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Reflections on Art. 28 of the Universal Declaration of Human Rights, in the Context of International Obligations of States

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ABSTRACT

"Everyone has the right to a social and international order in which the rights and freedoms contained in this Declaration would be fully realized. "The passage of the Universal Declaration of Human Rights quoted here has a unique meaning today. In art. 28 of the Declaration, we see a reference to the future, showing the special role of human rights. This is a role related to people's dreams, desires and hopes. The universal nature of human rights has made them universal. This is not only about the theoretical approach pointing to the universal nature of human rights. Rather, it is about the internalization of human rights. Human rights have become an integral element that people are convinced of. People in different parts of the world know they have rights. The emergence of rights is directly related to the existence of obligations. In recent years, we have seen the emergence of new international obligations assigned to individual countries. Does the existence of these obligations strengthen the right idea of human rights? Is the performance of international obligations able to contribute to the implementation of the idea contained in Art. 28 of the Universal Declaration of Human Rights?"

Keywords: *human rights, development, international community, pandemic, human dignity.*

I. INTRODUCTION

Human rights are an increasingly fascinating phenomenon. On the one hand, we hear about them more and more often. We have at our disposal many organizations and institutions that can help us to enforce them. We can lodge a complaint with a court or independent experts (ombudsmen).² As we can see, from time to time more international documents appear, which (in general or in detail) refer to the topic of human rights. On the other hand, however, we see the completely opposite phenomenon. We see further violations of human rights (the use of torture by authorities, including democratic states). We can see questions related to the way of

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² See more: Osiatynski W. Human rights and their limits, Wydawnictwo Znak, Kraków, pp. 305-308,

understanding this idea in the "global village" that the world has become.³ There are also further dilemmas, such as the one regarding the reception of Syrian refugees by individual countries. Should states "share" a new difficulty? Perhaps these States have the right to choose their own way of acting in a similar difficult situation? It is in similar problems that an interesting situation arises. Article 28 of the Universal Declaration of Human Rights indicates that "Everyone has the right to a social and international order in which the rights and freedoms contained in this Declaration would be fully implemented."⁴ But how can we interpret this provision in this context? Both Syrian and European citizens will be happy to refer to him. For some, it will be the basis for shelter. For others, it may justify adopting a passive attitude towards receiving refugees. Does the existence of such provisions even make sense?

II. ART. 28 - SOME COMMENTS AND REFLECTIONS

The article discussed here has a surprising design. When we analyze social phenomena regarding human rights, we can most often see their vertical nature.⁵

We see the individual and the man / office with power. We have a person in court on the one hand and a judge on the other. We see a suffering patient and a doctor with knowledge and authority. We also have small children and a parent who has parental authority.⁶ This article shows us two key areas in a general way. We see the figure of a "human": it is every person living on earth, regardless of additional features. We also have a very general mandate, and therefore: "the right to such a social and international order in which the rights and freedoms contained in this Declaration would be fully implemented." One must come to believe that an individual can expect the authorities to fully respect their rights. It must be concluded that we are talking here first of all about her right to development.⁷ Article 28 is one of the economic, social and cultural rights. It is also worth reading from the perspective of the content of art. 22 of the Universal Declaration of Human Rights. It indicated that these areas constitute an important element of respect for human dignity⁸. Eibe Riedel - analyzing the meaning of art. 28 points out that this provision is the conclusion of a reflection on the general nature of human rights. In his opinion, we are talking here about a signpost for proceedings regarding the third

³ Mazurek F. J., *Human rights in the social teaching of the Church*, Catholic University of Lublin, Lublin 1991, p. 242.

⁴ Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217 A (III) on December 10, 1948.

⁵ Skwara B., *The horizontal validity of human rights*, "Homines Hominibus" 2009, No. 1 (5), p. 49.

⁶ See: Sobczak J., *Patient Dignity*, "Medical Wokanda", 2009, No. 1, p. 31.

⁷ Czepek J. *Positive obligations of the state in the field of human rights first generation against the background of the European Convention Human Rights*, UWM Publishing House, Olsztyn 2014, p. 127,

⁸ Piechowiak. M., *Dignity as the foundation of the duty of law towards human rights [in:]* (ed.) P. Morciniec, S. Stadniczeńko, *Realizing human rights in the 21st century. Law and ethics*, Opole University, Opole 2004, p. 44.

generation of human rights. These activities are to ensure safe development for man, as Eleonor Roosevelt pointed out during the work on the Declaration. She said: "We are creating a charter of rights for the world, ... one of the most important laws is the possibility of development."⁹ It should also be added that Article 28 of the Declaration refers directly to the tradition of the United Nations Charter. The document states that the international community is obliged to raise the standard of living by, for example, providing employment that enables human development. (Articles 55 and 56, mentioned Charter). Similarly indicated in the Tehran Proclamation of 1968. This document indicates that "Achieving a sustainable level of human rights implementation depends on sound and effective national and international policies in the field of social and economic development."¹⁰

III. HUMAN RIGHTS AND EXTRATERRITORIAL OBLIGATIONS

Looking at the content of art. 28 we should stop. To answer the question raised in the introduction, we must also look at the other skews indicated in the Declaration. On the one hand, therefore, we see here art. 27 Declaration, which reminds of the human right to development (to fulfill social and cultural desires). From the second perspective, we see art. 29 Declaration, which recalls that: "Everyone has duties to the society without which the free and full development of his personality is impossible."¹¹ Professor Krzysztof Motyka (a Polish researcher of the phenomenon of human rights) points out in his works that the implementation of legal provisions is possible only at the moment when we will see both rights and obligations. The extraterritorial obligations of the state are presented as elements guaranteeing respect for human rights. There is more and more validity in this approach.¹² The development of the Internet, the opening of borders and the development of international corporations shows us the world as a "great community". Mutual obligations of states today reflect the rights expressed in art. 28 Declarations, the subject of which is every person, regardless of their citizenship. In this context, we can see both positive and negative examples. It is worth pointing out one example.¹³

⁹ Riedel E., Rhird generation, Human rights as a strategy for the implementation of political and social rights, "Legal, economic and sociological movement", issue 3 - 4 - 1990, p.8,

¹⁰ Szarfenberg P. The right to development, Institute of Social Policy, University of Warsaw, p. 6 (author's archive),

¹¹ See more: Jaskólska J. Content of the Universal Declaration of Rights Human, "Man in Culture", No. 11, 1998, pp. 49-97.

¹² Motyka K., Human rights - introduction, selection of sources, Verba Publishing House, Lublin 2004, pp. 50–54;

¹³ We are talking about the imperative-attributive nature of a legal norm. Every person is authorized. We must not forget that we also have obligations. The rights and obligations are closely related. See more. Kojder, Dignity and strength of law, Oficyna Naukowa, Warsaw 1995, pp. 84–89 and Fryś A., Selected rights of an unconscious patient, "Anesthesiology and Rescue", 2009, No. 3, p. 365.

The first of these concerns concern for the climate. Our planet's pollution is increasing. We see particularly disturbing places in the world, such as garbage islands in the oceans. As Agnieszka Adamska points out: "In 2008, the UN Human Rights Council in Resolution 7/23" Human Rights and Climate Change "expressed its concern that climate change is a direct and far-reaching threat to people and communities around the world. The effects of climate change are inextricably linked to the enforcement of human rights. The resolution identifies climate change as a global problem that also requires global solutions."¹⁴ "Similar "soft" activities are very important. They motivate representatives of States to change the law. They have a positive impact on scientists seeking new technological solutions, as well as an inspiration for journalists who can put pressure on those countries that poison the environment with their expansive activities. Therefore, the provisions are becoming more and more important, among others: art. 12 point 2, b. The International Covenant on Economic, Social and Cultural Rights, Art. 24 point 2, art. 30 point 1, Convention on the Rights of the Child and art. 27 Charter of Fundamental Rights of the European Union.¹⁵

The European Union referred to here directs us towards a negative example. It is worth referring to the content of the Treaty establishing the European Community. As indicated in art. 103a "Where a Member State has difficulties or is seriously threatened by serious difficulties due to extraordinary circumstances beyond its control, the Council, acting unanimously on a proposal from the Commission, may grant Community Member State financial assistance under certain conditions."¹⁶ The extraterritorial commitment indicated here became particularly important at the beginning of 2020. I am thinking of a Coronavirus pandemic here. A particularly severe picture of the epidemic appeared in Italy. In one day about 1,000 people died there. However, as it turns out, Italian citizens have had great grief over the European Union. It was pointed out that, despite the treaty's obligations, this international organization did not receive any assistance in particularly tragic and dangerous situations. It was added that they received support from China, which also fought against the virus.¹⁷

¹⁴ Adamska A. Climate change and human rights, Center for Citizenship Education, p.1-2 (Author's archive)

¹⁵ International Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27, Convention on the Rights of the Child, Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990, in accordance with article 49 and Charter of Fundamental Rights of the European Union 2012 / C 326/02,

¹⁶Treaty establishing the European Community., 12006E/TXT

¹⁷ See more: Kmiecik B. *Man and society during the Coronavirus COVID-19 pandemic: psychosocial and legal reflections*, „Academy of Social Science Journals”, No 05, 2020, p. 1674- 1682, x

IV. ANSWER TO THE QUESTION: SUMMARY

In my opinion, art. 28 of the Universal Declaration of Human Rights has special significance today. The extra-territorial obligations of individual countries are today a natural consequence of the development of communication between people. We will become "citizens of the world." Human rights have become a special element of the global social debate.¹⁸ Education of citizens to law is particularly important today - as prof. Leon Petrażycki. I gave two examples above: positive and negative. Extraterritorial obligations show in these contexts how important it is to look at human rights today through the prism of both rights and obligations.¹⁹ The world has become: smaller and smaller. We look at other countries as partners for our activities. We can study in Belgium without leaving home. Extraterritorial obligations can be effective in protecting human rights and freedoms. First, they must be based on education in law and on shaping responsibility. Perhaps that is why the Chinese so willingly provided help (in the east great importance is attached to duty and responsibility). Then specific provisions must be made to show the value of mutual responsibility.²⁰ Its implementation can ensure each of us development.

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¹⁸ Rybicka-Nowek A.. Selected issues from human rights, Police teacher's guide, Police Training Center, Legionowo 2012, p. 10- 11,

¹⁹ Motyka K., Leon Petrażycki's influence on Polish theory and sociology of law, Editors of the Catholic University of Lublin Publishing, Lublin 1993, p. 173. See also: Podgórecki, A.. Outline of the sociology of law, PWN, Warsaw 1971, p. 418.

²⁰ Petrażycki L., On the motives of the proceedings and the essence of morality and law, Oficyna Naukowa, Warsaw 2002, p. 424,

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