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SOME QUESTIONS OF BIOETHICS AND INTERNATIONAL LAW

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Bioethics is a complex phenomenon that emerged as a response to threats to the moral and physical well-being of humans. It was the nineteenth century when the rapid development of medical equipment took place, and thus the development of bioethics and its legal regulation began. The world community was forced to face two important circumstances: the priority of human rights and the focus on protecting these rights and progress in many areas of medicine (genetics, resuscitation, transplantology, etc.).

Globalization challenges humanity at the personal level, where the biological barrier has always been the biological sovereignty of each person, its uniqueness [4]. The emergence of new medical technologies has revealed a fairly large number of moral and ethical problems that could not be solved only within the framework of medical ethics and deontology. Due to the situation, bioethics has been consolidated as an interdisciplinary science as a branch of knowledge that allows us to explain the moral, ethical and legal aspects of medicine.

Van Rensselaer Potter, who is considered "the father of bioethics," proposed to understand bioethics as a science of survival, which should be not just a science but new wisdom that could unite the most important and essential elements - biological knowledge and common human values [3].

Most scientists define bioethics as a science that studies, examines and analyzes human activities in terms of morality in the biological medical sector and the healthcare sector in relation to their compliance with moral norms and values.

The relevance of the scientific study lies in the fact that this analysis was conducted taking into account the latest international legal acts and the results of the activities of international organizations in this area and aims to analyze the process of formation of international legal standards in the field of bioethics.

Problems of bioethics have an interdisciplinary and intersectoral character, involving doctors, ecologists, biologists, philosophers and lawyers, and representatives of religious denominations. The joint scientific progress of biology and medicine is an already established traditional combination, says O. Kashintsev, and form a new branch of knowledge - biology jurisprudence, through the prism of law [1].

If we generalize scientific, social, religious views, national peculiarities, traditions, we can unequivocally say that they are developing a set of moral principles, norms and rules that must be observed in professional activities. The most important of them are enshrined in the relevant legislative acts and are reflected in international documents and conventions, declarations, charters. These principles, rules, and regulations are very dynamic, and in due course they change in line with changes in socio-economic conditions of society, state policy and public opinion.

The legal regulation of biomedical aspects establishes a wide range of rights, among which are regulated with particular attention: the right to respect the anatomy of a human person, the right to receive information about the diagnosis and prognosis of their own state, the right to participate in decision-making on the choice of treatment methods, up to the refusal of treatment in general, and others. This group of rights arose in connection with the development and deepening of the "penetration" into the biological nature of human rights, and indeed with the development of medicine, biology and technological progress, and as a result, the emergence of new aspects of human rights.

Scientists have analyzed and developed many models of the interaction of bioethics and law, but still the international legal standards of human rights in the field of bioethics are in the formation stage, since the question of the boundaries and the imperative of appropriate legal intervention (in the national legislation of the

states) remains unresolved. A generalized analysis of the international legal aspects of ethics and law in the field of biomedical research has shown that scientists hold predominantly three models of interaction between bioethics and law. The first model is a sociological one, which consists in the fact that the role of law is almost eliminated, as the supporters of this concept believe that it is unable to resolve ethical dilemmas. The second is formalism, which emphasizes the fact that law plays a leading role in the regulation of any bioethical issue, by imposing severe sanctions for violating the established prescriptions. And the third model is liberal; it says that the law consolidates only some of the general bioethical principles [2].

Among all the international legal acts that establish human and civil rights and freedoms, and accordingly the right to health protection, the acts of the World Health Organization should be highlighted firstly. The primary legal sources of regulatory acts aimed at regulating the most urgent issues of modern bioethics were the works of the World Medical Association, formed in 1947, as a public organization of doctors from 64 countries. This institution has developed and implemented numerous reference documents in the field of biology and biomedicine, which now combine the term "bioethics". Among them: the International Code of Medical Ethics (1983) [5], the Declaration of Physician Independence and Professional Freedom (1986) [6], the Declaration on Euthanasia (1987) [7], the Declaration of Helsinki (1964) [8], the Madrid Resolution on Organ Donation and Transplantation (1987) [9], Twelve Principles of Health Organization for any National Health System (1983) [10], etc. Despite the fact that these documents are of a recommendatory nature, they play a leading role in shaping the general tendencies of bioethics and laying the foundations for the further development of its legal regulation.

A fairly large number of international bioethical acts were also adopted by the UN General Assembly (for example, the UN Declaration on Human Cloning of 2005 [11]), the Council of Europe, the European Union and many other international organizations.

In the context of legal regulation of biomedical rights, the documents adopted within the framework of the Council of Europe are of particular importance. Among

these documents, it is possible to distinguish both legally binding ones and those which do not have requirements for mandatory execution. The fundamental ones include: The Convention for the Protection of Human Rights and Fundamental Freedoms 1950 [12]; the Council of Europe Convention on the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine of 1997 [13]; Additional Protocol on the Prohibition of Cloning Human Beings 1998; [14]; Additional protocol concerning Transplantation of Organs and Tissues of Human Origin 2002 [15].

However, despite the already done achievements in the field of international legal regulation of bioethics, in order to reach the highest social goal of the bioethical sphere, the preservation of the human gene pool and the human psychological and biological integrity, a mandatory universal, international legal system should be created that would provide the best legal mechanisms for the provision and implementation of bioethical legal standards. These international bioethical standards have to be incorporated into national legal systems, fulfilled by national law enforcement and legal authorities, national and international health and safety services and monitored continuously by international and national monitoring bioethics services.

The complex study of international and national bioethical legal systems makes it possible to detect their interaction and uninterrupted interpenetration, to track the formation of a single international legal, supra-national bioethical field. It is in such conditions that it is possible, on the basis of harmonization and unification of national bioethical legal norms and institutes, the application of common legal standards, norms and principles of international bioethical law for all countries, it is possible to optimally solve existing bioethical problems, to eliminate legal conflicts and contradictions, to further improve a mechanism for the implementation of bioethical rights and freedoms. This process should take place regardless of the types of legal systems of certain states or the differences between legal entities.

International legal regulation of bioethics is in the stage of formation and, on the one hand, is characterized, by the unity of the intentions of the countries of the

world to resolve the given questions on the basis of the concept of human dignity and generally recognized international legal standards in the field of human rights. On the other hand, the existence of different models of bioethics, different approaches to the interpretation of the content of a number of evaluative concepts arising from the pluralism of cultural factors are controversial and some uncertainty about such regulation, in particular with regard to the fundamental questions of bioethics, such as the definition of the beginning and the end of life, the legal status embryo, etc.

Conclusions. Thus, today's scientific progress, which promotes the emergence of the latest biomedical technologies, as well as modern processes of globalization of society, not only predetermine the existing moral and ethical problems, but also require further improvement of international legal relations in the field of bioethics. The issue of analyzing the emergence of special international mechanisms for the protection of biomedical rights in the near future and their further legal implementation, including in Ukraine, remains.

The prospect of further research in this direction is monitoring the process of formation of national legal standards in the field of bioethics and their balance with the provisions of international law.

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