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**SOME ASPECTS OF HUMAN DEFENSE
IN THE WORK OF EXPRESSED REPRESENTATIVES
OF PHILOSOPHICAL OPINION OF NEW HOURS**

(ABSTRACT, KEY WORDS)

The article analyzes the understanding of the concept of "dignity" in the writings of such prominent representatives of the philosophical and legal thought of modern times as J. Locke, B. Spinoza, T. Hobbes, I. Kant, G.V.F. Hegel, L. Feuerbach, J.J. Russo. According to the author, this will contribute to a deeper and more complete understanding of the concept of "dignity", "human rights and freedoms", given that the evolution of the understanding of the category "dignity" is closely intertwined with the history of the struggle against injustice and oppression of man, for freedom and equality. The author put forward the following tasks: to reveal the modern understanding of the notion of "dignity", to analyze the peculiarities of the views of the eminent thinkers of the seventeenth and eighteenth centuries, to show how elementary moral ideas of dignity were formed and the basic legal principles were introduced in English, American, and French law. In the process of solving the tasks, the author came to the conclusion that respect for human dignity, that is, the idea of the value of an individual from ancient times was and is the subject of attention of philosophers, lawyers, its uniqueness is the basis of the modern philosophy of human rights, and the dynamics of human rights is a consequence of specific historical conditions that correct the significance and relevance of those goods reproduced by the respective rights. Understanding human dignity is unequal in different historical epochs in different nations. An analysis of the views of the thinkers of the New Times has shown that the notion of dignity is identified with the value of a man; it is associated with a person's awareness of the fact that it possesses significant moral and intellectual qualities for it. At the same time, dignity depends on the position of man in society, the state of society, the ability to ensure the practical establishment of inalienable human rights, the recognition of the self-worth of the individual. The scientific novelty of the work consists of a comprehensive study of the views of eminent thinkers of the XVII–XVIII centuries, the essence and content of human dignity.

Key words: morality; person; recognition of self-worth of the person; inalienable human rights

Problem statement

One of the most important features of a modern democratic society is respect for the rights and dignity of the individual. The latter has the character of relations based on the norms of morality and law, the principles of freedom and mutual responsibility between the state, society and the individual, between different individuals and social groups. Civil society is the bearer of relevant values. The state, represented by its bodies and officials, undertakes obligations for their implementation, ensuring the protection of the dignity of its citizens.

Ukraine proclaimed itself in The Constitution of Ukraine (1996) as a legal state (Article 1), enshrined in it the provision that a person, his life and

health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value (article 3). Enshrining the right to respect the dignity of a person in legislation requires the definition of the term "dignity", understanding its essence and content.

The term "human dignity" comes from the Latin (dignus – "valuable"). The general ethical value of human dignity is reflected by modern researchers in the following definitions: "Human dignity - the concept of moral consciousness, expressing the idea of the value of each person as a moral person, as well as the category of ethics, which means a special moral attitude of a person to himself and the attitude to it from society, which recognizes the

"value of personality" [1, p.81–82]; "human dignity is an expression of his personal value" [2, p.1206].

V.A. Bachinin defines dignity as an ethical and natural-law category, which means the value of the human person, recognized both by the person himself and his social environment. He believes that it is natural law philosophy that reduces the legal formula of human dignity to universal ethical maxims and religious "absolutes" [3, p.283]. The authors of the textbook on ethics define human dignity as an objective, social and moral value of the person, as well as the need and proper assessment of the person's moral value [4, p.98]. Representatives of legal science, defining dignity, argue that human dignity is recognized and protected by law and the rule of law value, which forms one of the foundations of a constitutionally organized society [5, p.475]. G.D. Bandzeladze in his work "On the Concept of Human Dignity" defines human dignity as an essential feature and quality that distinguish a person from other beings and, at the same time, do not just distinguish, but constitute her sense of superiority, superiority on a certain scale of values and according to certain criteria of progress [6, p.11].

Among foreign studies, it is necessary to note the works of German scientists, because for the first time it was in the Basic Law for the Federal Republic of Germany that the inviolability of human dignity was recognized as a leading constitutional principle: "Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority" (part 1 of article 1 of the Basic Law of Germany) [7, p.580]. Such authors as G. Durich, A. Blankenagel, E. Bloch, V. Maihofer, V. Pirot, B. Schlink, R. Behrendt, R. Spaeman and others developed the theoretical concept of human dignity.

German scientists believe that the content of the concept of dignity changes over time and depends on the culture of the society in which it develops. German legal science refuses to define dignity as once and for all established. A. Blankenagel rightly notes, that we should not fill the content of human dignity with our modern ideas about it for future generations, for another society, the modern formula can only be the source material through the variability of its cultural content [8, p.388].

Indeed, the norm on human dignity was conceived by the creators of the Constitution, first of all, as a protection against cruel degrading treatment by the state. It was about the physical integrity of a person. Today we are talking about respect

and the protection of personal identity and psychological integrity of a person. So modern researchers in the field of human rights V. Pieroth and V. Schlink determined that human dignity is violated when the treatment of public authority with a person, proposed by law, calls into question its value as a person. A free person, its value and autonomy must be respected and protected by the state. It is forbidden to treat it as a means even for the sake of the best intentions. This is contrary to the dignity of the human person [9, p.89]. This position is confirmed and developed by W. Maihofer, which states that respect for human dignity is expressed in the guarantee by the state of a person's freedom of moral self-determination. According to position W. Maihofer, human dignity is the foundation of the rule of law, which should guarantee a person respect and protection of his dignity (inviolability) [10]. It should be noted that the inviolability of human dignity in the legal system of Germany acts simultaneously as a "basic norm of legislation" and the most important constitutional principle, which is revealed in the rights and freedoms enshrined in the Basic Law [11, p.85].

Therefore, the characteristic of dignity as a value of the person is uniform for all offered definitions, both ethical, and legal. In this regard, questions arise: what determines this value? What is the recognition of human value by society?

Hence, the purpose of the article is to analyze the concept of "dignity" in the works of prominent representatives of philosophical and legal thought of New Hours. In our opinion, this will contribute to a deeper and fuller modern understanding of the concept of "dignity", "human rights and freedoms", given that the evolution of the understanding of the category of "dignity" is very closely intertwined with the history of the struggle against disenfranchisement and oppression of human for freedom and equality. The relationship between the individual and the state in recent centuries is the main problem of political and legal thought, because without taking into account these relationships is not possible to establish order in society.

The scientific novelty of the research consists in a comprehensive study of the views of prominent thinkers of the XVII–XVIII centuries, the essence and content of human dignity. The aim of the article is to reveal the modern understanding of the concept of "dignity"; to analyze the features of the views of prominent thinkers of the XVII–XVIII centuries; to show how elementary moral ideas about dignity were formed and the basic legal principles in English, American and French law.

Formation of elementary moral ideas about dignity

Human dignity in all its aspects has a deep social meaning. Man is essentially determined by the whole system of social relations, the product and subject of social relations. Therefore, human rights are objectively, naturally and historically formed in society as its social opportunities, which meet partially or completely its needs in real life [12, p.104]. As noted F.M. Rudinsky, the idea of human dignity means the recognition of human as the highest, incomparable value, which implies the recognition of its subject of freedom, equality, ownership of its rights and obligations of human and citizen [13, p.229].

The idea of the dignity of the individual began to form in the early stages of human society. In the conditions of the primitive communal system, elementary moral ideas about the dignity of the person were formed. The ideas of the value of the individual and his freedom were first comprehensively developed in the philosophical, ethical and political-legal doctrines of Ancient Greece and Rome. One of the peaks of ancient Greek humanism was the doctrine of Protagoras, who proclaimed: "Human is the measure of all things". Defending the idea of human equality, he believed that such virtues as wisdom, virtue, the possibility of participation in public life, available to all people. Praising human, recognizing his absolute value, Protagoras was much ahead of his time, became a harbinger of humanistic ideas of thinkers of the New Time [13, p.231]. At the same time, the social value of the person, his freedom in the ancient world was of a class character. Slaves were completely excluded from the sphere of freedom and, according to the prevailing slave-owning morality, could not be carriers of dignity.

The ancient Roman legislation reflected the laws on the freedom of the person, formed in the ancient world, but it was already considered as an instrument of the speaking slave (*instrumentum vocale*). Human quality recognized slaves Stoics (Zeno, Seneca), for which had significance only domestic, freedom spiritual, not associated with any socio-political status rights.

Feudalism, which replaced the slave system, became a new stage in the development of human personality. However, class barriers associated with the feudal hierarchy, entrenched social inequality, limited the creative possibilities of human. The principle of equality of people before God, put forward in the early Christian doctrine, became a form of affirmation of human dignity. Supported by

Christianity, the ancient idea of the likeness of human to God ("in the image and likeness of God") offered personality, although at the same time the legend of the creation of Adam and Eve is designed to justify the humiliation of human before the Almighty Creator. The dogma of the fall, in our opinion, is incompatible with the idea of human dignity, is the basis of the preaching of Christian self-death of the flesh, asceticism, monasticism, self-destruction of the person. And the very practice of the Catholic and other Christian churches (the activities of the inquisition, the persecution of heretics) for centuries prevented the assertion of human dignity.

The basis of the formulation of the modern concept of "dignity" was, in our opinion, primarily Protestant ethics with its individualism and rationalism. It should be noted that it is in the era of the reformation that the content of the concept of human dignity is deepening. And it is connected with formation of representations about the person as the subject of personal freedom and the carrier of inalienable subjective rights.

The religious experience of "communion with God" in Protestantism was based on personal experience and personal spiritual experience, in contrast to the mediated process of knowledge of God in other faiths and religions. The rationality of labor activity proceeded from Martin Luther's interpretation of the New Testament, according to which the importance of secular professional work and religious retribution for it increased enormously. In other words, the value of human activity on earth has increased. The Protestant socio-cultural tradition created the "social ethics" of European culture, and this had a constitutive significance for it [14, p.99–100]. The era of the reformation became a new stage in the development of the idea of human dignity [12, p.42]. Prominent thinkers XVI–XVII centuries saw the social value of human in his creative activity, in its desire to strengthen its power over nature (D. Bruno, F. Bacon, D. Locke). The progressive philosophers of New Time were convinced of the power of the human mind. And this is an important aspect of the formation of the idea of human dignity.

Features of views of outstanding thinkers of XVII–XVIII centuries

It should be noted that in New Times, the content of the concept of human dignity, associated with the formation of ideas about the person as a subject of personal freedom and the carrier of inalienable rights [13, p.232]. The peculiarity of the ethical, political and legal teachings of the XVII–XVIII centuries

is that they considered the social value of the individual from the standpoint of the school of natural law.

The development of the problem of the dignity of the citizen as a subject of personal freedom is central to the political doctrine of J. Locke. He wrote that "The liberty of man in society is that it is subject to no other legislative power than that which is established by consent in the state, where there are no laws, there is no freedom" [15, p.16]. J. Locke theoretically developed such principles of bourgeois constitutionalism (respect for the right of private property, sovereignty, parliamentary rule, division of power, legality, inalienable rights of persons), which formed the "empirical system of democracy" and the philosophy of American constitutionalism [16, p.34]. The doctrine of J. Locke found its embodiment in the constitution and these principles became the basis for legal interpretation [17, p.100–101]. J. Locke defended the right to freedom, but allowed a partial restriction on the benefit of the state. At the same time, the philosopher denied the total renunciation of the individuals natural rights. The right to life, property, dignity of a person, equality, a person does not alienate anyone under any circumstances [18, p.271–272].

Thus, the interests of the person become the center of all state activity by J. Locke. In this regard, the question of the dignity of the citizen receives a new interpretation. Personal dignity becomes an attribute of private property, just as in the Middle Ages it was an attribute of origin and class.

The political teachings of J. Locke had a huge impact on the subsequent development of political ideology. Especially widespread was the theory of natural inalienable human rights, which was used by T. Jefferson and other theorists of the American revolution and subsequently included in the Declaration of the Rights of Man and of the Citizen (1789) [19, p.189–190].

B. Spinoza paid much attention to the dignity of the individual as the most important aspect of freedom in his teaching. Such high moral qualities as honesty, gratitude, courage, generosity, inherent only in free people. The wisdom of a free man, as he claimed, "consists of thinking not about death, but about life" [20, p.576]. This is an optimistic and life-affirming position was by anti-clerical orientation. The main idea of his "theological-political treatise" was that the destruction of freedom in the state would mean the destruction of the very tranquility of the state [12, p.47].

B. Spinoza has the merit of advancing the idea of human dignity, regardless of his nationality. He

wrote that "In regard to intelligence and sincere virtue, no nation differs from another" [21, p.62].

During the New Time, various aspects of the problem of human honor and dignity were elaborated in detail. Thus, T. Hobbes analyzes the ratio of such moral categories as power, value, dignity, and respect for human.

He compared the value of human with the value of things and considered it as a price, which is as much as can be given for the use of his power [22, p.95]. Dignity by T. Hobbes is the social value of human that is the price that gives it the state. Consequently, the social dignity of man is identified with the civil.

I. Kant defined dignity as an absolute value, possessing which a person makes other people respect themselves, at the same time comparing themselves with them, evaluating themselves. According to I. Kant "The person represents all dignity of mankind, to dispose of itself as means for any purpose means to humiliate dignity of mankind in the person to whom the person for preservation was entrusted" [23, p.360].

"The respect that I feel for others, or such that others may demand of me is as a consequence, the recognition of dignity in another person that is dignity which has neither a price nor an equivalent that can be exchanged for an object of honor" [23, p.404] wrote I. Kant. According to the philosopher, above compassion and love (which are worthy of respect) is respect for human dignity.

The presence of dignity (absolute value) gives a person the right to be respected by others; the right to self-esteem and at the same time imposes on her the duty to respect the dignity of others. Unlike his predecessors I. Kant put forward the thesis that society cannot limit a person's individualism, his personal interest. Human dignity is based on autonomy. The state is obliged not to interfere in this sphere of life of the person as long as it violates the law.

Merit of I. Kant is creating an ethical concept of human dignity, according to which its implementation is impossible without the provision of human rights and freedoms, while the person is not a means to an end. This is what provided the rationale for the idea of human rights and its further development in the theory of the rule of law.

In the philosophical system of G. V. F. Hegel, the individual is considered as an element of the general, organic whole, the moment of moral totality. Considering the state as the procession of God in the world, the reality of the moral idea he defends the thesis of the primitiveness of the state in

relation to the person. At the same time, the philosopher made a significant contribution to the development of the doctrine of human dignity. Especially important in this respect was Hegel's concept of freedom as known necessity.

G. V. F. Hegel as a supporter of a moderate constitutional monarchy advocated the granting of elementary rights to citizens (although he recognized the natural and necessary hierarchical structure of society and condemned the "rabble", that is the poor).

G. V. F. Hegel wrote about the need to elevate the dignity of human, the recognition of his ability to be free, in his opinion it will put man on a par with everything spiritual [24, p.224]. That is the philosopher saw the dignity of human in its freedom. He saw the benefit of self-government of citizens in the state, in particular, in the fact that it provides them with a sense of self-esteem [25, p.85]. Despite all the contradictions inherent in the philosophy of G. V. F. Hegel, his belief in the triumph of reason confirmed the idea of a high social value of the person.

This idea was further developed in the works of L. Feuerbach, which in the conditions of semi-feudal Germany of the first half of the XIX century from the position of materialism and atheism fought against religion, idealism for social progress, education, for the freedom of the person. Having put forward the anthropological concept of human, the philosopher considered it as a part of nature, a set of certain physiological and moral qualities.

The dignity of human by L. Feuerbach is that he acts as a carrier of freedom. In revealing its contents, he on the one side denied Jean-Jacques Rousseau arguing that human is not born free, because freedom is the result of education on the basis of appropriate innate gifts [26, p.645]. On the other side, he defended the eudemonistic concept and rejecting the Kant's ethics which declared that freedom without happiness is an empty and devoid of content word [27, p.580]. L. Feuerbach sought to fill the freedom of the individual with political content. "The policy of the state and the Church is in blatant contradiction with the good, freedom and the very essence of human" [27, p.595]. He owned the well-known for today thesis: "Human does not exist for the sake of the state, but the state for the sake of human" [28, p.436]. He called unlimited monarchy an immoral state. It should be noted that L. Feuerbach highly extolled man. "Human to human is God - is the highest practical principle, and this is the turning point of world history" [29, p.308–309]. He regarded love to human as the fundamen-

tal principle of morality. In our opinion it is impossible not to recognize the high humanity of this position.

The connection between rights and freedoms and the recognition of human dignity has been considered by other philosophers. For example, J.J. Rousseau believed that "Essence who is capable of experiencing, acting, consults exclusively with his passions and turns to reason only to correct the absurdities that they make her do" [30, p.455]. He saw the social value of the individual in being the subject of freedom. "Human is born free" J.J. Rousseau asserted in his "The Social Contract". To renounce freedom is to renounce one's human dignity, the rights of human nature, even its duties [30, p.152, 471].

The establishment of the basic legal principles in English, American and French law

English lawyer and statesman A. V. Dicey in the XIX century introduced into scientific circulation the concept of "Rule of Law" [31, p.49].

The term introduced by A.V. Dicey became widespread in England and America and began to mean that certain fundamental principles of justice cannot be legally affected even by the highest authority. Human dignity and human rights do not arise by the will of the state, but by the essence of human nature. A. V. Dicey found the source of these basic legal principles in the fundamental laws of the land, in the English Constitution, as well as in case law. In the English tradition, even Parliament though superior to other public institutions is constitutionally subject to the basic principles of justice embodied in the historical traditions of the English people. These principles and historical traditions gradually took the place of the main values of law and politics: freedom of discussion and public assembly, as well as the inviolable rights of the subject - the right to guarantees against unlawful deprivation of life, liberty or property, to a fair trial, equality before the law regardless of position in society. "Habeas corpus act" (1679) contained the principle of inviolability of the person, the presumption of innocence [32, p.26–38] and "Petition of Right" (1628) laid on the king's duties to protect subjects from the arbitrariness of the royal administration [33, p.6]. If the king contributes to the violation of peace and liberties, that is, violates the principle of good and justice, approved by "Magna Carta Libertatum" (1215) - "It is possible to use the right to revolt by the community of the whole earth" [33, p.373].

Bourgeois revolutions and the establishment of capitalist society were important factors in the development of human personality and its rights. The liquidation of the old feudal system, the estates of

the realm distribution, and the abolition of the personal dependence of the worker on the owner of the means of production had great progressive importance. At the end of XVIII - the beginning of XIX centuries honor and dignity become the object of constitutional protection. In the United States Declaration of Independence (1776) bourgeois-democratic principles of freedom and equality of people were proclaimed, that is essential elements of concept of value of the human person [31, p.182–186]. In the legislation of The Bourgeois Revolution in France the concept of honor of the citizen is associated with the ideas of protecting the motherland, with hatred for political tyranny (Constitution of 1793) [31, p.120–126].

The legal documents of the United States of America and France have become a kind of standard, a model for the legislative consolidation of primarily physical and personal ("civil") and political human rights (they were later called the rights of the first generation). Similar and other human rights and their guarantees were already defined in the legislation of many other countries at that time. Ukraine did not remain on the sidelines of these processes.

Conclusions

Consequently, respect to the dignity of the individual in ethics is axiological category, which is directly related to the categories of value and evaluation, is formed in the individual and public consciousness and is determined through the philosophical category of "value"; dignity acts as an objective property of the individual and is characterized by spiritual, physical and moral qualities. Human unlike other living essences is able to know himself, evaluate his own "I" and thereby determine his place in society. That is, the uniqueness of a person is that it is able to realize and comprehend its own value.

The analysis of the views of thinkers of New Time shows that the concept of dignity is identified with the value of a person; it is associated with the realization of the fact that a person has significant

moral and intellectual qualities. At the same time, dignity depends on the position of a person in society, the state of society, his ability to ensure the practical assertion of inalienable human rights, the recognition of the self-worth of the individual.

The political and social transformations taking place in our country today require fundamentally new approaches to addressing the issue of respect for the dignity of the individual. The main legal guarantee of the right to respect for human dignity is that the establishment of restrictions on the rights and freedoms of a person must be consistent with the values of the rule of law, which are protected by the constitution and laws. All restrictions must take into account the necessary balance of interests of the person, society and the state. Such restrictions can be established only at the level of the law. This requires that the provisions of the law be clearly defined. The ambiguity of the legal content of the law and the possibility of its free interpretation and application is not consistent with the duty of the state to protect the dignity of the individual.

We believe that the constitutional establishment of the right to dignity is not sufficient to protect it. The criminal procedure code of Ukraine contains a general provision that enshrines the requirement of respect for the individual in criminal proceedings, to all its participants, regardless of what procedural function they perform, at all its stages.

But, requires addressing the issue of the normative definition of the object of the right to dignity. The first step towards solving this problem should be a normative definition of the concept of "dignity", which, unfortunately, does not exist in Ukrainian legislation today.

Competing interests

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