation of new European Union regulations on the processing of personal data by religious associations". In *Personal data protection in the Church*, ed. S. Dziekoński, P. Drobek (Warsaw: UKSW, 2016): 35-52.

The Structure of Ecclesiastical Justice in Poland

Ecclesiastical courts are most commonly associated with proceedings for the declaration of the nullity of marriage, which are frequently and incorrectly referred to in public discourse as "ecclesiastical divorces". The right to bring a claim before an ecclesiastical court is connected with the right to manifest one's religious beliefs, as guaranteed by Article 53(2) of the Constitution of the Republic of Poland.

In Poland, metropolitan courts are located in the capitals of individual metropolitan areas, including the Gdańsk Metropolitan Tribunal, the Metropolitan Court of the Archdiocese of Warmia in Olsztyn, the Lublin Metropolitan Court and the Łódź Metropolitan Tribunal. There are fourteen such courts in total. They hear matrimonial cases at first instance where, for example, the church marriage was celebrated within the archdiocese, one of the parties resides within its territory, or a significant number of witnesses are located there. In addition, metropolitan courts act as appellate courts at second instance. A party dissatisfied with a judgment may lodge an appeal either with the Roman Rota or with another metropolitan court. Metropolitan courts may also adjudicate at third instance if designated by the Apostolic Signatura in a particular case.

Alongside metropolitan courts, diocesan courts operate as courts of first instance. Despite the broad jurisdiction, conferred upon ecclesiastical courts by the Code of Canon Law[8], the scope of cases currently heard is in practice largely limited to petitions for the declaration of the nullity of marriage[9].

Each diocesan bishop is obliged to establish a diocesan tribunal. If this proves impossible, the bishop must request the Apostolic Signatura to extend the jurisdiction of the tribunal of a neighbouring diocese. The diocesan bishop appoints the officials of his tribunal, including a judicial vicar (officialis), who may be assisted by a vice-official. Both the judicial vicar and the vice-official must be priests holding a doctorate or at least a licentiate in canon law and must be at least thirty years of age. Diocesan judges are appointed within the diocese.

An auditor may be appointed to conduct the evidentiary phase of the proceedings under the direction of the judge. In addition, a promoter of justice

[8] *Code of Canon Law*. Polish translation approved by the Episcopal Conference. 2021. Poznań: Pallottinum.

[9] M. Andrzejewski, "Judicial independence in court proceedings". *Scientific Journals of the Doctoral Students' Association of the Jagiellonian University* 15, (2016): 33-51.

must be appointed in each diocese, whose task is to safeguard the public good. In matrimonial cases, a defender of the bond is required; this official is responsible for presenting, on the basis of the case file, those arguments that may reasonably be advanced in favour of the validity of the marriage. This function may be performed by either a cleric or a lay person. A notary must be present at every trial, and the documents drawn up and signed by the notary enjoy public credibility. The same organisational structure applies to courts of second instance.

Mechanisms for the Protection of Personal Data Processed by Ecclesiastical Courts

The foundation of the system for the protection of personal data processed in proceedings before ecclesiastical courts is the Code of Canon Law. Canon 220 of the Code of Canon Law guarantees the right to the protection of privacy. This right derives from the dignity of every human person and is rooted in natural law. Regulations governing the protection of personal data processed within the activities of the Church and its institutional structures are also set out in the General Decree on the protection of individuals with regard to the processing of personal data in the Catholic Church[10], adopted by the Polish Episcopal Conference on 13 March 2018[11]. As emphasised in legal scholarship, the protection of personal data constitutes a specialised manifestation of the broader right to privacy. Personal data are provided to ecclesiastical courts by the parties to the proceedings, witnesses and other participants in canonical proceedings, both in written and electronic form.

Under the General Decree of the Polish Episcopal Conference, the term "processing of personal data" encompasses the collection, storage and consultation of personal data. Ecclesiastical court case files typically include the petitioner's complaint, transcripts of hearings of the parties and witnesses, expert opinions, certificates concerning the parties and witnesses, judicial decisions (such as civil divorce decrees) and medical documentation. When

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[10] Polish Bishops' Conference. 2018. "General Decree on the protection of natural persons in relation to the processing of personal data in the Catholic Church", *Akta Konferencji Episkopatu Polski* 30: 31-45.

[11] J. Krzywkowska, J. Groszkowski, "Data protection from the perspective of the catholic church in Poland – selected problems" *Studia Iuridica* 105, 2024: 79-91.

processing personal data in the course of their activities, ecclesiastical courts are obliged under internal (canon) law to respect the right to privacy. Court personnel must treat participants in the proceedings with particular tact, given the exceptionally sensitive nature of cases concerning the declaration of the nullity of marriage. Even at the stage of initial canonical consultation (the so-called pre-trial phase), attention must be paid to the proper protection of the personal data entrusted to the court. Fundamental safeguards provided by canonical procedural law include the obligation imposed on the parties and witnesses to maintain confidentiality through the taking of an oath, as well as the exclusion of evidence obtained by improper means.

Pursuant to Article 30 of the General Decree of 13 March 2018, a data protection officer has been appointed in each diocese in Poland. The officer's duties include informing controllers, processors and employees who process personal data of their data protection obligations and advising them accordingly; monitoring compliance with the General Decree; and cooperating with the Church Data Protection Inspector. Importantly, there is no obligation to appoint a data protection officer specifically for an ecclesiastical court. The controller of personal data obtained through court files or video surveillance systems is the diocese in which the ecclesiastical court operates. With regard to data security, dioceses have implemented data protection systems based on the adopted personal data security policies. Information clauses concerning the processing of personal data are commonly displayed on ecclesiastical court notice boards or published on diocesan websites.

Ecclesiastical courts are under a duty to exercise particular care to ensure that sensitive data are not disclosed outside the canonical proceedings. Participation in matrimonial cases is strictly limited, and such cases are not public. The parties to the proceedings have the right to inspect the case files only at designated times and under the supervision of an ecclesiastical court official and are not permitted to make copies of the files.

Persons summoned for questioning must take an oath to tell the truth. In addition, each person questioned is obliged to maintain confidentiality until the conclusion of the proceedings regarding the facts addressed during their testimony. This obligation applies not only to the testimony given before an ecclesiastical court, but also to the statements made in a parish office or another designated location. In some ecclesiastical courts, the oath is taken not only prior to giving testimony, but also after answering all general and specific questions. Additional safeguards for the protection of personal data arising from the procedures governing proceedings for the declaration of the nullity of marriage include:

- the obligation for all ecclesiastical court employees to take an oath of official secrecy;
- the possibility for a party to restrict access to their home address and telephone number to ecclesiastical court staff only;
- the omission of witnesses' addresses from decrees approving witnesses and from notifications served on the parties;
- the possibility for the respondent to familiarise themselves with the petitioner's complaint at a later stage of the proceedings;
- limiting permanent access to court files to a restricted group of authorised persons.

Personal Data Processed by Ecclesiastical Court Employees

Ecclesiastical courts admit various types of evidence, including official documents, diaries, photographs and audio or video recordings. For most documents submitted to ecclesiastical courts, no specific formal requirements are imposed by the legislator, leaving it to the parties to ensure that the content is coherent, legible and sufficiently detailed. An ecclesiastical judge may admit any form of evidence to the proceedings, provided that it has been obtained lawfully and fairly.

Ecclesiastical courts hearing cases concerning the declaration of the nullity of marriage process personal data not only of the members of the Catholic Church, as parties or witnesses may also belong to other religious communities or be unbaptised. The initial petition submitted to the ecclesiastical court contains a wide range of personal data, including the petitioner's name and surname (including the birth name), date of birth, permanent or temporary place of residence, telephone number and parish affiliation. In addition, the petition frequently includes information relating to mental disorders, genetic diseases, sexually transmitted infections and other intimate aspects of marital life. Illustrative statements include: "I used drugs and anabolic steroids, which prevented the respondent from becoming pregnant"; "The respondent comes from a family with mental health problems of which I was unaware prior to the wedding. The respondent's grandmother suffered from schizophrenia, and the respondent's brother suffers from recurrent depression"; "Even before the wedding, I was addicted to masturbation and the viewing of pornographic material". These examples demonstrate that the proceedings involve exceptionally intimate and potentially stigmatising information, underscoring the need for robust mechanisms to protect such data.

The documents required to be submitted together with a petition for the declaration of the nullity of marriage typically include the original church marriage certificate, containing details of the spouses, witnesses and celebrant; a copy of the final civil divorce decree or an abridged copy of the marriage certificate containing a notation of divorce; and a list of witnesses, including their names, addresses, telephone numbers and parish affiliation. During the course of the proceedings, additional materials may be submitted, such as medical records and private correspondence, including diaries, letters from the engagement period and screenshots of messages exchanged via social media platforms. The legal basis for the processing of personal data by ecclesiastical courts in matrimonial proceedings is the fact of entering into a canonical marriage or the intention to contract one.

Canon law also provides for exemptions from the obligation to testify in cases where a person fears that their testimony may expose them, their spouse, close relatives or relatives by marriage to defamation, serious harassment or other grave harm.

Rules for Collecting and Storing Ecclesiastical Court Records

Proceedings for the declaration of the nullity of marriage are governed by the principle of written form, which requires that all procedural acts and judicial decisions be duly recorded in writing and authenticated by a notary. Although certain procedural acts may be performed orally (for example, the submission of an oral petition where the petitioner is unable to submit a written complaint), such acts must be formally documented in every case. Thus, an oral petition must be recorded in writing by a notary and incorporated into the court files.

Canon 1472 § 1 of the Code of Canon Law provides that: *Judicial acts, both the acts of the case, that is, those regarding the merits of the question, and the acts of the process, that is, those pertaining to the procedure, must be put in* *writing.* Consequently, only written procedural acts may be taken into account when adjudicating a case, in accordance with the established canonical principle that *quod non est in actis, non est in mundo* ("what is not in the acts does not exist"). Canon law distinguishes between case files (*acta causae*) and procedural files (*acta processus*) within the court records.

Case files concern the substantive subject matter of the dispute and are decisive for the judgment on the merits. They include, inter alia, the petitioner's complaint, transcripts of the testimony of the parties and witnesses, expert opinions, certificates of qualification, and the judgment. These files may also be relevant beyond the specific canonical proceedings in which they were created. For example, if proceedings for the declaration of the nullity of marriage are reintroduced on different grounds or involving another spouse, the earlier case files may be incorporated into the new proceedings.

Procedural files, by contrast, document the individual stages of the canonical trial. They include such documents as the decree establishing the tribunal, the decree admitting or rejecting the petition, the decree formulating the doubt, the decree instructing the case, the decree approving witnesses, the decree ordering the publication of the acts, the decree closing the evidentiary phase, and the decree transmitting the acts to the judges for deliberation. These files are relevant exclusively to the specific proceedings to which they relate.

Court files must be stored in a locked room and adequately protected against unauthorised access. Under no circumstances should unsecured files be left accessible outside the tribunal's working hours. Current case files may only remain on a desk for the duration of active procedural work.

Court records must be prepared with particular care. Each document received by the court must be stamped by the notary with the date of receipt and assigned a reference number from the correspondence register. Documents drawn up by ecclesiastical court personnel must indicate clearly the place and date of preparation and bear handwritten signatures. Individual decrees require the signatures of the presiding judge of the collegiate tribunal and the notary, whereas notifications of judicial decrees served on the parties require only the notary's signature. Judgments must be signed by all adjudicating judges and the notary[12].

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[12] J. Krzywkowska, „Ochrona danych osobowych w sądach kościelnych w Polsce". In *Homini et Ecclesiae serviens. Księga pamiątkowa dedykowana Księdzu Profesorowi Henrykowi Stawniakowi SDB z okazji 70. rocznicy urodzin*, ed. A. Domaszk, R. Kamiński (Warsaw: UKSW, 2022): 223-229.

Canon 1473 of the Code of Canon Law provides that *Whenever judicial acts require the signature of the parties or witnesses and a party or witness is unable or unwilling to sign, this is to be noted in the acts; the judge and the notary are also to attest that the act was read to the party or witness verbatim and that the party or witness was either unable or unwilling to sign*.

Pursuant to canon 1472 § 2 of the Code of Canon Law, all pages of the acts must be numbered and authenticated. This responsibility rests with the notary (Canon 1474 § 1). The numbering of the acts enables verification that no documents have been removed or destroyed, particularly when a party exercises the right to inspect the case files during the publication of the acts. Following the conclusion of proceedings at a given instance, the notary must also prepare a table of contents of the court records.

Where an appeal is lodged, the complete acts or an authenticated copy thereof are transmitted to the higher tribunal. As provided in canon 1474 § 2 of the Code of Canon Law, *If the acts were written in a language unknown to the higher tribunal, they are to be translated into one known to that tribunal, with due precautions taken that the translation is a faithful one.*

Furthermore, canon 1475 § 1 of the Code of Canon Law stipulates that, following the conclusion of the trial, documents that constitute private property must be returned to their owners, while authenticated copies are retained in the court files. For example, an original civil divorce decree submitted by a party must be returned after the proceedings have concluded. Therefore, the ecclesiastical notary is responsible for the safekeeping of the court records during the proceedings and, upon their completion, for transferring the complete, numbered, stamped and authenticated files to the court archives (Canon 1472 § 2).

Access to Court Files

Proceedings for the declaration of the nullity of marriage are not public. The number of persons present during the examination of a party or witness is limited to what is strictly necessary. In addition to the judge (or auditor) and the notary, canon law permits the presence of an advocate and the defender of the bond. A party to the proceedings may not be present during the examination of the other party or of witnesses, including those whom that party has proposed.

A party to the proceedings has the right to examine the evidence during the publication of the acts. This stage constitutes one of the fundamental procedural phases, as it guarantees the opportunity to present one's position and submit observations on the evidence gathered (Canon 1598 § 1). In the decree ordering the publication of the acts, the presiding judge of the collegiate tribunal determines the date on which the parties or their representatives may attend the tribunal office in order to inspect the court files. Where a party resides in a diocese other than that in which the tribunal is seated, the acts may be inspected at the seat of another tribunal located closer to the place of residence of the petitioner or respondent.

During the inspection of the acts, parties are not permitted to make alterations, deletions or additions to the files, nor may they obtain copies or take photographs of the documents. They are, however, entitled to take notes, which facilitates subsequent reference to the evidence.

Advocates, by contrast, enjoy broader access to court files and may inspect them at any time. This enables them to assess, even prior to the publication of the acts, whether the gathered evidence is sufficient to support a declaration of the nullity of marriage. Where such an assessment is negative, an advocate may take appropriate procedural steps, such as requesting the examination of additional witnesses or the submission of further documents. In practice, however, advocates most commonly examine the case files following their publication by decree of the presiding judge. This right is directly safeguarded by an obligation imposed on the judge, and any failure to observe it is regarded by the legislator as a denial of the right of defence. Such a violation results in the irremediable nullity of the judgment and, consequently, of the entire proceedings (Canon 1620 § 7).

An advocate is entitled to request a copy of the acts or of specific documents obtained during the evidentiary phase, at the expense of the party represented. Such copies are prepared by a notary at the request of the judge. This provision is of particular practical importance for advocates who do not have continuous physical access to the tribunal files. In the absence of justified reasons, an advocate should not be refused copies of documents essential for the preparation of the defence or for responding to the observations of the defender of the bond. At the same time, advocates are required to ensure the proper safeguarding of any copies obtained. It is presumed that the advocates authorised to act before ecclesiastical courts will not misuse copies of court documents or employ them in secular proceedings in unrelated cases.

Moreover, advocates are not permitted to disclose copies of the acts to the parties[13]. In order to avert grave dangers (*ad gravissima pericula evitanda*), such as serious harm to the Church, the judge may order that a particular document not be made available to any party, provided that the right of defence remains fully preserved (Canon 1598 § 1). This exception, however, must not be treated as a general rule. The ecclesiastical judge is required to apply it restrictively and strictly within the limits established by the law.

Summary

A diocesan data protection officer has been appointed in each diocese in Poland. There is no obligation to appoint a data protection officer specifically for an ecclesiastical court, as it is sufficient that the officer be appointed at the diocesan level.

The use of modern information technologies presents a challenge for the ecclesiastical judiciary. It is necessary to ensure that IT systems containing personal data, such as transcripts of statements by parties or witnesses, are adequately secured. Computers must be protected with firewalls, antivirus software, and password policies requiring regular updates. It is recommended that only computers not connected to the internet be used to prepare transcripts of testimony. Computers storing personal data must not be accessible to unauthorised persons.

To minimise the risk of compromising personal data obtained during ecclesiastical proceedings, the court instructs the parties to exercise due diligence in safeguarding passwords used to access court correspondence by email and not to disclose them to unauthorised individuals. The ecclesiastical court also informs parties of the official email address from which electronic court correspondence will be sent.

Personal data are processed solely to the extent necessary for the conduct of the proceedings. A range of organisational and technical security measures is in place, including passwords, locked cabinets, and restricted access to court files. Overall, the procedures established under canon law to safeguard personal data appear to be adequate.

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[13] M. Różański, "Projekt katalogu dobrych praktyk. Opracowanie i udostępnianie archiwaliów w archiwach kościelnych". In *Archiwa kościelne w niepodległej Polsce*, ed. A. Laszuk (Warszawa: Naczelna Dyrekcja Archiwów Państwowych, 2020): 241-245.

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Agata Opalska-Kasprzak

University of Siedlce
ORCID: 0000-0002-4872-0715

JUSTICE IN CRIMINAL PROCEEDINGS AS A NORMATIVE AND AXIOLOGICAL CATEGORY

Abstract: The article undertakes an analysis of justice in criminal proceedings as both a normative and axiological category. The starting point is the assumption that justice constitutes one of the fundamental objectives of criminal proceedings, although its meaning remains ambiguous and subject to diverse interpretations. The aim of the study is to examine justice in criminal proceedings in its two principal dimensions – substantive and procedural – and to determine the relationship between them. Substantive justice is associated with the proper application of substantive criminal law norms, the establishment of substantive truth, and the attribution of responsibility to the appropriate person. Procedural justice, in turn, is identified with the standard of a fair trial, encompassing in particular the presumption of innocence, the right to defence, as well as the independence and impartiality of the court. The principal research problem concerns the question of whether justice in criminal proceedings should be identified primarily with the correctness of the judicial decision (substantive justice) or rather with compliance with the standards of a fair trial (procedural justice), and how these two dimensions may be reconciled in the practice of applying the law. The discussion is supplemented by an analysis of the historical case of the so-called "meat scandal," illustrating the consequences of violating the principles of procedural justice. The article advances the thesis that procedural justice sets the limits of permissible actions by procedural authorities and constitutes a prerequisite for recognising a decision as just. In conclusion, it is argued that justice in criminal proceedings has the character of a regulative ideal – it determines the direction of action for procedural authorities, although it cannot always be fully realised in practice.

Keywords: justice, substantive justice, procedural justice, fair trial, criminal procedure, presumption of innocence, human rights

Introductory Remarks

The problem of justice in criminal proceedings constitutes one of the key issues both in legal theory and in the practice of its application. Although this concept is commonly used and intuitively understood, it is not unambiguous and is subject to diverse interpretations, depending on the adopted axiological perspective, systemic context, and the individual situation of the participants in the proceedings. The multidimensional nature of the category of justice requires that its analysis take into account not only the normative context of binding legal regulations, but also the broader philosophical and legal background, as well as the functions performed by criminal law in a democratic state governed by the rule of law. Thus, justice constitutes not only the objective of criminal proceedings, but also one of the fundamental criteria of their social legitimacy. At the same time, within criminal proceedings there emerges a tension among different ways of understanding justice, such as the correctness of the decision, conformity with the law, protection of individual rights, or the realisation of the public interest. This tension is particularly evident in the situations where the pursuit of procedural efficiency remains in conflict with the necessity to protect individual rights. As a result, justice cannot be treated as a one-dimensional category, but rather as a complex construct requiring balancing competing values.

The aim of this study is to analyse justice in criminal proceedings in two fundamental dimensions, substantive and procedural, and to attempt to determine the relationship between them. In particular, an attempt is made to answer the question of whether justice can be effectively realised in the practice of the administration of justice, or whether it remains primarily an idealised construct of a regulative nature[1]. In the preparation of this article, the formal-dogmatic method and the historical method were primarily employed, which allows both for the analysis of binding normative solutions and for capturing their origins and evolution. In addition, elements of the analytical method were applied in order to clarify the conceptual distinctions between different understandings of justice. The adopted research perspective also makes it possible to formulate conclusions concerning contemporary trends in the understanding of justice in criminal proceedings.

Substantive Justice As the Objective of Criminal Proceedings

The relationship between justice and law is of a fundamental and historically grounded nature. Already the Roman jurist Ulpian defined justice as "the constant and perpetual will to render to each his due". Importantly, the Latin concepts of *ius* (law) and *iustitia* (justice) indicate a close connection between these two categories, also at the linguistic level. Contemporary legal

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[1] Cf. M. Cieślak, "Polish Criminal Procedure. Basic Theoretical Assumptions" (Warsaw, 1984), *passim.*

theory, however, emphasises that justice is not a homogeneous category. As noted by M. Cieślak, despite interpretative differences, it cannot be abandoned, since “law without justice would be a lifeless wreck”[2]. This means that justice performs a legitimising function in relation to law, going beyond its purely formal character.

One of the fundamental objectives of criminal proceedings is the realisation of substantive justice, understood as the proper application of the norms of substantive criminal law. Pursuant to Article 2 § 1 point 1 of the Code of Criminal Procedure, criminal proceedings should be aimed at ensuring that “the perpetrator of an offence is identified and held criminally responsible”[3]. The achievement of this objective requires, inter alia, striving to establish the material truth (understood as the most complete possible reconstruction of the procedural reality), attributing guilt to the appropriate person, and imposing an adequate sanction. However, this does not automatically mean the achievement of justice in the axiological sense. A judgment that is consistent with positive law, nevertheless, may be perceived as unjust from a social or individual perspective[4].

The pursuit of establishing the material truth leads to the expansion of the scope of evidentiary activities. In practice, this includes both traditional measures, such as detention or search, as well as instruments that interfere more deeply with individual rights, such as covert surveillance, obtaining telecommunications data, and operational and intelligence activities[4]. In this context, a tension arises between the effectiveness of criminal prosecution and the protection of individual rights and freedoms. The literature indicates that excessive instrumentalisation of criminal proceedings may lead to a relativisation of evidentiary standards, and even to the acceptance of evidence obtained in violation of the law. This problem is particularly visible in debates concerning the admissibility of evidence obtained in violation of the law, where the tension between the search for truth and the protection of individual rights becomes especially acute.

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[2] Ibid. Cf. Ulpian, [in:] *Digesta Iustiniani, 1,1,10 pr*., in: *The Digest of Justinian,* ed. T. Mommsen, P. Krueger, trans. A. Watson (Philadelphia, 1985); cf. J. Wróblewski, “Values and Judicial Decision-Making” (Warsaw, 1973): 52-60.

[3] Act of 6 June 1997 – Code of Criminal Procedure (consolidated text: Journal of Laws of 2026, item 490, as amended).

[4] S. Waltoś, P. Hofmański, “Criminal Proceedings. An Outline of the System” (Warsaw, 2020): 41-45; G. Radbruch, “Statutory Lawlessness and Supra-Statutory Law” (Warsaw, 2000), passim.

In this context, particular importance is attached to the question of the limits of permissible state interference in the sphere of individual rights. The pursuit of establishing the material truth must not lead to the instrumental treatment of participants in criminal proceedings. It is emphasised in the legal literature that the effectiveness of criminal prosecution cannot justify the violation of fundamental procedural guarantees, as this would undermine the legitimacy of the administration of justice itself. For this reason, contemporary legal systems increasingly move away from absolutising the principle of material truth in favour of the model that balances the effectiveness of proceedings with the protection of individual rights. This means that not every "truth" established in the proceedings may be regarded as legally relevant if it has been obtained in violation of the standards of a fair trial[5]. Therefore, it appears justified to challenge the view according to which substantive justice may constitute an autonomous and overriding objective of criminal proceedings. Although this approach is intuitively appealing, it leads to a dangerous prioritization of the effectiveness of criminal prosecution at the expense of procedural guarantees. In legal doctrine and in the practice of law application, one may observe a tendency to equate justice with the correctness of the outcome, understood as the establishment of "objective truth" and the attribution of responsibility to the perpetrator. However, such an approach overlooks the fact that the manner in which this outcome is reached has constitutive significance for its evaluation. Consequently, it leads to the acceptance of the solutions in which violations of individual rights are justified by the pursuit of a "just" result. This position should be assessed critically. The adoption of the primacy of substantive justice, detached from procedural standards, would lead to the instrumentalisation of criminal proceedings and weakening their guarantee function. Accordingly, substantive justice cannot be realised in an absolute manner, but only within the limits defined by procedural norms.

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[5] Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws No. 78, item 483, as amended); T. Grzegorczyk, J. Tylman (eds.), "Polish Criminal Proceedings" (Warsaw, 2022); cf. also: L. Garlicki, K. Wojtyczek In *Constitution of the Republic of Poland. Commentary*, Vol. II, 2nd ed., ed. M. Zubik (Warsaw, 2016), Article 31; W. Skrzydło. In *Constitution of the Republic of Poland. Commentary*, 7th ed. (Warsaw, 2013), Article 31.

Procedural Justice and the Standard of a Fair Trial

The second important dimension of justice is procedural justice identified with the principle of a fair trial[6]. As noted by S. Waltoś, these concepts are often treated as equivalent. The fundamental elements of a fair trial include the principle of the presumption of innocence (Article 5 § 1 of the Code of Criminal Procedure), the right to defence, the examination of the case without undue delay, as well as the impartiality and independence of the court[7].

The right to a fair trial is provided for in numerous normative acts, both at the domestic and international level. Article 45 of the Constitution of the Republic of Poland states that "everyone shall have the right to a fair and public hearing of their case, without undue delay, before a competent, independent, impartial and objective court". The Universal Declaration of Human Rights of 1948 provides in Article 10 that "everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him"[8]. In its turn, Article 14 of the International Covenant on Civil and Political Rights refers to the right to a fair trial, stating that "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law in the determination of any criminal charge against him". A similar provision is contained in Article 6(1) of the European Convention on Human Rights of 1950[9].

The case law of the European Court of Human Rights has a significant influence on shaping procedural justice. The Court has emphasised repeatedly

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[6] In numerous publications and in the case law of the European Court of Human Rights, the terms "fair" and "equitable" trial are used interchangeably; see more: P. Wiliński (ed.), "Fair Criminal Trial in the Case Law of Polish and International Courts" (Warsaw, 2009).

[7] Act of 6 June 1997 – Code of Criminal Procedure (consolidated text: Journal of Laws of 2026, item 490, as amended); S. Waltoś, P. Hofmański, "Criminal Proceedings. An Outline of the System" (Warsaw, 2020), *passim*.

[8] Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations on 10 December 1948 (Resolution 217 A (III)).

[9] Convention for the Protection of Human Rights and Fundamental Freedoms, drawn up in Rome on 4 November 1950, as amended by Protocols Nos. 3, 5 and 8 and supplemented by Protocol No. 2 (Journal of Laws of 1993, No. 61, item 284, as amended), which, in accordance with English legal terminology, refers to the "right to a fair trial", understood as the right to a fair hearing or the right to a fair judicial process; these differences, as emphasised in the legal literature, result from linguistic distinctions. Cf. also: P. Hofmański, "The European Convention on Human Rights and Its Significance for Substantive, Procedural and Enforcement Criminal Law" (Białystok, 1993); International Covenant on Civil and Political Rights, opened for signature in New York on 19 December 1966 (Journal of Laws of 1977, No. 38, item 167).

that a violation of the presumption of innocence may already occur through suggesting the guilt of the accused prior to the delivery of a final judgment[7]. The case law of the European Court of Human Rights clearly indicates that the fairness of criminal proceedings is of a comprehensive nature and encompasses both respect for the presumption of innocence, access to a defence lawyer from the earliest stage of the proceedings, and the prohibition of the use of the evidence obtained in violation of individual rights[10]. In particular, the Court has stressed that the fairness of proceedings must be assessed as a whole, taking into account all stages of the process, including pre-trial proceedings. Moreover, this case law confirms that the fairness of proceedings cannot be assessed solely through the prism of their outcome, but must take into account the compliance of the entire course of the proceedings with procedural guarantees.

An analysis of criminal proceedings leads to the conclusion that justice has a relative and intersubjective character, which results from the conflict of procedural interests and the pluralism of values. Individual participants in the proceedings – the accused, the injured party, the prosecutor, and the court – may perceive a just outcome differently. This phenomenon stems from differences in procedural interests, divergent evaluations of evidence, and subjective axiological convictions.

The "Meat Scandal" As an Example of a Violation of Procedural Justice

The analysis of historical cases makes it possible to capture the practical consequences of violations of the standards of procedural justice. One of the most illustrative examples is the so-called "meat scandal" of the 1960s. In the course of those proceedings, numerous violations occurred, including the application of summary procedure instead of the proper procedure, the restriction of the right to appeal, and the expansion of the catalogue of penalties, including the imposition of the death penalty. In 2004, the Supreme Court set aside the judgments issued at that time, pointing out their manifest inconsistency with the law. As emphasised in the reasoning, this decision constituted rather a "rehabilitation of the administration of justice" than a full rehabilitation of the convicted persons[8]. This example demonstrates that the

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[10] Cf. Allenet de Ribemont v. France, application no. 15175/89; Salduz v. Turkey, application no. 36391/02; Barberà, Messegué and Jabardo v. Spain, application no. 10590/83, and others.

lack of procedural fairness leads to undermining the very essence of justice, regardless of the substantive assessment of the acts[11]. This case demonstrates that even the formal fulfilment of the conditions of criminal liability is not sufficient to regard a decision as just. The lack of procedural fairness leads to a loss of trust in state authorities and undermines the authority of the administration of justice. Consequently, procedural justice appears as a necessary condition for the legitimisation of judicial decisions.

In light of the foregoing considerations, it appears justified to adopt a complementary-corrective model of the relationship between substantive and procedural justice. This model fits within the constitutional standard of a state governed by the rule of law, in which the protection of individual rights sets the limits of permissible interference in the name of the public interest. Within this model, substantive justice determines the objective of criminal proceedings, understood as the correct attribution of criminal responsibility to the appropriate person, whereas procedural justice defines the conditions under which this objective may be pursued.

The relationship between substantive and procedural justice is asymmetrical in nature. Procedural justice performs a corrective function in relation to substantive justice, setting the limits of permissible methods of establishing the truth. This means that even accurate factual findings and correct legal subsumption cannot be regarded as just if they have been achieved in violation of fundamental procedural guarantees. Consequently, justice in criminal proceedings cannot be identified solely with the outcome of the proceedings, but must be assessed in light of the entirety of the procedure leading to its issuance. Thus, substantive and procedural justice remain in a relationship of complementarity, albeit with a clear functional primacy of the latter. Therefore, even substantively correct outcomes cannot legitimise the proceedings that fail to meet fundamental procedural standards.

Conclusions

There is no doubt that the essence of criminal proceedings, both in the model sense and in a specific case, is the fair examination of the case and the

[11] https://ipn.gov.pl/pl/historia-z-ipn/231431,Afera-miesna-20-listopada-1964-r-rozpoczal-sie-proces -oskarzonych.html [accessed: 10 April 2026]; https://przystanekhistoria.pl/pa2/teksty/104377, Afera-miesna-Przebieg-procesu-prasa-akta.html [accessed: 10 April 2026].

delivery of a just judgment. It is equally evident that ensuring a fair trial constitutes one of the fundamental obligations of a democratic state governed by the rule of law. At the same time, specifying the meaning of the concept of "justice" and its practical applicability remains a complex issue. In delivering a judgment, the court acts in the conviction that justice has been done; however, individual participants in the proceedings may assess its outcome differently. Each of them seeks to realise their own understanding of justice, shaped by their procedural interest and adopted axiological assumptions.

Consequently, it must be recognised that justice in criminal proceedings cannot be perceived solely as the final outcome of the proceedings, but rather as a process realised at each of its stages. The ultimate assessment of the justice of a decision depends not only on its content, but also on the manner in which it has been achieved. Thus, substantive and procedural justice remain in a close relationship of complementarity, and their balancing constitutes one of the most significant challenges of contemporary criminal proceedings. In this sense, justice in criminal proceedings functions not only as an objective, but also as a limiting principle of the process itself. Accordingly, justice in criminal proceedings should be understood as a dynamic process shaped by the interaction between normative standards and axiological values.

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Ivan Perepelkin

Jagiellonian University
ORCID: 0009-0002-0851-9301

PARTNERSHIP BETWEEN KAZAKHSTAN AND THE UN IN THE FIELD OF HUMAN RIGHTS

Abstract: This article is devoted to the analysis of Kazakhstan's cooperation with the United Nations (UN) in the field of promoting and protecting human rights. The study is based on a comprehensive examination of Kazakhstan's multifaceted efforts aimed at strengthening the legal and institutional framework in the country to ensure the observance and protection of civil rights and freedoms. The analysis covers key documents, initiatives, and programs implemented by Kazakhstan in collaboration with the UN as part of strategies to improve the human rights situation. Special attention is given to critical aspects such as Kazakhstan's participation in international human rights covenants and conventions, the activities of national institutions in promoting civil rights, and the effectiveness of existing monitoring and reporting mechanisms to international bodies. The article also highlights the challenges and issues faced by Kazakhstan in fulfilling its obligations to protect civil human rights and provides recommendations for enhancing cooperation with the UN and other international partners in this area. The article contributes to a deeper understanding of the dynamics and specifics of Kazakhstan's interaction with the UN in the context of global efforts to ensure the universality and indivisibility of human rights.

Keywords: UN, civil rights, international cooperation, human rights mechanisms, monitoring of human rights compliance.

Introduction

In the context of globalization, the importance of protecting human rights is significantly increasing, highlighting the critical need for international cooperation in this field. A particularly vital role in this process is played by the interaction between states and the United Nations (UN), which serves as the largest international institution in the realm of human rights. Through its structures – such as the Human Rights Council, the Office of the High Commissioner for Human Rights (OHCHR), and specialized treaty bodies – the UN develops and promotes global human rights standards. Fundamental documents in this domain include the 1948 Universal Declaration of Human Rights and the International Covenants on Civil, Political, Economic, Social, and

Cultural Rights. These documents define universal rights and freedoms that states commit to uphold and serve as benchmarks for assessing compliance with these rights.

Globalization, which fosters the exchange of ideas and social norms, has significantly reinforced the role of the UN in human rights protection, making the safeguarding of rights and freedoms a universal task that requires intergovernmental collaboration. The UN's monitoring and reporting mechanisms, such as the Universal Periodic Review (UPR), enable tracking progress and assessing how effectively countries, including Kazakhstan, fulfil their human rights obligations. These mechanisms help states identify problematic areas, engage civil society, and enhance government accountability to their citizens.

This study focuses on analysing Kazakhstan's cooperation with the UN in the context of protecting human rights. Specifically, it evaluates the effectiveness of this collaboration, the results achieved, and potential avenues for further improvement. Particular attention is given to monitoring and reporting mechanisms that allow an assessment of how well Kazakhstan fulfils its international human rights commitments. The UN monitoring and reporting system plays a pivotal role in maintaining constructive dialogue with Kazakhstan and other countries. For example, Kazakhstan has participated in the Universal Periodic Review (UPR) since 2009, which records achievements and identifies areas requiring attention and reform. In the realm of freedom of assembly and expression, Kazakhstan receives recommendations to improve its legislative framework, contributing to the further development of its legal environment.

The analysis examines various documents and agreements between the parties, identifies successful practices, and highlights areas needing improvement. This study also aims to uncover how international human rights standards are integrated into Kazakhstan's national legislation and practices. The impact of cooperation with the UN is evident in Kazakhstan's efforts to improve its legislation, particularly in the areas such as women's rights, child protection, combating domestic violence, and the protection of persons with disabilities. Many legal reforms in these fields are linked to the recommendations provided by the UN.

Moreover, analysing Kazakhstan's interaction with the UN is crucial for understanding its contribution to the development of the national legal system and its impact on international human rights obligations. This helps to gain deeper insights into the role of the UN in advancing global human rights standards and their influence on political and social processes in Kazakhstan[1]. The findings and recommendations derived from this study can make a significant contribution to political science and practice, enhancing the understanding of the effectiveness of international cooperation in this critical area.

Results

The cooperation between the Republic of Kazakhstan and the United Nations (UN) in the field of human rights protection represents a significant aspect of the country's foreign policy. This stems both from Kazakhstan's aspiration to strengthen its international standing and its need to implement sustainable democratic and socio-economic transformations. Since gaining independence and joining the UN in 1992, Kazakhstan has participated actively in various initiatives aimed at protecting human rights and supporting sustainable development, reflecting its commitment to adhering to international standards on individual rights and freedoms.

Kazakhstan's collaboration with the UN focuses on protecting civil, political, economic, social, and cultural rights. Within this partnership, the country fulfils the requirements of key international documents such as the International Covenant on Civil and Political Rights, engages with the UN Human Rights Council, and regularly undergoes the Universal Periodic Review (UPR). These processes ensure international oversight of Kazakhstan's compliance with its human rights obligations. Through the UN reports and recommendations, Kazakhstan has implemented a series of legislative and institutional reforms aimed at enhancing legal guarantees for human rights and freedoms. These reforms are particularly crucial in light of the country's efforts to establish a robust civil society and strengthen its legal system.

One of Kazakhstan's primary objectives in the field of human rights is to enhance its national legal framework to align with international obligations and standards. The key areas of the reform include improving the protection of minority rights, humanizing prison conditions, and expanding civil liberties, such as freedom of speech and the right to peaceful assembly.

[1] А. Аласттал, „Механизмы правозащитных учреждений ООН в защите прав человека" (Алматы: Дайк-Пресс, 2023): 238.

To achieve these goals, Kazakhstan has enacted new laws and amended the existing ones, allowing the state not only to improve domestic human rights compliance but also bolster its international reputation. Increased transparency in legislative processes and adherence to universal human rights standards contribute to the development of a legal system more open to public scrutiny, strengthening trust from civil society. Consequently, these reforms not only foster a more equitable and stable legal environment in the country, also enhance Kazakhstan's credibility as a responsible actor in the global human rights system.

Developing and strengthening institutional mechanisms is a central component of Kazakhstan's human rights strategy. The country places a particular emphasis on ensuring judicial independence and improving the effectiveness of human rights institutions to build public trust in the legal system and protect human rights more effectively. A critical area of the reform includes the establishment of mechanisms to prevent torture and other forms of cruel treatment, which marks a significant step toward ensuring the dignity and rights of every citizen.

Education and raising awareness about human rights also play a pivotal role in Kazakhstan's strategy. The implementation of educational programs and public awareness campaigns fosters a stronger societal understanding of human rights and the importance of their protection. Particular attention is given to training law enforcement personnel and judicial system employees, helping to instil a profound respect for human rights in their daily work. These initiatives not only enhance the professional competencies of state employees, but also lay the foundation for the long-term cultivation of a human rights culture in the country.

Active participation of civil society in these processes strengthens transparency and accountability in the government actions, providing independent oversight of the state's compliance with its human rights obligations. Civil society, including non-governmental organizations and public associations, plays a vital role in promoting transparency, thereby reinforcing the legitimacy and effectiveness of the state reforms.

Finally, international cooperation and the fulfilment of commitments to the global community are the key aspects of Kazakhstan's strategy. The country's regular participation in international reviews, as well as adherence to the norms and standards outlined in the international treaties and conventions, contribute to improvements in the domestic human rights situation and strengthen Kazakhstan's international standing as a responsible and reliable partner. Such cooperation not only supports the development of the national legal system but also enhances Kazakhstan's reputation in the realm of global human rights protection.

The Constitution of the Republic of Kazakhstan plays a crucial role in ensuring and protecting civil and political rights. As the primary legal document, it enshrines the fundamental principles of statehood and the social structure of the country. Serving as the supreme law, the Constitution defines the foundations of state-citizen relations and imposes obligations on the state authorities to uphold, protect, and guarantee the rights and freedoms of every individual. The rights and freedoms outlined in the Constitution establish the legal basis for the legislative and enforcement activities of all state bodies, positioning the Constitution as an unassailable legal guide and a source of the highest legal standards mandatory for implementation.

The Constitutional Court of the Republic of Kazakhstan plays a crucial role in upholding and protecting constitutional rights, being vested with the authority to review laws and normative acts for compliance with the Constitution. The Constitutional Court ensures independent oversight of adherence to the constitutional norms, considers cases related to the constitutionality of laws and legal acts, and has the power to annul those that contradict the Constitution. This function establishes an effective judicial mechanism for protecting citizens' rights and freedoms while preventing potential human rights violations at the legislative and law enforcement levels[2].

In Kazakhstan, the protection of human rights is supported by an extensive network of institutions and organizations, including national commissions, the Ombudsman's office, and non-governmental organizations (NGOs). These structures play a critical role in monitoring compliance with human rights, providing legal assistance to victims of violations, educating the public, and fostering a human rights culture. Together, they form essential components of the human rights protection system, performing both governmental and societal functions and thereby ensuring a multi-tiered approach to safeguarding human rights and freedoms. In this context, it is

[2] В. Карраро, „Чем больше, тем лучше? Взаимодополняемость институтов Организации Объединенных Наций в борьбе с пытками" (Алматы: Дайк-Пресс, 2025): 378.

essential to analyse the specific functions of each of these institutions, their achievements, as well as the challenges and tasks they face.

A prominent example of the integration of international standards in Kazakhstan is the work of the National Commission on Human Rights under the President of the Republic of Kazakhstan, established in 2013. This state institution coordinates the actions of government bodies in the field of human rights protection, develops proposals for improving legislation, promotes international cooperation, and addresses citizens' complaints about rights violations. The Commission's key objectives include eliminating human rights violations, formulating recommendations to strengthen the national human rights protection system, and preparing analytical reports to enhance law enforcement practices. The Commission's activities aim to integrate international human rights standards into national legislation and administrative practices, thereby reinforcing the alignment of Kazakhstan's legal system with global norms.

The institution of the Human Rights Ombudsman in Kazakhstan was established under the Law "On the Commissioner for Human Rights in the Republic of Kazakhstan", adopted in 2002. The Ombudsman addresses citizens' complaints regarding violations of rights and freedoms, including the cases involving state bodies, private organizations, or individuals[3]. Consequently, the Ombudsman's activities are central to the national human rights protection system, acting as a bridge between citizens and state structures while ensuring oversight of citizens' rights compliance. The Ombudsman of Kazakhstan is empowered to file inquiries with state bodies, initiate investigations, issue recommendations, and disseminate information on human rights. These activities contribute to public legal awareness and increase trust in state mechanisms for human rights protection.

Another significant aspect is the independence of ombudspersons and national human rights institutions from the executive branch. Genuine independence ensures the possibility of objective and impartial analysis of human rights violations, as well as protection from external pressure. In the countries where national human rights institutions operate independently, the citizens can rely on the safeguarding of their rights regardless of political interests. In Kazakhstan and other nations, the effectiveness of the

[3] К. Балабиев, „Участие Казахстана в сотрудничестве с Организацией Объединенных Наций (ООН) в области защиты и продвижения прав человека" (Алматы: КазНПУ имени Абая, 2022): 174.

ombudsperson's activities is directly linked to their independence, which is essential for the sustainable development of the human rights protection system as a whole.

Kazakhstan is also making efforts to strengthen other human rights mechanisms, including national commissions and institutions that collaborate with civil society and government agencies. These bodies create platforms for citizens to file complaints, seek protection in cases of rights violations, initiate investigations, and raise issues with state authorities[4]. The unique position of these institutions enables them to conduct independent investigations and hold both state and private entities accountable for human rights violations. The effectiveness of such institutions depends on their independence and the level of resources allocated for their operations.

One of the most important functions of ombudspersons and human rights institutions is educational activities aimed at raising awareness about human rights among a broad audience, including public officials[5]. Such activities comprise a wide range of educational programs, including seminars, training sessions, conferences, and public discussions, which contribute to fostering a culture of respect for human rights. The implementation and development of educational programs by human rights institutions not only enhance the understanding of legal norms, but also create conditions for a more open dialogue about rights and freedoms. This is particularly relevant in overcoming cultural and political barriers to discussing human rights issues[6].

A key focus of the educational efforts of ombudspersons is their work with public officials. Conducting specialized training sessions and seminars tailored for law enforcement officers, social service workers, and judges enhances their competencies in the field of human rights and increases their awareness of international human rights standards[7]. This aspect is crucial because public officials are directly responsible for key functions related to the protection of rights and the maintenance of law and order.

[4] Е. Картаева, „Управление развитием: насущные проблемы и возможные варианты решений" (Алматы: Дайк-Пресс, 2022): 432.
[5] А. Хамад, „Механизмы правовой защиты прав человека в глобинском регулировании" (Алматы: Дайк-Пресс, 2024): 143.
[6] В. Серохин, „Признание и имплементация международных стандартов в области прав человека в отечественном законодательстве: разоблачение по казахстанскому законодательству" (Алматы: АО «САК», 2025): 161.
[7] А. Арыстанбекова, „Объединенные Нации и Казахстан" (Алматы: Дайк-Пресс, 2022): 230.

Special attention is given to the collaboration of national human rights institutions with international organizations, which opens avenues for exchanging experiences and best practices. Participation in international forums and human rights projects organized by the UN, OSCE, and other organizations allows not only for the study of other countries' experiences but also for adapting the most effective human rights mechanisms for national application. This process includes engagement with international experts, the development of joint projects, and consultation on issues related to human rights protection.

International cooperation also provides access to additional resources, including methodological support, funding, and independent evaluations of effectiveness. Furthermore, the adoption of international standards and their integration into national human rights practices contribute to creating a more transparent and stable legal environment. This reduces the likelihood of rights violations and strengthens public trust in legal institutions.

Non-governmental organizations (NGOs) play a primary and, arguably, the most important role in the country's human rights system. Kazakhstan has over 20 major NGOs working on human rights at various levels, including monitoring law enforcement practices, documenting violations, and providing legal assistance to victims of rights violations. These organizations often serve as the first point of contact for citizens facing violations, offering independent and objective support. For instance, the Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR), the Kazakhstan Helsinki Human Rights Federation, the Public Foundation "Institute of Equal Rights and Equal Opportunities", and the "Young Lawyers Club" Foundation bring together legal professionals and human rights advocates to promote legal awareness and monitor compliance with human rights standards.

Another critical task for Kazakhstan's human rights institutions is fostering international cooperation. Organizations and state institutions, such as the Ombudsman and the National Commission, actively participate in international human rights forums and projects, allowing them to exchange experiences and adopt best practices from foreign colleagues. For example, Kazakhstan's participation in the UN Universal Periodic Review (UPR) enables the country to present its human rights achievements and receive recommendations for improving its human rights system from other UN member states.

This mechanism facilitates the integration of international standards into national human rights practices and enhances the overall protection of rights and freedoms. One of the key international tools for monitoring and improving human rights conditions is the Universal Periodic Review conducted by the UN Human Rights Council. This process is a vital instrument for assessing the human rights situation in various countries, including Kazakhstan. It helps identify areas requiring attention from both the international community and national authorities, contributing to the development and strengthening of the country's human rights framework.

The Universal Periodic Review (UPR) is a cyclical evaluation process in which each country participating in the United Nations (UN) is required to submit a report on the human rights situation within its borders. As a UN member, Kazakhstan undergoes this process while taking into account its domestic circumstances and accountability. During the review, the country provides a report outlining the current state of human rights, including specific achievements, issues, and the measures taken to address them. These reports are analysed based on internal data provided by state authorities, as well as information from international human rights organizations, independent experts, and other stakeholders.

The UPR is conducted every four years for each country, and the result of this process is a comprehensive resolution from the UN Human Rights Council, which contains recommendations for improving the human rights situation in the country. As part of this mechanism, Kazakhstan receives recommendations on various human rights aspects, including women's rights, children's rights, and freedom of speech, minority rights, and other important areas. The reports and conclusions obtained through the UPR process provide an objective assessment and allow the country to develop a strategy for addressing identified shortcomings, as well as assess progress in meeting international standards.

Thus, Kazakhstan's human rights protection system represents a combination of efforts from NGOs, the ombudsman, and state commissions working to strengthen the human rights environment in the country, engaging with international organizations, and drawing attention to the issues of human rights and freedoms. Reports submitted as part of the Universal Periodic Review and other UN mechanisms not only showcase the progress made but also allow the international community to objectively assess the human rights situation in each country, contributing to the further harmonization of national legislation with international standards[8].

Kazakhstan, as an active participant in the international community, demonstrates its commitment to the principles and standards of human rights through its participation in a range of international treaties and conventions, as well as through the gradual adaptation of its national legislation to these international requirements. By signing and ratifying key international human rights agreements, Kazakhstan affirms its commitment to upholding the rights and freedoms recognized by the international community and contributes to strengthening the country's legal system by introducing effective mechanisms for the protection of rights. Now, let us take a closer look at the key aspects of this cooperation and the significant adopted legal acts based on Kazakhstan's international commitments[9].

Another important document is the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Kazakhstan ratified in 1998. Under this commitment, the country is obliged to prevent instances of torture in state institutions. Despite the taken measures, such as the establishment of national mechanisms for the prevention of torture, independent human rights organizations and international observers continue to report cases of ill-treatment. This highlights the need for increased oversight of law enforcement activities and improving the effectiveness of the country's obligations under this convention.

The International Convention on the Elimination of All Forms of Racial Discrimination is also a significant part of Kazakhstan's international commitments. Joining this convention requires the adoption of measures aimed at eradicating racial discrimination. The country has made some progress in this area, but issues related to the discrimination of ethnic minorities remain relevant, pointing to the need for additional efforts in education and cultural integration. To address this, it is necessary to improve educational programs, raise awareness, and include anti-discrimination norms in public initiatives and programs.

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[8] Г. Ульфштейн, „Индивидуальные жалобы. Договорные органы ООН по правам человека: закон и легитимность" (Кембридж: Издательство Кембриджского университета, 2023): 115.
[9] А. Наполитано, „Опасно быть правым, когда правительство неправо: аргументы в пользу личной свободы" (Алматы: Дайк-Пресс, 2022): 300.

The initiative to raise awareness among youth about human rights is a key element of Kazakhstan's strategy for developing legal culture and protecting civil rights. The main goal of this program is to instil a solid understanding of human rights and the principles underlying international human rights standards in young people, as well as to foster respect for the rights and freedoms of individuals in society. The support from the United Nations in implementing this initiative allows for the integration of international experience and standards into Kazakhstan's educational system, making the program more systematic and sustainable in the long term.

The program is implemented through several key directions. First, human rights educational modules are integrated into school and university curricula. These modules cover essential topics such as the fundamentals of human rights, civil rights, the rights of women and children, equality, and tolerance. It is important that the content of these courses is shaped by international documents such as "The Universal Declaration of Human Rights", "The Convention on the Rights of the Child", and "The Convention on the Elimination of All Forms of Discrimination against Women". In practice, this means that students have the opportunity to learn how international standards are applied at the national level and to recognize the significance of human rights principles in everyday life.

The second important element of the initiative is the organization of public lectures, debates, and seminars involving human rights experts, including representatives of NGOs, lawyers, scholars, and international specialists. These events are designed to deepen students' understanding of such issues as social justice, minority rights, freedom of expression, and access to justice. Such discussions contribute not only to raising awareness, but also to the development of critical thinking and the ability to defend one's viewpoint with reasoned arguments, which is especially important in the context of rapid social and legal changes. This knowledge becomes relevant for young people, engaging them in human rights activities and helping them to recognize their civic rights and responsibilities.

The program also includes the development and dissemination of educational materials, such as brochures, pamphlets, and digital resources available to a wide youth audience. These materials explain key human rights concepts and protection mechanisms in simple and accessible language, making knowledge about human rights available to all. Social media play an important role in distributing materials and information about upcoming events. The availability of information in the online space helps expand the initiative's reach and engage youth in the remote and rural areas where awareness of human rights may be significantly lower.

To assess the effectiveness of the program, a comprehensive methodology is used. One of the main tools is surveying students before and after the implementation of educational modules. This allows for a quantitative evaluation of the level of awareness about human rights, identification of gaps in understanding, and determination of how well the program contributes to the development of knowledge and respect for human rights. The level of youth participation in educational and public events organized within the program and changes in public consciousness are also taken into account. The research shows that high youth involvement in such initiatives contributes to a reduction in bias and an increase in civic activity levels.

Awareness-raising programs and efforts to combat human trafficking play an important role in the development of Kazakhstan's human rights protection system. They not only lead to specific improvements in human rights protection, but also create conditions for long-term institutional and cultural changes. The systematic introduction of educational programs forms human rights guidelines among the younger generation and helps strengthen the public's legal consciousness, which will eventually contribute to the establishment of a more just and rule-of-law state.

Gender-based violence in Kazakhstan remains one of the most serious social issues, with deep consequences for women, girls, and society as a whole. This form of violence includes physical, psychological, sexual, and economic abuse, which has a destructive impact on the mental and emotional well-being of victims, their health, and social standing. Despite efforts by the government and nongovernmental organizations, gender-based violence affects thousands of women every year. In response to this issue, the government of Kazakhstan, with the support of international organizations, including the UN, has developed a comprehensive program to reduce gender-based violence and protect the rights of women.

The program covers several key areas. One of the main aspects is violence prevention, which includes preventive measures and raising public awareness about gender-based violence and its consequences. Educational initiatives and cultural changes, including seminars and training sessions aimed at legal education and fostering respect for women's rights among youth and other segments of society, play an important role in this regard[10]. These initiatives contribute to changing public perceptions of violence, with an emphasis on its inadmissibility in any form.

A key element of the program aimed to protect victims of gender-based violence is the establishment of infrastructure and mechanisms that provide comprehensive support to survivors. This is especially important in the context of implementing the Sustainable Development Goals (SDGs), such as SDG 5, which focuses on achieving gender equality and empowering women and girls, and SDG 16, which ensures access to justice for all. One of the key measures is the creation of specialized centres where victims of violence can access a full range of services. Legal assistance includes help with filing complaints with law enforcement, support during legal proceedings, and assistance in obtaining protective orders. Medical assistance is aimed at diagnosing and treating the consequences of physical violence, as well as providing reproductive and sexual health care. Psychological support helps victims cope with trauma caused by violence and regain emotional balance. Temporary housing ensures safety and provides conditions for victims' recovery, especially in cases where victims are at risk of further violence. An additional measure is the availability of hotlines that operate 24/7 and anonymously. These provide women with the opportunity to seek support without the risk of public exposure or condemnation. This is particularly important for those who fear retaliation from the perpetrator or face barriers to accessing help. The anonymous nature of these services reduces the fear of seeking help, making them more accessible, especially for women from isolated or vulnerable groups.

To improve the effectiveness of the programs, additional measures are being implemented. Information and awareness campaigns contribute to increasing public knowledge about the issue of violence and the available services. Training for specialists in the fields of medicine, law, and psychology helps ensure high-quality support for victims, creating a comprehensive approach to their protection. Monitoring and regular reporting on the measures taken not only allow for the assessment of their effectiveness but also help improve the mechanisms of assistance.

[10] Ж. Аманжолов, „Безопасность человека и гражданина: некоторые вопросы правового обеспечения в Казахстане" (Алматы: КазНПУ имени Абая, 2022): 90.

These measures are crucial for achieving sustainable development in Kazakhstan. Gender-based violence affects not only the victims, but also society as a whole, reducing human capital, productivity, and increasing social and economic costs. Effective protection programs for victims of violence contribute to the creation of a more just and resilient society, where women can realize their potential and participate in social, economic, and political life. Therefore, ensuring the protection of victims of gender-based violence is an important step towards achieving equality, human rights protection, and strengthening societal resilience.

Legislative changes are also an essential part of ensuring legal protection for victims. In recent years, several legislative initiatives have been adopted in Kazakhstan aimed at increasing penalties for crimes related to gender-based violence and improving the performance of law enforcement agencies. A significant step was the amendment to the criminal code to impose stricter penalties for domestic violence and sexual offenses. To implement these changes, training programs are also conducted for law enforcement officers and judges to ensure a more sensitive approach to investigating cases related to gender-based violence.

Another key direction of the program is holding perpetrators accountable. Data on instances of violence in Kazakhstan indicate that not all such crimes lead to punishment. The lack of qualified specialists and corruption risks within law enforcement agencies hinder the effective prosecution of offenders. The program works to eliminate these problems, including developing new procedures for gathering evidence and enhancing the accountability of law enforcement agencies.

Furthermore, the program facilitates the integration of international standards into national practices. Kazakhstan actively cooperates with international organizations such as the UN and the World Health Organization, which allows the country to adopt best practices in combating gender-based violence and fulfil its international obligations more effectively[11]. Participation in international forums and collaboration with foreign experts strengthen political will and enhance the qualifications of specialists.

However, challenges remain. Despite positive changes, the level of gender-based violence in Kazakhstan remains high, indicating the need for

[11] Л. Ахметова, „Формирование гражданской активности в контексте развития современного казахстанского общества" (Алматы: КазНПУ имени Абая, 2024): 180.

continued efforts to improve victim protection and hold offenders accountable. It is important to continue monitoring the program and adapt it to socio-economic conditions, ensuring the participation of all stakeholders, including government bodies, NGOs, and international partners[12].

The program to combat gender-based violence in Kazakhstan is an important step toward creating a safer and fairer society. For long-term success, a comprehensive approach is required, covering all aspects of the issue: from changing public consciousness to improving legislation and legal protection for victims.

Furthermore, Kazakhstan is actively involved in monitoring the implementation of international treaties, such as the International Covenant on Civil and Political Rights (ICCPR). Under this covenant, the country is obligated to submit reports to the relevant UN committees regularly, which monitor compliance with the commitments arising from the conventions. The reports Kazakhstan submits to the UN Human Rights Committee contain information on the fulfilment of its commitments regarding civil and political rights, such as freedom of expression, freedom of assembly, the right to a fair trial, and others. These reports are discussed during the Committee's sessions, where international experts provide feedback and recommendations on improving the situation in the country.

One of the key aspects of Kazakhstan's cooperation with international human rights bodies is its participation in the UN special procedures, which include visits and reports by the UN Special Rapporteurs on human rights. The UN special procedures are mechanisms that allow the UN experts to conduct independent investigations and make public reports on the human rights situation in specific countries or on particular issues, such as torture, women's rights, freedom of expression, and others[13].

Visits by specialists such as the UN Special Rapporteur on torture, freedom of expression, or women's rights provide an opportunity for expert assessments and independent research. These visits typically involve meetings with government officials, human rights defenders, as well as victims of human rights violations. The data obtained from these visits are crucial for forming an

[12] А. Арыстанбекова, „Казахстан и ООН: история и перспективы" (Алматы: КазНПУ имени Абая, 2023): 360.
[13] В. Карраро, „Перекрывающиеся институты в системе прав человека ООН: взаимное усиление или подрыв?" (Алматы: Дайк-Пресс, 2022): 216.

objective picture and raising awareness within the international community about the situation in the country. In its turn, such events not only enhance Kazakhstan's reputation in the international human rights arena but also influence domestic policy, encouraging further efforts in the field of human rights.

Conclusions

In the context of a scientific analysis of Kazakhstan's cooperation with the United Nations in the field of human rights, special attention should be paid to the strategic significance of integrating international norms and standards into the national legal system. This integration represents a process of legal and regulatory harmonization, which requires a thorough analysis of existing legislation, identifying discrepancies with international obligations, and developing effective mechanisms to address them. The importance of this process is confirmed by the Constitution of the Republic of Kazakhstan, where Articles 1 and 2 proclaim the Republic as a rule-of-law state, emphasizing that the highest value is the individual, their life, rights, and freedoms.

The application of international standards in national legal practice not only reflects Kazakhstan's foreign policy orientation, but also contributes to strengthening the rule of law, improving the efficiency of the judicial system, and protecting the basic rights and freedoms of citizens. In this context, monitoring and reporting mechanisms are critically important as they ensure transparency and accountability in implementing the country's international commitments. For example, Articles 19 and 20 of the Constitution guarantee freedom of thought, speech, and the right to information, which is directly related to the transparency of law enforcement and the observance of human rights.

The effectiveness of cooperation with the UN also depends on the promptness of implementing recommendations from international bodies and the ability of the national legal system to adapt to changing international standards. This, in its turn, underscores the need for developing and implementing national programs and strategies in the field of human rights, which should be based on a comprehensive approach to the protection of all categories of rights: ranging from civil and political to economic, social, and cultural.

Kazakhstan's cooperation with the UN and other international organizations in the field of human rights is a multifaceted process, involving legal harmonization and institutional strengthening, as well as active participation in international dialogue and the exchange of best practices. This cooperation requires Kazakhstan not only to fulfil its obligations, but also to make an active contribution to global efforts to ensure and protect human rights, which, in its turn, strengthens the country's international standing and creates the foundation for sustainable societal development based on the principles of law, justice, and equality.

The conclusion of analysis of Kazakhstan's cooperation with the UN in the field of human rights highlights the significant efforts and progress made by the country in this important area. However, it also reveals a number of challenges and opportunities for further improvement, highlighting the complexity and multifaceted nature of the process of integrating international human rights standards into the national legal and institutional system. Kazakhstan has demonstrated its commitment to international human rights obligations through the ratification of key international treaties and active participation in the UN monitoring and reporting mechanisms. These actions have contributed to strengthening the legal framework, developing institutional mechanisms for human rights protection, and raising public awareness of the importance of these rights.

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Julia Własiuk

University of Siedlce
ORCID: 0000-0003-0403-9546

POLITICAL RIGHTS AND STANDARDS OF DEMOCRATIC ELECTIONS: THE BELARUSIAN CASE OF HUMAN RIGHTS VIOLATIONS

Abstract: This article analyses restrictions on political rights in the Republic of Belarus, primarily the right to participate in elections as a key element of a democratic constitutional order. The study aims to assess the extent to which the Belarusian electoral system complies with international standards for free and fair elections, as embodied in the International Covenant on Civil and Political Rights, OSCE/ODIHR documents, the recommendations of the UN Human Rights Committee, and the conclusions of the Venice Commission. The article examines the evolution of Belarusian electoral legislation and election campaign practices, which in recent decades have demonstrated a systematic detachment from democratic principles. It examines restrictions on citizens' access to political participation, the monopolization of the electoral process by executive authorities, the denial of independent observers, the lack of transparency in procedures, and the elimination of genuine political competition. It demonstrates that from 2001 to 2025, not a single election campaign in Belarus was recognized as free and fair by the international community, indicating a profound erosion of the mechanisms for the democratic legitimization of power. The conclusions indicate that the existing limitations are structural and institutional in nature, and that reforming the electoral system is impossible without qualitative political changes and dismantling the authoritarian model of governance.

Keywords: human rights, international electoral standards, electoral system of the Republic of Belarus, political freedoms, authoritarianism.

Introduction

The implementation of political rights and the functioning of electoral institutions under authoritarian political regimes are becoming an increasingly significant topic in contemporary constitutional and legal discourse. The Republic of Belarus is one of the most illustrative examples of the transformation of the electoral system from an instrument of democratic legitimization of power into a mechanism that ensures its stable dominance and excludes the possibility of real political competition. The formal preservation of electoral institutions, the multi-party system, and citizen participation are not accompanied by their full implementation: the actual content of these institutions is gradually losing the characteristics inherent in the democratic process and is reduced to a procedural imitation of free elections. An analysis of the Belarusian electoral system reveals significant discrepancies between the norms of national legislation and international democratic standards developed within the framework of the UN, OSCE/ODIHR, the Council of Europe, and other international institutions, necessitating a comprehensive study in both dimensions.

The relevance of this study is also determined by the depth of the political crisis in the Republic of Belarus, which deepened following the 2020 elections and subsequent events, leading to a radical tightening of state control over the electoral sphere. Under these circumstances, elections have ceased to serve as a mechanism for expressing the will of citizens and have become a formal ritual aimed at confirming a predetermined result. The situation is exacerbated by the fact that Belarus remains a party to key international human rights treaties, including the International Covenant on Civil and Political Rights and its Optional Protocol, which imposes the obligation to ensure fair, free, and competitive elections on the state. The analysis of the legal foundations of the Belarusian electoral system reveals a systematic deviation of national legislation from recognized international standards: an excessive role of the executive branch, the lack of independent oversight, extensive opportunities for administrative interference, restrictions on candidates' access to the media, and legally regulated procedures that allow for the manipulation of voting results. Particularly noteworthy are the institutions of early voting and mobile voting, as they together provide constitute a key tool for government control over the electoral process. These elements, when integrated into the legal system, create the institutional preconditions for the reproduction of an authoritarian model.

An important aspect of the study is the analysis of the practices of individual election campaigns from 2001 to 2025 (including parliamentary, local, and presidential elections), none of which were recognized as free and fair by international observers. Political practice demonstrates a persistent trend toward tightening control over the electoral sphere: restrictions on candidate eligibility, suppression of independent observers, lack of equal campaigning conditions, forced participation of citizens in early voting, and closed vote-counting procedures. The consequence of these processes was the virtual elimination of political competition and the loss of the democratic content of elections.

The purpose of this article is to analyse Belarusian electoral legislation and political practice within the context of international standards for democratic elections, particularly in light of the legal positions of the Venice Commission. The study aims to identify normative and factual discrepancies, determine the degree of institutionalization of restrictions on political rights, and assess their impact on the functioning of the electoral system as an element of the constitutional order. The author used the following research methods: comparative law, logical analysis, institutional analysis, and formal law.

International Standards of Democratic Elections as an Element of the Protection of Human Political Rights

Citizen participation in the governance of state affairs is a fundamental human right and a key element of a democratic constitutional order. It serves not only as a criterion for the level of democratization of the political system, but also as the primary mechanism for implementing the principle of popular sovereignty, upon which state power is based. A key condition for the legitimacy of any democratic elections is ensuring its free and fair nature, which presupposes adherence to the principles of legality, equal voting rights, procedural transparency, and trust in the electoral process on the part of both citizens and the international community.

It should be noted that electoral law is one of the most highly regulated areas of public law. The modern system of electoral standards reflects the intersection of global human rights protection mechanisms and domestic constitutional regulation, giving elections the status of a universal instrument for the democratic legitimization of power. The modern system of international electoral standards includes both universal and regional (continental) norms, forming a unified legal framework for ensuring democratic elections.

Fundamental principles in this area were first enshrined in the Universal Declaration of Human Rights of December 10, 1948[1]. Of particular importance is Article 21 of the Declaration, which states that everyone has the right to take

[1] Universal Declaration of Human Rights, United Nations, https://www.un.org/en/about-us/universal-declaration-of-human-rights [access date: 20.10.2025].

part in the government of their country, directly or through freely chosen representatives. It also emphasizes that the will of citizens must be expressed in free elections, excluding any pressure or coercion to vote for a particular candidate or political force. Thus, universal standards laid the legal foundations for understanding elections as a form of realizing the sovereignty of the people and an instrument of legitimizing power in a democratic state.

The Universal Declaration of Human Rights, adopted as a UN General Assembly resolution, was advisory in nature and did not create legal obligations for states. Consequently, the International Covenant on Civil and Political Rights was adopted in 1966, becoming the fundamental treaty ensuring the legal binding nature of international human rights standards[2]. The Covenant established the Human Rights Committee empowered to monitor the implementation of its provisions, including through the review of periodic reports from states parties on measures taken to realize the rights enshrined. In the context of electoral law, Article 25 of the Covenant is of particular importance, recognizing the free expression of citizens' will as one of the key criteria for the authenticity and legitimacy of elections, as well as a necessary condition for the formation of a democratic state.

The international community has paid particular attention to issues of gender equality in political participation. The Universal Declaration of Human Rights first established the principle of equal participation of men and women in public affairs, and the Convention on the Elimination of All Forms of Discrimination against Women of December 18, 1979[3] further developed these provisions, establishing the legal obligation of states to ensure that women exercise both active and passive suffrage on an equal basis with men. States parties have committed to taking action to eliminate de facto inequalities and create conditions enabling women to participate fully in political life.

Since the late 20th century, the international community has been actively formulating and developing norms regulating not only citizens' electoral rights but also the organization of elections, the functioning of electoral administrations, and electoral management standards. The current stage is characterized not only by the expansion of the scope of electoral

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[2] International covenant on civil and political rights, https://treaties.un.org/doc/treaties /1976/ 03/19760323%2006-17%20am/ch_iv_04.pdf [access date: 20.10.2025].

[3] Convention on the Elimination of All Forms of Discrimination against Women, www.ohchr.org/ sites/default/files/cedaw.pdf [access date: 21.10.2025].

standards, but also by their refinement and institutionalization. Significant changes are occurring in the composition of the entities involved in the development and dissemination of these standards: alongside intergovernmental organizations, international observation missions, expert communities, and non-governmental organizations are playing an increasingly active role. Moreover, most contemporary electoral standards are advisory in nature (soft law), based on the principles of "soft influence" that, however, does not diminish their practical impact on national electoral systems.

Key documents defining the content of modern electoral standards include:

- The Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (1990), which enshrined democratic principles for holding elections[4];
- The Declaration of the Inter-Parliamentary Union on Criteria for Free and Fair Elections (1994)[5];
- General Comment No. 25 of the UN Human Rights Committee (1996), which specifies the application of Article 25 of the International Covenant on Civil and Political Rights[6].

The Venice Commission (European Commission for Democracy through Law), established within the Council of Europe in 1990, played a special role in the unification of electoral norms. In 2002, it formulated five fundamental principles of democratic elections: universal, equal, free, secret, and direct suffrage[7]. That same year, the commission was transformed into an Enlarged Agreement, which opened the possibility of its membership to states outside the Council of Europe and facilitated the dissemination of European electoral standards at a broader international level. Although the recommendations of the Venice Commission, as noted in international scholars, are sometimes

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[4] Document of the Copenhagen meeting of the conference on the human dimension of the CSCE, https://www.osce.org/files/f/documents/9/c/14304.pdf [access date: 12.10.2025].
[5] Declaration on Criteria for Free and Fair Elections. Inter-Parliamentary Union, www.ipu.org/impact/democracy-and-strong-parliaments/ipu-standards/declaration-criteria-free-and-fair-elections [access date: 10.11.2025].
[6] CCPR General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote), The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service. UN Human Rights Committee (HRC), www.refworld.org/legal/general/hrc/1996/en/ 28176 [access date: 23.10.2025].
[7] Code of good practice in electoral matters. www.venice.coe.int/files/Code%20de%20conduite_GBR%202025_WEB_A5.pdf [access date: 12.10.2025].

ignored by most states, they generally respond to them positively, or at least partially[8].

Also noteworthy is the document "Human Rights and Electoral Standards: A Plan of Action", adopted in 2017 at a joint conference organized by the Office of the UN High Commissioner for Human Rights and the Carter Centre[9]. This document marked an important step in institutionalizing a human rights-based approach to elections and cemented the link between respect for human rights and ensuring standards of democratic electoral processes.

The "electoral cycle" model has become the methodological basis for the further development of international electoral standards[10]. It encompasses all stages of the electoral process: from legislative drafting and the formation of electoral commissions to the summing up of results and post-election analysis. The current trend is to develop detailed international standards for each stage of the electoral cycle, ensuring a systematic and comprehensive approach to assessing the democratic integrity of elections.

The European practice of regulating electoral processes has become a catalyst for the development of regional legal systems aimed at establishing universal standards for democratic elections. One of the most significant acts in this context was the Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States, signed on October 7, 2002[11]. This document defined the legal and procedural criteria for the legitimacy of elections, codifying the conditions under which electoral procedures and their results can be deemed consistent with democratic principles. Violations of those standards, on the contrary, are interpreted as a factor undermining citizens' trust in the electoral process and the legitimacy of the elected authorities.

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[8] W. Hoffmann-Riem, "The Venice Commission of the Council of Europe - Standards and Impact" *The European Journal of International Law*, Vol. 25, № 2, (2014): 579.

[9] Human Rights and Election Standards: A Plan of Action. www.cartercenter.org/wp-content/uploads/2018/02/human-rights-and-election-standards-2018.pdf [access date: 3.11.2025].

[10] P. Dupont, F. Torcoli, F. Bargiacchi, "EU electoral support". In *Making peace last the EU's contribution to peacebuilding: Policy and legal aspects*, S. Blockmans, J. Wouters, T. Ruys (eds.) (London: Cambridge University Press, 2010): 313-340.

[11] „Конвенция о стандартах демократических выборов, избирательных прав и свобод в государствах - участниках Содружества Независимых Государств" (Кишинев, 7 октября 2002 г.). ["Convention on Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States" (Chisinau, October 7, 2002).] https://base.garant.ru/1156220/ [access date: 03.10.2025].

The Convention recognizes the principle of free elections as the fundamental standard of democratic governance. It guarantees the right of citizens to determine independently the scope of their political activity, including the ability to exercise or refrain from exercising their right to vote or be elected. Pursuant to Article 8, § 1 of the Convention, member states are obliged to guarantee voters' freedom of expression, excluding all form of pressure, coercion, threats, or violence in the exercise of their electoral rights. The CIS document is, therefore, an attempt to institutionalize internationally recognized principles of electoral democracy in the post-Soviet space, adapted to regional political and legal conditions.

The OSCE/ODIHR 2021 Election Recommendations[12] constitute one of the most credible and widely used tools for assessing the democratic nature of electoral processes. Based on the provisions of the 1990 CSCE Copenhagen Document, this document draws on the extensive experience of election observation missions in OSCE participating States and formulates a unified approach to interpreting the principles of free, equal, fair, and transparent elections. The recommendations contain standardized criteria for analysing all stages of the electoral cycle: from legal regulations and the activities of election commissions to campaign financing, media access, and vote counting. Their practical significance lies in the fact that they provide a basis for an objective and comparable assessment of electoral processes and promoting the harmonization of national electoral systems with international democratic standards. The scientific doctrine emphasizes that this document is an example of soft law[13], which has a significant impact on the formation of law enforcement practices and the development of electoral legislation in OSCE states.

The 2012 United Nations Electoral Guidelines[14], updated in subsequent years, constitute a key political and legal document defining the framework, principles, and procedures for the UN system's participation in providing technical and advisory support to states in conducting elections. The 2012 policy was primarily aimed at institutionalizing electoral assistance in the context of promoting the sustainable development of democracy and ensuring

[12] Handbook for the Observation of Election Campaigns and Political Environments. www.osce.org/ files/f/documents/4/a/500863_3.pdf [access date: 12.10.2025].
[13] Vide: S. Valenti, "The Drafting Process of Human Rights Soft Law", *PHRG* 9 (1) June, (2025): 128-140.
[14] United Nations Electoral Needs Assessments. https://dppa.un.org/sites/default/files/ead_guideline_un_electoral_needs_assessments_20120511_e.pdf [access date: 23.10.2025].

compliance with international human rights standards. Since 2022, the UN has significantly expanded the scope and methodology of electoral support, addressing the challenges of the last decade: the digitalization of elections, interference in the information sphere, the rise of disinformation, and the consequences of the COVID-19 pandemic[15]. Particular attention is currently being paid to strengthening trust in electoral processes, ensuring inclusive participation (in particular for women, youth, persons with disabilities, and minorities), and increasing transparency in the use of voting and vote-counting technologies. A significant innovation was the establishment of the principle of national leadership with international support, according to which UN missions do not interfere in the political aspects of elections, but rather assist states in strengthening their own democratic institutions. Thus, the post-2022 policy reflects the evolution of the UN's approach to electoral support: from technical assistance to comprehensive support for the sustainability of democratic processes, based on the principles of the rule of law, transparency, and accountability.

A set of international and regional documents forms a coherent system of standards aimed at ensuring free, equal, and fair elections as a key mechanism for the democratic legitimization of power. These norms reflect the universal values of popular sovereignty, political pluralism, and government accountability to citizens. At the same time, international practice demonstrates that their implementation is only possible with institutional guarantees of the independence of electoral bodies, genuine competition, and freedom of political activity.

Legal Basis and Genesis of the Electoral System of the Republic of Belarus

In recent decades, the electoral system in the Republic of Belarus has demonstrated a persistent negative trend: the restrictions on political rights have increased, the opportunities for citizen participation in public life have

[15] Vide: Information Integrity for Electoral Institutions and Processes: Reference Manual for UNDP Practitioners, www.undp.org/sites/g/files/zskgke326/files/2024-03/24119_undp_ information _integrity_v07_rc_002.pdf, Information Integrity to Sustain Peace during Electoral Processes, /www.undp.org/sites/g/files/zskgke326/files/2023-07/undp-information-integrity-to-sustain-peace-during-electoral-processes.pdf.

been steadily curtailed, and the mechanisms of democratic oversight of the government have practically ceased to function. Restrictions on electoral rights have become systemic and institutionalized, extending far beyond individual election campaigns or administrative procedures. This indicates a profound crisis of democratic institutions, the erosion of the principle of popular sovereignty, and the state's gradual withdrawal from its international obligations to protect human rights and ensure fair elections.

Section III of the first Constitution of the Republic of Belarus, "Electoral System. Referendum", was devoted to the electoral system. Articles 64–68 stated that elections of deputies and other persons elected to public office by the people were universal, free, equal, direct, and secret[16]. The right to nominate candidates for deputies was reserved for public associations, labour collectives, and citizens in a certain number, depending on the level of elections. The Constitution also included articles on the establishment of electoral commissions and the procedure for recalling deputies. The Constitution established a majoritarian electoral system based on an absolute majority of votes for the elections of the President, deputies of the House of Representatives, and deputies of local Councils of Deputies. It stipulated that the President was elected for a term of five years and could not hold office for more than two consecutive terms, while Parliament and local Councils of Deputies were elected for four years.

On February 11, 2000, the Electoral Code of the Republic of Belarus was adopted[17], which included laws on the elections of the president, members of parliament and local councils of deputies, the recall of deputies, and referendums. In total, 17 laws and 5 resolutions ceased to be effective in connection with the adoption of the Electoral Code. The Code contained 10 sections and 156 articles that detailed all stages of the electoral process, as well as the procedure for calling and holding referendums, and the procedure for recalling deputies. Article 2 stated that "the legal basis for the electoral system and referendums is the Constitution of the Republic of Belarus, this Code and other legislative acts of the Republic of Belarus, resolutions of the Central

[16] Канстытуцыя Рэспублікі Беларусь от 1994 года [Constitution of the Republic of Belarus of 1994], https://www.constitution.by/1994/1/ [access date: 12.10.2025].

[17] Избирательный кодекс Республики Беларусь от 11 февраля 2000 г. № 370-З [Electoral Code of the Republic of Belarus of February 11, 2000 No. 370-Z], https://pravo.by/document/?guid=3871&p0=HK0000370 [access date: 23.10.2025].

Commission of the Republic of Belarus for Elections and Holding Republican Referendums"[18].

In 2014, Law No. 116-Z of the Republic of Belarus "On the Accession of the Republic of Belarus to the Convention on Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States" was adopted[19]. This document, at the regional level, established uniform international standards regarding electoral law and the mandatory nature of their implementation for the countries that joined it. In 2015, several amendments were made to the Electoral prohibiting the financing of elections by foreign entities (Law of the Republic of Belarus dated June 4, 2015 No. 268-Z "On Amendments and Additions to Certain Laws of the Republic of Belarus"[20]).

Since 2000, national elections (2000, 2004), presidential elections (2001, 2006), local elections (2003), and the aforementioned all-Belarusian referendum (2004) have been held in accordance with the Electoral Code. Western countries have not recognized all of those political events as democratic and transparent, primarily because equal media access was not provided to all candidates and parties participating in the elections, administrative pressure was exerted on opposition candidates, as well as outright falsifications were allowed.

An important aspect of preparing and conducting an election campaign is its financing. The Electoral Code of the Republic of Belarus provides for expenditure from the national or relevant local budget, or a special extra-budgetary fund controlled by the Central Commission (Article 48 of the Electoral Code of the Republic of Belarus)[21]. In practice, this means that the state not only covers the costs of publishing a certain number of posters with

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[18] Ibidem, art. 2.

[19] Закон Республики Беларусь № 116-З «О присоединении Республики Беларусь к Конвенции о стандартах демократических выборов, избирательных прав и свобод в государствах – участниках Содружества Независимых Государств» [Law of the Republic of Belarus No. 116-Z "On the Accession of the Republic of Belarus to the Convention on Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States"], https://pravo.by/document/?guid=12551&p0=H11400116 [access date: 13.11.2025].

[20] Закон РБ 268-З 04.06.2015 О внесении изменений и дополнений в некоторые законы Республики Беларусь [Law of the Republic of Belarus 268-З of June 4, 2015 On Amendments and Additions to Certain Laws of the Republic of Belarus], https://pravo.by/document/?guid=12551&p0=H11500268 [access date: 13.10.2025].

[21] Избирательный кодекс Республики Беларусь… [Electoral Code of the Republic of Belarus…], art. 48.

the candidate's program and biography, ensures the publication of the candidate's program in print and broadcast in electronic media, but also exercises effective control over candidates. This situation does not meet international standards, since in all democratic countries, candidates, political parties, and electoral blocs have the right to form their own electoral funds and manage financial resources freely, and the state's role is essentially limited to overseeing the targeted spending of funds and preventing financial violations.

The Electoral Code of the Republic of Belarus does not extend the principle of transparency in the preparation and conduct of elections. This legal act does not establish the right of citizens and journalists to unimpeded access to all meetings of electoral commissions, which themselves have the right to decide what information about the electoral process will be made available to the public and to what extent.

The greatest concerns are raised by the legally mandated simplified procedure for conducting early voting (Article 53 of the Electoral Code of the Republic of Belarus[22]) and voting at the place of residence of voters outside the polling stations (Article 54 of the Electoral Code of the Republic of Belarus[23]). The legal provisions governing such voting do not guarantee the objectivity and reliability of its results, and as practice shows, it is in these cases that there are ample scope for all kinds of manipulation of voters' votes. This effectively excludes the possibility of implementing effective and independent monitoring of the voting. It is particularly noteworthy that the procedure for monitoring the preparation and conduct of the elections is not detailed in the Code. Only the Central Election Commission and state bodies have the right to invite international observers (Article 33, paragraph 20 of the Electoral Code of the Republic of Belarus[24]), and the procedural side of election observation is also determined by the Central Commission. All this leads to the practical impossibility of full-fledged external public oversight (including international oversight) of the election campaign.

[22] Ibidem, art. 53.
[23] Ibidem, art. 54.
[24] Ibidem, art. 33.

The Republic of Belarus: A Case Analysis of Individual Election Campaigns and Violations of International Standards

Alexander Lukashenko is among the longest-serving modern political leaders: he ranks among the world's top ten longest-serving leaders, only surpassed by the leaders of Iran, Tajikistan, and several African countries. Lukashenko ran for president in 1994, 2001, 2006, 2010, 2015, and 2020, consistently achieving official results exceeding 80%. Since 2001, not a single election campaign in the Republic of Belarus has been recognized by international observers as free, fair, or in line with democratic standards.

During his presidency, Lukashenko initiated four constitutional reforms: in 1995, 1996, 2004, and 2022. The 1996 version of the Constitution contained a limitation that allowed the head of state to serve no more than two terms. After completing his second term and possessing a de facto monopoly on political power, Lukashenko initiated a referendum in 2004 aimed at lifting this limitation, allowing him to run again and cementing his practice of unlimited rule. On October 17, 2004, the parliamentary elections and the referendum were combined. One question was put to the referendum: "Do you allow the first President of the Republic of Belarus, Alexander Grigoryevich Lukashenko, to participate as a candidate for President of the Republic of Belarus in the presidential elections, and do you accept Part One of Article 81 of the Constitution of the Republic of Belarus, which reads as follows: The President is elected for a five-year term directly by the people of the Republic of Belarus on the basis of universal, free, equal and direct suffrage by secret ballot?"[25].

The 2004 referendum was illegal because it violated the existing Electoral Code, Article 112 of which stipulates that questions "related to the election and dismissal of the President of the Republic of Belarus"[26] cannot be submitted to a nationwide referendum. The Venice Commission of the Council of Europe examined the referendum's compliance with Council of Europe standards and concluded that the question submitted to the referendum

[25] Общегосударственные референдумы середины 1990-х годов. Белорусская энциклопедия [National Referendums of the Mid-1990s. Belarusian Encyclopedia], https://belarusenc.by/belarus/detail-article.php?ID=396 [access date: 26.10.2025].

[26] Избирательный кодекс Республики Беларусь 11 февраля 2000 г. № 370-З, Национальный правовой Интернет-портал Республики Беларусь [Electoral Code of the Republic of Belarus, February 11, 2000, No. 370-Z, National Legal Internet Portal of the Republic of Belarus], https://pravo.by/document/?guid=3871&p0=HK0000370 [access date: 21.09.2025].

directly contradicted the Electoral Code and Article 22 of the Constitution of the Republic of Belarus[27]. This is also confirmed by reports from human rights organizations on the preparation and conduct of the referendum. Furthermore, based on their monitoring of the campaign for the election of deputies to the House of Representatives of the National Assembly of the Republic of Belarus and the national referendum, human rights organizations declared a complete discrepancy between the official results of the elections and referendum and the actual will of the Belarusian people. A 140% turnout at one of the Minsk polling stations was one of many instances of voter fraud recorded by independent observers during the 2004 referendum[28].

According to the official data, 65.2% of Belarusians voted in favour of amendments and additions to the Constitution of the Republic of Belarus in the constitutional referendum held in Belarus on February 27, 2022. During the referendum, Belarusian citizens were asked a single question: "Do you accept the amendments and additions to the Constitution of the Republic of Belarus?"

The referendum was conducted with numerous violations of the Electoral Code. For example, the lists of the members of the district electoral commissions were not published on the websites of local executive committees or in local media within the specified timeframe. According to the Central Electoral Commission, 42.93% of voters participated in the early voting. During the early voting, the "Human Rights Defenders for Free Elections" campaign uncovered numerous instances of organized, forced voting by certain categories of voters (schoolchildren, students, and enterprise employees)[29]. This did not comply with the requirements of the Electoral Code, which stipulates that such voting is intended for voters who cannot be present at their place of residence on referendum day[30].

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[27] Референдум 2004. Бессрочное правление [Referendum of 2004. Perpetual rule], Zubr, https://zubr.media/2021/09/22/referendum-2004/ [access date: 23.10.2025].
[28] 10 фактаў пра рэферэндум, які зрабіў Лукашэнку «вечным прэзідэнтам», Салідарнасць [10 facts about the referendum that made Lukashenko "eternal president", Solidarity], https://gazetaby.com/post/10-faktau-pra-referendum-yaki-zrabiu-lukashenku-vechnym-prezidentam/203617/ [access date: 23.10.2025].
[29] Предварительный аналитический отчет экспертной миссии по оценке республиканского референдума по вопросу внесения изменений и дополнений в Конституцию Республики Беларусь 2022 года [Preliminary analytical report of the expert mission to assess the national referendum on amendments and additions to the Constitution of the Republic of Belarus in 2022], https://spring96.org/files/misc/spravazdacha_final2802.pdf [access date: 11.10.2025].
[30] Избирательный кодекс Республики Беларусь… [Electoral Code of the Republic of Belarus…], art. 53, 54.

On January 26, 2025, the main presidential election vote took place in the Republic of Belarus. This election campaign took place in fundamentally new conditions for the country and was characterized by an unprecedented level of political control. The incumbent head of state and his entourage had not only to ensure a predictable outcome but also to minimize any risks of public mobilization during the period that the authorities viewed as potentially critical.

Under these circumstances, the strategic goals of Lukashenko's election campaign were shaped as follows. Firstly, they aimed to restore the so-called "sterile elections" model implemented in 2015: a fully controlled electoral process that excludes the possibility of opposition influence and public scrutiny, ensuring the highest possible official result for the incumbent president. Secondly, their goal was to create the appearance of adherence to the procedural attributes of democratic elections: the imitation of political competition, the formal preservation of electoral procedures, and limited media transparency, in order to obtain at least a minimal level of international legitimacy and confirm Lukashenko's status as the elected head of the Republic of Belarus.

A large-scale event that served the purpose of campaigning for A. Lukashenko was the republican socio-cultural campaign "Unity Marathon"[31]. It began on September 17, 2024 (even before the parliament's decision to hold elections) and for several months was used for covert campaigning for A. Lukashenko, while official campaigning for presidential candidates was permitted only from January 1, 2025. The "Unity Marathon" turned into an advertisement for the state's achievements under A. Lukashenko's leadership, for which enormous state resources were deployed, in particular the ministries (of culture, information, antimonopoly regulation and trade, sports and tourism), the Minsk City Executive Committee, regional executive committees, and the state institution.

None of Lukashenko's opponents in the election held any mass events with the participation of their supporters. This constitutes a flagrant violation

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[31] Республиканская общественно-культурная акция «Марафон единства» станет одной из самых масштабных, Управление делами Президента Республики Беларусь [The Republican socio-cultural event "Unity Marathon" will be one of the largest, the Presidential Property Management Department of the Republic of Belarus], https://udp.gov.by/ru/news-upravleniya-ru/view/respublikanskaja-obschestvenno-kulturnaja-aktsija-marafon-edinstva-stanet-odnoj-iz-samyx-masshtabnyx-26544-2024/ [access date: 16.10.2025].

of the Constitution of the Republic of Belarus, which stipulates that "candidates elected to public office participate in elections on an equal basis"[32] (Article 65, Chapter 1, Section III).

From the very beginning of the presidential campaign, the authorities deliberately sought to prevent a repeat of the 2020 scenario. To this end, comprehensive preparations were carried out in advance across all elements of the national security system for potential mass protests. However, these preparations were not only forceful but also heavily propagandistic. Official media systematically reported on "security measures", shaping the public's perception of external and internal enemies, primarily NATO, the United States, their allies, and the Belarusian opposition. At the same time, citizens were intimidated by threats of the harsh measures if they participated in prote0sts. This rhetoric was intended to legitimize the establishment of strict control over public life including citizens' behaviour at polling stations. To minimize the possibility of financing protests during the active phase of the election campaign from December 20, 2024 to February 1, 2025, Belarus introduced restrictions on cash withdrawals from ATMs in the amount of up to 25 basic units (BU) per calendar month using one card issued by a non-resident bank[33].

At the same time, state-run media deliberately prepared public opinion to accept the fact of Alexander Lukashenko's "landmark victory" in the elections. For example, a political commentator for the Belarusian state television channel Tur publicly stated more than two months before the vote that "the absolute majority of citizens of the Republic of Belarus are absolutely convinced that the incumbent president will win the 2025 elections"[34].

The Presidential Administration prepared and distributed special methodological materials containing detailed instructions on how to instil in citizens the need to elect A. Lukashenko for the seventh term to all government agencies, state organizations, and enterprises. These materials amounted to outright political propaganda: Lukashenko was consistently referred to as the "national leader", and all the key achievements of the sovereign Republic of

[32] Конституция Республики Беларусь [Constitution of the Republic of Belarus]. https://president.gov.by/ru/gosudarstvo/constitution [access date: 23.10.2025].
[33] *В Беларуси ограничат снятие наличных с карт иностранных банков* [Belarus will restrict cash withdrawals from foreign bank cards], Blizko.by, https://blizko.by/notes/v-belarusi-ogranichat-snyatie-nalichnyh-s-kart-inostrannyh-bankov_nm2 [access date: 23.11.2025].
[34] *Электоральный процесс 2025 года: мнение большинства* [The 2025 Electoral Process: Majority Opinion], https://t.me/glav_tur/12846 [access date: 19.11.2024].

Belarus over the past decades were presented solely as the result of his personal leadership.

Despite the current government's considerable efforts to imitate the democratic nature of the presidential elections, Lukashenko's primary instrument of victory was and remains a well-established and constantly refined system electoral fraud at all stages of the election campaign. To ensure complete control over the voting process, for the first time in the history of sovereign Belarus, the authorities decided not to open polling stations abroad due to the impossibility of organizing monitoring outside the country. Belarusians wishing to vote were asked to travel to Belarus specifically for this purpose, which essentially restricts citizens' electoral rights.

The 2025 presidential elections in the Republic of Belarus have once again confirmed the current government's lack of intention to bring the electoral process into line with internationally recognized democratic standards. A key factor is Alexander Lukashenko's desire to maintain personal control over the state at all costs. The authorities implemented a strategy of the so-called "sterile elections", in which all elements of the electoral process, from candidate registration to vote counting, were planned in advance and subject to full administrative control. Neither genuine alternative candidates nor the very possibility of political competition were allowed into the electoral process. The regime's primary goal was to demonstrate that Lukashenko had no political alternative and to exclude even the minimal room for democratic procedures. The Parliamentary Assembly of the Council of Europe (PACE) described the so-called presidential elections held in Belarus on January 26, 2025, as "not meeting the minimum international standards for democratic elections and devoid of any democratic credibility". "The Assembly considers that there are no grounds for recognizing the legitimacy of Alexander Lukashenko as president", PACE members stated[35].

Conclusions

The analysis shows that the Belarusian electoral system is characterized by profound and institutional inconsistencies with international standards for free and fair elections. The legal framework for the electoral process, including

[35] The urgent need for free and fair elections in Belarus, https://pace.coe.int/en/files/34042/html [access date: 03.11.2025].

constitutional provisions and the Electoral Code, only partially reflect the key principles of democratic voting, and their actual implementation does not provide the necessary guarantees for political pluralism, independent oversight, and genuine competition. The electoral process in the Republic of Belarus is organized to guarantee a predetermined outcome, which is largely facilitated by the state of the national electoral legislation and other regulations.

The persistent violations identified during the parliamentary, local and presidential campaigns of 2001-2025, such as administrative pressure, restrictions on the admission of candidates, refusal to allow observers to participate, lack of transparency in vote counting procedures, and abuse of the early voting mechanism, indicate the systemic nature of restrictions and the deliberate use of electoral procedures as a tool for maintaining power rather than for its democratic legitimization.

The findings suggest that simply improving the quality of electoral legislation or adjusting individual procedures alone cannot establish a truly democratic electoral process. The problem is not technical, but systemic: the institutional architecture of the Belarusian regime precludes the possibility of free elections, as it is built on the concentration of power in the hands of one person and the suppression of political competition. Under these conditions, any targeted changes inevitably remain merely cosmetic. A genuine guarantee of citizens' political rights and the adaptation of the electoral system to international standards is only possible in the context of a profound transformation of the political system and the restoration of the fundamental principles of a democratic legal order, including the independence of institutions, the separation of powers, and guarantees of civic participation.

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„10 фактаў пра рэферэндум, які зрабіў Лукашэнку «вечным прэзідэнтам»", Салідарнасць, https://gazetaby.com/post/10-faktau-pra-referendum-yaki-zrabiu-lukashenku-vechnym-prezidentam/203617/ [access date: 23.10.2025].

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Mateusz Wyrzykowski

Catholic Academy in Warsaw
ORCID: 0000-0002-1161-0002

DUTIES OF THOSE IN POWER AND PRIVILEGES OF CITIZENS: PHILO OF ALEXANDRIA ON HUMAN RIGHTS

Abstract: This article discusses the position of Philo of Alexandria on human rights, as presented in his treatise "In Flaccum". The text tells the story of Flaccus, a prefect of Alexandria in the 1st century AD, whose actions sparked a series of conflicts and repression against a religious minority. The analysis of the text reveals Philo's views on the natural rights of an individual, as well as their place in moral and political philosophy in the context of ancient Jewish-Greek thought. The Alexandrian points to the universal values related to human rights, such as dignity, justice and equality before the law. Simultaneously, it criticises the abuse of power and intolerance, which turns "In Flaccum" into an essential voice in the discussion about human rights in antiquity.

Keywords: Philo of Alexandria, human rights, faith, religious freedom, In Flaccum, Against Flaccus

Introduction

A discussion of civil rights in the writings of Philo of Alexandria, particularly in the treatise "In Flaccum", requires a brief overview of his life. Φίλων ὁ Ἀλεξανδρεύς was born between 10 and 15 AD and lived in Alexandria, Egypt[1]. He died after 40 AD. He was a Hellenised Jew with a Greek name who lived in one of the largest cities in the 1st century AD[2]. He came from a wealthy family, owing to which he had time to study and write books (Legat. 182). He studied philosophy and history (Congr. 74)[3]. In his teaching, he combined the principles of law written in the Torah with Greek philosophy: the Stoics and Plato[4].

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[1] D.R. Schwartz, "Philo, His Family, and His Times". In: *The Cambridge Companion to Philo*, ed. A. Kamesar (Cambridge: Cambridge University Press, 2009): 10.
[2] V.A. Tcherikover, "Hellenistic Civilization and the Jews" (Peabody: Hendrickson Publishers, 1999): 346.
[3] A. Mendelson, "Secular Education in Philo of Alexandria" (Cincinnati: Hebrew Union College Press,1982).
[4] H.A. Wolfson, "Philo: Foundations of Religious Philosophy in Judaism, Christianity, and Islam" (Cambridge: Harvard University Press, 1962): 93-95.

In 39 AD, he ceased writing his treatises to attend to matters in Rome. He represented his diaspora in the capital. During this diplomatic mission, he was to complain to the emperor about the anti-Jewish behaviour of the Romans and their failure to observe the law. This was aimed at ending the riots in the city (Alexandria). Philo's objection concerned the persecution and placing of pagan idols in synagogues. For monotheistic Jews, such behaviour was unacceptable[5]. Philo was familiar with both Jewish law, as contained in the Torah, and Roman law[6]. He was also aware that the fate of the entire diaspora depended on his arguments and the emperor's verdict (Legat. 370). Philo's most crucial task was to have Emperor Caligula confirm equal rights for all and respect for religious minorities. When the diaspora sent him to Rome, they hoped that his knowledge of the law and his highborn origin would contribute to restoring the rule of law in the city[7]. Caligula disagreed with the diplomatic delegation from the Alexandrian diaspora. He considered the topic of citizens' rights and respect towards Jews to be unimportant (Legat. 361–367). The main reason for this lack of respect was the claim that he was not being worshipped as a god. The Jews were accused of disrespect towards the ruler and showing impiety. The political, social and legal situation changed after Caligula's death, when Claudius became emperor. He allowed the religious minority in Alexandria to follow their customs. His most significant decision was to grant them citizenship rights, a move also mentioned by Flavius Josephus (Ant. 19,280–285)[8].

Historical Context

The immediate cause of the riots that broke out in 38 AD was the persecution of Jews and disrespect towards the law shown by the provincial governor Flaccus. He took power in the year 32/33. At the beginning of his term of office, he observed the law and respected the privileges of minorities, including monotheists. According to the reports, he even punished any

[5] W.A. Elwell, B.J. Beitzel, „Monotheism". In: *Baker Encyclopedia of the Bible*, eds. W.A. Elwell, B.J. Beitzel (Grand Rapids, MI: Baker Book House, 1988): 1484-1486.
[6] R. Barraclough, „Philo's Politics: Roman Rule and Hellenistic Judaism", *Aufstieg und Niedergang der römischen Welt II, 21.1* (Berlin: Walter de Gruyter, 1984): 417-553.
[7] J. Daniélou, "Philo of Alexandria" (Cambridge: Wipf and Stock Publishers, 2014): 2-4.
[8] J. Ciecieląg, „Żydzi w okresie Drugiej Świątyni 583 przed Chr. – 70 po Chr." (Kraków: Universitas, 2011): 411-412.

manifestations of hostility towards the diaspora. The situation changed after the death of Emperor Tiberius in 37 AD. When Agrippa, a friend of Caligula, visited Alexandria, riots broke out in the city. Jews were persecuted by the city's inhabitants, their synagogues and homes were destroyed. Flakkus placed the blame on the aggrieved religious minority and deprived them of their privileges. Many Jews were killed, and the elders were held responsible for the riots that broke out in the city (Flacc. 54, 172). In response to this lack of tolerance, religious freedom and respect for the law, Philo wrote the treatise "In Flaccum", where, in addition to presenting the history of these events, he explained the duties of those in power and the privileges of citizens.

Flaccus abused his authority and forbade the inhabitants of Alexandria to assemble. He dissolved associations and clubs. The Greek term ἑταιρεία means "association", "political association or union aimed at achieving political goals[9]". The term σύνοδος, meaning "assembly" or "meeting", often had a religious meaning[10]. Followers of the same religion gathered to worship together. It is worth noting that the travel aspect is not accidental here. Every Jew, including those living in the Alexandrian diaspora, should go to Jerusalem three times a year to worship God together. The journey itself under such circumstances had a religious character – whether hiking or travelling by ship, Jews prayed and sang psalms. Each such endeavour was an expression of their religious freedom. They left their places of residence, where their neighbours followed various gods, to worship the only God. The ruler believed that the meetings were only apparently religious in nature. Their real purpose was, apparently, to talk politics and plot against Rome and the emperor. The alcohol consumed during the meetings was said to radicalise the hostility towards the emperor and his representative in Egypt. Prohibiting such meetings meant depriving Jews of the opportunity to practice their faith and worship.

Throughout his works, Philo of Alexandria focused exclusively on interpreting Scripture and explainingit with regard to Greek philosophy. In Corpus Philonicum, he never questioned the power and authority of Rome. Only the persecution and interference of Flaccus regarding the law on religious freedom led to opposition. He did not support naming the behaviour of the

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[9] H.G. Liddell, "A Lexicon: Abridged from Liddell and Scott's Greek-English Lexicon" (Oak Harbor, WA: Logos Research Systems, Inc., 1996): 319.
[10] W. Arndt, "A Greek-English Lexicon of the New Testament and Other Early Christian Literature" (Chicago: University of Chicago Press, 2000): 973.

representatives of the diaspora with the verb ἀφηνιάζω. It means "to go crazy", "to fall down in fear", or "to run away" [like a frightened animal]. It describes a state of uncontrolled behaviour or violent and destructive action. Following Roman law and the privileges granted to them by successive emperors, the Jews expected that these provisions would be respected. They wanted to be able to pray together in Alexandria and travel to Jerusalem for the holidays.

The Ruler's Duties towards the People

The first duty of the ruler mentioned in the treaty "In Flaccum" is to maintain peace and order. According to the ancient Greeks, the single word εὐνομία contains two meanings. First, "order" is understood as respect for all inhabitants of the πόλις (city-state). It allowed citizens to feel equal and, at the same time, jointly responsible for the fate of their community. An extreme case warning against the lack of recognition of differences was lynching. People were killed not for actual crimes but for having different views or beliefs. The mob was capable of carrying out its own death sentence without a verdict or even a proper justification. Citizens did not feel safe and able to express their views freely (See: Flacc. 66). Second, the word also entails "obeying the law". It was understood a set of rules adopted by the city community, guaranteeing fair and predictable punishments for crimes committed and, most importantly, preventing the rulers from making subjective decisions. Any attempts to restrict freedoms or civil rights were inconsistent with generally accepted law, which was developed over centuries and intended to introduce a universal sense of security. In order to ensure such a state, Flaccus began to reorganise the armed forces. Based on the available source knowledge and the information provided by Strabo, it should be assumed that at that time there were two army legions in the vicinity of the city (Strabo, Gerog. 16, 1; Flacc. 5). In the event of a rebellion triggered by the restriction of citizens' rights, the ruler wanted to maintain order with the help of the army. Philo believed that a better solution was to show respect to citizens and allow them to express their views and practice their faith freely.

Every ruler should strengthen his authority in his decisions and actions. This goes beyond maintaining an army. Κρατέω means "achieving something despite obstacles". In every community, individual citizens have their own expectations and interests. The ruler's task is to ensure universal respect for one's dignity, property rights and equal access to public facilities. By managing common goods properly, the ruler could limit social conflicts when citizens felt their prosperity was increasing. This factor united the people and limited the need to use the army to maintain order. This verb also meant "to take control of someone". Sometimes it involved physical arrest. However, in this case, it means gaining the people's favour through the adopted policy, supposed to lead to order and the absence of riots. Philo was aware that Egyptians were prone to rebellion, especially when those in power lost their authority. In such a situation, numerous violations of civil rights occurred: violence, murders, and thefts (Flacc. 17).

When the authority was lost, the ruler stopped caring for the common good. His primary goal was to maintain power. His own good was more important to him than the law and the benefit of citizens. Flaccus's advisors eventually took over the real power in the city. When describing the situation, the philosopher from Alexandria, draws attention to three aspects related to the rights of citizens. Firstly, for those in power, their benefits become the most important. This is when citizens often suffered because they refused to accept illegal actions and subsequent persecution. The second aspect is the lack of transparency in the exercise of power. He considers it unfair when a small group of just a few people has privileges that are not available to others. At the same time, they used their real power to persecute Jews and accuse them falsely of not obeying the law. The greatest threat to the rights of people living in the city was the takeover of power by unpredictable people. Until that moment, the law guaranteed a universal sense of security, assigned specific penalties for specific crimes, and regulated social order. When it [the law] began to be treated by criminals at their own discretion, people had a sense of uncertainty (Flacc. 17-20).

Expecting to lose power, Flaccus stopped respecting human rights. He began systematic persecution of religious minorities. Jews were accused of crimes they did not commit. One of the most important rights is justice. The ruler of Alexandria lied to the emperor in Rome for his own benefit and to gain favour. In this way, he endangered the lives of the Jews living in the city. Philo believed that false accusations were entirely contrary to the principles of functioning a city or state community. In such a situation, citizens lose entirely trust in the authorities because there are no clear rules defining the appropriate course of action. Power is exercised solely in accordance with the will of the ruler, and law is subjective in nature. The most critical task of politics, i.e., the common good, is subordinated to the selfish benefit of the ruler (Flacc. 51).

The persecution led to the Jews being unable to defend themselves and even to present their arguments and reasons properly. This behaviour of the ruler prevented them from expressing their views. Flaccus did not even want to listen to the representatives of the synagogue, presuming they were guilty of the acts for which they were accused. By demonstrating his reluctance and hostility, he expressed his lack of respect for them. The Alexandrian philosopher vainly expected that the ruler would treat all the inhabitants of the city with the same respect (Flacc. 23).

Philo did not recognise absolute freedom of speech. In his treatise, he presents a history of lies and jokes about King Agrippa. The incident occurred in a gymnasium. It was the most important educational institution in every Greek city. Literature and rhetoric were taught there, and sports training was provided for citizens. It was also a place to organise cultural meetings[11]. According to the philosopher, Flaccus could have stopped people from publicly lying about Agrippa when ridiculing plays were being staged about him. The lack of reaction gave the impression of consent towards such conduct. Philo believes that every person should be responsible for his/her words and defends the king's dignity. He assumes that freedom of speech is not absolute and that one cannot insult other people, especially those holding important offices, with impunity. According to him, the proper punishment for ridiculing the king is imprisonment for the person who makes fun of the king during the performance, along with severe punishment for the organisers of such satires. He believes that insulting another person, in word or deed, openly or through innuendo, is unacceptable (Flacc. 34-40).

It is also the duty of any government to ensure justice in society. This requires the establishment of independent judges who would resolve disputes based on applicable law. In Alexandria, during the accusation against the Jews, Flaccus acted simultaneously as accuser, witness, judge and executioner. This ironic portrayal of the ruler's role shows that he did not give his opponents any opportunity to defend themselves. The verdict was issued before the trial

[11] B.W.R. Pearson, "Gymnasia and Baths". In: *Dictionary of New Testament Background: A Compendium of Contemporary Biblical Scholarship* (Downers Grove, IL: InterVarsity Press, 2000): 435-436; N. Lewis, "Life in Egypt Under Roman Rule" (Oxford: Oxford University Press, 1983).

began. Such conduct is unacceptable in a state governed by the rule of law, indicating that the ruler is a tyrant. He only pursued his own goals, completely disregarding the well-being of his subjects. The rule of law turned into lawlessness because orders and prohibitions were not aimed at the good of citizens, but at their persecution (Flacc. 54).

"Buying the ruler" is a threat to the equal treatment of citizens and the observance of law in a city or state. Essentially, the word ὠνέομαι means "to acquire goods or services in exchange for money", or "to buy". It refers to objects. However, Philo disrespects the ruler and speaks of "buying" a person. Some citizens of Alexandria gained favour be means of "kind words" and "compliments". Once again, human rights violations resulted from the ruler considering own good and fame as being more important than the good of citizens, truth and the recognition of the law. In return for the kind words, the ruler stopped recognising the law regarding religious freedom. He ordered the image of the emperor to be placed in the synagogues. For the Jews, such behaviour was contrary to the Ten Commandments, which forbade the display of any representations of God, and especially of the emperor, who was not a deity to them (Ex 20:4; Deut 4:16-18).

The task of each ruler was to manage a city or state, taking into account national and religious minorities within their jurisdiction. According to Philo's estimates, Alexandria and Egypt were inhabited by one million Jews. Even if modern research considers this number to be false and symbolic, it must be recognised that many descendants of Abraham lived in Egypt[12]. As fully legal citizens, they expected to be treated the same as Egyptians.

Citizens' Privilege

According to Alexandrian, one should distinguish between obligations towards the city or state in which one lives and the traditions one practices. Every citizen is responsible for the community in which they live. At the same time, this should not limit this person's ability to cultivate their own traditions. Philo believes that no authority should restrict its citizens from cultivating what he called with the Greek adjective πάτριος. It means all traditions that come "from the fathers". Therefore, it defines not only the cultivated tradition

[12] Filon, „Flakkus. Pierwszy pogrom Żydów w Aleksandrii" (Kraków: WAM, 2012): 126.

passed down from generation to generation, but also the identity of Jews living outside their place of origin. Civic duties should not affect the ability to pass on the history of one's ancestors, to perform religious rites in private and public, or to protect one's good name. Passing these on to subsequent generations also meant the need to teach young people the content of the Torah, as well as the prohibitions and commandments contained therein. This was only possible thanks to freedom of speech, learning and education. For Jews living in Alexandria and other diasporas, religious education most often took place at home, where parents passed on knowledge, or at Sabbath meetings (Flacc. 47)[13].

One of the most essential privileges of citizens should be freedom of speech and religion. In the circumstances of the Alexandrian diaspora in the first century, these two laws were essentially the same. Philo clearly states that the representatives of his nation want to live in peace. However, they cannot agree to persecution and not react when their tradition is being destroyed. The ability to study the Torah and pass on its content to subsequent generations was the only way for them to maintain their identity and, at the same time, their distinctiveness across generations. The prohibition to teach would mean that, over time, subsequent generations would adopt the religious practices and beliefs of the Egyptians. For this reason, the Jews were willing to sacrifice their lives to defend their tradition. The destruction of synagogues throughout the Roman Empire could have led to a situation where Jews would have no place to pray. In such a situation, death was considered a preferable solution (Flacc. 48).

Despite the numerous persecutions of Jews described, the author never questioned the power and authority of the emperor in his "In Flacco". The diaspora, aware that they were a minority, recognised the emperor's authority and even respected him. Philo did not want to accuse Caligula of ordering the emperor's images to be placed in synagogues and of not observing the law directly. In Flacc. 42, he clearly stated that the local authorities were illegally invoking the emperor's decisions. Similarly, when he describes the desecration of the synagogue, he speaks generally about the placement of portraits. He does not specify whose performances these were. The reader and recipient of the text must guess that this refers to the emperor, but this is not clearly stated. It can be assumed that Philo, coming from a wealthy family and being a man raised to respect authorities, does not want

[13] S. Fine, "For this Schoolhouse is Beautiful": A Note on Samaritan 'Schools' in Late Antique Palestine". In: *Shoshannat Yaakov* (Leiden: Brill, 2012): 65-75.

to non-diplomatically accuse the most important person in the Roman Empire of serious crimes from the point of view of Jewish law and tradition (Flacc. 41).

In Philo's opinion, civil rights do not contradict the commandments and prohibitions contained in the Torah. The law of the Roman Empire set rules for human behaviour, guaranteeing everyone a sense of security and social order. Religious principles encourage doing good, not evil. Therefore, Jews helped other citizens of their community – the sick, the poor, the suffering – even though they had no obligation to do so. At the same time, Philo did not agree with Flaccus's accusations that they did not recognise the emperor's authority. The diaspora recognised the political supremacy of the Augustan family, and even prayers for the emperors' well-being were offered in the synagogues. Philo believes that every person has the right to worship the God one believes in and that political power should not interfere in this sphere of human life. He agreed with the decisions of the rulers of Alexandria and Rome within the framework of their political competencies. However, he could not accept their interference in the religious life of citizens, especially the descendants of Abraham who professed a monotheistic religion (Flacc. 49).

In Flacc. 53, Philo directly uses the term πολιτεία. It means "rights arising from membership in a socio-political unit", "civic rights", "behaviour in accordance with the standards expected of a respectable citizen", "righteous way of life", "correct conduct[14]". As C. Spicq and James D. Ernest state in their dictionary, belonging to a given community entails both rights and privileges, as well as duties and responsibilities. Everyone is therefore required to "live like a citizen" (politeuomai), i.e., to abide by the laws and spirit of this city, in accordance with its rules and traditions[15]. In the ancient world, an important aspect of being a citizen of a city was having the privileges and responsibilities that came with it. This is why foreigners were eager to obtain πολιτεία, either by providing services to the community or by purchasing this privilege. The word πολιτεία also refers to the principles that were to be followed by the rulers of a given city-state. Free citizens within their rights were to co-decide on the fate of their community. As Spicq and Ernest note, Jews were very aware of civil rights. In every city outside the Promised Land, they simultaneously

[14] W. Arndt, "A Greek-English Lexicon of the New Testament and Other Early Christian Literature" (Chicago: University of Chicago Press, 2000): 845.
[15] C. Spicq, J.D. Ernest, "Theological Lexicon of the New Testament" (Peabody, MA: Hendrickson Publishers, 1994): 124.

sought to observe the traditions and laws derived from Mosaic law that were important to them, while also adapting to local customs and public life rules. It is worth paying attention to one more aspect of the word πολιτεία. It means living with others and is contrasted with the word idiōteuō, "living as a private person[16]". Despite the persecution of Jews and the destruction of their places of worship, Philo of Alexandria considers it natural for them to live in relationships with other citizens. Thus, the ability to live with other people who should support us in everyday life and with whom we can create a community of a city or a nation becomes one of the human rights. Such a large group always consists of people with different views, goals and beliefs. Therefore, mutual respect and understanding are necessary. The systemic persecution of any group in society because of differing views or beliefs is considered unacceptable (Flacc. 53).

In the first century AD, a district exclusively for Jews – a ghetto – began to be created in Alexandria. There were five districts in the city, and Abraham's descendants lived in each of them, but over time, the Egyptians began to force them to live only in one, the smallest. The eviction did not affect everyone. Some people remained in their contemporary places of residence. According to the Alexandrian, such conduct of other city residents prevented the Jews from freely choosing their place of residence, which is contrary to the principles of law and tolerance. Ultimately, this led in some cases to being deprived of private property. Forced to live in a small space, the Jews did not have good living conditions. The social situation of some has led to homelessness. After leaving their homes, they had to live on the seashore, at a waste disposal site and in the cemetery. The Egyptians robbed the homes of the Jews, and no one punished such behaviour (Flacc. 55-56).

It is worth noting that in the face of persecution and attacks, the text of the treaty addresses the issue of human rights as well as mentions the possibility of decent work to support a family. The Greek term ἀπραξία means "inability to act", "inactivity". It also meant a "rest from work" resulting from the celebration[17]. Philo believed that the ability to engage in gainful employment was one of the fundamental rights. It must not be limited by robbing and destroying jobs. Depriving someone of money, which made trade

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[16] Ibidem: 131-133.

[17] H.G. Liddell, "A Lexicon: Abridged from Liddell and Scott's Greek-English Lexicon" (Oak Harbor, WA: Logos Research Systems, Inc., 1996): 111.

impossible, or prohibiting them from working by force are also unacceptable. The worst situation is to simultaneously deprive a person of all possessions and prevent them from earning money so that this person cannot provide food for their own family (Flac. 57).

In the context of the ongoing persecution in Alexandria, he also included a dignified funeral among the rights arising from human dignity. Abuse of corpses is inappropriate and unacceptable. Given the ongoing conflict, the timing of the funerals required a truce. The desire to bury the dead has two aspects. The first is about respect for a person, even after death. People organising funerals did not want human bodies to lie in random places, as happens with animals. Secondly, it demonstrates a proper understanding of human rights and a recognition of human dignity by good people, who are ready to bury the dead (Flacc. 61).

Summary

The presented understanding of human rights in the treatise "In Flaccum" demonstrates Philo's conviction that the primary responsibility of those in power in a city or state is to ensure the right to life, freedom of speech and religion (including assembly), safety, and a fair trial. At the same time, the Alexandrian believed that citizens should respect and recognise the authorities as long as their decisions do not violate fundamental freedoms. Simultaneously, it is worth noting that, in addition to these most basic truths, he also mentioned economic and social truths that guarantee the possibility of gainful employment and a decent standard of living, which include education and the opportunity to acquire religious knowledge.

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Krystyna Ziółkowska

University of Warmia and Mazury in Olsztyn
ORCID: 0000-0003-4825-0597

THE RIGHT TO BE OFFLINE AS THE REALIZATION OF A REMOTE WORKERS' RIGHT TO REST

Abstract: An employee's right to rest is a fundamental right. According to the Constitution of the Republic of Poland, every citizen is guaranteed the right to days off and paid vacation. The Labour Code also enshrines the right of employees to an uninterrupted 11-hour rest after work. The COVID-19 pandemic has changed the situation for employees. Since then, remote work has become increasingly common. Employees no longer work in workplaces but from home, using computers, mobile phones, and instant messaging. Numerous studies conducted both in Poland and across the European Union show that remote workers are equally, and sometimes even more, vulnerable to excessive stress and work overload than in-person employees. This is also because employers require constant availability. This publication answers the question of whether an employee can remain "disconnected" from email, laptop, and company phone within the scope of their right to rest.

Keywords: remote work, employee availability, right to rest, being "offline"

Introduction

Remote work became a form of employment for employees during the COVID-19 pandemic, which began in 2019, when traditional work arrangements were impossible. Many employees, especially white-collar workers performing computer-related work, including salespeople, IT specialists, technologists, construction workers, architects, and others, began working from home while maintaining constant communication with their employers via instant messaging, email, and telephone. According to Eurofound research, over a third of the EU employees began working from home during the COVID-19 lockdown. Meanwhile, 27% of those working from home confirmed working during their free time to manage their workload[1]. A study conducted by the career website LiveCareer.pl shows that as many as 65% of Polish employees

[1] K. Piwowarska, „Prawo pracownika do bycia offline" *N.ius*, 2021-02-05.

respond to work emails after hours, 27% work while on vacation, and 53% take their work home. The study also shows that 23% of respondents do not

feel they can take time off without stress and worrying about their responsibilities. Most often, people who work while on vacation do so because they feel too responsible (52%), do not finish tasks before their vacation starts (26%), or are expected to be available by their superiors (24%)[2]. Although the aforementioned study was conducted among employees working in-person, the results are also applicable to those working remotely, as the so-called "always-available employee culture" continues to develop.

In recent years, the term "work-life balance" has gained popularity, referring to the conflict between two life spheres: private life and professional life. These are two contradictory realms. The former refers to free time, relaxation, spending time with family, and pursuing interests, while the latter refers to earning a living that allows for proper functioning in a society where virtually all social relationships are based on the exchange of goods and money. There is no doubt that almost every person is forced to manage their professional life, as it directly impacts their personal life. Therefore, the ability to maintain a balance between these two elements is essential for health, proper family and interpersonal relationships, as well as for productivity, self-fulfilment, and job satisfaction[3].

As M. Smolski points out, remote work has numerous advantages, including increased efficiency, the ability to maintain a work-life balance better, and eliminating commuting problems. However, it is important to remember that this type of work also carries certain risks. One of these is remaining available to the employer after working hours[4]. According to P. M. Secunda, currently the workplace is where you take your smartphone, pager, laptop or smartwatch, and where you can continue to do work long after the traditional workday has ended. Work is being done not only at home, but in transit and on vacation. The result has been the loss of privacy and autonomy, causing a detrimental impact on safety and health, an attendant loss of productivity, and a lack of time for any leisure or recreational activities alone or with family

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[2] P. Szewioła, „Służbowy telefon ciągle pod ręką", *Rzeczpospolita* 2025-10-14.
[3] K. Ziółkowska, S. Omieczyńska, „Prawo do prywatności pracownika w perspektywie work-life balance", *Studia Prawnoustrojowe* 65, (2024): 671-687.
[4] M. Smolski, „Prawo pracownika do bycia offline. Odpoczynek w czasach digitalizacji pracy", *Inspektor Pracy* 9 (487), (2023): 11-15.

and friends. Employees need to unplug in order to regain appropriate work-life balance[5].

The Right to Disconnect

The introduction of remote work as an employment standard quickly revealed the emerging imbalance between working hours and time allocated for leisure and family life. Therefore, the European Parliament adopted a resolution on the "right to disconnect". The resolution particularly highlighted the findings of a Eurofound study, which showed that, compared with those who work in an office, those who regularly work from home are more than twice as likely to work longer than the maximum weekly working hours permitted by EU law (48 hours) and to take less than 11 hours of rest between working days. The resolution also noted that nearly 30% of such remote workers report working during their free time every day or several times a week, compared with less than 5% of office workers, and that remote workers also work more irregular hours. It also emphasized that an increasing number of those working from home in the EU report long working hours or the inability to take time off from work. Furthermore, it noted that those who regularly work remotely are more likely to report work-related stress, sleep disturbances, stress, and exposure to light from digital screens, and that other health consequences of remote and highly mobile workers include headaches, eye strain, fatigue, anxiety, and musculoskeletal disorders. The document acknowledges that regular teleworking can negatively impact workers' physical health, as makeshift home workstations, laptops, and other ICT equipment may not meet ergonomic standards. It calls on the Commission and Member States to improve research and data collection, and to conduct a detailed assessment of these issues. It emphasizes that the importance of addressing these issues is increasing in the context of the expected long-term expansion of remote work[6]. One of the most important elements of the resolution under discussion is paragraph 20, in which the European Parliament emphasises that employers should not require employees to be directly or indirectly available or accessible outside working hours, and that colleagues

[5] P.M. Secunda, "The Employee Right to Disconnect" *Notre Dame Journal of International & Comparative Law* Vol. 9: Iss. 1, article 3, (2019).

[6] European Parliament resolution of 21 January 2021 with recommendations to the Commission on the right to be offline (2019/2181(INL)), OJ EU.C.2021.456.161, letter J, paragraph 7.

should refrain from contacting each other outside agreed working hours for work-related purposes. It recalls that the time when an employee is available or accessible to an employer is working time and emphasises that, in the context of the changing nature of the world of work, there is a greater need for employees to be fully informed of working conditions in order to exercise the right to be offline, and that this should be done in a timely manner and in written or digital form, in a way that is easily accessible to employees. It also points out that employers must provide employees with sufficient information, including a written declaration, setting out their right to be offline, namely at least the practical arrangements for switching off digital tools for professional purposes, including any work-related monitoring or surveillance tools, the way in which working time is recorded, the assessment of occupational health and safety by the employer, and the measures to protect employees from unfavourable treatment and to implement the right of workers to seek redress. It reiterates the importance of equal treatment for cross-border workers and calls on the Commission and the Member States to ensure that workers are adequately informed about their right to be offline, also in a cross-border context[7]. In response to the above resolution, appropriate legislation has been implemented in some European Union countries. Legislative solutions in this area have been adopted in France (2016), Belgium, Italy (2017), Spain (2018), and Portugal (2021). In Ireland, the Workplace Relations Commission adopted a Code of Practice for Employers and Employees on the Right to Disconnect in 2021, which was promulgated by statute. Although the Code is not formally binding, it can be invoked in court (Code of Practice for Employers and Employees on the Right to Disconnect, 2021, p. 2)[8].

Eurofound's working paper, "The Right to Disconnect in the 27 EU Member States", notes that the concept of the right to disconnect can have different meanings. It can be seen as an employee's ability to refrain from working outside normal or agreed working hours using digital tools (the right to disconnect). It can also be understood and implemented as an employer's obligation to ensure that employees do not work during the periods of rest and leave (the right to be disconnected). The European Parliament's proposal

[7] European Parliament resolution of 21 January 2021 with recommendations to the Commission on the right to be offline (2019/2181(INL)), OJ EU.C.2021.456.161, letter J, paragraph 20.
[8] M. Kurzynoga, „Propozycje Parlamentu Europejskiego unormowania prawa pracowników „do odłączenia" (the right to disconnect)" *Praca i Zabezpieczenie Społeczne* nr 5, (2022): 3-13.

rightly adopts the first of these possible concepts. The right to disconnect is defined as not engaging in work-related tasks outside working hours and not participating in communications using digital tools, directly or indirectly (Article 2(1) of the draft directive)[9]. However, A. M. Świątkowski emphasizes that the EU Commission's legislative proposal requires the EU Member States to guarantee and observe, and therefore, at a minimum, ensure the following working conditions:

a) practical arrangements for switching off digital tools used for professional purposes, including any monitored work tools;
b) the working time measurement system;
c) an assessment of occupational health and safety in relation to the right to be offline, including an assessment of psychosocial risks;
d) the right of employees to be offline;
e) in case of derogation from the regulation provided for in point (d) of this Article: the criteria for determining the amount of compensation for work performed outside working hours in accordance with Directives 89/391/EEC, 2003/88/EC, (EU) 2019/1152, and (EU) 2019/11/58[10].

The Right to Disconnect As a Realization of the Right to Rest

Rest is necessary to counteract the effects of fatigue, which is a common phenomenon and a basic physiological response to excessive physical or mental stimulation, in other words, excessive physical or mental work. Fatigue is nothing more than a defensive reaction[11]. The right to rest is a fundamental right not only for employees, but for everyone. It is important to remember that fatigue, if left unaddressed through adequate rest, can lead to exhaustion and, consequently, burnout. Depending on the job, fatigue can be physical, mental, or psychological. When we are unable to be offline, we may be dealing with mental fatigue: the constant pressure to be available. L. Mitrus believes that the right to be offline should be analysed in the broader context

[9] M. Kurzynoga, „Prawo „do odłączenia" jako nowa instytucja realizująca prawo do odpoczynku". W *Między ideowością a pragmatyzmem – tworzenie, wykładnia i stosowanie prawa. Księga jubileuszowa dedykowana Profesor Małgorzacie Gersdorf,* red. Barbara Godlewska-Bujok et al. (Warszawa: Wolter Kluver, 2022).
[10] A.M. Świątkowski, „Prawo do bycia „offline" *Monitor Prawa Pracy* nr 3, (2024): 17-20.
[11] K. Majchrzak, „Prawo do wypoczynku w świetle przepisów Kodeksu pracy" *Studia Prawnoustrojowe* nr 50, (2020): 275-294.

of the regular use of digital tools to fulfil employee duties, and not solely from the perspective of the risks associated with remote work performed from the employee's home[12]. This view must be accepted, as in the age of widespread digitalization, employees are constantly available, whether via email, telephone, or instant messaging. Even before the COVID-19 pandemic, some countries had adopted regulations prohibiting sanctions against employees who fail to respond to emails after working hours, and at the company level, contact with employees during vacation was limited[13].

There is no doubt, therefore, that an overworked employee is a poor employee, and constantly maintaining such a state leads to discouragement and, consequently, poor performance of duties. And, contrary to appearances, these cases are not rare. M. Nowak emphasizes that the issue of burnout is receiving increasing attention not only because of the ever-expanding scale of the phenomenon but also because of its negative consequences not only for the individual affected, but also for the employer, the employee's family, and ultimately, society as a whole. While initially burnout syndrome was only associated with specific professional groups, such as teachers or healthcare workers (doctors, nurses), now, it is recognized that it affects people performing various jobs and belonging to various age groups, often including young people. It is associated with, among other things, a lack of job satisfaction, a decrease in work commitment, as well as a significant deterioration in the body's condition, i.e. numerous psychosomatic ailments, which in its turn lead to reduced efficiency and quality of work and a gradual "withdrawal from previous activities", sometimes also in the areas of life other than work[14].

For this reason, the right to rest is reflected even in the highest-ranking legal acts, namely the Constitution of the Republic of Poland[15]. Article 66, Section 2 of the Constitution guarantees the right to statutory days off and annual paid leave to the citizens; maximum working time standards are established by the statute.

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[12] L. Mitrus, „Pracownicze prawo do bycia offline" *Monitor Prawa Pracy* nr 3, (2022): 15-20.
[13] B. Surdykowska, „Prawo „do odłączenia" – coraz większe wyzwanie we współczesnym świecie pracy" *Monitor Prawa Pracy* nr 12, (2019): 7-8.
[14] M. Nowak, „Wypalenie zawodowe a prawo do odpoczynku – wybrane zagadnienia" *Monitor Prawa Pracy* nr 1, (2019): 15-20.
[15] Constitution of the Republic of Poland of 2 April 1997, Journal of Laws 1997 No. 78, item 483.

The Labor Code[16], which governs working time standards, generally stipulates an 8-hour working day, with the weekly working time not exceeding 40 hours. Employees are also entitled to 11 hours of uninterrupted rest.

The Supreme Court[17] found that an employee's right to rest can be considered a personal right, separate from health and the right to safe and hygienic working conditions. B. Surdykowska's view is interesting; she believes that Poland needs urgent legislative work to introduce clearly defined regulations permitting offline work. Firstly, because the stress levels of Polish employees are higher than average. This is because the Polish work environment is generally characterized by very feudal employer/ supervisor/ employee relationships. According to B. Surdykowska, regulations are needed primarily because Polish legislators allow very liberal conditions for the use of task-based working time, which does not require employers to keep records of working time. This poses a significant psychological and physical burden for employees whose work largely involves performing tasks in real time. In the context of the right to disconnect, it is also important to remember the provisions of the Social Insurance Act in the event of sickness and maternity. It is common practice for employees taking sick leave to respond to "work" emails[18].

The Need to Regulate the Right to Be Offline in the Polish Labour Law System

The Labour Code contains no regulations regarding the right of remote workers to be "disconnected", or, in other words, to be offline. This is partly due to the translation of the European Parliament resolution into Polish, which instead of the term "right to disconnect", uses the phrase "right to be offline", even though these are not the same concepts. "Right to disconnect" means that an employee can physically move away from their computer, phone, or messenger, while being offline only means being without internet access. Also, taking into account the fact that the directive proposed by the European Parliament resolution cited in this text has not been implemented so far, the formulation of the EU directive addressing the right to be offline appears

[16] Act of 26 June 1974, Labor Code, Journal of Laws 2025, item 277, consolidated text.
[17] Judgment of the Supreme Court of 21 June 2011, III PK 96/10, LEX.
[18] B. Surdykowska, Prawo „do odłączenia"…

imminent. However, from the perspective of the Polish labour law, it is prudent to take legislative action independently, not waiting for a directive. Indeed, the necessity for positive regulation in this regard has been highlighted in literature for several years[19].

The Labour Code's provisions regarding remote work have been introduced recently, a necessity resulting from the declaration of a pandemic and the consequent widespread use of off-site work. These provisions regulate the procedure for assigning or withdrawing an order to perform remote work, the obligations of both parties, and the prohibition of discrimination against employees performing this type of work. However, there are no provisions regulating the right to rest. Therefore, it should be assumed that an employee performing work off-site is entitled to the same rights as on-site employees. Hence, a remote worker also acquires the right to an uninterrupted 11-hour rest period. A similar view is expressed by P. Mincewicz. The author notes that there is no separate employee right to disconnect in Poland, but such a right can be inferred from both general working time regulations and the case law of labour courts and the Supreme Court. Polish labour law currently includes regulations that ensure respect for employees' free time. Employees are only available to the employer during working hours. Therefore, employees are obligated to remain at the employer's disposal within the scope of working hours and the work schedule established in accordance with Article 130 of the Labour Code. After this time, the employee is no longer at the employer's disposal. Generally, an employee is not obligated to answer the phone or respond to emails after working hours or while on vacation[20].

Outside these working hours, the employer may require the employee to work exclusively overtime or oblige them to remain at work. Standby duty is defined as remaining on standby outside of normal working hours; it should be emphasized that both overtime work and standby duty, in principle, must not violate the employee's minimum daily and weekly rest periods. Rest is a period designated for the employee's rest, free from performing work duties[21]. It is worth emphasizing here, once again, following K. Moras-Olaś, that

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[19] I. Więckiewicz-Szabłowska, "The right to be unavailable (offline) – is it time for a new principle of employment law?" *Z Problematyki Prawa Pracy i Polityki Socjalnej* T. 6(23), (2025): 136-152.
[20] Judgment of the Supreme Court of 8 March 2017, II PK 26/16, OSNP 2018, No. 4, item 43.
[21] P. Mincewicz, "The right to disconnect in the context of the constitutional right to rest and leisure", *Z Problematyki Prawa Pracy i Polityki Socjalnej* T. 6(23), (2025): 124-135.

the European Parliament resolution states that "the right to be offline is a fundamental right inextricably linked to new work patterns in the new digital era". It also emphasizes that it is crucial for protecting employees' health and well-being, both physical and mental. It has been noted that employees working from home are more likely to experience stress, anxiety, depression, and burnout[22]. Therefore, regulating this issue, whether at the European Union level or solely within Polish labour law, seems essential.

However, the Labour Law Department of the Ministry of Family and Social Policy presents a contrasting viewpoint. They suggest that the existing regulations pertaining to working time, particularly those concerning overtime work, on-call duty, and daily and weekly rest, adequately safeguard the employee's right to be offline. According to their perspective, since employees are not at the employer's disposal outside of their designated working hours, overtime work, or on-call duty, they are not obligated to remain in contact with the employer to perform their duties. A similar stance is taken by some scholars, who emphasize that the issue lies not in the absence of regulations granting employees the right to disconnect, but in the insufficient enforcement of existing laws. Consequently, they propose that the solution is not to amend the law but to raise awareness of its provisions and potentially increase penalties for non-compliance[23].

Conclusions

Remote work was not just a blip during the COVID-19 pandemic; it has become one of the most common forms of employment. This is primarily because it is convenient for employees, who do not waste time commuting to and from work. They avoid morning and afternoon traffic jams and crowds on public transport. They work in the safe and friendly environment of their own homes.

However, remote work also has its drawbacks, and its implementation carries risks. Employees are particularly vulnerable to being constantly available. Therefore, it is essential to regulate the employee's availability time for their employer. The time spent working requires more clarification than just

[22] K. Moras-Olaś, „Prawo do bycia offline jako podstawowe prawo pracownika" *Studia z Zakresu Prawa Pracy i Polityki Społecznej* 28, nr 4, (2021): 305-323.
[23] I. Więckiewicz-Szabłowska, "The right to be unavailable…".

the time spent working, if it were performed at the employer’s premises. The Labour Code is clear on this point: the working time standards in force in Poland are 8 hours a day and 40 hours a week, with certain permissible modifications. However, while a stationary employee is no longer under their supervision when leaving their workstation and leaving the employer's premises, the same cannot be said for remote workers. Meanwhile, overwork for remote workers is the same as for in-person employees, and it is common practice in Poland to take a company laptop and phone on vacation to respond to emails and stay in touch with management or clients.

In conclusion, I will reiterate what was discussed in this publication: overwork leads to constant stress, which is referred to as distress, or destructive stress, which can subsequently lead to employee fatigue and burnout.

Employees have the right to rest after work, on public holidays, and during vacation. During this time, they should also have the opportunity to be unavailable.

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