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Яна Олегівна Триньова

Міжвідомчий науково-дослідний центр
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СПІВВІДНОШЕННЯ ПОНЯТЬ «ПРИРОДНЕ ПРАВО» ТА «БІОЕТИКА»

Анотація. *Проводиться співвідношення поняття «природне право» (jus naturale-лат.) із відносно новим для юриспруденції поняттям «біоетика». Обґрунтовується введення в науковий оборот поняття «neo jus naturale», яке розуміється як новий етап еволюції jus naturale та підстава для формування оновленого типу праворозуміння – біоетичного. Neo jus naturale розглядається як фундамент сучасного правотворення. Засилля позитивізму в постмодерністському праві та домінуюча концепція антропоцентризму в життєдіяльності сучасної цивілізації поставили людство на грань самознищення. Однак відтермінувати самознищення людини ще можливо. Для цього необхідно змінити домінуючий наразі антропоцентричний світогляд на прогресивний екоцентризм та повернути jus naturale у процес законотворення. Метою дослідження є з'ясування сутності природнього права, формалізація його ознак для практичного застосування та співвідношення його з біоетикою. В процесі дослідження jus naturale визначається як біоетика. Провідними методами дослідження є метод «трагічної діалектики» та ідеалістичної діалектики. Взагалі ж застосовано трирівневу систему методології (фундаментальні, загальнонаукові та конкретно-наукові методи). Застосування біоетичних засад на рівні законотворення дозволить створити якісний, правовий, справедливий закон. Такий закон, який буде відображати існуючі потреби суспільства, задовольняти їх сучасними засобами і таким чином відповідати втіленню вищої справедливості. Neo jus naturale – біоетичне право майбутнього. Дотримання якого у законотворенні дозволить зростити нову генерацію людей, покращити якість їх життя та відповідно якість навколишнього середовища, а відтак пролонгувати існування людської цивілізації.*

Ключові слова: природне право, jus naturale, біоетика, право, нормотворення.

Yana O. Trynova

Interdepartmental Research Center for
Combating Organized Crime
National Security and Defense Council of Ukraine
Kyiv, Ukraine

RELATIONSHIP BETWEEN NATURAL LAW AND BIOEHTICS

Abstract. *Analyzes the relation between the concept of "natural law" (jus naturale) and the relatively new concept of "bioethics" for law csience. The introduction of the concept of "neo jus naturale", which is understood as a new stage in the evolution of jus naturale and the basis*

for the formation of an updated type of legal thinking – bioethical, is grounded in the scientific revolution. Neo Jus naturale is considered as the foundation of modern lawmaking. The dominance of positivism in postmodern law and the dominant concept of anthropocentrism in the life of modern civilization put humanity on the brink of self-destruction. However, it is still possible to delay the self-destruction of man. To do this, it is necessary to change the dominant anthropocentric worldview to progressive eccentricity and return jus naturale to the legislative process. The purpose of the study is to find out the essence of natural law, to formalize its features for practical application and to relate it to bioethics. In the process of research jus naturale is defined as bioethics. The leading methods of research are the method of "tragic dialectics" and idealistic dialectics. In general, the three-tier system of methodology (fundamental, general scientific and specific scientific methods) is applied. The application of bioethical principles at the legislative level will allow to create a high quality, legal, fair law. Such a law, that will reflect the existing needs of society, satisfy them with modern means and thus be in line with the incarnation of higher justice. Neo jus naturale the bioethical right of the future. Compliance with this law will facilitate growth of a new generation of people, improve their quality of life and, accordingly, the quality of the environment, and thus prolong the existence of human civilization.

Keywords: natural law, jus naturale, bioethics, law, lawmaking.

INTRODUCTION

The dominance of positivism in postmodern law and the dominant concept of anthropocentrism in the life of modern civilization put humanity on the brink of self-destruction [1]. A striking indicator of this is the uncontrolled discovery of so-called dangerous knowledge and the effort to exploit its results. Dangerous knowledge is recognized as knowledge whose potential is unknown to mankind and lacks the ability to control it or, otherwise, it is knowledge that is ahead in the development of the field of human knowledge, tested by practice, and thus causes a temporary social and legal imbalance. Among the dangerous knowledge of the time was the discovery of nuclear energy, the development of viruses and more. Over time, humanity has learned to manage the results of these types of dangerous knowledge less successfully, but there is no complete control over it today, as evidenced in particular by the Chornobyl and Fukuyama tragedies.

There are two important steps to be taken. First, to change the dominant anthropocentric worldview (the goal and center of all is man – the highest value on earth) to progressive ecocentrism (according to which man is an equal share among other elements of the ecosystem, and therefore his relation to the surrounding world should be appropriate: devoid of excess ambitious) [2; 3]. The second step to the salvation of humanity must be the return of jus naturale (natural law) to the process of lawmaking [4–6]. Although two steps were formally identified previously, they are closely intertwined. Doing one step without the next will be empty body movements meaningless. We believe that at the heart of measures to save humanity from self-destruction is the observance of the natural law – jus naturale, the importance of which in the course of modern law-making is emphasized in this work. Despite the age of jus naturale and its

seemingly compulsory presence in the lawmaking process, it is too difficult for a modern lawmaker to understand the criteria for the naturalness of a rule that needs to be formally expressed in law. Such difficulties are due to the lack of specific principles of natural law. Almost all Ukrainian lawyers understand the essence of jus naturale, but in the law-making process, as the positivists are rooted, they want to find a formal jus naturale rule with which to verify the candidate norm and decide whether it is jus naturale principles and worthy of a place of honor in the system of legislation or not. Using modern terminology, jus naturale can be defined as bioethics [7; 8].

Bioethics is knowledge about the rules of human coexistence with other elements of the ecosystem. The basic principles of bioethics are the principles of jus naturale. The same principles of natural law can be found in various sources: from the works of the classics of the philosophy of law to modern international legal and national normative acts (Universal Declaration on Bioethics and Human Rights[1] and State Concept of Ukraine in the field of bioethics[2]). To bioethical principles (principles) include: 1) the principle of ecocentrism; 2) the principle of altruism; 3) the principle of transparency; 4) the principle of rationalism; 5) the principle of equilibrium; 6) the principle of restrictions; 7) the principle of safety of life; 8) the principle of realism. These principles form a system that exists under certain rules. These rules are manifested in the coordination of these principles with each other, and contain in the middle of their system another – a system of restraints, balances and interactions, in particular, with the principles of criminal law policy of Ukraine. All of the above principles of bioethics are important, their location in the system in a digital order – is very conditional.

In fact, bioethics (in essence) and jus naturale are "peers". The above system of bioethical principles – principles of natural law is not fully copyright know haw. Bioethical principles are tested over time for the existence of mankind (many generations) [9; 10]. The experience of human civilization, reflected in religious and epic chronicles, concentrated in them. Our task was only to analyze and interpret them in modern language; proving to modern society the need to adhere to them. The system of bioethical principles is a modern algorithm of lawmaking in any field of human knowledge. By passing every potential knowledge through the prism of these principles, one can understand whether such knowledge is safe for the ecosystem, or poses the risk of its destruction. The given algorithm of law-making in the form of the system of bioethical principles allowed to declare a new round of development of jus naturale – its updating, which consists in clearly formulated principles of natural law. We call this new level neo jus naturale. On the basis of this renewed naturalism, modern and future lawmaking must take place. Despite the growing flow of bioethical literature, we did

[1] United Nations educational, scientific and cultural organization ethics of science and technology social and human sciences sector: Universal Declaration on Bioethics and Human Rights. (2005, October). Retrieved from www.unesco.org/shs/ethics SHS/EST/BIO/06/1

[2] Ukraine in the field of bioethics: State Concept. (2002). Retrieved from http://biomed.nas.gov.ua/files/concept_ru.pdf

not find publications in which the subject matter would coincide with the statements in our work.

Therefore, the purpose of the article was to determine the correlation between the concepts of "jus natural" and "bioethics", as well as to find out their significance for lawmaking activity.

1. MATERIALS AND METHODS

To achieve this goal, an appropriate research algorithm was selected, characteristic of the set of collected materials, conditions and form of work (fundamentally applied). The study applied a three-tier system of methodology, consisting of fundamental, general, scientific and specific scientific levels. The basic among the fundamental (philosophical) methods of cognition used is dialectical (idealistic dialectic). Alternative dialectics of cognition were also used: "tragic dialectics", existentialism, phenomenology, gestalt approach, synergetic method sometimes dogmatism. Thus, the method of "tragic dialectic" was a prerequisite for the need for scientific research and development in its process of "fuses", the discovery and use of dangerous knowledge, as well as their correct use. Using the phenomenological method, Gestalt approach, induction, abstraction, hypothetical method and philosophy of existentialism, as well as the provisions of German classical philosophy, philosophy of life, etc., the author's concept of bioethics was developed and presented and developed. The dogmatic method is used in the operation of some classical concepts, such as the concept of "biological death", "crime", "rule of law" and the like. In the approach to the meaning of life, the position of ancient philosophers who professed epicureanism was chosen. The study deliberately turns away the sophistication method – we believe that the basic techniques of this method (the substitution of concepts, manipulation of facts, etc.) do not allow to objectively reflect reality, and thus can not help to obtain the ultimate objective scientific result. Theocentrism and anthropocentrism also turn away as a philosophy of being. Confessing ecocentrism, we are convinced that at the center of the universe should be not God (in interpreting the philosophy of theocentrism and the corresponding purpose of human existence), not man (as in anthropocentrism), but nature (the environment). It is our promotion of the philosophy of ecocentrism and development in each person of the ecocentric type of consciousness that has also become one of the prerequisites for this scientific study. Humanity must embark on the path of co-evolution. The whole text of the work is presented using the moral method, that is, in such a sequence that the reader himself comes to the basic idea that was laid down in the work – the need for cultivation of bioethical consciousness among society and the creation of bioethical rules of law.

Along with the fundamental methods of knowledge of reality, we have used common scientific methods. The systematic approach was used to formulate a general concept of scientific research. The specified system consists of a set of smaller elements arranged in a specific sequence. Through system analysis, certain elements of the sys-

tem were identified, investigated, and their relationship identified for successful combination, and the appropriate placement in the body of work.

The axiomatic deductive method permeates almost all the work, since the formation of any new concept requires repulsion from the existing concepts taken by the axiom. This method has developed the author's concept of "bioethics". Using the comparative-historical method, such concepts as "bioethics", "law", "life" were studied in the historical plane, in terms of their axiology. This approach revealed their evolution and the main objective changes in the attitude of mankind to them, and therefore to determine their present value. The method of comparison is used almost in the whole text of the paper: to identify the features of bioethics and other social phenomena, in determining approaches to regulatory regulation of bioethical problems, taking into account foreign experience, etc. Incomplete induction has been used to study the relevant jurisprudence and legislation of foreign countries. Using the full induction method, we were able to find out the essence of bioethics by first identifying and analyzing specific areas of its application, and then summarizing it all in a single concept. Developing their own concept of "bioethics", they are forced to break away from existing concepts – this is the method of abstraction. Some conclusions in the work on the results of the study helped formulate the so-called method of hypothesis acceptance. The author's concept of "bioethics", "bioethical principles" are hypotheses.

Using the synergistic method, the proposals to the Criminal Code of Ukraine were formulated and substantiated regarding the response by the state through criminal-legal measures to commit offenses in the sphere of "dangerous knowledge".

Along with the methods of scientific research, we have used such cognitive techniques as: idealization, abstraction, generalization of a thought experiment, which is a broader method of scientific cognition than the method. By generalizing, analyzing the etymological origin of bioethics, the evolution of this concept, its essence, bioethical principles have been developed, as well as the existing concept of bioethics has been refined.

2. RESULTS AND DISCUSSION

It is known that the ideas of jus naturale were laid by the Greek philosophers-stoics. The latter were convinced that jus naturale arises from the human nature as a rational, social and natural creature; it is these rules that regulate human behavior in general. Being the simplest and most rigorous, the jus naturale rules have been universally applied. Thus, according to the teachings of the Roman lawyer Ulpian, the natural law is a law that applies to all animals and is not limited to exclusively human being [11]. The law to Ulpian is a art of good and just. However, in addition to such human qualities as rationalism, sociality and naturalness, the formation of jus naturale was influenced by ethics which contained the human religiousnes and morality.

The well-known philosopher of the Renaissance, Hugo Grotius (1583–1645), defined the law through the category of justice. In his opinion, everything is legitimate is

fair, and the basis of law are ethical concepts, expressed in legal terms. In the famous treatise "Three Books on the Right to War and Peace" ("De jure belli ac libri tres") G. Grotius noted that natural law retains a moral basis, but it is not a set of laws, but a certain established by God's rule of law, organizing the existence of the world with sustainable ties. At the same time, the criteria for the search for these links according to G. Grotius is the order of common sense, in which one or another act, depending on its conformity or contradiction with the reasonable nature, is recognized as necessary; and therefore such an act is forbidden, or is prescribed by God himself, the creator of nature [12].

According to R. Tuck, one of the most well-known scholars of creativity G. Grotius, the natural right in the work of the latter is based on the general human desire (the original instinct – Ya. T.) self-preservation and consists of a fairly small set of rights and obov ' stems [13]. In continuation of R. Tack's opinion it can be noted that the essence of natural law is to preserve. However, not only self-preservation of a person. Today, the growing importance of taking care of the ecosystem, the share of which is human. By making efforts to preserve the ecosystem, a person automatically protects himself from destroying himself. Modern philosophers and theorists of law define jus naturale as a set of universal norms and principles that are at the basis of all legal systems of world civilization [14]. Probably such an interpretation of this concept stems from the doctrine of G. Grotius, his definition of the essence of jus naturale.

Russian philosopher V. Bachinin gives his criteria for determining jus naturale. Here are some of them: 1) it is derived from the natural order, that is, from the universe and the human nature, which is an integral part of the universe; 2) arose with the first steps of human civilization in the form of customary law; 3) according to jus naturale, such human rights as the right to life, freedom, property, personal dignity are unconditional, that is, they can not be restricted by the will of the state; 4) jus naturale is not identical to the current legislation and provides for the religious-metaphysical and moral-ethical principles that connect it with the majority of human culture values, extend and deepen its legal content; 5) the normative-value limit of his goals is the highest justice, which is understood as a universal ideal that corresponds to the original foundation of the universe; 6) jus naturale inseparable from world culture; 7) natural and legal worldview, thinking – is the property of the philosophical mind and metaphysical intuition [15]. Continuing the opinion laid down in the last of the following criteria for determining the natural law of V. Bachinin, we turn to the characteristics of the natural-legal consciousness or thinking of a person, a subject of law, which will demonstrate additional signs of jus naturale.

So A. Polyakov comparing the natural-legal and positivist approaches to understanding the law points out that they (approaches) point to different aspects of legal reality, while considering that their approach is the only true one. With regard to jus naturale – this is an indication of the connection of the right to the value world of the subject, the

need for his "included" participation in the life of the law because of its high significance for all and. In this case, the right is in the field of "significance", fundamentally native with the whole value of the universe and therefore blurred and indeterminate, vague, not proven formal-logical means [16].

That is why, when familiarizing with international normative and legal act, it is sometimes difficult to understand their position. Their text is designed for different approaches to legal thinking, to various legal systems including. However, it is important, when interpreted and applied, to feel their essence (the spirit of the law), which is right – jus naturale. This spirit of law must be reflected in national laws in the traditional forms of them, rather than literally, as is often the case in Ukraine, which leads to misunderstanding of the relevant international legal provisions by domestic law-enforcement officers. Characteristic examples of the latter are literally transposed from international conventions to the Criminal Code of Ukraine[1] norms in the field of counteraction to trafficking in human beings, the legalization of criminal property, corruption, etc. [17].

Similar opinions are expressed by representatives of other branches of Ukrainian jurisprudence. So, N. Onischenko, reflecting on the essence of jus naturale, notes that it is rational and fair, unlimited boundaries of certain states, extends to all times and peoples. It is eternal and immutable, as the eternal and immutable nature and mind man [18]. Supports this view and V. Bachinin, who characterizes jus naturale as the stronghold of stability and unchangeability, which is not subject to revaluation and devaluation [19].

It turns out that a person, as a potential subject of law, must learn to feel the spirit of jus naturale. Only by developing such a capacity we can talk about the man's production of legal laws. Summarizing the above definitions of jus naturale, we turn to L. Fuller, who pointed out that the general natural-legal paradigm proceeds from the existence of an ideal system of law established by God, human nature and nature in general. This ideal system is the same for all societies and all stages of history. Its norms can be detected with the help of reason and reflection. Legislative laws that contradict this ideal are null and void, and therefore, there is no moral basis to claim that they comply with [20]. Every subject (or ordinary citizen or professional lawyer) should reflect on what is supreme justice in the context of the existence of a human society and individual individuals among themselves. Try to identify the general patterns of social, orderly existence of different societies in different historical epochs. These patterns can be traced in various religious texts, customs, and other legal monuments of legal texts, etc. The sign of regularities is their repetition (in various interpretations) in different sources, while maintaining their uniqueness. A similar refrain can be a form of manifesting jus naturale. A striking example of the "inclusion" of the subject of law in the

[1] Criminal Code of Ukraine (2001, April). Retrieved from https://zakon.rada.gov.ua/laws/show/2341-14

law life is the Anglo-Saxon law system. Unlike the continental court, in which the court is bound by a decision only in the article of the law, even if this article is higher than a person, the court in the Anglo-Saxon law system directly affects the law-making process (through precedents).

Of course, to follow the Anglo-Saxon example administration of justice, it is necessary to change one's mind and approach to legal thinking, start to educate a new lawyers generation on the other principles basis. These principles are the principles of natural law. The natural-legal type of justice involves a lawyer thinking, not limited in his mind by the letter of law, but one that adheres to the law-enforcement activity of higher justice, established by nature, the directions of common sense and the conformity of a particular act (both their own and other persons) with intelligent nature, and therefore appreciates the necessity of committing a certain act, while not forgetting about the existence of a long instinct of self-preservation of man through the ecosystem preservation. The logical question is how to understand the principles and instructions of natural law and how to apply them in lawmaking activities.

In our opinion, the answer to this question can be given by bioethics. The latter began to emerge almost with the onset of writing in human civilization through customary law. Of course, this term was not used at that time. Separate bioethical principles can be found in various religious texts in the form of spiritual guidance (in Christianity – these are the commandments of God, in Ayurveda – veda, etc.) – all of them are aimed at harmonious, orderly, corresponding to the rational nature of human existence within the ecosystem of the Earth. For the philosophical thought of the early nineteenth century, during the Russian Empire (which included various modern independent legal systems) and in the twentieth century was an actual direction of the so-called ethics of life or ethics, which actually reflects the essence of bioethics in its modern sense under international instruments. After analyzing the corresponding these philosophers work, we came to the conclusion that the ethical concepts developed in the religious philosophy of that time did not fully reflect the understanding of bioethics in comparison with its current definition. However, some of the provisions of the latter have already been followed – the need for ethical control of new knowledge, calls for the environment protection, the biosphere and biodiversity, the next generations protection, the person spiritual enrichment, etc.

Briefly, let's summarize the main thoughts of some of these philosophers. The most famous representative of the ethics of life was M. Roerich (1874-1947) – the creator of the so-called "Living Ethics" [21]. The very names of the M. Roerich`s ethical articles are "The common cause", "Living wisdom", "The world for all living things", "Freedom of knowledge", "Fighting ignorance", "Justice", "Feelings", "Help", "Confronting evil" – demonstrate that it was the ethics of mutual solidarity, charity and justice, based on the religious and philosophical values of Buddhism. In formulating their rules of living of living beings in "Living Ethics", M. Roerich, emphasizes

the spiritual component of these living beings. Such an interpretation by the author person's life rules (existence) in essence intersects with the concepts jus naturale, which were given above.

The leading principle of K. Tsiolkovsky's ethics is the requirement that "all living be prosperous", since "life is continuous, no death" [22]. This is a Buddhist idea, in its essence, in the early work of "Ethics, or the Natural Principles of Morality", and in the later "Scientific Ethics", written in 1930. In fact, K. Tsiolkovsky considers ethics as an opportunity to gain some kind of admonition, which is uncertain at the present time, by which a person can know immortality (subject to changing his forms) – and in this he sees the path of mankind to happiness.

The most famous representative of this trend at the beginning of the XX century. was M. Umov (1846–1915) – an outstanding Russian physicist, whose philosophical works, including ethics, unfortunately, were little known. In his articles "Misunderstanding in the nature understanding", "The task of technology in connection with the depletion of energy Earth reserves", "Cultural role of physical sciences", M. Umov develops a set of ideas that substantiate the life ethics. He proceeds from the fact that life is specific in its organization, and for its comprehension is not enough understanding and methods in physics. The specificity of life lies in its antientropy, in that it is always connected with the struggle with what M. Umov calls "unstable state". This term is essentially identical because in modern physics it is called chaos, disorganization, disorder. According to M. Umov, "the unstable is likely to be the state to which unorganized nature aspires. On the contrary, the stability of movements is the basis of organized matter. The picture of the transformation of instability into stability demonstrates the history of human society... Congenital stability for us contains elements of ethics. Moral principles could not control the behavior of creatures whose nature would have been formed from unstable" [23]. While preserving the orientation towards science, on natural science (highly appreciating, in particular, the significance of Darwin's theory of evolution), M. Umov insists that the main goal of ethics – the desire to eliminate the disaster of human life through effective intervention in the life of nature, in the transformation of chaotic forces nature in the organized, "stable". He puts forward his "testament" of a new ethics: "to work on the basis of scientific knowledge" [23].

M. Umov sets a new benchmark for ethics a landmark for combating the forces of chaos, confusion in the name of asserting life: "The great task of the genius of mankind – the protection, the existence of Earth life". These provisions M. Umov's concept (concerning the fight against the disorder, his commandment "to create on the basis of scientific knowledge") later meet in the work of American professor-oncologist V. R. Potter (1911-2001) "Bioethics: Bridge to the future". V. R. Potter notes that "it is important to draw attention to some manifestations of order and disorder in society and to realize that the mess is, in essence, raw material, from which the future emerg-

es and develops the order. Attempts to build a society based solely on an aspiration to the order will not succeed until they take into account the existence of some degree of mess. The greatest benefit that science can bring to society is to develop its methods for a clearer separation of "order" and "disorder". The destruction of orderly systems, such as living organisms, causes an unconscious sense of protest, which forces us to work towards restoring such a system to its initial or even higher level of organization. After all, knowledge is a force that continuously changes the environment of human existence and leads to a new proportion of order and disorder" [24]. As we see, M. Umov and V. R. Potter is also a streamlining of human life that is inherent in natural law.

By going to foreign discoverers and researchers in bioethics, we need to bring their understanding of this concept. In foreign scientific thought, the term "bioethics" appeared in 1927. It introduced Fritz Yagr in the articles "Bioethics: a review of the human ethical attitude to animals and plants", "Bioethical imperative", as a concept of the moral principles of the use of laboratory animals and plants [25; 26]. That is, under bioethics understood the rules of human behavior in relation to other bioorganisms in their biological meaning (without taking into account the spiritual, social component).

In 1971, was published by the American biochemist and human scientist, already mentioned, V. R. Potter the book, "Bioethics: Bridge to the future", which, according to many, named "The Bioethics Bible" [24]. The author of the book defines "bioethics" as a connection of the biological knowledge system with the knowledge of the human values system. The purpose of bioethics, according to V. R. Potter, is the isolation of the human behavior morality doctrine from the standpoint of the medical and biological industry and other socially oriented life sciences. With the name of V. R. Potter connects a view on bioethics as a science of survival. In this he advanced much in clarifying the essence of this science. According to his "science of survival" is not know haw, to him similar thoughts we had met in MK Roerich's theses.

It should be noted separately that the book V. R. Potter was dedicated to the memory of his teacher – Aldo Leopold (1887-1948), who was a well-known American public figure, writer, and belonged to the followers of the American Environmental School. At one time O. Leopold created a special ethics – the ethics of the Earth and spread its effect not only to individuals but also to all types and ecological communities [27]. He believed that the ethics of the Earth is intended to establish the right to exist in the natural environment of all that constitutes the ecosystem, as well as change the human role in the biosphere, turning it from the nature invader to a full representative of the biological community. Contrary to the traditional point of view, the new ethics proclaimed the right of every species to exist, regardless of its economic value or utility. The ideas put forward by O. Leopold, have been further developed in the writings of V. R. Potter, particular, in his book "Bioethics: Bridge to the Future".

In modern times, scientists continue to formulate the true meaning of bioethics. So the author of one of the articles of the Encyclopedia of Bioethics, which in essence is a monograph, defines bioethics not only as human research in one or another sphere, but also as a certain mix of life and ethics sciences, the influence of the person activity (discovery) on the ecosystem, as well as academic discipline [28]. However, the point in discussing the definition of bioethics was set by UNESCO in 2005, which adopted the Universal Declaration on Bioethics and Human Rights[1]. This document has become the only official document that has provided a formal definition of bioethics, which the entire international community must continue to adhere to.

Since the Declaration provides bioethics definitions in the style inherent in international documents, the following are some fragments of the specific provisions of this declaration, which follow from the essence of the concept of "bioethics"[2].

Article 1. The Declaration addresses ethical issues relating to medicine, life sciences and related technologies in relation to human beings, taking into account their social, legal and environmental aspects. Article 16. Due attention should be given to the influence of the life sciences on future generations, including their genetic characteristics. Article 17. Due attention shall be given to the relationship between human and other forms of life, the importance of proper access to and use of biological and genetic resources, respect for traditional knowledge and the role of human in the protection of the environment, biosphere and biodiversity. Article 23. In order to promote the implementation of the principles set out in this Declaration and to provide a deeper understanding of the ethical implications of scientific and technological progress, in particular for young states, efforts should be made to promote education and training in the field of bioethics, as well as to promote the implementation of programs of dissemination information and knowledge about bioethics[3].

As we see, objects of bioethics are the medical sphere, life sciences, technologies that can be applied to a person (that is, a person as an object of research) and accordingly applied by people (as subjects conducting such researches). Human in this declaration is considered not just as a living being (bio), but as a person who has certain rights guaranteed to him by the international community (that is, with the social component) and the corresponding duties for which the violation is committed – should be subject to a certain form of legal liability, established by law. Thus, the formally defined understanding of bioethics is similar to the definition of bioethics provided by both domestic philosophers and their foreign counterparts.

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[1] United Nations educational, scientific and cultural organization ethics of science and technology social and human sciences sector: Universal Declaration on Bioethics and Human Rights. (2005, October). Retrieved from www.unesco.org/shs/ethics SHS/EST/BIO/06/1

[2] *Ibidem*, 2005.

[3] *Ibidem*, 2005.

It should be noted that in 2002 in Ukraine, in accordance with the decisions and recommendations of the Council of Europe Convention on the Protection of Human Rights and Dignity in Connection with the Use of Biological and Medicine Achievements (1997)[1], the Universal Declaration of Human Genome and Human Rights of UNESCO (1997)[2], and the Decree of the Presidium of the National Academy of Sciences of Ukraine dated October 03, 2002, No. 259 "On the Results of the I National Congress on Bioethics", developed the Concept of State Policy in the field of Bioethics[3].

Bioethics in it is defined as a set of ethical norms and principles, integrating into a single conceptual whole aspects of classical ethics and the latest trends that are initiated by the rapid development of scientific and technological progress and the influence of negative changes in the environment on human health. It is also stated in the Concept that bioethics as a system of views, ideas, norms and assessments that regulate the behavior of people from the standpoint of saving life on Earth, plays an increasingly important role in society. The problems of bioethics acquire a pronounced interdisciplinary character and should therefore cover all major areas of human activity, from the development of environmental conservation measures to political decisions[4].

Taking into account all the above definitions of bioethics, we arrive at the conclusion that the latter can be formulated more simply: as a branch of knowledge, which defines the rules of human coexistence with other elements of the ecosystem. Obviously, the purpose of the formulation of these rules is to follow the human instinct of self-preservation (a sign of natural law). Taking into account the realities of present a person self-preservation there is a direct proportional relation with the observance of the person concept of ecocentrism as a certain type of ideology. According to these ideology, a person is seen as an element in the chain of other elements of the ecosystem, a person is no longer the center of the universe, as in the dominant thousand years anthropocentrism ideology [29; 30].

CONCLUSIONS

Thus we can conclude that bioethics and jus naturale have a number of common features: self-preservation of man as a goal, ordering human life, moral, spiritual component of these concepts, the prevalence of prescriptions for all states, peo-

[1] Convention on the Protection of Human Rights and Dignity in Connection with the Use of Biological and Medicine Achievements. (1997, April). Retrieved from https://rm.coe.int/168007d004

[2] Universal Declaration of Human Genome and Human Rights of UNESCO. (1997, November). Retrieved from https://www.ohchr.org/EN/ProfessionalInterest/Pages/HumanGenomeAndHumanRights.aspx

[3] Ukraine in the field of bioethics: State Concept. (2002). Retrieved from http://biomed.nas.gov.ua/files/concept_ru.pdf

[4] Ukraine in the field of bioethics: State Concept. (2002). Retrieved from http://biomed.nas.gov.ua/files/concept_ru.pdf

ples, legal systems; committing a person actions in accordance with common sense (that is, not harming the ecosystem whose part is a person) and the conformity of a person's actions with a reasonable nature (essentially the same).

In fact, bioethics and jus naturale essentially coincide. The difference, in our opinion, lies in the subjects representing these areas of public opinion and are the bearers of relevant ideas. Thus, the subjects of jus naturale can be considered mainly philosophers and lawyers, and subjects of bioethics – physicians, mathematicians, physicists. That things could not concretely formulate for many centuries lawyers (definition and principles jus naturale), more specifically, was able to formulate another intellectual environment. As a result, modern bioethics has in fact become an updated natural law – neo jus naturale, adapted to present-day realities, formulated in modern language. Consequently, bioethics is a new turn in the development of natural law. In modern interpretation neo jus naturale has become more practical than jus naturale, more accessible for understanding and use in lawmaking activities. The application of bioethical principles can not only solve the problem of discovering and using dangerous knowledge and the emergence of ordinary bioethical problems on this ground, but also set up a vector of updated law making within which legal rules can be formulated that will ensure the protection of relevant values by means of crime. legal and other legal remedies. The criminal law created on the basis of these principles will become legal in nature and modern in form.

The formulation of bioethical principles and their use in the law-making in the field of criminal law, as well as the solution of existing bioethical problems on this basis will solve an important scientific and practical problem: to establish the correspondence between the task of ensuring the basic legal protection of the basic legal protection human and citizen's rights and freedoms and the actual state of such security.

REFERENCES

[1] De La Rosa, F. J. U. (2017). The "false" debate between positivism and Verstehen in the origins of sociology. *Human Affairs*, 27(3), 344–362.

[2] De Lucia, V. (2017). Beyond anthropocentrism and ecocentrism: A biopolitical reading of environmental law. *Journal of Human Rights and the Environment*, 8(2), 181–202.

[3] Kopnina, H., Washington, H., Gray, J., & Taylor, B. (2018). The 'future of conservation' debate: Defending ecocentrism and the Nature Needs Half movement. *Biological Conservation*, 217, 140–148.

[4] Legarre, S. (2017). HLA hart and the making of the new natural law theory. *Jurisprudence*, 8(1), 82–98.

[5] Svetlov, R., & Alymova, E. (2018). The concept of natural law: From plato to philo. *Schole*, 12(2), 643–658.

[6] Olsthoorn, J. (2019). Grotius on natural law and supererogation. *Journal of the History of Philosophy*, 57(3), 443–469.

[7] Beckwith, F. J. (2019). Natural Law, Catholicism, and the Protestant Critique: Why We Are Really Not That Far Apart. *Christian Bioethics*, 25(2), 154–168.
[8] Stoeklé, H.-C., Deleuze, J.-F., & Vogt, G. (2019). Society, law, morality and bioethics: A systemic point of view. *Ethics, Medicine and Public Health*, 10, 22–26.
[9] Baksheev, A. I., Nozdrin, D. A., Turchina, Z. E., Sharova, O. Y., Rakhinskiy, D. V., & Yurchuk, G. V. (2018). Bioethical principles and mechanisms for regulation of biomedical research. *Journal of Pharmaceutical Sciences and Research*, 10(4), 889–892.
[10] Mammadova, V. Y., & Mammadov, V. Q. (2017). Main bioethical principles and human rights violated by corrupted actions in health system. *Azerbaijan Medical Journal*, 4, 134–143.
[11] Erdődy, J. (2018). Understanding the concept of ius naturale in ancient Roman law. *Journal on European History of Law*, 9(1), 178–182.
[12] Magliano-Tromp, J. (2017). Acceptilatio. Hugo Grotius on satisfaction. *Grotiana*, 38(1), 1–27.
[13] Tuck, R. (1999). *The rights of war and Peace: Political Thought and International Order from Grotius to Kant*. Oxford: Clarendon Press.
[14] Courtine, J.-F. (2018). Natural law and law of nations from Thomas Aquinas to Suárez. *Quaestio*, 18, 381–404.
[15] Bachinin, V. A. (2006). *Encyclopedia of Philosophy and Sociology of Law*. St. Petersburg: Publishing House R. Aslanova "Yuridicheskiy tsentr Press".
[16] Polyakov, A. V. (2008). Farewell to the classics or how a communicative theory of law is possible. *Russian Yearbook of Law Theory*, 1, 42–57.
[17] Petrov, R. (2018). EU Common Values in the EU-Ukraine Association Agreement: Anchor to Democracy? *Baltic Journal of European Studies*, 8(1), 49–62.
[18] Onischenko, N. M., Zaichuk, O. V., & Shemshuchenko, Yu.S. (2013). *Evolution of the category of "legal understanding": essential features and dichotomy of study*. Kyiv: Publishing House "Yuridicheskaya mysl'".
[19] Bachinin, V. A. (2000). *Moral and legal philosophy*. Kharkiv: Konsul.
[20] Fuller, L. L. (1999). *Anatomy of law*. Kiev: Sphere.
[21] Roerich, N. K. (1999). *Living ethics*. Moscow: Shalva Amonashvili Publishing House.
[22] Tsiolkovsky, K. E. (1986). *Dreams of earth and sky*. Tula: Prioksky Book Publishing House.
[23] Umov, N. A. (1916). *Collected works*. Moscow: Typography of the partnership of I. N. Kushnerev and Co.
[24] Potter, V. R. (1971). *Bioethics: Bridge to the future*. Upper Saddle River: Englewood Cliffs, nj Prentice-Hall.
[25] Goldim, J. R. (2009). Revisiting the beginning of bioethics: The contribution of Fritz Jahr (1927). *Perspectives in Biology and Medicine*, 52(3), 377–380.
[26] Sass, H. M. (2007). Fritz Yahr's 1927 concept of bioethics. *Kennedy Institute of Ethics Journal*, 17(4), 279–295.
[27] Leopold, A. (1970). *Sand County Almanac*. New York: Random House Publishing Group.
[28] Post, S. G. (Ed.). 2004. *Encyclopedia of Bioethics. 3rd Edition.* New York: Macmillan Reference USA.
[29] Trynova, Ya.O. (2013). The value of bioethical principles in the system of modern lawmaking. *Our Right*, 11, 73–79.
[30] Trynova, Ya.O. (2013). Functions of bioethical principles in the criminal law to combat crime. *Scientific Bulletin of Kherson State University. Legal Sciences Series*, 4(3), 116–120.

Yana O. Trynova
Doctor of Law, Associate Professor, Leading Researcher
Interdepartmental Research Center for Combating Organized Crime
National Security and Defense Council of Ukraine
01161, 8 Petro Bolbochan Str., Kyiv, Ukraine

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