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HUMAN RIGHTS FACTOR IN THE REGULATION OF RELATIONSHIPS IN THE FIELD OF INFORMATION

The article broadly analyzes human rights factor in the regulation of relations in the field of information on the basis of the diversity of opinions existing in the legal literature and norms of international law. Today the information network that governs the world also justifies the need to regulate relationships in this area, where human rights are one of the main aspects. Even other problems set by the international community ultimately serve human rights. For example, ensuring international peace and security ultimately leads to human security. In general, as well as in other areas, the special consideration of the human rights factor in the regulation of relationships in the field of information can be justified by a number of factors.

The analysis of the peculiarities of the regulation of relationships is a significant problem in each area. Nowadays, the information network that governs the world also justifies the need to regulate relationships in this area, where human rights are one of the main aspects.

Finally, the article concludes that when analyzing the general characteristics of the interaction between the regulation of relations in the field of information and the human rights factor, it should be proceeded from the close interaction of these concepts: information objects, information relations, legal regulation, human rights.

Key words: information relations, protection of information, information objects, information systems, legal regulation, information law.

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Ақпарат саласындағы қатынастарды реттеудегі адам құқықтарының факторы

Мақалада құқықтық әдебиеттерде және халықаралық құқық нормаларында бар пікірлердің әртүрлілігіне негізделген ақпарат саласындағы қатынастарды реттеудегі адам құқықтары факторы кеңінен талданады. Бүгінгі таңда адам құқықтары негізгі аспектілердің бірі болып табылатын әлемді басқаратын ақпараттық желі осы саладағы қатынастарды реттеу қажеттілігін ақтайды. Тіпті халықаралық қауымдастық қойған басқа мәселелер де адам құқықтарына қызмет етеді. Мысалы, халықаралық бейбітшілік пен қауіпсіздікті қамтамасыз ету, сайып келгенде, адам қауіпсіздігіне әкеледі. Жалпы, басқа салалардағыдай, ақпарат саласындағы қатынастарды реттеу кезінде адам құқықтары факторының ерекше есебі бірқатар факторлармен негізделуі мүмкін.

Қатынастарды реттеу ерекшеліктерін талдау – әр салада маңызды мәселе. Бүгінгі таңда әлемді басқаратын ақпараттық желі адам құқықтары негізгі аспектілердің бірі болып табылатын осы саладағы қатынастарды реттеу қажеттілігін негіздейді.

Мақалада ақпарат саласындағы қатынастарды реттеу мен адам құқықтары факторының өзара әрекеттесуінің жалпы сипаттамаларын талдау кезінде осы ұғымдардың өзара тығыз әрекеттесуінен бастау керек, сонымен қатар келесідей институттар ақпараттық объектілер, ақпараттық қатынастар, құқықтық реттеу, адам құқықтары туралы түсініктер ашылады деген қорытынды жасалады.

Түйін сөздер: ақпараттық қатынастар, ақпаратты қорғау, ақпараттық объектілер, ақпараттық жүйелер, құқықтық реттеу, ақпараттық құқық.

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Фактор прав человека в регулировании отношений в области информации

В статье широко анализируется правозащитный фактор в регулировании отношений в сфере информации на основе разнообразия мнений, существующих в юридической литературе и нор-

мах международного права. Сегодня информационная сеть, которая управляет миром, также оправдывает необходимость регулирования отношений в этой сфере, где права человека являются одним из главных аспектов. Даже другие проблемы, поставленные международным сообществом, в конечном счете служат правам человека. Например, обеспечение международного мира и безопасности в конечном счете ведет к безопасности человека. В целом, как и в других областях, особый учет фактора прав человека при регулировании отношений в сфере информации может быть оправдан рядом факторов.

Анализ особенностей регулирования взаимоотношений является существенной проблемой в каждой области. Сегодня информационная сеть, которая управляет миром, также оправдывает необходимость регулирования отношений в этой сфере, где права человека являются одним из главных аспектов.

В заключение делается вывод о том, что при анализе общих характеристик взаимодействия регулирования отношений в сфере информации и фактора прав человека следует исходить из тесного взаимодействия этих понятий, а также раскрываются понятия таких институтов, как информационные объекты, информационные отношения, правовое регулирование, права человека.

Ключевые слова: информационные отношения, защита информации, информационные объекты, информационные системы, правовое регулирование, информационное право.

Introduction

The analysis of the characteristics of the regulation of relationships is a significant problem in each area. Today the information network that governs the world also justifies the need to regulate relationships in this area, where human rights are one of the main aspects. Even other problems set by the international community ultimately serve human rights. For example, ensuring international peace and security ultimately leads to human security. In general, as well as in other areas, the special consideration of the human rights factor in the regulation of relationships in the field of information can be justified by a number of factors.

First, it is impossible to conceive modern life without human rights, as human rights are inseparable from a person and is a key element in all human relations (<https://www.michalsons.com/focus-areas>).

Second, due to scientific researches which rightly points out that all the fields of law, including related fields, study human rights as a comprehensive law. Human rights are in the centre of universal culture, and they are based on theoretical and practical knowledge. Any field of law that does not cover and does not take into account human rights cannot be complete and function. (Human rights 2005).

Third, even the regulation of relationships in the field of information itself is directly aimed at ensuring human rights. As parties to international human rights treaties, countries must conscientiously fulfill their obligations under the *pacta sunt servanda* principle, which is one of the most important principles of international relations and international law and

take appropriate measures in their national legislation. All international documents clearly define the measures to be taken by states in this direction.

Materials and discussion

Fourth, human rights are universal and also apply to the regulation of information relations. Thus, Article 1, paragraph 3, of the UN Charter states that one of the main objectives of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion (<https://www.un.org/en/about-us/un-charter>). The above is reaffirmed in Article 55 of the UN Charter.

Fifth, protection of human rights is one of the main goals of states today and it has a serious constitutional basis. Thus, according to Part 1 of Article 12 of the Constitution of the Republic of Azerbaijan, ensuring human and civil rights and freedoms, a decent standard of living for citizens of the Republic of Azerbaijan is the highest goal of the state.

The above-mentioned principles are absolutely cogent and can be expanded. Another element of the globalisation of human rights is the international cooperation of states and the adoption of numerous international documents as a result of this cooperation.

Now it is necessary to consider the features of the regulation of information legal relations and the key elements of the human rights factor in these relations. It should be noted that information legal

relations are a set of public relations arising in the field of information and regulated by legal norms and have a number of features: these relations have a legal form as they are governed by legal norms; the parties of information relations possess mutual rights and obligations established by legal norms; information legal relations have a conscious-voluntary nature; information legal relations have a certain structure consisting of subject, object and content; information legal relations are guaranteed by the state and if necessary may be protected by the state's obligatory measures (Aliyeva 2019).

Thus, these relationships arise, develop and terminate in connection with information in the field of information; coordinates the state policy on recognition, provision and protection of basic human rights and freedoms in the field of information; in the process of implementation of information rights and freedoms (taking into account the specific and legal features of information and information objects) reflects the features of the application of public-legal and civil-legal methods (Kopilov 2005).

In a broad sense the object of information legal relations is the field of information. Information field covers relations on search, acquisition, storage, production, processing, transmission, distribution, destruction and utilization of information, application of information technologies, organization of information protection, information security.

In the legal literature it is indicated 3 different points of view related to the object of information legal relations: a monistic concept that defines the subject's actions or behavior towards material wealth as an object; a pluralistic concept that accepts numerous objects of information legal relations, including material and intangible resources, products of spiritual creativity; and the third concept that accepts the object of information legal relations as a legal regime (Qorodov 2012).

Due to other researches it can be included additional elements: information, information technology, information systems, information and telecommunications networks, information security. In addition, it is indicated that information, which is the object of information relations, can act as one of the following: as a commodity in the creation, storage, use, transmission and dissemination of information itself; as a source for decision-making; as a source of knowledge in the process of education and upbringing while implementing the right to education; as news about events and processes taking place in society to ensure freedom of information; as a means of accounting for legal entities and individuals (in

the form of tax reports, statistical reports, etc.); as a means of gathering personal information in various government agencies while realization of numerous human rights (right to life, right to housing, etc.); as a means to achieve specific goals (income generation, customer engagement, etc.) (Boer 2006). The Article 2 of the Law of the Republic of Azerbaijan "On information, informatization and protection of information" (passed in April 3, 1998) (<https://journals.sagepub.com/doi/10.1177/0165551520981813>) also provides important definitions in this issue (for example, information resources, information systems, information technologies, information systems and technology support tools, etc.) (www.e-qanun.az).

According to the broadest classification of information legal relations, there are four types of these relations: relations arising on the search, acquisition and consumption of information, information resources, information products, information services; relations arising during the production, transmission and dissemination of information, information resources, information products, information services; relations arising on the creation and application of information systems and their networks, as well as their means of support; relations arising during the creation and application of information security tools and mechanisms (Kopilov 2002). All the stated above significantly proves and substantiates the existence of the human rights factor in every direction.

In the field of regulation of information relations, it is necessary to emphasize separately some human rights. All three generations of human rights precisely regulate relations in this area. For example, the right to inviolability of private and family life which relates to civil rights and freedoms as well as the right to protect confidentiality of his/her private and family life means the ability to control the access to his/her personal information. (<https://rm.coe.int/handbook-freedom-of-expression-eng/1680732814>) Also, it provides the rights to become familiar with the materials collected in regards to him/her or demand elimination of the information collected in regard to him/her that does not correspond to the truth or is incomplete. Furthermore, the concept of freedom of information and the right to information can be divided into the following groups: freedom of speech, opinion, publication and other media and the right to receive information about a public person or a requested person, freedom of dissemination. Freedom of speech combines several structural elements that are closely interre-

lated and inseparable: the freedom of each person to express his or her views, ideas and opinions in public and to disseminate them with any legitimate measures; it is, in fact, the right to establish and use media outlets, such as freedom of censorship, freedom of the press and other media, and freedom of expression; it is the right to receive information that describes the public interest or affects civil rights, as the freedom to access information sources (Aliyev 2019).

Concerning economic, social and cultural rights it should also be mentioned the provisions of the Constitution of the Republic of Azerbaijan related to intellectual property rights (Article 30), right to culture (Article 40), and freedom of creative activity (Article 51). Thus, according to Article 40 of the Constitution, everyone has the right to participate in cultural life, use cultural institutions and cultural values, respect historical, cultural and spiritual heritage, care for it, and protect historical and cultural monuments. Article 51 defines freedom of creativity and the state's guarantee freedom in literary-artistic, scientific-technical and other kinds of creative activity. Article 27 of the Universal Declaration of Human Rights of 1948 states that everyone has the right to participate freely in the cultural life of society, to enjoy the arts, to participate in and enjoy scientific progress. Also, Article 40 of the Constitution of the Republic of Azerbaijan contains the following elements of the right to culture: everyone has the right to take part in cultural life, to use cultural institutions and cultural values; everyone must respect and care for historical, cultural and spiritual heritage, protect historical and cultural monuments. Among cultural rights freedom of creative activity should be emphasized. This issue enshrined in Article 51 of the Constitution of the Republic of Azerbaijan and reflects the following important elements: everyone is free to carry out creative activity; the state guarantees freedom in literary-artistic, scientific-technical and other kinds of creative activity. The concept of this issue is closely related to the intellectual property rights, which are provided in Article 30 of the Constitution of the Republic of Azerbaijan, reflect-

ing the following important areas: everyone has the right to intellectual property; copyright, patent rights and other rights to intellectual property are protected by law .

Finally, a new generation of human rights as the right to live in a healthy environment; the right to exchange information, etc. can be added. Thus, the Preamble of the Declaration on the Right to Development, adopted by the UN General Assembly in 1986 calls for recognizing that development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom. It is provided by Part 1 of Article 1 of the Declaration that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized. According to the requirements of Part 1 of Article 2 of the Declaration, the human person is the central subject of development and should be the active participant and beneficiary of the right to development (<https://www.ohchr.org/>). In addition, according to the provisions of Article 39 of the Constitution of the Republic of Azerbaijan everyone has the right to gain information about true ecological situation and to get compensation for damage done to his/ her health and property by violation of ecological requirements (www.e-qanun.az). The formation of a new generation of human rights is also associated with the international community's deep approach to the further development of human rights standards. At the same time, the transition to a new information age is one of the decisive factors here.

Thus, the general features of the relationship between the mutual regulation of relations in the field of information and the human rights issues can be expressed as follows:



Thus, human rights are an essential factor in the regulation of information relations, as well as other relations. This circumstance will not only serve to bring international and national law closer together, but will also have a positive impact on the development of new branches of law. One of such branches of law is information law, which in a general sense defines information legal relations. When analyzing the principles of information law, as well as other branches of law, in the legal literature, the principle of protection human rights and freedoms, the right to equality, is noted as one of the main principles. In addition, a special place in the regulation of relations is occupied by the principle of mutual responsibility of the individual and the State, which is important in determining mutual duties and obligations on both sides.

Conclusion

Relations included in information law in general (relations for the search, acquisition, storage, production, processing, transfer, distribution, destruc-

tion, disposal of information; relations for the use of information technologies; relations for the organization of information protection, information security) are directly related to human rights. At the same time, as noted, important norms in the field of human rights act as the starting points in the regulation of information relations. Thus, the rights of man and citizen, enshrined in the Constitution, include each in its own way a separate principle. For example, privacy, freedom of conscience, the right to security, etc.

Thus, both in international law and in national law, basic norms relating to human rights play a significant role in the regulation of information relations. More specific principles that need to be taken into account when regulating information relations (ensuring free, unimpeded and equal access to information; legality of access to information; maximum openness of information; ensuring information request in the shortest possible time and in the most accessible way; no access to information that is contrary to law) also directly related to human rights.

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