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OCHRONA PRAW DZIECKA NA UKRAINIE W KONTEKŚCIE PRAWNO-POLITYCZNYM

PROTECTION OF CHILDREN’S RIGHTS IN UKRAINE - PHILOSOPHICAL ASPECT

Streszczenie: Artykuł przedstawia zagadnienie ochrony praw dzieci na Ukrainie. Sytuacja ochrony praw dziecka analizowana jest za pomocą piramidy potrzeb Abrahama Masłowa. W artykule poruszony jest też kontekst polityczny obecnej sytuacji Ukrainy.

Abstract: The article presents the issue in Ukraine. The situation of the protection of children’s is analyzed with using with the Abraham Maslow’s pyramid of needs. The article also touches political context of the current situation in Ukraine.

Słowa kluczowe: prawa dziecka, potrzeby, Ukraina, polityczny i prawny kontekst

Key words: children’s rights, needs, Ukraine, political and legal context

The protection of minors means the protection of our future. The country that does not worry about own future will not be able to ensure the quality of life to its citizens in the next 50 years. Participants of the parliamentary session ‘Children’s Rights in Ukraine’, which took place on 12th October 2016, declared: “Today it is necessary to provide an integrated approach for the normalization of the protection of children’s rights by the courts when considering disputes related to the rights and interests of the child. It is necessary to implement some amendments to the Family Code of Ukraine, the Civil Code of Ukraine and the Civil – Procedural Code of Ukraine. Due to the fact that a negative situation regarding control of respecting children’s rights develops, it is essential to provide legal basis which aims at supporting children when parents abuse their rights. In the event changes take effect in the Constitution of Ukraine in terms of justice, the powers of the organs of public prosecutor will change, which is required to enhance the role of the system of state and municipal bodies and to expand their competence in the field of protection of children’s rights and social support of

families with children”¹.

A lot of Ukrainian and foreign scholars have done some research on the issues of the protection of children’s rights. These were: O.V. Martselyak (problems regarding formation of the institution of Ombudsman for children’s rights in Ukraine)², N.Naulik (Introduction of the institution of Ombudsman)³, S.V. Shirova (introduction of new mechanisms for children’s rights protection)⁴, O. Sidorenko (family violence)⁵, V.Tulhanov (practice of the protection of minors in the European Court of human rights)⁶, O.M. Vashchuk (the role of public organizations in protecting of children’s rights)⁷, V. Holovchenko (educational work with young people)⁸.

However, little attention is focused on the protection of children’s rights in Ukraine in our times. There are no standard modes of behaviour indicating where the future society should aim to go responding to the new challenges. Therefore, the task of the scholars is to develop the decisive, integrated approach for the protection of minors in Ukraine in the next 10 years.

The aim of our research is to refer to the philosophical thinking of time in dealing with children’s rights. The objectives of the research are:

- 1) philosophical analysis and evaluation of factors that violate the rights of minors in Ukraine;
- 2) development of conceptual directions regarding state policy for the protection of minor’s rights.

¹ Palatnyi A., Speech at the Parliamentary listening in the Verkhovna Rada of Ukraine “*Children’s Rights in Ukraine*”. [online] <http://naiu.org.ua/u-verhovnij-radi-ukrayiny-vidbulysya-parlamentski-sluhannya-natemu-prava-dytyny-v-ukrayini/>

² Martselyak O.V., *The Ombudsman for Children’s Rights: problems of formation and development in the world and in Ukraine* / O.V. Martselyak // Law of Ukraine. – 2003. No 10, p.44-48.

³ Naulik N., Problems of introduction of the institution of Ombudsman // Office of the public prosecutor, the person and the state. – 2004. No. 5, p. 102-109.

⁴ Shirova S.V., *The Rights of the child: the necessity of introducing new protection mechanisms: monograph* / S.V. Shirova, Murmansk, 2009, p. 168.

⁵ Sidorenko O., *Legal and psychological aspects of conflict resolution related to violence in families* // Law of Ukraine. 2001. No. 6, p. 37-40.

⁶ Tulhanov V., *European court of human rights. Outline of organization and activities*, M. : Publishing NORMA, 2001, p. 304.

⁷ Vashchuk O.M., *Constitutional and legal status of public organizations of Ukraine. Candidate’s thesis*. K., p. 2004. – 207.

⁸ Golovchenko V., *Legal education of students: methodological issues and techniques*. – K. Science Opinion, 1993, p. 134.

Presentation of the basic material

Each state forms one way or some policy in the field of children's rights. The fact how capable the government is and authorized by the authorities to meet the needs of minors in their rights influences the level of life, health, education and training of the minors. We have taken the pyramid of needs as the basis for the valuable analysis of the protection of minor's rights in Ukraine in 2015–2016⁹. The psychologist Maslow in the 40-ies of the 20th century considered that the necessities of a man have a hierarchical model consisting of 5 levels. To the needs of the lowest level, scholars attributed physiological needs which are the most essential for human survival. These needs are water, air, food, protection, recreation, sexual needs.

Principles for the protection of children's rights are based on these basic needs. Thus, the need for water can be interpreted as the concept of existence. In the outside world, clean water meets the need for drinking, cooking, washing dishes, premises, washing the body and other hygienic procedures. It also refers to providing basic safety concerning child's drinking fountains, coolers, dishes prepared with boiled water. The body of the child must not feel the lack of water.

Statistics prove that more than 23% of children in Ukraine live in the areas where water is unsuitable to drink and can be only used for industrial purposes. In such regions, water is delivered to people's houses in different ways and at different expense. Depleting of water resources will lead to impossibility of living in the contaminated areas and will force people to migrate to other territories.

Eating is one of the most essential factors concerning human life. Feeding children properly providing them with the suitable amount of calories is the key to their health, life expectancy, the production of immunity to various diseases. Production of food products without proper certification of state controls leads to poor quality products.

It is only possible for a child to be healthy, willing to study and assimilate knowledge when the child sleeps well, rests at weekends and during holidays. Depending on health, every child has the right to spend time in the sanatorium – resort rest and treatment facility. Unfortunately, social and economic problems in the country led to the loss of the ability to pay for the rest and recreation of children at the expense of social insurance fund in case of temporary disabled children. As a result, the health resorts for children in Ukraine are on the verge of collapse. Therefore, sources of funding for children's rehabilitation and treatment should be urgently identified at the state level.

⁹ Maslow A., *Motivation and personality* / translation A.M. Tatlibaeva. – K. : PSYLIB, 2004.

The issue of satisfying sexual necessities of an adult is at the foundation of Maslow's pyramid. As for the child, the sexual gratification must be appropriate to the age and readiness (including social) for sexual relations. Uncontrolled sexual relations at the early age often become the cause of unwanted pregnancy, abortion, birth of an unwanted child, child abandonment and murder of a newborn baby. Early sexual relations can become a cause of sexually transmitted diseases such as HIV transmission. We can often find information about sexual violence of patients in psychiatric establishments in mass-media. It is necessary to work out the system of preparations used by sick people who are not able to control their sexual desires; preparations which reduce sexual preferences, prevent facts of sexual violence against other patients, including the ones in children's psychiatric establishments, oligophrenic boarding schools if patients have such tendencies.

The second level of Maslow's pyramid provides security needs which include the need to protect the physical and psychological dangers originating from the outside world and confidence that physiological necessities will be satisfied in the future. The sense of security is one of the most important needs in human's life in general and a child in particular. Education in a closed environment, in terms of boarding institutions often carried cases of physical and psychological violence. Here comes the indifference of adults, especially the teenager children who are forced to cover the unfortunate cases of abuse against the individual child.

The third level of Maslow's pyramid includes social needs (need for accessories friendship, love) and a sense of belonging to something (youth community, organization, family, etc.) and support. Since ancient times Ukrainian teenagers have grouped in youth (youngster, girlish) communities. It gave them a sense of security. In the event of any problems, the community helped, supported the young person.

The family hearth, cosiness are the necessary things for every teenager or a child. The richest boarding school, qualified teachers, the best living conditions will never replace a poor but decent and honest family. Every child should have a family! But it must be accompanied by systematic independent control of the attitude of the 'new parents' towards the child. Not only the material-domestic, economic conditions of life in the 'new family', but, first of all, family microclimate, relationship to the child should be taken into account. It is unacceptable to have domestic houses opened by 'parents' who base their decision whether to house or not depending on the amount financial support from the state.

The fourth level of Maslow's pyramid includes the need to be respected by others as well as personal achievements, competencies, recognition.

The fifth level of Maslow's pyramid consists in the necessity of self-expression, self-realization (requirements in realization of the potential possibilities

and growth as a person). It is quite common that a person has a decent salary, wonderful terms of residence, a good family, but feels unfulfilled professionally. Adolescence is characterized by the fact that the child is trying to show the public that it is an adult, that it has its rights, but often forgets about duties. In this case, the teenager needs respect and recognition of his achievements, the recognition of his personality. Often experienced teachers in high schools call students "You". This underlines their importance, respect for them.

All state institutions must provide conditions for the identification, detection and development of talents of children and teenagers through a network of groups and sports sections, children's and teenager's public organizations. Timely disclosure of the abilities and talents of young people is the key to successful career choices in the future, training highly qualified personnel for the national economy of the country.

Conclusions:

Thus, the protection of children's rights in Ukraine is one of the highest priorities in the development of the society. Complicated social and economic problems in the country in 2015–2016, sad events in the east of the state give us the basis to conclude that the sharp drop in the quality of protection of children's rights in Ukraine increases facts of their violation.

To overcome this situation, we recommend:

1. to ensure full physiological development of the child: providing a healthy environment, and healthy food.
2. public authorities to urgently identify financial mechanisms for providing access to children's sanatoria - resort treatment and recuperation (especially orphans and children from low-income families).
3. public institutions, education authorities and schools to develop an effective system of prevention of early sexual relations among children and adolescents (especially in residential institutions and psychiatric institutions for children and adolescents) to prevent unwanted pregnancy and the incidence of HIV – AIDS.
4. the legislative body of the country to develop more stringent and effective methods of identifying and punishing the perpetrators of abuse against the child, the prejudice of the facts of sexual, physical and mental abuse.

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