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CURRENT ISSUES OF CONSTITUTIONAL AND LEGAL STATUS OF HUMAN AND CITIZEN

QUESTION ABOUT THE LEGAL STATUS OF SCHOOLS AND CHURCHES IN THE STATE

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Currently existing legislation of Ukraine on Freedom of Conscience and Religious Organizations according to conclusions of international experts is one of the most democratic among that of post-socialist countries of Central and Eastern Europe. Although it contains a whole range of statements, that are to be amended or supplemented today, with the further development of national legislation.

A number of statements of current Law of Ukraine on Freedom of Conscience and Religious Organizations should be brought into line with international legal norms in the field of religious freedom. There is a number of projects of a new law on Freedom of Conscience and Religious Organizations to be adopted by the Supreme Soviet. The adoption of the new law will influence positively the religious situation in the country, will facilitate to provide with the legal means guaranteed by the Constitution of Ukraine the right of every citizen to freedom of conscience, religion or certain religious activities.

The draft contains a number of proposals that received ambiguous assessments of experts in religion, law and politics. First of all those in reference to the legas status of school and church.

Despite the constitutional statement on separation of church and school, Article 7 paragraph 3 attempts to bring those two closer to each other. It is offered to enable schools and higher education institutions of teaching religious philosophy, religion and religious and cognitive courses, that could be studied on an optional basis. Among the proposed disciplines only religion is a secular discipline, but it is already obligatory for all higher education institutions. To avoid future misunderstandings that could lead to violation of the Constitution of Ukraine the term ‘religious disciplines’ is the only one that should be kept. Increased attention to religious education is understandable, because the field of education is one of the channels of reflection and preservation of the culture of peoples, interethnic and interconfessional peace in the society. Not so long ago atheism as an ideology and a form of culture was the dominant idea of upbringing and education in post-socialist countries.

DEFENSE OF THE HUMAN RIGHTS BY NON-GOVERNMENTAL LAW-DEFENSE ORGANIZATIONS

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Research issues of defense of the human rights by non-governmental law-defense organizations has practical importance for further reform of the legislation of Ukraine in the context of the European integration of Ukraine, development of international cooperation, evolution of civic society in Ukraine and development of Ukraine as a democratic and legal state.

Defense of the human rights is complete system, which includes normative and institutional elements on internal state and international levels. In this system important institution is the non-governmental law-defense organizations, which works on local, regional, national and international levels. Most of non-governmental law-defense organizations provide cooperation in the sphere of defense of the human rights with the institutions of local self-government, of state and of international organizations, include UN, Council of Europe (CE), Organization for Security and Cooperation in Europe (OSCE).

Legal protection of rights and freedoms of human and citizen needs adjustment mechanism of regulation of all such relationships that includes defense of the human rights by non-governmental law-defense organizations.

Democratization of legal relations and evolution of law-defense institutions with growth role of non-governmental law-defense organizations, the development of international and national standards on human rights are determined the importance of the research of the problematic of that issue.

Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and are denied equality so as to develop appropriate strategies to eliminate such discrimination. The United Nations has a long history of addressing women's human rights and much progress has been made in securing women's rights across the world in recent decades.

MODELS OF CHURCH-STATE RELATIONSHIP IN MODERN LEGAL PRACTICE: CONSTITUTIONAL AND LEGAL ISSUES

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The analysis of contemporary models of relations between state, Church and society in the countries of Central Europe. It is noted that in the historical context of political science models of church-state relationship a theocracy; caesaropapism; the dominant position of the Church in the country; separation of church and state, intermediate state E and state church model the complete separation of church and state.

The article is an analysis of current models of church-state relations in Central and Eastern Europe.

Attention is drawn to the fact that the definition of "home" model for each country is individual and depends on many factors, primarily on the political and legal foundations accepted in society, traditions, spiritual and material state of society and so on.

It notes that the development of Europe may not occur by spreading to other countries, including post-communist, a certain national model of church-state relations.

So, in the world over the centuries have developed several models of church-state relations, which are not tied, however, to certain time periods and often intertwined (for example, theocracy requires a state church and etc.). Definition of "their" models for each country individually and depends on many factors: legal foundations accepted in society, attitudes of secular and ecclesiastical authorities on this issue, traditions, spiritual and moral state of society and so on.

CONSTITUTIONAL FIXING OF LEGAL STATUS OF HUMAN AND CITIZEN: SOME ISSUES

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Given the very significant amount of material on the theory of the rights and freedoms of man and citizen, the author aims to point out the main directions of development of modern human rights in the world and especially in our country. Thus, special attention is paid to this new category of human rights as a somatic human rights.

Thus, the following conclusions. Human rights are complex, dynamic grow up phenomenon, one that went beyond the proper law and the speaker, such as a philosophical concept. In addition, they are well defined legal structure that establishes a mechanism of relationship between man and the state. The development of this mechanism is in space (at the regional level, the level of individual states and internationally) and in time (change of generations of human rights), characterized by constant modernization and is in fact legal, formal recognition display specific historical place and role of the individual in society. It should be noted that in today's world there are such tendencies of human rights: 1) expand the existing list of rights; 2) restricting rights. In this case, a particularly interesting from a theoretical and practical point of view it is the first option, because some researchers have proposed to expand the list of existing rights of another generation - somatic rights. At the same time analysis of the rules of most constitutions developed democracies shows that currently prevails is the second concept to ensure national security and public safety restrictions allowed some rights.

The fourth generation of human rights based on independent and alternative forms of selection and lawful conduct related to the definition of individual autonomy and action. This harmonious application of religion, morality and law establishing a guarantee of positive individual behavior as human rights, taking into account the traditional values of society, religious and moral beliefs should be a universal standard for every member of the human community.

In our opinion, before the fastened to the legal right level of new generation, it is necessary to conduct a thorough research in medicine, genetics and the latest in technology. You also need to determine whether or not such right is the fourth generation of modern society, especially in terms of consistency rights of others.

SECTION 2
CONSTITUTIONALISM AS MODERN SCIENCE

CONSTITUTIONAL AND LEGAL REGULATION OF REFORMS IN THE COUNTRY: THEORY AND PRACTICE

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The article is devoted to the features category constitutional reform in modern Ukrainian constitutionalism based on constitutional and legal realities of local practices. Studied the problems of formation and development paradigm of modern Ukrainian constitutionalism. Using a historical approach reveals the concept and the genesis of scientific and practical paradigm of constitutionalism. The main function of the constitutional reform. Based on the analysis of the constitutional legislation of Ukraine, judicial and administrative practice, research and theoretical studies the content of constitutional reform and the characteristic of its major stages. We prove a direct link paradigm shift constitutionalism and constitutional reform.

Each of us selected functions constitutional reform may be subject to independent analysis. Their general description continues for the constituent elements of theoretical analysis of the constitutional reform and underlines its importance and practical value.

Based on the above, in our view, the function of constitutional reform – are the main areas of its external manifestations that follow directly from the set to a specific historical period paradigm of constitutionalism and aimed at the realization of its main provisions in practice.

Therefore, the study of functions of constitutional reform helps to penetrate the essence of constitutional reforms. Also features constitutional reform objectively determined, are concrete historical character. They show the complexity and multi-variant of constitutional reform as state-legal phenomenon. And as long as they are not met, constitutional reform, as the process continues.

THE PARADIGM OF CONSTITUTIONALISM AS A PHILOSOPHICAL-LEGAL CATEGORY

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The research process of genesis, evolution of constitutionalism as a science and its theoretical components are updated wide range of philosophical, epistemological and methodological issues related to the knowledge of general laws and structures of development of scientific knowledge. Powerful contribution to the development of this theoretical issues was conducted within the modern philosophy of science.

Today, the term "paradigm" is used in the sense developed by American scientist T. Kuhn in "The Structure of Scientific Revolutions". The purpose of Kuhn's work is to describe at least a schematic concept of science that arising from the historical approach to the study of the research activities. The scientist developed the concept of the progression of science, based on its history. He believed that science develops as a result of scientific revolutions, based on a paradigm.

We offer the following definition the paradigm of constitutionalism – a set of ideal pieces of constitutional reality (concepts, values, principles, ideas and practices) that are divided by society at the present stage of development of the state and form a definite vision of constitutionalism, and specific areas of solving the problem of constitutionalism.

CONSTITUTIONAL AND LEGAL STATUS OF TRANSCARPATHIA AS A PART OF HUNGARY (1939–1944)

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The paper attempts to explore the specifics of the development and operation of state-government institutions in the region during this period. The activities of public authorities regarded in the legal aspect.

Structural analysis of the structure and terms of reference Regency Commissariat gives reason to believe that this body created and controlled by central authorities. In matters of competence of the Commissariat officials covered some executive powers of state and local representative bodies. The latter were legally and in fact dependent on the central government.

Thus, regency Commissariat planned as a transitional model to the autonomy of the region, so some of the provisions of the projects realized autonomy in its structures and powers. We agree with the opinion of scholars that the objective and subjective reasons not got the self-governing region status, so Commissariat as a temporary formation existed before the arrival of Soviet troops in the form of quasi-autonomous entity. The specificity of this institution, as well as the legal status of Transcarpathia in general, the legal context is that this was not the occupation administration, as a special form of incorporation edge in political and legal system in Hungary with local and geopolitical realities.

SECTION 3
CONSTITUTIONAL AND LEGAL PRINCIPLES OF ORGANIZATION OF ACTIVITY OF STATE AUTHORITIES AND LOCAL GOVERNMENT

PLACE OF THE HEAD OF STATE IN THE SAFEGUARDS SYSTEM OF LOCAL GOVERNMENT IN UKRAINE: THEORETICAL AND LEGAL ASPECTS

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The article investigates the theoretical and legal aspects of the definition of the head of state in the safeguards system of local government in Ukraine.

Determined that the place of the President of Ukraine and the legal meaning of its competence in the field of security and the further development of local self-government, both directly and indirectly, are still dominant among other institutions of public power. In this case, the most important question is how the future will change the position of the head of state in a parliamentary-presidential form of government and decentralized unitary territorial structure of the state: as a guarantor of local government or as a subject of management in the sphere of local government. From this depends largely on the nature, form and content of the acts of the President of Ukraine in the system of sources of municipal law of Ukraine.

It is noted that a special place among the external guarantors of local government takes President as head of state and the only institution of the state apparatus, on which the Constitution of Ukraine and the current legislation directly applicable definition of "guarantor".

RIGHT TO AN INDEPENDENT AND IMPARTIAL TRIBUNAL IN THE CONTEXT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

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This article is devoted to the peculiarities of legal regulation of the basic principles of justice. The author covers the specifics of ensuring the right to an independent and impartial tribunal.

Alleged judicial independence is one of the main principles of the effectiveness of the court. It has two aspects – external and internal. The external dimension, in turn, includes political, social and economic independence. Real independence of the court totally eliminates any influence of political parties, social movements and their leaders in the judiciary (article 126 of the Constitution). Inside the independence of the judiciary leads, on the one hand, the actual work of the court of justice, and the second – guarantees the status of judges. Judges are not required to provide explanations on the merits of cases before or stay the proceedings and can not give them to someone else to review except in cases and manner prescribed by procedural law.

EVOLUTION OF PARLIAMENTARY AND ITS INFLUENCE ON THE ENSURING OF THE RIGHTS AND FREEDOMS OF HUMAN AND CITIZEN

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The article is devoted to the evolution of parliamentary and its influence on the ensuring of the rights and freedoms of human and citizen. Historical and legal analysis of the influence of parliamentary on the ensuring of the rights and freedoms of human and citizen are made. Stages of the evolution of parliamentary are determined. The features of the evolution of parliamentary in Ukraine are characterized.

Thus, the development of parliamentarism is due, in particular, the development of the ideological foundations necessary existence of parliaments, the theory of separation of powers into three branches, the implementation of power by the people, the affirmation of the ideas of human rights.

Formation of parliamentarism in modern Ukraine was carried out based on the transformation of the Soviet parliamentarism, and some influence on this process also had the idea of Ukrainian parliamentarism justified in the national liberation struggle of Ukrainian in the early 20th century.

There are prospects for further research in this area, including: comparative legal analysis of the evolution of parliamentarism in Ukraine and other European countries; influence of parliament on human rights in a democratic and rule of law; formation of parliamentarism in Ukraine.

So, this article describes the evolution of parliamentary issues and its impact on the rights and freedoms of man and citizen.

COMPETENCE AND POWERS OF THE CONSTITUTIONAL COURT OF UKRAINE

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The scientific article is devoted to the analysis of complex constitutional mechanism to ensure unity of jurisprudence in Ukraine. The analysis of the ratio of the practice of the Constitutional Court of Ukraine, the European Court of Human Rights, the Supreme Court of Ukraine and high specialized courts to ensure similar approaches to solving cases on the merits, based on the principles of the rule of law and proportionality.

Today shifted the emphasis in the understanding of the powers of the constitutional court, as this issue is closely related to the nature of acts of constitutional justice. Actually acts of the Constitutional Court of Ukraine with the contradictory nature because they are based on the provisions of the Constitution of Ukraine, and they are difficult to include judicial precedent. Also doubtful to attribute decisions and opinions of the Constitutional Court of Ukraine to this category of sources of law as principles of law or jurisprudence. At least the concept of "jurisprudence" is uncertain, because the CCU concerning various issues of constitutional and legal matter and legal system of Ukraine as a whole. Therefore, we can only conditionally speak of "jurisprudence" CCU on the principles of constitutional law, human rights, freedoms and duties of man and citizen, referendum and elections, parliament, the president, government, local government and others. For example, "Litigation" CCS can also be more separate the "Litigation" of individual human rights such as: the right to liberty and security of person, the right to privacy of correspondence and correspondence, the right to property, right to work and so on. Therefore, the following issues should be considered in combination and relationship.

NOTARIES IN UKRAINE: SOME ASPECTS OF CONSTITUTIONAL AND LEGAL STATUS

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Formulated characterization of notaries as a specific institution in the mechanism of protection of the rights and freedoms of human and citizen. It was found the concept of "constitutional and legal status of notaries". Deals with specific components of the constitutional and legal status of notaries.

In our opinion, the current study constitutional and legal status of notaries in Ukraine should be based on "the status" approach as a set of elements that form the constitutional and legal status of notaries in general is not debatable. Moreover, it is the "status" approach underlies the structure of the current Law of Ukraine "On Notary".

Speaking about the relationship between the concepts "status of notaries" and "institution of notaries", must be borne in mind that the status – a static (based on its stability and relative stability), and the Institute is its dynamic embodiment. It is more appropriate to use the category of "constitutional-legal status of notaries".

Constitutional and legal status of notaries should be characterized as a fixed and established rules of constitutional law notaries position as non-governmental institution, which according to the legislation of Ukraine delegated certain powers of the state to implement the rights and legitimate interests of citizens and legal entities, due to socio-political entity society relationship with other subjects of constitutional law and is characterized by the peculiarities of his personality, rights and freedoms and responsibilities of guarantees and responsibility.

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