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DOI <https://doi.org/10.32849/2663-5313/2022.1.19>**Sviatoslav Skliar,***Postgraduate Student at the Department of Public Law, Yuriy Fedkovych Chernivtsi National University, 2, Kotsiubynskoho street, Chernivtsi, Ukraine, postal code 58012, skliar.sviatoslav@chnu.edu.ua***ORCID:** orcid.org/0000-0002-1279-611XSkliar, Sviatoslav (2022). Do human rights have the ability to overcome selfish interests? *Entrepreneurship, Economy and Law*, 1, 121–126, doi:<https://doi.org/10.32849/2663-5313/2022.1.19>

DO HUMAN RIGHTS HAVE THE ABILITY TO OVERCOME SELFISH INTERESTS?

Abstract. Purpose. The article is devoted to the analysis of the practical importance and functional capacity of the universalization of human rights, which will provide an answer to the question: "Can a universal moral law become the foundation for decisions made in society?" **Research methods.** The article is based on dialectic method and antroposociocultural approach. **Results.** The main arguments of the critique of the possibility and necessity of substantiation of human rights are highlighted. It has been shown that the most convincing theories are currently unable to provide an objective basis for human rights decision-making. Using the example of state fiscal policy, it is proved that morality will not be able to overcome the selfish interest of man, and the universalization of human rights, based on morality that contradicts human nature, will lead to the marginalization of a human being. The author argues that the combination of reasonable coercion and satisfied needs rejects the need for selfish behavior in general. **Scientific novelty.** It is the first attempt to challenge a moral-based understanding of human rights due to its contradiction with human nature. **Conclusions.** Despite numerous attempts to discover the fundamental basis of human rights, scientists have not succeeded to do so, and no justification at this point can determine the correct, socially desirable behavior of the individual. The desired foundation, on which society may rely in order to make an influence on selfish interest, lies in the provisions of the theory of interest and economic prosperity. Satisfied needs of every member of society, which is possible due to the theory of interest and the theory of human rights to taxes, can affect a significant part of human behavior, which will eventually lead to altruistic actions. In such conditions, deception and benefit maximization will be rudimentary behavior. There is no need for some moral code that will create a basis for decision-making policy. The desire and striving for conditions in which the need for selfish behavior is lost shapes an adequate basis for political and personal decisions.

Key words: human rights, tax compliance, tax evasion, relativism, self-interest, universalization of human rights.

1. Introduction

Any political decision requires justification. Despite the fact that immediate priority is to improve the country's prosperity, further considerations eventually lead to the need for a fundamental basis, especially when it comes to policies that do not directly affect the economic flourish, such as ecology, health care, social policy or taxation. Society is not limited to consumption. Substantiation of a certain decision, both at the individual level, and at the level of the whole nation requires the existence of certain prerequisites, based on which such decisions can be assessed. The search for such preconditions is a task that cannot be called new, but there are no satisfactory answers to the questions that arise in the search process. All philosophical and political concepts that prevailed at some point were eventually rejected or refuted. Libertarianism, utilitari-

anism, liberal ideology, and many other political philosophy branches have never been able to provide humanity with a basis on which it would be possible to stir its activity. For almost a century, the modern Western world has been guided by the concept of inalienable inherent human rights, which Ukraine has adopted, enshrining it at the Constitutional level. The Western community has chosen human rights as the main criteria for assessing any process in society. Despite intuitive clarity and functional validity, there is no fundamental basis on which human rights can rely to become universal criteria for evaluating a particular solution.

Consequently, the purpose of this publication is to answer the question: "Can human rights, given their universalization, become the desired basis and justify the decisions made within a society?" The article is based on general scientific and special methods of scientific

knowledge. However, the dialectical method and antroposociocultural approach dominate the entire discussion of the abovementioned problem.

The article is divided into three parts: firstly, current most important and relevant views in this regard; secondly, the hazard of moral universalization; finally, an optimal solution in overcoming one's self-interest in fiscal policy.

2. The importance and the main problem of human rights' universalization

Justification and further legitimization of human rights is not a new task. Each philosophical and legal direction has its own vision of where such rights come from, and how the state should regulate this area (and whether it should be regulated at all). However, despite significant scientific achievements on this issue, there is no consensus on even the very possibility of human rights universalization. The practical need to address this issue varies depending on the historical period in which philosophical thought is designed to use human rights to solve a particular problem. Currently, Ukraine, like the rest of the Western world, is in a state of active tax reforms, designed to solve, among other things, the problem of a low level of tax compliance. One of the obstacles here is the selfish interest of man: it is unclear why a man should sacrifice his personal interest for the sake of others.

Nowadays, human inalienable rights are the most influential point of view of why one should do the right thing. The universalization of such rights is in fact a justification for the truthful and proper decision, but the reference to an apparency of human rights as an objective reality is clearly not a strong argument. It is important to state why human rights are inviolable and inalienable. Moreover, universality is designed to solve the neglecting problem in the case of human rights relativity. If cultural or personal circumstances distort human rights, then following them is relative and depends on external circumstances. Thus, the existence of human rights at this stage of historical development is similar to the existence of God's will before existentialism: you must act according to God's word then; you must act in accordance with human rights now. However, there is a significant difference between these guidelines: while religious rules are absolute and based on a powerful concept of God's will, human rights have no such basis, which in fact leads to debate about their objectivity.

3. Are human rights universal? Arguments against

The debate over the possibility and necessity of universalizing human rights has given rise to a considerable number of arguments that

originate in the philosophical thought of many scholars, but almost all arguments can be confined to two main thoughts.

The first argument for the lack of objective justification concerns cultural relativism. Human rights have a long history, but their legitimacy and description were conducted only after World War II in response to the challenges of the postwar era: everyone has certain inalienable rights that everyone else must respect (United Nations General Assembly, 1948). The first thing that comes here to mind concerns cultural differences: how human rights can be universal if human needs differ depending on the group and historical period. To prove this thesis, we do not even need to back through time, when the state did not exist (although such an argument occurs as well), we may only mention the cultures that coexist with the Western world. As early as 1947, the American Anthropological Association disagreed with the then-proposed version of the Universal Declaration of Human Rights and formulated one of the requirements to be upheld when adopting it: "Standards and values are relative to the culture from which they derive so that any attempt to formulate postulates that grow out of the beliefs or moral codes of one culture must to that extent detract from the applicability of any Declaration of Human Rights to mankind as a whole" (AAA, 1947, 542). Clearly, many cultures are incompatible with proclaimed human rights, such as in Asia, where people live by family rather than individualism (Lee, 1996). In general, all relativistic objections can be summarized in one question: why should certain achievements of one culture be taken as universal and applicable to all cultures? According to relativists, the postulation of the existence of human rights regardless of the historical period and cultural heritage is not proper evidence.

There are many answers to this counterargument of the universality of human rights, but now it is expedient to emphasize only one thing: if there are no objective moral norms, and everything depends on culture, it means that every culture is good in itself and no seemingly unfair and anti-moral occurrences (such as slavery, racism, nationalism, etc.) cannot be interfered externally (Rachels, 2011). Obviously, such a justification will satisfy only a few. Adopting this philosophical position, the state, as well as the individual, are in fact shackled, and cannot solve any problems. Relativism here rests on the same problem as fatalism or causal determinism.

There are also some logical contradictions here: the current environment becomes true environment, but what moral basis allows us to

say so? From the relativist's point of view, any moral justification is only a reflection of a certain opinion of a certain group at a certain time, so the statement that any culture should not be interfered is a similar reflection of some (means western) cultural heritage. Thus, the logic derived from the relativistic position is driven into a dead end.

The second argument concerns the possibility of the existence of human rights in general and, even if such an existence is possible, the actual need for its justification. The skeptical argument, in general, boils down to the fact that the justification of human rights can be abandoned, and decision-making policy can be guided only by a certain inner moral conviction. If cultural relativism cannot ensure the objectivity of our judgments, and human rights cannot be universalized, then during the decision-making process we cannot say with certainty how to do things better. As R. Dworkin stated in his lecture "Is there truth in interpretation": "we read, we puzzle, we puzzle again, then we come to a judgment, and it is a judgment, not a choice, does not feel like a preference, it feels like a judgment" (Dworkin, 2009). Thus, we must be satisfied only with the available abstract means and intuition. The main argument here is functional capacity: despite the difficulties in substantiation, human rights have indeed become a useful tool for the prosperity of society in all areas, and therefore justification is superfluous.

However, the justification of human rights is not limited to responding to criticism. One of the most compelling concepts is based on human rights as the concept that was derived from human needs (interests). According to the theory of interest, human rights are objective to relation with the existence of needs. To meet such needs, it is necessary to create conditions for mutual coexistence of people that is based on the recognition of the needs of others. Thus, to meet the needs of society, it is necessary to meet the needs of everyone through reciprocal interaction and commitment. Moreover, the risk associated with people who due to circumstances beyond their control are unable to contribute to the common good must be taken by everyone. Caring for people who are currently unable to take care of themselves (due to age mostly) is retribution for past or future debt, that is, merely the exercising of transcendental exchange. Developing the concept of the theory of interest R.O. Havrilyuk substantiates the human right to taxation as a necessary mechanism for human rights (Havrilyuk R.O., 2014). However, the abovementioned position is unlikely to overcome private interest. Despite the strong logic and obvious relationship of mutual satisfaction of needs, it is unclear

why a person being, selfish by nature, will care about others. If respect for human rights can be beneficial, why not neglect these rights to maximize benefits where it is possible? It is easy to imagine a progressive tax supporter, who enjoys the benefits of a mutually built society and, at the same time, maximally utilizing the system, understates assets and net assets on his books. The human right as the duty of another will not work perfectly in this case. Otfried Höffe gives some counterarguments, for example, about the pettiness of a person who does not accept transcendental exchange (Höffe, 2008, 42), and it is working when we need to justify decisions in public policy, but the postulation of any shortcomings of people who will not be guided by these principles will not solve any problem. Of course, there are people who do not want to participate in the formation of the public good (given the influence of libertarianism and similar philosophy). Other functional theories (as well as theories of will) also do not allow overcoming selfish interest. There is no satisfactory justification for directing individual choices into the stream of human rights.

However, it should be noted that the justification of human rights is important not only for individual behavior. More often this concept is used to legitimize public policy. The theory of interest still works at the political philosophy, where it is convincingly proven that considering the needs of everyone is the most effective way to interact within society. Such arguments can be used for adequate public policy, and for individual democratic choice. Understanding its effectiveness and justification will cause the citizen to support somehow the relevant initiatives at the society or group level, but not necessarily at the level of personal choice in a particular situation. Thus, egalitarian policies are still able to explain and even determine a significant part of human behavior, even to some extent to overcome the bitter feeling of tax collection injustice, but ignore actions aimed at maximizing one's own well-being through neglecting the needs of others. Transcendental exchange develops Rawls' concept and defends the position not only of the solidarity justice (a person should not suffer because of circumstances beyond his control) but also of the exchange fairness (a person must give what he or she takes away during periods of incapacity). This explanation of human rights is usually quite persuasive: it is much easier to fight the urge of tax evasion if it is necessary to repay one's own debt, and not just because others are less fortunate and unable to provide for themselves. However, fairness does not always determine the appropriate decisions. Justice can be neglected for one's own benefit, and no concept of human rights

justification currently can answer the question "why should a person abandon his or her tries to maximize benefits" or, strictly speaking, "why should a person give up his interest here and now because of the rights of another". Of course, we can limit ourselves to state policy justifying (the theory of interest and the human right to taxation provides the necessary basis for this) and leave the uncoordinated individual choice on the institution of coercion. However, if there is nothing wrong with neglecting public policy if it contradicts individual interests, then there will be no point in democratic choice and self-interest understanding – everyone will deceive and oppose the formal requirements. Without volitional choice, only coercion remains and under such conditions, the justification of such coercion will not affect anything at all. Therefore, we need some power to ensure that human rights-based laws are followed. This problem could solve certain, not yet discovered, moral law, but such an approach is fraught with peril.

4. Why do moral-based human rights and reciprocal exchange contradict each other?

In history, there have been cases of moral universalization of certain behavioral norms. Rules that had such a basis were most profound during the reign of religion (but still with the promotion of interest, where injustice here and now was compensated after death). The concept of human rights does not have a respective "tool for equalization" of any contradictions. Any attempt to derive or create such an instrument eventually encounters the very nature of man, in which, ironically, the origins of his inalienable rights were sought, and which differs from the theoretical constructions in this field. The selfish nature of human is the main obstacle here. Further development of the concept of natural human rights inevitably leads to the opposite result: human, according to any natural law, tends to win the competition by any means, and reciprocal interaction is always accompanied by attempts to maximize benefits via deception. Selfish interest is natural, each person (under certain conditions) will give priority to their own needs, which is exactly what the desired universal moral law must face.

Thus, the existence of an objective, detached from relativism, morality would allow creating a universal core that would support human rights and explain why they should be followed in the decision-making process at any level. In his recent work on the universalization of human rights, Eric Blumenson responds to critics of universalism and concludes by mentioning the need to seek a more just and inclusive view (Blumenson, 2020, 19). In other words, universalization and objective morality are

and should be the subject of the search for philosophical thought, but what will such morality mean for the selfish interest of man, which is a part of his nature? It is very easy to talk about the need for a moral absolute when it comes to slavery, torture, extreme inequality, sexism, and nationalism. The existence of a moral force that would unequivocally condemn and make such processes impossible in the modern world seemed inevitable. However, when it comes to the resources and opportunities that are needed to guarantee equality and justice, everything becomes more complicated. The tax is a necessary condition for overcoming the anti-moral processes that occur in the world, and therefore the moral law, which will not be funded, loses any content. Under such conditions, the refusal to fund objectively moral initiatives is immoral. That is, selfish interest is anti-moral. Assuming that selfish interest is an integral part of a human, the discovery of the desired absolute moral law will lead to the state where every person is anti-moral. Such logic works only if there is a tax system, but a viable society without a mutual exchange is currently difficult to even contemplate. Assuming that morality is, at least partially, relative (and the opposite has not been proven), directing our moral law towards human rights in a society where mutual exchange is taking place is dangerous. The universalization of human rights and the corresponding requirement to follow them strictly means the marginalization of the average person, who without an understanding of the unconditional requirement not to follow his objectively existing selfish nature and contemplating social stratification, will see the demand to share only as the way of intellectual elites to establish their position in society, where following rules is "appropriate", and selfish (in the sense of moral supporters – deviant) behavior should be condemned not only as a reaction to deception, but also as morally unacceptable. Not surprisingly, the need to adhere to certain norms through moral dogma causes resistance in society, and the postmodernism, due to a failure to rationally justify all the contradictions, rejects this problem in general and offers in return to pursue intuitive goals. Universalization here becomes a problem for the individual, and therefore public policy based on the existence of a certain objective morality implies certain inferiority of all people who do not follow it, which, obviously, will not solve any problems.

The desire to maximize one's wealth is natural and understandable. Resistance and response to deception on the part of society are understandable as well. How then to supplement coercion in order to persuade the person to respect

the rights of another in all dimensions? The answer here lies again in the selfish nature of man, or rather in its manifestations. Maximizing the good, like any other behavior, has its limits and conditions of application. It is well known, that pursuing one's own interests by neglecting the rights of others is a tactic of poverty, hopelessness, and despair. Good deeds require good conditions. After all, we should not forget about the other side of man – altruistic, perhaps less influential, and more demanding, but still important enough to consider it. Altruism flourishes in the face of satisfied needs, and there is no reason for its limiting. After all, the absence of the need to deceive in order to defend the dignity and provide one's own survival, as a consequence of economic prosperity and related processes, will allow to achieve the necessary balance in society, which will inevitably lead to respect for the needs of others. However, the moral objectification of certain human rights is a task not only unnecessary but also harmful, and modernity provides us with many more mechanisms for good coexistence than in times when religion played a key role in making the right decision. Economic prosperity, high level of education, scientific achievements, and many other factors determine the behavior of the type "Don't do unto others what you don't want done unto you" much more often than in times of religious domination, despite the lack of impeccable logic to convince the citizen that the right behavior is the only possible behavior. The last argument here will be that the justification of human rights (whether moral law or remote interest in time) in any form is unlikely to ensure absolute respect for such rights. Historical development is filled with cases of neglect

of religious dogmas. Neither the universal moral law of God's absolute will nor the distant interest in the reward after death has been able to overcome the selfish nature of man. The interest here and now at some point overcame God, and there is no reason to believe that human rights will cope better.

5. Conclusions

Philosophical thought is optimistic for the moral universalization (or the very process of finding) of human rights, and discussions on this issue are considered appropriate and necessary for their further development. Discovering objective circumstances that will determine the right behavior at any level is, of course, a noble goal for any scientist. It is quite understandable to shift the scientific search towards moral categories, especially after the seeming exhaustion of the means offered by human nature. However, morality also cannot be a panacea. The relative concept may not be able to find a foundation for human rights, but it persuasively demonstrates the relativity of current moral laws. The fact that moral law universality leads to the demoralization of human being shows us that moral law can't be used as the universalization of human rights. The example of the tax is just one of many social processes that cannot be regulated in this way. Modern theories of human rights do not provide us with comprehensive mechanisms for regulating social relationships, and scientific view must again turn to human nature, which allows us to see the conditionality of human behavior and evaluate decisions based on their ability to create conditions in which selfish behavior is superfluous.

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ЧИ МОЖУТЬ ПРАВА ЛЮДИНИ ПОДОЛАТИ ЕГОЇСТИЧНІ ІНТЕРЕСИ?

Анотація. Мета. Стаття присвячена аналізу практичної значущості та функціональної спроможності універсалізації прав людини, що в результаті дасть відповідь на питання: «Чи може універсальний моральний закон стати основою рішень, що приймаються в суспільстві?» **Методи дослідження.** В основі статті – діалектичний метод та антропосоціокультурний підхід. **Результати.** Висвітлено основні аргументи критики можливості та необхідності обґрунтування прав людини. Показано, що найпереконливіші теорії наразі не можуть забезпечити об'єктивну основу для прийняття рішень у сфері прав людини. На прикладі державної фіскальної політики доведено, що мораль не зможе подолати егоїстичний інтерес людини, а універсалізація прав людини, заснована на моралі, що суперечить людській природі, призведе до маргіналізації людини. Автор стверджує, що поєднання розумного примусу та задоволених потреб відкидає потребу в егоїстичній поведінці взагалі. **Наукова новизна.** Це перша спроба кинути виклик моральному розумінню прав людини через її суперечність людській природі. **Висновки.** Не дивлячись на численні спроби, відкрити фундаментальну основу прав людини так не і вдалося, і жодне обґрунтування наразі не спроможне зумовити правильну, суспільно бажану поведінку індивіда. Шуканий фундамент, тобто можливість вплинути на егоїстичний інтерес, криється у положеннях теорії інтересу та економічному процвітанні. Задоволені потреби кожного члена суспільства, що можливо згідно з теорією інтересу та теорією прав людини на податки, спроможні зумовити значну частину поведінки людини, що призведе і до альтруїзму, а обман задля власного виживання стане поведінкою рудиментарною. Немає жодної необхідності в певному моральному кодексі, який стане основою для прийняття рішень в суспільстві. Саме прагнення до умов, в яких втрачається потреба в егоїстичній поведінці, формує адекватну основу для політичних і особистих рішень.

Ключові слова: права людини, дотримання податкового законодавства, ухилення від сплати податків, релятивізм, особистий інтерес, універсалізація прав людини.

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