

first international armed conflict in terms of the number of participating states to the present day – the Russian-Ukrainian war as the forerunner of a new confrontation between authoritarian regimes and the democratic world.

On the example of the Entente countries (Great Britain, France, the Russian Empire) and its associated state-participant – the USA, the authors have concluded, that in the absence of then international legal restrictions on the subjective right to information even after the end of the Second World War, initiated the further and increasing participation of state and non-state actors in the implementation of information policy as in the interwar periods in the form of hybrid wars, as well as open armed confrontations in the context of all stages of the information revolution.

Keywords: *media, World War I, the Entente, society, legislative regulation, property, censorship, propaganda, restrictions on the right to information.*

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THE ROLE OF CONSTITUTIONAL NORMS IN THE FORMATION OF SOCIAL STANDARDS: ASPECTS OF AMERICAN, EUROPEAN AND UKRAINIAN LAW

Ігор Наливайко. РОЛЬ КОНСТИТУЦІЙНИХ НОРМ У ФОРМУВАННІ СОЦІАЛЬНИХ СТАНДАРТІВ: АСПЕКТИ АМЕРИКАНСЬКОГО, ЄВРОПЕЙСЬКОГО ТА УКРАЇНСЬКОГО ПРАВА. У науковій статті досліджено роль конституційних норм у формуванні соціальних стандартів у США, країнах Європейського Союзу та Україні. У статті розглядаються теоретико-правові аспекти, визначення та огляд конституційних положень, їх порівняння з міжнародними стандартами. Звертається увага на взаємодію міжнародного та національного права, імплементацію міжнародних норм у конституційні положення країн, можливі перспективи розвитку соціальних норм, заснованих на конституційних принципах. У статті ретельно аналізується роль міжнародних договорів у формуванні соціальних стандартів та їх імплементація в конституційне поле, розглядається вплив цього процесу на правове середовище. Перспективи розвитку соціальних норм, побудованих на конституційних засадах, визначаються через розширення соціальних прав, адаптацію до сучасних викликів, гармонізацію з міжнародними стандартами. Висновки статті вказують на важливість конституційних норм у забезпеченні соціальних стандартів та вказують потенційні напрямки подальшого розвитку, такі як розширення соціальних прав, адаптація до сучасних викликів та взаємодія з міжнародними стандартами для створення більш справедливого та інклюзивного суспільства. Відзначено можливості для більшого захисту прав громадян та необхідність врахування сучасних викликів для розвитку справедливого та інклюзивного суспільства, заснованого на конституційних принципах.

Ключові слова: *конституційні норми, соціальні стандарти, міжнародне право, Європейський Союз, міжнародні договори, правове забезпечення, розвиток соціальних норм.*

Relevance of the study. In the modern world, constitutional norms not only determine the basic principles of the functioning of the legal space but also play an essential role in forming social standards. The Constitution, as the country's fundamental law, not only defines the rights and duties of citizens but also provides the basic framework for developing social

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policy. Its specific provisions are essential in determining the principles of social justice, distribution of social benefits, and provision of social protection.

Since each country has its constitution, its norms become crucial in determining the nature of social standards in a given society. The importance of constitutional norms lies in their ability to define values that are the basis for social progress and ensure decent conditions for all members of society.

Recent publications review. Legal aspects of social security standards and guarantees in the international and domestic context were studied by such legal scholars as: V. Andriiv, E. Astrakhan, I. Bezklubii, N. Bolotina, M. Buyanova, S. Vavzhenchuk, V. Venediktov, M. Vygdorhyk, T. Garasimov, V. Goncharov, Yu. Hryshina, I. Gushchin, D. Zhuravlyov, O. Zaykin, M. Zakharov, O. Machulska, N. Melnychuk, O. Moskalenko, S. Prilypko, O. Protsevskyi, V. Roik, S. Sinchuk, I. Syrota, B. Stashkiv, O. Tyshchenko, S. Chernous, V. Shcherbina, L. Shumna, O. Yaroshenko, and others.

Within the framework of this study, we will try to analyse the role of constitutional norms in the formation of social standards on the example of three different jurisdictions: United States of America, the countries of the European Union, and Ukraine. Considering these aspects will provide an opportunity to reveal the influence of constitutional norms on the definition of social standards and to find out to what extent they reflect the fundamental values of each society and its strategy in the field of social policy.

The research paper's objective is to analyse role of constitutional norms in the formation of social standards discussing the aspects of American, European and Ukrainian law.

Discussion. Modern challenges and changes in the world community undeniably determine the relevance of studying constitutional norms' role in forming social standards. In rapid social, economic, and political development, constitutional norms are becoming integral to state strategies in ensuring social welfare and development.

First, there is an increase in attention to human rights and social justice at the international level. In this context, constitutional norms become an important tool for harmonizing national legislation with universally recognized human rights and social justice standards. They define and consolidate citizens' fundamental social rights and freedoms, placing them in the central position of the legal system.

Secondly, world crises and challenges, such as global warming, pandemics, and economic crises, emphasize the need to regulate the socio-economic sphere effectively through constitutional principles. Constitutional norms become a tool by which countries can adapt to new realities and ensure sustainable social development while preserving basic values and priorities. This relevance determines the need for a deep understanding of the interaction of constitutional norms and social standards in the context of different countries, the peculiarities of their constitutional traditions, as well as the opportunities and challenges they pose to modern society.

The system of constitutional norms in the United States is defined by its unique concept of separation of powers and the protection of citizens' basic rights and freedoms. The US Constitution, adopted in 1787, and its amendments determine the framework for functioning social standards in the country [1]. One of the key constitutional norms defining social standards is the Preamble. This introductory text defines the main goals of the constitutional system, such as ensuring justice, ensuring the common welfare, and protecting the rights and freedoms of citizens. The Second Amendment of the US Constitution guarantees the right to own and bear arms, which affects social standards, particularly in the safety and self-defense of citizens. The US judicial system, as defined in Article III of the Constitution, also affects social standards by ensuring equality before the law and avenues of redress.

The principles of federalism, defined in Article I and Article VI, distribute competencies between the federal and state governments, creating conditions for various social standards at different levels of government. For example, states have authority over education and health care, which determines social standards in these areas at the state level [2].

It is important to note that the interpretation of constitutional norms changes due to the decisions of the US Supreme Court, which shape legal practice and determine social standards through consideration of specific cases. Thus, the decisions, for example, in the case "Brown v. Board of Education" 1954, influenced social standards of inequality and discrimination [3]. All these constitutional norms contribute to forming social standards in the United States, and their interpretation and development are determined according to public needs and contemporary challenges.

One of the most defining features of the US Constitution is its commitment to the basic principles and values that define the essence of American society. Enshrined in Part One of the Constitution, which consists of the Bill of Rights, these basic principles define the ideals and purpose of the American polity [4]. First, it is worth noting the principle of separation of powers enshrined in Article I (Congress), Article II (President), and Article III (Judiciary) of the Constitution. This principle ensures balance and control between different branches of government, aiming to avoid excessive concentration of power and ensure its effective functioning. The second principle – federalism – determines the distribution of competencies between the federal and state authorities. This gives states considerable autonomy in managing their affairs, particularly in education, health, and public order.

The basic values enshrined in the Constitution include freedom, equality, and justice. The Bill of Rights, specifically the First Amendment, guarantees freedom of speech, religion, assembly, and petition rights. The Second Amendment defines the right to keep and bear arms, emphasizing the importance of the individual rights of citizens. The rights specified in the Constitution are based on equality before the law. This is reflected in Clause 14 of Article I, which guarantees that "the States shall not have the right to abridge any rights or freedoms guaranteed or conferred by this Constitution". In addition, the Constitution defines the principles of justice and equality before the law. Justice is noted in the preamble, which defines "justice, ensuring peace at home, the general welfare and liberties of citizens". Article I, Clause 1, and VI emphasize equality before the law, which guarantees that the Constitution is the supreme law binding all other laws and government acts.

In defining social standards, the US Constitution serves as the primary document, defining the ideals and values that underlie American society. The principles of separation of powers, federalism, and the core values of freedom, equality, and justice lay the foundation for forming the nation's social standards [5]. The European Union consists of various countries, each with its constitution and system of legal norms regulating social standards. However, for the implementation of European integration, some common values and principles define social standards at the level of the European Union.

Within the framework of the European Union, the fundamental document is the Charter of Fundamental Rights of the European Union, which has a constitutional nature. The Charter includes many social rights, including the right to work, fair working conditions, social and housing protection, health care, and others. These norms serve as the basis for determining social standards in the countries of the European Union [6].

For example, many EU countries define the right to social protection in their constitutions, which cover social security, medical care, and other aspects of the social welfare of citizens. In particular, constitutional norms can guarantee the right to pensions and determine social insurance rules, living standards, and employment. In addition, the European Social Charter defines citizens' social and economic rights, such as the right to work, decent working conditions, housing, education, and others. These norms interact with the constitutional provisions of each country of the European Union, defining common standards of social protection and well-being for all members of the Union.

European integration is a unique process where the member states of the European Union share sovereignty and jointly develop policies, including those related to social norms. One of the features of this process is the existence of shared values and standards, which are defined at the European Union level and affect the member states' constitutional provisions.

One of the critical characteristics of European integration is the common market and free movement of persons, which the European Act defines. This principle affects the constitutional norms of the member states, as it ensures freedom of transfer and employment of citizens between EU countries. The constitutional provisions regarding the guarantees and rights of citizens take this aspect into account, ensuring the protection of the social rights of persons who enjoy freedom of movement within the EU. Another feature of European integration is the existence of the European Court of Human Rights and the European Court of Justice of the European Union. These institutions influence the formation of social norms, considering cases related to citizens' social rights and freedoms.

The decisions of these courts define common standards and precedents that are important for the constitutional law of EU member states. European integration also affects the social policies of member countries through the process of harmonization. For example, some social protection and social rights standards may be agreed upon at the EU level, which affects the constitutional provisions on social guarantees and standards in the member states.

However, it is essential to note that the constitutional systems of the European Union's member states remain independent, and European integration helps produce common standards and principles without interfering with individual countries' sovereignty and constitutional traditions.

The Constitution of Ukraine, adopted in 1996, defines the basic principles and values underlying Ukrainian society, including aspects of social standards. Several constitutional principles determine the social order and guarantees for citizens of Ukraine [7]:

1. Article 3. The Constitution of Ukraine defines Ukraine as a legal state where the rights and freedoms of a person and a citizen are of the highest value. This definition establishes the principle of the priority of protecting the rights and freedoms of citizens before any other aspects of the state system. Accordingly, social standards must be adequately protected and guaranteed in the context of the rule of law.

2. Article 22. This article of the constitution defines the right to social protection. It provides for the state's duty to create conditions for ensuring sufficient social protection, particularly pension and health insurance, social assistance, and other social benefits for citizens. This provision forms the constitutional basis for developing the social security system in Ukraine.

3. Article 24. Ensuring human rights to decent working conditions is the main constitutional guarantee. In particular, this article defines the right to work and recognizes decent working conditions, including the right to rest and paid holidays. This provides a legal basis for the formation of social standards in the field of labour and employment.

4. Article 49. According to this article, the state ensures the protection of the nation's health, the development of medical science, and the expansion of the network of medical and medical and preventive institutions. This constitutional provision defines social standards in health care and citizens' rights to access quality medical care.

These constitutional principles form the basis for forming social standards in Ukraine, defining the rights and obligations of citizens in the sphere of social protection, labour, health care, and other aspects of social life.

1. Comparison with world standards:

The Ukrainian Constitution defines citizens' basic rights and freedoms, providing social and economic guarantees. Compared to global standards, it includes key provisions that define social standards. For example, the right to social protection (Article 22), guarantees of the right to work and decent working conditions (Article 24), and the right to health care (Article 49).

However, it is important to note that the Ukrainian constitutional system can be improved to meet international standards. In addition, some social and economic rights may require more specific formulation and effective implementation in legislation and practice.

2. The role of the Ukrainian constitution in the context of harmonization:

Based on the European integration efforts, Ukraine undertook to adapt its legislation to European standards. In this context, the Ukrainian constitution plays the role of a key document that guides the development of legislation and guarantees compliance with international norms.

For example, the principles of the rule of law, the guarantee of the rights and freedoms of citizens, and the principles of social protection specified in the Constitution form the context for harmonizing domestic legislation with European norms. In particular, adapting legislation in human rights, social policy, and economic development aims to bring it closer to European standards.

The role of the Ukrainian constitution in harmonization is essential for ensuring the country's sustainable development and considering world trends in human rights and social standards. It also reflects Ukraine's strategic approach to establishing democracy, the rule of law, and social justice on the international stage.

International treaties and agreements play an important role in shaping social standards and defining principles and norms that influence the legislation and policies of participating countries. This role is vital in social standards, as international documents represent common values and minimum standards governments are committed to.

1. International standards and human rights. International treaties and agreements in the field of human rights establish the basic social standards that bind the participating states. For example, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights define such social rights as the right to work, decent working conditions, social security, and education. These norms are essential in forming social standards at both

international and national levels [8].

2. Implementation mechanisms. International agreements become the basis for creating mechanisms for implementing and controlling compliance with social standards. For example, the UN Committee on Economic, Social, and Cultural Rights analyses compliance by member states with their obligations under the International Covenant on Economic, Social, and Cultural Rights. Its recommendations can influence the internal legislative and political activities of countries.

3. Harmonization of national legislation. International treaties also stimulate the harmonization of national legislation with international standards. States undertake measures to implement domestic laws that would comply with international obligations. For example, having ratified the International Covenant on Economic, Social, and Cultural Rights, Ukraine undertook to provide its citizens with the social rights defined in it, which affects the formation of internal social legislation [9].

Thus, international treaties define standards that bind states and contribute to creating effective mechanisms for their implementation at the national level. Harmonizing international and national norms is an important element for achieving common goals in social standards and protecting human rights [10].

1. Implementation through constitutional amendments and regulations. Many countries incorporate international norms directly into their constitutions through constitutional amendments. This is an effective mean of implementation as constitutional provisions have superior legal force. For example, in 2004, Ukraine amended its Constitution, recognizing the priority of international law and providing the possibility of directly applying international treaties in domestic legislation.

2. Interpretation and compliance with international standards. Countries also implement international norms through their interpretation within the framework of the domestic legal order. Higher courts can use international treaties as a source of law and interpret their provisions in their decisions. For example, decisions of the Constitutional Court often reflect the principles established in international documents and determine their meaning in the context of national legislation.

3. Creation of new legislation. Countries can also create new national legislation taking into account international standards. In this case, new laws or codes are formulated to meet the country's international obligations. This may include adopting new laws or amending existing ones to ensure compliance with international standards.

4. Participation in international organizations. Countries can also implement international norms through participation in international organizations that develop and set international standards. Participation in such organizations can lead to adopting and implementing national laws that comply with international obligations.

The implementation of international norms in the constitutional provisions of countries reflects the obligation of states to fulfil their international obligations and ensures compliance of national legislation with international standards. This ensures the observance of the rights and freedoms of citizens, the development of the rule of law, and an increase in the level of human rights protection worldwide.

Constitutional norms play a decisive role in forming social standards and adapting to each country's specific social, historical, and cultural contexts in America, Europe, and Ukraine. In the United States, constitutional provisions establish fundamental principles and values that define social standards. The US Constitution recognizes citizens' fundamental rights and freedoms and amplifies the principles of justice and equality before the law. The Supreme Court's precedents are also important, which help expand constitutional guarantees and adapt them to societal changes. In Europe, the constitutional provisions of the countries of the European Union and their members are aimed at establishing the foundations of social security, protection of human rights, and the development of social justice. The constitutions of European countries reflect the principles of democracy and the rule of law, as well as define the social rights and duties of citizens before society.

The Ukrainian constitutional framework provides the basis for forming social standards in the context of the transformation of society. The priority of human rights, the right to social protection, decent working conditions, and health care are reflected in the constitutional provisions. Changes and amendments to the Constitution of Ukraine pave the way for adapting social standards to the challenges of the times and aligning them with world standards.

Consequently, constitutional norms act as cardinal structures that define and protect

social standards in all three contexts. Ensuring justice, equality, and protection of the basic rights of citizens is carried out through the systematic enshrining of these principles in constitutional acts, creating the basis for sustainable development and social progress.

Conclusions. Highlighting possible prospects for developing social norms based on constitutional principles involves taking into account modern trends and choosing strategies to support social justice and protect citizens' rights. The development of social norms based on constitutional principles can have several promising directions:

1. Extension of social rights and guarantees. The possibility of introducing changes and additions to the constitutional norms to expand the social rights of citizens is a crucial direction. This may include recognition of new social rights, adaptation to societal changes, and provision of more effective mechanisms for protecting and implementing these rights.

2. Synergy with global standards. Developing social norms based on constitutional principles may also include increased interaction and harmonization with international standards. Participation in global initiatives and adaptation of international obligations into domestic legislation can improve living standards and protect human rights in the worldwide community.

3. Ensuring equal opportunities. The development of social norms can be aimed at ensuring equal opportunities for all citizens. This may mean implementing measures to reduce social inequalities and providing access to education, health care, and other social services for all layers of society.

4. Adaptation to modern challenges. The development of constitutional norms should take into account modern challenges, such as technological development, changes in the labour market, and environmental issues. Ensuring social stability and protection of citizens' rights in rapid changes requires constant adaptation of constitutional provisions.

5. Support of an inclusive society. Constitutional norms can contribute to the creation of an inclusive society that takes into account the needs and rights of all citizens. Protection of the rights of smaller groups and support of tolerance and diversity can be built into constitutional principles.

Developing social norms based on constitutional principles requires flexibility and a deep understanding of society's needs. Ensuring social justice and improving citizens' quality of life can only be achieved through a combination of constitutional stability and readiness to innovate in accordance with changing conditions.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

References

1. USA T. C. The Constitution of the United States of America. Presidential Books, 2017. 36 p.
2. Michelman, F. I. (2003). The constitution, social rights, and liberal political justification. *International Journal of Constitutional Law*. 1 (1). Pp. 13-34.
3. Warren, C. J. E. (1954). *Brown v. board of education*. United States Reports, 347 (1954), 483 p.
4. Amar, A. R. (1990). The bill of rights as a constitution. *Yale Lj*, 100, 1131 p.
5. Schwartz, H. (1994). Do economic and social rights belong in a constitution. *Am. UJ Int'l L. & Pol'y*, 10, 1233 p.
6. EU, E. (2012). Charter of fundamental rights of the European Union. *The Review of International Affairs*. 63 (1147). Pp. 109-123.
7. Конституція України : (з офіц. тлумаченням Конституц. Суду України). Київ : Ліра, 2006. 96 с.
8. Rights, U. N. H. (2002). International covenant on civil and political rights. Annex VIII.
9. Surak, J. G. (2010). Harmonization of international Standards. In *Ensuring Global Food Safety* (pp. 339-351). Academic Press.
10. Shelton, D. (2002). Protecting human rights in a globalized world. *BC Int'l Comp. L. Rev.*, 25, 273 p.

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1. USA T. C. The Constitution of the United States of America. Presidential Books, 2017. 36 p.
 2. Michelman, F. I. (2003). The constitution, social rights, and liberal political justification. *International Journal of Constitutional Law*. 1 (1). Pp. 13-34.
 3. Warren, C. J. E. (1954). *Brown v. board of education*. United States Reports, 347 (1954), 483 p.

4. Amar, A. R. (1990). The bill of rights as a constitution. *Yale Lj*, 100, 1131 p.
5. Schwartz, H. (1994). Do economic and social rights belong in a constitution. *Am. UJ Int'l L. & Pol'y*, 10, 1233 p.
6. EU, E. (2012). Charter of fundamental rights of the European Union. *The Review of International Affairs*. 63 (1147). Pp. 109-123.
7. Konstitutsiya Ukrainy: z ofits. tlumachennyam Konstituts. Sudu Ukrainy [Constitution of Ukraine: with the official interpretation of the Constitutional Court of Ukraine]. (2006). Kyiv : Lira, 96 p. [in Ukr.].
8. Rights, U. N. H. (2002). International covenant on civil and political rights. Annex VIII.
9. Surak, J. G. (2010). Harmonization of international Standards. In *Ensuring Global Food Safety* (pp. 339-351). Academic Press.
10. Shelton, D. (2002). Protecting human rights in a globalized world. *BC Int'l Comp. L. Rev.*, 25, 273 p.

ABSTRACT

This scientific article examines the role of constitutional norms in the formation of social standards in the United States, the countries of the European Union, and Ukraine. The article considers theoretical and legal aspects, the definition and review of constitutional provisions, and their comparison with international standards. Attention is drawn to the interaction of international and national law, the implementation of international norms in the constitutional provisions of countries, and possible prospects for developing social norms based on constitutional principles. The article carefully analyses the role of international treaties in forming social standards and their implementation in the constitutional framework, considering the impact of this process on the legal environment. Prospects for developing social norms built on constitutional principles are determined through the expansion of social rights, adaptation to modern challenges, and harmonizing with international standards.

The article's conclusions indicate the importance of constitutional norms in ensuring social standards and indicate potential directions for further development, such as the expansion of social rights, adaptation to modern challenges, and interaction with international standards to create a fairer and more inclusive society. Opportunities for greater protection of citizens' rights and the need to consider modern challenges to develop an equitable and inclusive society based on constitutional principles are noted.

Keywords: *constitutional norms, social standards, international law, European Union, international treaties, legal support, development of social norms.*

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THE CONCEPT AND ESSENCE OF MARTIAL LAW AS AN EMERGENCY LEGAL REGIME

Андрій Сірко. ПОНЯТТЯ І СУТНІСТЬ ВОЄННОГО СТАНУ ЯК НАДЗВИЧАЙНОГО ПРАВОВОГО РЕЖИМУ. У статті висвітлено питання щодо поняття та сутності воєнного стану як надзвичайного правового режиму, розуміння поняття правового режиму, а також характерні ознаки, особливості введення та обмеження, внаслідок настання цього правового режиму воєнного стану. Проаналізовано позиції вчених, щодо розуміння поняття правового режиму та виявлено, що науковці часто ототожнюють поняття правового режиму та правового регулювання. Також в ході дослідження було детерміновано, що на сьогодні правовою основою обмеження прав та свобод людини через воєнний стан є наступні нормативно-правові акти: Конституція України, Закон України «Про правовий режим воєнного стану», Указ Президента України «Про введення воєнного стану в Україні».

Визначено, що правовий режим воєнного стану – це правовий режим який запроваджується у виключних обставинах, що становлять загрозу цілісності держави, загрозу нормальному життю суспільству. Акцентовано на тому, що запровадження воєнного стану жодним чином не повинно впливати на базові права громадян, що затвердженні Конституцією та