

# **Doctoral (PhD) dissertation**

Valeriya Sitnikova  
2025

**UNIVERSITY OF PUBLIC SERVICE**  
**Doctoral School of Public Administration Sciences**

Valeriya Sitnikova

**System and hierarchy of fundamental rights: a case study  
of the Russian Federation before February 2022**

Doctoral (PhD) dissertation

**Supervisor:**  
Prof. Dr. György Kiss

*signature*

.....

**Budapest, ..... 2025**

## **DECLARATION**

I hereby certify that the Ph.D. thesis entitled “System and Hierarchy of Fundamental Rights: A Case Study of the Russian Federation before February 2022” is the result of my investigation, except where otherwise stated. Where other sources of information have been used, they have been duly acknowledged. It has not already been accepted for any degree and is also not being concurrently submitted for any other degree.

Signature Date

Valeriya Sitnikova

## **RESEARCH DISCLAIMER**

The following dissertation is presented solely for scientific and academic purposes. The views and opinions expressed within this work do not necessarily reflect the author's views. The content of this dissertation is not intended to represent any political opinions or endorse any specific ideologies. The research and analysis contained herein are conducted to pursue academic inquiry and scholarly discourse and should be interpreted as such. Readers are encouraged to critically evaluate the information presented and form their own independent conclusions.

## ABSTRACT

In today's globalising world, fundamental rights have acquired new properties and capabilities: they have gone beyond the relationship of an individual only with the state, turned into a constructive element of democratic state-legal systems, boosted the integration of social and legal relations, etc. At the same time, under the influence of modernisation and transnationalization processes, as well as changes in the socio-political conditions in many countries, new and previously unknown collisions arise in the field of fundamental rights. Moreover, many appeals to the European Court of Human Rights (53,350 cases are pending at the beginning of 2019) also confirm the importance of fundamental rights.

All this implies the need to take a fresh look at fundamental rights problems, clarify their interpretation, and develop a holistic legal study that considers the contemporary realities of the 21st century.

This research meticulously explores, drawing upon rigorous analysis and in-depth case studies, the landscape of fundamental human rights in Russia, focusing on developments up to February 2022. Our examination adopts a multifaceted and innovative approach, analysing the hierarchical delineation of rights within the legal theory, the legal framework, and society's prevailing attitudes towards various rights. This study is a unique and pioneering contribution, representing the first comprehensive study of the hierarchy of fundamental rights in Russian society. Moreover, no previous research has conducted a systematic comparative assessment of hierarchies within the triad of hierarchies in Russian theory, constitutional law and society.

Through this comprehensive endeavour, the study aims to illuminate the intricate dynamics and challenges surrounding fundamental rights, offering profound insights and nuanced perspectives. The research aspires to enhance the understanding and contribute to the ongoing discourse on fundamental rights in the 21st century, identifying areas for potential legal development in Russia and ultimately advancing the cause of justice, equity, and human dignity on a global scale.

## **KEYWORDS**

Fundamental human rights; Russian Case-study; System of fundamental rights; Hierarchy of fundamental rights; Human rights in Russia; Socio-legal phenomenon of Human Rights

## **ACKNOWLEDGEMENTS**

# CONTENT

<b>DECLARATION</b>	<b>3</b>
<b>RESEARCH DISCLAIMER</b>	<b>4</b>
<b>ABSTRACT</b>	<b>5</b>
<b>KEYWORDS</b>	<b>6</b>
<b>ACKNOWLEDGEMENTS</b>	<b>7</b>
<b>CONTENT</b>	<b>8</b>
<b>INTRODUCTION TO THE STUDY</b>	<b>10</b>
THE RATIONALE OF THE STUDY	12
THE TARGET COUNTRY FOR THE DISSERTATION	15
THE TIME FRAME OF THE RESEARCH	17
PURPOSE OF THE RESEARCH	19
IMPORTANCE OF THE RESEARCH	22
RESEARCH QUESTIONS, GOALS / AIMS, HYPOTHESES AND RESULTS	25
METHODOLOGY AND THEORETICAL BACKGROUND OF THE RESEARCH TOPIC	27
DISSERTATION STRUCTURE	38
RESEARCH GAP	42
NOVELTY, CONTRIBUTION AND SIGNIFICANCE OF THE RESEARCH	43
<b>CHAPTER 1: BACKGROUND TO THE RESEARCH</b>	<b>46</b>
THE OVERVIEW OF THE CONCEPT OF FUNDAMENTAL RIGHTS (WHICH RIGHTS CAN BE CALLED FUNDAMENTAL)	46
THE LIBERTARIAN PATERNALISM AND ITS INFLUENCE ON HUMAN RIGHTS	55
SIGNIFICANCE OF FUNDAMENTAL RIGHTS IN RUSSIAN CONSTITUTIONAL LAW (APPLYING A HISTORICAL APPROACH TO THE RESEARCH TOPIC)	61
INTRODUCE THE SPECIFIC CONTEXT OF THE FUNDAMENTAL RIGHTS IN RUSSIA AND ITS HISTORICAL TRANSFORMATION	63
HUMAN RIGHTS DURING MONARCHY IN RUSSIA	64
HUMAN RIGHTS IN SOVIET AND POST-SOVIET RUSSIAN CONSTITUTION LAW	67
<b>CHAPTER 2: COLLISIONS IN HUMAN RIGHTS AND HOW THE HIERARCHY OF RIGHTS IS SHAPED BY THEM</b>	<b>75</b>
WHAT IS A HUMAN RIGHTS COLLISION, AND WHY IS IT IMPORTANT?	76
DISTINGUISHING BETWEEN FALSE AND GENUINE COLLISIONS	80
HOW THE HIERARCHY OF RIGHTS IS SHAPED BY HUMAN RIGHTS COLLISIONS	87
<b>CHAPTER 3: HIERARCHY OF FUNDAMENTAL RIGHTS IN RUSSIAN CONSTITUTION LAW (DE-JURE)</b>	<b>95</b>
HUMAN RIGHTS IN A CONSTITUTIONAL CONTEXT	96



<b>OVERVIEW OF THE RUSSIAN CONSTITUTION, HUMAN RIGHTS DEFENCE STATE BODIES AND ORGANIZATIONS</b>	<b>99</b>
RUSSIAN CONSTITUTION	99
PROTECTION OF HUMAN RIGHTS IN RUSSIA (MAIN STATE BODIES AND ORGANIZATIONS)	104
<b>HIERARCHY OF FUNDAMENTAL RIGHTS IN THE RUSSIAN CONSTITUTION</b>	<b>110</b>
<b>DISCOVERED HIERARCHY OF HUMAN RIGHTS IN RUSSIAN CONSTITUTION LAW</b>	<b>112</b>
<b>THE MAIN FINDINGS ABOUT THE RUSSIAN HIERARCHY OF HUMAN RIGHTS (DE JURE)</b>	<b>115</b>
<b><u>CHAPTER 4: THEORETICAL HIERARCHY OF FUNDAMENTAL RIGHTS IN RUSSIA (IN THE THEORY OF LAW)</u></b>	<b><u>117</u></b>
BACKGROUND FOR RUSSIAN LEGAL THEORY	119
THEORETICAL HIERARCHY OF FUNDAMENTAL RIGHTS IN RUSSIA	124
CONCLUSIONS REGARDING THE HIERARCHY OF FUNDAMENTAL RIGHTS IN RUSSIAN LEGAL THEORY	130
<b><u>CHAPTER 5: SOCIAL-LEGAL SURVEY "WHAT ARE THE MOST IMPORTANT FUNDAMENTAL RIGHTS?"</u></b>	<b><u>131</u></b>
PURPOSE AND BASIS OF THE SURVEY	131
METHODOLOGY FOR THE SURVEY	134
SELECTING THE RIGHTS FOR THE SURVEY	136
HOW THE RESEARCH WILL BE CONDUCTED, AND WHO IS THE TARGET GROUP FOR IT	138
DATA COLLECTION PROCESS	140
CHALLENGES FACED	142
<b><u>CHAPTER 6: HIERARCHY OF FUNDAMENTAL RIGHTS AMONG THE RUSSIAN POPULATION (DE FACTO)</u></b>	<b><u>144</u></b>
SURVEY OVERVIEW	144
SURVEY RESULTS	145
<b><u>CONCLUSION</u></b>	<b><u>156</u></b>
KEY FINDINGS AND INSIGHTS FROM THE RESEARCH	156
COMPARING THE HIERARCHIES OF FUNDAMENTAL RIGHTS IN RUSSIAN LEGAL THEORY (IN THEORY), THE RUSSIAN CONSTITUTION (DE JURE), AND RUSSIAN SOCIETY (DE FACTO) AND REFLECTING ON THE POTENTIAL FOR FUTURE DEVELOPMENTS	163
RESEARCH SUMMARY	170
<b><u>BIBLIOGRAPHY</u></b>	<b><u>175</u></b>
<b><u>SCIENTIFIC EXPERIENCE</u></b>	<b><u>193</u></b>
TRAINING / EDUCATION	193
PRESENTATIONS/CONFERENCES	194
PUBLICATIONS	197
LANGUAGES	198
<b><u>APPENDICES</u></b>	<b><u>199</u></b>
APPENDIX 1. PARTICIPATION INVITATION LETTER	199
APPENDIX 2. SURVEY "WHAT ARE THE MOST IMPORTANT FUNDAMENTAL RIGHTS?"	200

# INTRODUCTION TO THE STUDY

The research topic is “System and Hierarchy of Fundamental Rights: A Case Study of the Russian Federation before February 2022”. This scientific work will compare the situation with the fundamental rights in Russia before February 2022 based on constitutional law, the related court practice, and the social prescription of rights among the population and residents of the country.

In this way, the research involves the analysis of European, international, and Russian legislation and applicable administrative and court practice, as well as the review and exploration of monumental works in Russia's theory of law and articles by modern scholars and practitioners.

Furthermore, to identify the current, actual situation with fundamental rights in the country, a masturbatory survey was conducted among the country's population. The hypotheses concerning this survey, its results, and its conclusions are presented in a separate chapter of the dissertation.

Unfortunately, during the research, the situation with legislation in Russia changed dramatically.

On the 24th of February, Russian President Vladimir Putin announced the beginning of a "special military operation"<sup>1</sup> (a term used in the Russian media and Russian official documents) against Ukraine. Consequently, from February 24th onwards, numerous laws and decrees were enacted both within Russia and internationally. These legislative measures not only altered the daily lives of Russian citizens but, in several cases, also resulted in significant influence on their rights and freedoms.

Nevertheless, in order to ensure a comprehensive and focused inquiry (given that legislative changes are ongoing), this study will confine its research and analytical scope to developments up to February 2022.

The decision to limit the scope of this study to developments before February 2022 is based on the need to ensure both scholarly rigour and analytical clarity. The legislative changes post-February 2022, especially those enacted in response to the ongoing military operation and associated international sanctions, are still unfolding. The velocity and complexity of these changes present a formidable challenge to comprehensive academic analysis at this stage, as many of these laws are either too recent or are still subject to judicial and political interpretation. Moreover, the rapidly shifting socio-political landscape renders it difficult to provide a stable and coherent theoretical framework for these developments in real time.

---

<sup>1</sup> Address by the President of the Russian Federation on February 24, 2022. <http://kremlin.ru> (February 24, 2022). Address Date: March 5, 2022. Archived February 25, 2022.

By focusing on the legal and constitutional developments leading up to February 2022, the study is better positioned to deliver an in-depth, thorough analysis of Russia's system of fundamental rights. This includes an examination of the pre-existing legal structures and normative frameworks that were in place before the onset of the "special military operation." This temporal limitation allows for a more focused inquiry into the underlying legal theories and principles that informed Russia's fundamental rights regime prior to the dramatic changes that followed.

By confining the research to the period before February 2022, this study aims to avoid the pitfalls of speculation that accompany an analysis of ongoing political and legislative changes. It ensures a more grounded and stable scholarly contribution while still acknowledging the broader context of subsequent developments. Additionally, this decision allows for the formulation of recommendations based on a well-documented historical and legal foundation rather than on nascent and incomplete information.

This methodological choice reflects the complexity of the current situation, balancing the need for rigorous academic analysis with the realities of ongoing political transformation. The study is neutral and strictly academic in-nature, focusing on the legal and sociological dimensions of human rights in Russia during the specified period. Its objective is to present an accurate picture of the human rights landscape in Russia from both legal and sociological perspectives without any political bias.

## THE RATIONALE OF THE STUDY

The Rationale of the Study explains why the research topic is essential, relevant, and worth investigating. It provides the reasoning behind the choice of research focus and outlines the study's significance in contributing to existing knowledge or addressing a specific problem.

The dissertation topic, "System and Hierarchy of Fundamental Rights: A Case Study of the Russian Federation before February 2022," is anchored in the growing global discourse on the protection, interpretation, and erosion of fundamental rights within various political and legal systems. In particular, the Russian Federation presents a unique case study, as it is a country where fundamental rights, as outlined in its constitution, have been increasingly influenced by internal political dynamics and external geopolitical pressures. The decision to limit the analysis to developments prior to February 2022 offers a critical opportunity to investigate the legal framework before the changes that followed the Russian "special military operation".

The rationale for this study is based on the following considerations:

- Understanding Constitutional Rights in the Russian Legal System

The Russian Federation has a comprehensive Constitution that guarantees its citizens a broad array of fundamental rights. However, the practical application of these rights within the legal framework requires careful scholarly analysis. This study aims to provide a balanced and objective examination of how these rights were protected and regulated prior to February 2022, highlighting the country's efforts to safeguard the well-being of its citizens in a complex global environment.

- Focus on Pre-February 2022 Legal Context

The decision to focus on the legal framework of the Russian Federation up until February 2022 is critical in order to provide an accurate and balanced account of the system and hierarchy of fundamental rights during a period of relative legal continuity and stability. The analysed period represents an essential phase in the development of Russia's legal system, marked by continued efforts to enhance and uphold the rights of citizens within the framework of national and international law.

In the years leading up to 2022, the Russian Federation actively pursued legislative and constitutional reforms aimed at strengthening its legal foundations. These reforms were designed to ensure the protection of fundamental rights while maintaining national sovereignty and addressing the evolving needs of society. The Constitution of the Russian Federation, adopted in 1993 and amended in subsequent years, enshrines the core principles of fundamental rights and freedoms, reflecting the country's commitment to the rule of law and the well-being of its citizens. This period serves as a baseline for analysing how these rights were systematically developed, organized, and protected in accordance with Russia's domestic and international obligations.

Focusing on the legal environment before February 2022 allows for a detailed and objective examination of the Russian legal system without the complexities introduced by

the external political and geopolitical shifts that followed. The initiation of the "special military operation" in February 2022, and the subsequent international response, resulted in the imposition of sanctions and legal measures that have influenced various aspects of governance and legal policy in Russia. However, these external factors may introduce variables that are not directly tied to Russia's internal legal development. By concentrating on the period preceding these events, the study aims to avoid conflating domestic legal structures with the external pressures that followed, ensuring a clearer focus on the country's independent legal evolution.

By focusing on this particular period, the study can better capture the essence of the Russian legal tradition and its approach to fundamental rights. This includes exploring the structure and hierarchy of these rights, how they were implemented and protected, and how they aligned with both Russia's national priorities and international commitments. This approach provides a clearer and more accurate understanding of the legal baseline against which future changes can be measured.

- Addressing a Scholarly Gap

There is a notable gap in the existing legal literature with regard to the specific hierarchy of fundamental rights within the Russian Federation's legal system. This dissertation seeks to provide a thorough exploration of how different categories of rights—such as civil, political, and social rights—are situated within the broader constitutional structure, contributing to a deeper understanding of the system as a whole. Moreover, this dissertation is the first complex research of the Hierarchy of Fundamental Rights in Russia that takes into account not only the legal and constitutional side of the study but also analyses the hierarchy of human rights that exists in Russian society.

- Social-legal prospective and real legal situation

This research involves analyzing the Hierarchy of Fundamental Rights within Russian society to uncover discrepancies between societal perceptions, constitutional provisions, and legal applications. To achieve this, a survey was conducted among the Russian population to determine which human rights are deemed most important and necessary by the people.

Consequently, this study represents a distinctive, interdisciplinary effort that integrates theoretical analysis with empirical findings.

- Global Legal Context

Russia, as a member of the international community, has demonstrated its commitment to engage with global legal standards while preserving its national sovereignty. This study will examine how Russia's domestic legal system interfaces with international norms and obligations, particularly in the realm of human rights law. The aim is to provide a balanced view of Russia's approach to protecting fundamental rights in a manner consistent with its national interests and legal traditions.

- Theoretical Framework

By incorporating diverse theoretical perspectives, such as Taleb's antifragility, Constitutional Theory, guided by Dworkin's principles, Human Rights Theory, following Donnelly's universal principles, Legal Pluralism, drawing on Merry's work, Theoretical Perspectives on Rights Hierarchy, using Alexy's hierarchy theory, Political and Legal Realism, informed by Finnis's insights, and general legal theories, the study will provide a comprehensive and well-rounded analysis of the Russian legal system. This interdisciplinary approach will enhance the understanding of how fundamental rights are organized and function within Russia's legal, social and political landscape.

- Unique approach

The uniqueness of this study lies in its interdisciplinary approach, combining theoretical analysis with empirical research. By examining the Hierarchy of Fundamental Rights in Russia and comparing societal perceptions with constitutional and legal frameworks, the study seeks to identify discrepancies between these different levels of hierarchy. A survey conducted among the Russian population serves to reveal which human rights are considered most crucial and necessary by the citizens themselves. This distinctive approach not only enhances the theoretical understanding of fundamental rights but also provides valuable insights into the practical realities of their application in Russian society.

- Policy Implications

This research holds practical value for legal scholars, policymakers, and those interested in Russia's legal evolution. By focusing on the period before February 2022, the study offers insights into the country's legal framework that can be useful for future policy considerations, particularly in the context of ensuring the continued protection and development of fundamental rights.

In conclusion, this study is driven by the need to analyze the system and hierarchy of fundamental rights in the Russian Federation within a specific historical and legal context. It aims to contribute to both the academic understanding of Russia's legal system and to provide useful insights that can inform future legal and policy developments. Through an objective and respectful analysis, the research will shed light on the principles guiding Russia's approach to the protection of fundamental rights, emphasizing the country's commitment to upholding its legal and constitutional traditions.

## THE TARGET COUNTRY FOR THE DISSERTATION

Russia was selected as the focal country for this dissertation due the following reasons:

- **Historical Significance:**

Russia's historical significance as a global power and its role in shaping international politics cannot be understated. It has a long and complex history marked by periods of authoritarian rule, revolutions, and reforms. These historical dynamics have had a profound impact on the development of human rights in the country and continue to influence its contemporary human rights landscape.

- **Ongoing Human Rights Concerns:**

Russia has been the subject of international attention and scrutiny due to ongoing concerns related to human rights. These concerns encompass issues such as restrictions on freedom of speech and assembly, limitations imposed on civil society organizations, allegations of election interference, and the treatment of political dissidents. These matters have prompted discussions about the state of human rights in Russia on the global stage.

- **Regional Importance:**

Russia's geographical expanse and its role as a key player in Eurasia make it strategically important for global politics and human rights advocacy. Its actions and policies can have far-reaching implications for neighbouring countries and regions. Understanding Russia's human rights situation is crucial for comprehending broader geopolitical dynamics and promoting human rights in the region.

- **Research Opportunities:**

Russia's diverse and complex human rights landscape presents a unique opportunity for research and analysis. By focusing on Russia, this research can contribute to the broader discourse on the effectiveness of human rights interventions, the impact of international treaties, and the role of bilateral aid in addressing human rights issues, as referenced in the selected literature.

Therefore Russia's selection as the target country for its unique socio-political context, particularly in relation to the evolution and application of fundamental rights. As a state with a complex legal system, Russia provides a compelling case study for examining the interplay between formal legal frameworks and societal perceptions of human rights. The country's distinctive historical, political, and legal developments, especially in the years leading up to February 2022, present an opportunity to explore how fundamental rights are structured, prioritized, and applied within a system that often diverges from Western-style democracy. Additionally, Russia's role on the global stage and its influence on regional human rights policies make it a critical subject for analyzing broader trends in the interpretation and enforcement of fundamental rights. This focus on Russia enables the research to contribute to a deeper understanding of how fundamental rights are navigated in non-Western contexts.

This choice aligns with the broader goals of understanding and addressing human rights challenges in a complex and influential geopolitical context.

We will analyze all mentioned points further in the individual parts and chapters of the thesis.



## THE TIME FRAME OF THE RESEARCH

As has already been noted this study focuses exclusively on the human rights hierarchy in the Russian Federation as it existed before February 2022.

This time frame was chosen deliberately to enhance the clarity, objectivity, and depth of the study. By focusing on this period, the study avoids the complexities caused by significant legislative, social, and geopolitical developments that occurred after February 2022. These later developments, while important, are still ongoing and require separate analysis to understand their full implications. Their inclusion would blur the focus of this study and compromise its analytical rigour.

Focusing on the period prior to 2022 allows the study to:

- Maintain the legal and scholarly context

By limiting the study to the period up to February 2022, the study ensures that its findings remain grounded in a well-documented and widely accepted legal context. During this time, the constitutional structure and legal doctrines of the Russian Federation were relatively stable, providing a solid foundation for analyzing the hierarchy of human rights. This historical focus allows the study to examine legal norms and principles without interference from the dynamic and evolving post-2022 environment, ensuring that the findings reflect the system as it was developed and practiced at the time.

Furthermore, this approach aligns the study with the work of prominent Russian legal scholars who have studied human rights in the same time frame. The study thus builds on and contributes to the established body of knowledge in Russian legal theory by offering insights that are consistent with academic traditions and professional discourse.

- Avoid bias

Another advantage of focusing on the period before 2022 is that it reduces the risk of bias. Significant geopolitical and legislative changes since February 2022 have generated considerable debate and differing interpretations both in Russia and internationally. Including these events in the study could lead to polarized viewpoints or speculative conclusions, which would reduce the objectivity of the study. By focusing on a period of legal and political stability, the study avoids these pitfalls, ensuring that its findings are unbiased and based on factual, well-established legal principles.

This objectivity strengthens the credibility of the study and allows it to serve as a reliable source for future research on Russian human rights law, including comparative studies that may examine the impact of developments after 2022.

- Maintain relevance to contemporary legal and policy debates

While this study does not examine developments after February 2022, its findings remain highly relevant to contemporary debates on human rights in Russia. Understanding the human rights hierarchy prior to recent changes provides a critical basis for assessing how and why shifts have occurred in the current context. The study's focus on the established

legal framework provides insight into the underlying principles that continue to influence Russian legal policy even in changing circumstances.

By providing a detailed account of the rights hierarchy up to 2022, the study not only preserves the historical record but also contributes to a deeper understanding of how Russian legal theory is evolving in response to new challenges. This temporal focus enhances the study's relevance to policymakers, legal scholars, and practitioners seeking to understand the trajectory of human rights in the Russian Federation.

- Ensure the clarity and depth of research

The limited time frame allows for greater depth and clarity in the analysis. Rather than attempting to account for rapidly changing policies and their potential consequences, the study focuses on providing a comprehensive understanding of the theoretical hierarchy of human rights as it was codified and practiced. This focus ensures that the study remains methodologically sound and offers detailed insights that would not be possible with a broader or less defined scope.

Furthermore, this clarity benefits future researchers by creating a well-documented picture of human rights in Russia at a key point in time. It lays a solid foundation for comparative research, allowing others to build on this work to examine how changes since February 2022 have altered or reinforced established hierarchies.

This time frame is thus consistent with the research objective of providing a comprehensive examination of the Russian constitutional system and established legal doctrine of fundamental rights. By avoiding the complexities of events after February 2022, the study benefits from a more coherent and focused analytical framework, offering insights that are both accurate and applicable to the broader legal and theoretical discourse. This deliberate scope not only enhances the academic rigour of the study, but also ensures that its conclusions are grounded in a period of legal stability, making them a valuable source for understanding the hierarchy of human rights in Russia.

## PURPOSE OF THE RESEARCH

The Purpose of the Research in a PhD dissertation refers to the specific objectives and aims that the study seeks to achieve. It outlines the key reasons behind conducting the research and clarifies what the researcher hopes to accomplish.

The study of fundamental rights forms a cornerstone of modern constitutional and legal systems, shaping the relationship between individuals and the state, as well as defining the scope of human dignity and autonomy. In the context of the Russian Federation, the issue of fundamental rights takes on added complexity due to the interplay between the legal provisions enshrined in the Constitution and the realities of their application and understanding in practice. This dissertation aims to provide a comprehensive and critical analysis of the system and hierarchy of fundamental rights in Russia before February 2022, with an emphasis on both theoretical and practical (real and actual) dimensions.

The primary purpose of this research is to clarify the concept of fundamental rights within Russian constitutional law, assess the structure and hierarchy of these rights, and examine how these rights are applied in practice. Additionally, this study aims to evaluate the gaps between legal theory (*de jure*) and societal reality (*de facto*) in the protection and prioritization of these rights. The broader goal is to offer insights that could improve both Russian law and international understanding of human rights.

The specific purposes of this research are outlined as follows:

- Clarifying the Concept of Fundamental Rights

One of the key goals is to explore and define fundamental rights, identifying the core elements that constitute them from both theoretical and legal standpoints, while contextualizing them within Russian law and legal theory. Additionally, the research aims to examine the evolution of these rights in relation to global human rights trends.

- Creating a Comprehensive Russian Study

This research intends to present a unique case study by concentrating on the Russian Federation. By utilizing legal documents, academic literature, and historical contexts, it aims to fill the gap in existing scholarship concerning the interplay between fundamental rights and Russia's political and legal system. Moreover, it aspires to contribute to comparative studies on human rights across different legal systems globally.

- Establishing a Hierarchy of Fundamental Rights in Russia

The study will investigate how fundamental rights are structured and prioritized within the Russian legal system. By establishing this hierarchy, the research will analyze how various rights—such as civil, political, economic, social, and cultural rights—are treated within Russian constitutional law, contributing to a more refined understanding of their roles and relative importance.

- Analyzing the Theoretical Hierarchy of Fundamental Rights

The research will delve into the theoretical models used to classify and rank fundamental rights. By comparing Russian theory with international legal doctrines, this section will highlight any unique characteristics of Russia's approach to fundamental rights, offering critical insights into the global dialogue on human rights prioritization.

- Assessing the Hierarchy in Russian Constitutional Law (De Jure)

This aspect will focus on how fundamental rights are enshrined and protected in Russian constitutional law, examining their legal foundations. It will offer a comparative perspective, assessing whether Russia's legal structure aligns with international human rights norms and principles, particularly as outlined in treaties and agreements to which Russia is a party.

- Investigating the Hierarchy in Russian Society (De Facto)

This research will move beyond the legal texts to assess how fundamental rights are perceived and implemented in Russian society. By utilizing qualitative methods such as survey and societal analysis, it will explore the everyday realities of rights attitude and where gaps exist between the legal framework and lived experience.

- Identifying Gaps Between Legal and Societal Perspectives

A key objective is to identify and analyze any disconnects between Russia's legal provisions (de jure) and the real-world application or protection of rights (de facto). The research will provide an in-depth analysis of how certain rights may be overlooked or underenforced, offering insight into potential reforms that can bridge the gap between law and practice.

- Improving International Relations

Through its comprehensive examination of Russia's fundamental rights system, this research will also have implications for international diplomacy. By clarifying Russia's legal stance on human rights, the study can foster more transparent and productive dialogues with other countries and international bodies, facilitating greater cooperation on global human rights issues.

- Offering Recommendations for Legal Development

In addition to providing critical analysis, the research will propose specific, evidence-based recommendations for enhancing the legal framework surrounding fundamental rights in Russia. These recommendations may not only address gaps within Russia's system but could also serve as models for legislative development in other countries. They will be designed to align with both national interests and international human rights standards.

- Contributing to the Global Understanding of Human Rights

Finally, this research aims to contribute to the broader understanding of human rights as a universal concept by exploring how Russia's legal and social structures engage with the

hierarchy of rights. The findings could enrich global discussions about how different cultures and political systems perceive and protect fundamental rights, adding depth to ongoing debates in international law.

In summary, the purpose of this research is to offer a thorough analysis of the system and hierarchy of fundamental rights in Russia, providing a bridge between theory and practice.

By addressing both the *de jure* and *de facto* dimensions of fundamental rights, this dissertation will contribute to a more comprehensive understanding of the challenges and opportunities within the Russian legal system. Furthermore, it will serve as a valuable resource for scholars, policymakers, and international actors concerned with human rights, offering evidence-based recommendations for improving both the legal protection of rights in Russia and fostering better global human rights cooperation.

## IMPORTANCE OF THE RESEARCH

The Importance of the Research section in a PhD dissertation explains the significance and value of the study to both academic and practical fields. It justifies why the research is worth conducting and highlights its contributions to knowledge, theory, or practice.

The study of fundamental rights provides valuable insight into the legal framework of the Russian Federation and the broader global development of human rights. The idea of inalienable rights, which emerged in the 16th and 17th centuries and was later solidified during the bourgeois revolutions in France and the United States, has significantly influenced modern political and legal doctrines. These "natural" rights were seen as beyond the reach of the state, marking an important milestone in the protection of individual freedoms.

However, in the 21st century, the protection of human rights remains a contentious and highly debated issue worldwide. Human rights violations continue to occur in many regions, despite advancements in legal frameworks. The content and scope of long-standing and newly recognized rights are constantly being refined, leading to further legal and political challenges.

This research, focusing on the period before February 2022, provides an analysis of the system and hierarchy of fundamental rights in the Russian Federation. It explores how these rights are organized and protected in Russian law and how rights are perceived among the Russian population, shedding light on the complex relationship between state power and individual freedoms.

The importance of this research can be outlined in several key areas:

- **Historical Context and Legal Development**

By examining the evolution of human rights from their philosophical origins to their practical implementation, the study provides a comprehensive understanding of how the Russian Federation has approached these rights. It draws on the historical background of human rights and their legal codification, offering a critical analysis of how Russia's system compares to international standards.

- **Practical Implementation of Rights**

The study examines the Russian Federation's legal commitments and how it has translated theoretical human rights into practice. The evolution of rights within Russia is examined in the context of its unique legal traditions and the broader international discourse on human rights. Russia, as a major world power, has an important role in shaping and responding to the global norms of human rights.

- **Investigating the Hierarchy in Russian Society (De Facto)**

Beyond legal texts, this research explores how fundamental rights are perceived and implemented within Russian society. By utilizing qualitative methods such as surveys and societal analysis, it aims to assess the everyday realities of rights in Russia. This involves

examining how citizens understand and experience their rights, and where societal or institutional barriers may hinder their full realization.

- **Identifying Gaps Between Legal and Societal Perspectives**

One of the key objectives of this research is to identify and analyze any discrepancies between Russia's legal provisions (de jure) and the real-world application or protection of rights (de facto). By investigating how certain rights may be overlooked or underenforced, the study provides valuable insight into the areas where reforms are needed to bridge the gap between law and practice. It will also explore the sociopolitical factors that contribute to this disconnect.

- **Potential for Legal Reforms**

Based on its findings, this research will offer recommendations for legal and policy reforms aimed at strengthening the protection of fundamental rights in Russia. By addressing the gaps between legal theory and societal reality, the study will contribute to the ongoing discourse on improving the human rights situation in Russia. The research emphasizes the importance of adapting the legal system to the changing needs of society and ensuring that fundamental rights are not only codified in law but also realized in practice.

- **Socio-Political Implications**

The study examines the broader socio-political implications of how fundamental rights are enforced in Russia. It explores how legal structures, political institutions, and societal norms interact to either promote or limit the realization of these rights. By analyzing these dynamics, the research contributes to a deeper understanding of the political and legal challenges facing human rights protection in Russia.

- **Contributing to Legal and Political Stability**

The protection of fundamental rights is essential for the stability and legitimacy of any legal and political system. This research explores how the Russian government's approach to human rights impacts its broader legal and political framework, identifying both strengths and potential areas of concern. The analysis contributes to the ongoing debate about the role of human rights in shaping state power and governance.

- **Contribution to Legal Theory**

The analysis of how fundamental rights are organized in a hierarchical system can contribute to broader legal theory on constitutional design and the balancing of state power with individual rights. Russia's legal system, with its mixture of inherited Soviet structures and modern constitutionalism, offers an intriguing model for scholars studying transitional legal systems.

- **International Law and Diplomacy**

Russia's position in global politics and its approach to fundamental rights have a significant impact on international legal relations, particularly within organizations such as the United

Nations and the Council of Europe (from which Russia withdrew). This research could inform ongoing discussions about the country's legal commitments and responsibilities under international human rights law.

In conclusion, this research provides a critical examination of the pre-2022 legal framework in Russia, highlighting both the progress and challenges associated with the protection of fundamental rights. It contributes to the broader discourse on human rights, particularly in states where legal and political factors have an impact on the full realization of these rights. The evolving nature of human rights doctrine underscores the importance of continued scrutiny and analysis, especially in contexts where the balance between state interests and individual freedoms remains a central issue.



## **RESEARCH QUESTIONS, GOALS / AIMS, HYPOTHESES AND RESULTS**

In the study of fundamental rights, it is essential to break down the investigation into specific, targeted questions that lead to clear research goals, well-grounded hypotheses, and anticipated results. Below is a detailed structure that outlines the key areas this research seeks to explore.

### **Research Question 1: What is a fundamental right?**

To begin, the research first seeks to clarify the foundational concept of what constitutes a fundamental right. This is critical because the very definition of fundamental rights varies across legal systems and academic theories.

- **Research Goals/Aims:**
  - To define the concept of fundamental rights clearly.
  - To create a comprehensive list of fundamental rights that can be universally recognized and those specific to the Russian context.

Having established the aims, the next step involves formulating hypotheses that will guide the investigation into these goals.

- **Hypotheses:**
  - Modern scientific sources often do not fully capture the essential indicators of the general legal theory of rights, leading to a vague or incomplete understanding of fundamental rights.
  - The list of rights sometimes includes those that are not universally recognized as fundamental, creating inconsistencies across legal frameworks.

Finally, the research aims to deliver results that offer clarity and refinement in defining and listing these rights.

- **Expected Results:**
  - A clear and precise definition of fundamental rights.
  - A well-differentiated, universal and suitable for all countries list of fundamental rights can not be created.

### **Research Question 2: What is the hierarchy of fundamental rights?**

After establishing a working definition and list of fundamental rights, the research will turn to the question of hierarchy. Understanding how these rights are prioritized, both in legal texts and societal norms, is crucial for analyzing how they are protected and applied in practice.

- **Research Goals/Aims:**
  - To analyze the theoretical hierarchy of fundamental rights in legal theory.
  - To assess the hierarchy of fundamental rights in Russian constitutional law (de jure).

- To evaluate the societal perception of the hierarchy of fundamental rights in Russia (de facto).

With these aims in mind, it becomes important to hypothesize how legal theory, the state's legal framework, and societal norms might diverge in their understanding of this hierarchy.

- **Hypotheses:**

- The understanding of the hierarchy of fundamental rights differs between legal theory, formal legal structures, and societal norms.
- The hierarchy of rights, as established in law, does not always align with the way in which these rights are prioritised or valued by Russian society.
- There are notable differences between the hierarchy of fundamental rights in Russian legislation and how these rights are understood or applied in everyday life by Russian citizens.

Based on the investigation, the research aims to produce actionable insights that reveal the current structure and potential areas for improvement in the hierarchy of rights.

- **Expected Results:**

- The formation of a clear and structured hierarchy of rights for legal systems and societal contexts in Russia.
- Identification of discrepancies between the values enshrined in Russian law and the values held by society concerning fundamental rights.
- Recognition of areas within fundamental rights that need further exploration or clarification, providing a basis for potential legal reforms or societal initiatives.

By moving from the basic definition of fundamental rights to the complex hierarchy of how these rights are structured and perceived, the research offers a comprehensive analysis of the subject. It not only addresses theoretical gaps but also provides practical recommendations for aligning legal provisions with societal values.

## METHODOLOGY AND THEORETICAL BACKGROUND OF THE RESEARCH TOPIC

The methodological basis of the research was a set of techniques, methods and cognitive attitudes that were adapted in relation to the specifics of the object being studied - human rights as a legal phenomenon.

Therefore during research, the universal dialectic method is going to be used, which includes such common logical methods as analysis, synthesis, abstraction, the ascent from the concrete to the abstract and from the abstract to the concrete, system-structural, definition by gender and species difference, etc., is going to be used in the research.

Moreover, within the framework of the research, special methods (sociological, historical-logical, anthropological, socio-psychological, etc.) and private-law methods (formal interpretation, historical-legal, etc.) will be applied.

Their use in complex allowed us to study the phenomenon of human rights in its integrity and comprehensiveness, in the interconnection and interdependence of the legal aspects of rights with their other (social) manifestations. This made it possible to identify some patterns and generalize them in order to describe the theory of human rights in the context of the general theory of law and the state and the socio-humanitarian theory of human rights. And also carry out a full analysis based on the basic law of Russia.

It is worth noting the following methods are used in scientific research.

The comparison method is one of the key methods of my research, as the research is going to analyze Russian legislation, namely the manifestation and consolidation of fundamental rights in the Constitutions of the two countries, as well as their implementation in administrative and court practice.

The comparative legal method involves the identification of types of legal systems, and the establishment of a relationship between legal norms and the specific historical conditions for their preparation and adoption, since law always exists in a specific time and real space, has a past, present and future. The comparative legal method includes synchronous (synchronous), which studies politics and law of two or more states of the same era, and diachronic (comparative-historical), which studies the development of objects over time<sup>2</sup>.

It should be noted that the method of comparative analysis has gained recognition in ancient times. For example, Homer, describing the wanderings of Odysseus, compared the customs and traditions of people with whom fate brought his hero<sup>3</sup>. Herodotus compiled a classification of forms of government resulting from the study of the Persian state. The Platonic Laws are also based on a comparative analysis of 150 regulatory acts of Greek

---

<sup>2</sup> Kodan, S. V. (2013). *Razvitie sravnitel'no-pravovogo metoda v rossiyskoy nauke istorii gosudarstva i prava* [Development of the comparative legal method in Russian science of the history of state and law]. *Zhurnal Rossiiskogo prava [Journal of Russian Law]*, (7), 125-136.

<sup>3</sup> Taplin, O. (1992). *Homeric soundings: The shaping of the Iliad*. Clarendon Press.

city policies<sup>4</sup>. Aristotle in "Politics" studied and compared 200 different legal acts and analyzed the state structure of 158 countries and city cities<sup>5</sup>. His scientific achievements in terms of comparative analysis were noted by the Russian historian F.V. Taranovsky: "... this great thinker of the classical world gave lectures on comparative politics. But, unfortunately, for almost two thousand years, he remained alone in this direction, without imitators and followers ...".<sup>6</sup>

Roman philosophers Polybius and Strabo also very successfully applied comparative studies. Thus, Polybius, comparing the legal systems of modern states to him, proved that their law obeys the uniform laws of cyclic development, naturally replacing each other<sup>7</sup>. In "Geography", Strabo formulated the idea of a common legal space in which the laws and customs of some peoples were often borrowed by others<sup>8</sup>.

The comparative method was also used in the Ancient East, in the political and legal culture of which, as you know, the mythological worldview dominated, based on the idea of the divine origin of the state and the power of a deity or Cosmic mind, and the earthly orders, being just a reflection of the cosmic order, were created by the will deities or the decrees of the Cosmic mind. These ideas are widely reflected in the well-known ancient Babylonian political and legal monuments of ancient law - Hammurabi Laws, Manu Laws. In modern times, the comparative method was developed and applied by such European scientists as R. Saleil, A. Feuerbach, G. Maine (Maine). Thus, G.J. Man, an English lawyer, anthropologist, historian and sociologist of law<sup>9</sup>, was the first to apply the historical and legal method when comparing different legal cultures at different stages of their development<sup>10</sup>.<sup>11</sup>

However, before talking about the positive and negative features of this method, it is important to note that according to the Shmuel N. Eisenstadt's approach this method does not "properly designate a specific method. ..., but rather a special focus on cross-societal, institutional, or macrosocietal aspects of societies and social analysis".<sup>12</sup><sup>13</sup> Moreover Gunnar Heckscher also pointed it as "the method (or at least the procedure) of

---

<sup>4</sup> Flower, M. A. (2008). *The Seer in Ancient Greece*. University of California Press.

<sup>5</sup> Morrow, G. R. (1960). *Plato's Cretan City: A Historical Interpretation of the Laws*. Princeton University Press.

<sup>6</sup> Taranovsky, F. V. (1927). *Antichnaya politika i sovremennost'* [Ancient politics and modernity]. St. Petersburg State University Press.

<sup>7</sup> Walbank, F. W. (1972). *Polybius*. University of California Press.

<sup>8</sup> Champion, C. B. (2004). *Cultural Politics in Polybius's Histories*. University of California Press.

<sup>9</sup> Maine, H. S. (1861). *Ancient law: Its connection with the early history of society and its relation to modern ideas*. John Murray.

<sup>10</sup> Maine, H. S. (1861). *Ancient Law: Its Connection with the Early History of Society and Its Relation to Modern Ideas*. John Murray

<sup>11</sup> Diamond, A. S. (1971). *Primitive Law, Past and Present*. Methuen.

<sup>12</sup> Eisenstadt, S. N. (1968). *The Comparative Study of Institutions*. Heinemann Educational Books.

<sup>13</sup> Eisenstadt, S. N. (2002). *Comparative Civilizations and Multiple Modernities*. Brill.

comparison,"<sup>14</sup>, and Walter Goldschmidt prefers the term comparative approach, because "it lacks the preciseness to call it a method"<sup>15</sup>.

Further this method uses a set of mechanisms that include components of general scientific methods, including: analogy, induction, deduction, analysis, synthesis, etc. Thus, the comparative method is a special approach or method of studying state-legal or other phenomena.

The comparative method has positive and negative features. Despite the fact that it's straightforward to start with advantages, I will start with the negative aspects of this method, which can be safely called the limitations of my research.

The main problems faced by the comparative method can be summarized as follows: many variables, a small number of cases.

It was formulated by the famous scientist A. Lijphart<sup>16</sup>. He believes that in the world there is a limited number of countries (i.e., cases) and, therefore, not all possible options for political systems and their elements are available for the comparative researcher, so a huge number of difficult questions arise before him. On the one hand, in order to make the study more reasonable, it should maximize the number of cases, and, therefore, should be able to limit the number of variables. On the other hand, social life is infinitely diverse, therefore, the number of identifiable variables tends to infinity. In this case, the problem arises which of them are decisive and which of them should be discarded as insignificant, since in specific national contexts they can play different roles.

To solve it, some scientists propose as much as possible to increase the number of cases while deliberately limiting the number of observed variables. However, the analysis of a large number of cases may lead the researcher to an insufficient study of the mutual influence of variables at the intra-system level. To avoid this complexity, the Norwegian political scientist S. Rokkan recommends resorting to "second-order" comparisons, that is, to compare not individual variables that are completely isolated from the intra-system context, but entire "hierarchies", chains of interrelated variables. Comparisons of the "second order" become possible only by limiting the number of cases in the scientist's field of vision. Paradoxically, one of the effective ways to solve the problem of "too many variables - too few cases" is to consciously limit the range of countries covered by the study while increasing the number of monitored variables.

Another important problem of the comparative analysis method is the interpretation of the data obtained by the comparative researcher. Comparing the phenomena, the scientist (whether he wants it or not) gives them his subjective assessment. Even when choosing the initial concepts and variables in quantitative research, it appears in the form of a value

---

<sup>14</sup> Heckscher, G. (1969). *The Study of Comparative Government and Politics*. Allen & Unwin.

<sup>15</sup> Goldschmidt, W. (1977). *Comparative Functionalism: An Essay in Anthropological Theory*. University of California Press.

<sup>16</sup> Lijphart, A. (1971). *Comparative Politics and the Comparative Method*. American Political Science Review, 65(3), 682–693.

tendency of the researcher. The solution to this problem can be either a change in attitude to history and the historical method <sup>17</sup>, or on the path of introducing a new methodological orientation into scientific research - scientific realism <sup>18</sup>.

It should be emphasized that comparison rarely acts as an end in itself of political and legal research. Rather, it appears as a certain approach of the researcher to the subject he is studying, i.e., his predisposition to take a certain look at a political or legal phenomenon, which is taken in advance together with various national and regional political conditions and with its possible modifications. Therefore, the task of the comparative scientist is not to compare the forms of political, legal phenomena and their conditions, but to search for dependencies, concepts and models. Comparison in this case is not just a method, but a research methodological strategy that affects the image of the subject of study, the initial conceptual structure, formulated research hypotheses, the chosen instruments for measuring and analyzing empirical material, the obtained scientific result - synthesized concepts and classifications, models and theories. In this regard, comparison is not only a technique of comparison, distinction or association, but a research worldview.

Over the past decades of research in the field of comparative analysis methodology, some general concepts have been developed, which include the following provisions:

Firstly, comparison involves abstraction, and specific situations and processes can never be compared as such. Each phenomenon is unique: any manifestation is unique; every process, every nation, every individual is in a sense unique. To compare them means to choose certain types or concepts and, thus, “distort” the uniqueness and concreteness;

Secondly, prior to any comparison, it is necessary not only to establish categories and concepts, but also to determine criteria for the relevance of the components of the social and political situation of the analyzed problem;

Thirdly, it is necessary to determine the criteria for the adequate presentation of specific components that are included in the general analysis of the problem;

Fourthly, when trying to develop a theory of politics, it is necessary to formulate hypotheses that arise either from the content of conceptual schemes, or from the formulation of problems;

Fifthly, the formulation of hypothetical relationships and their research on verifiable data can never lead to proof. A hypothesis or series of hypothetical relationships would be considered verified (i.e. verified) if they were falsified;

Sixthly, it is necessary to formulate a series of hypotheses, rather than individual hypotheses. In each case, the connecting thread between the main hypothetical series and

---

<sup>17</sup> Skocpol, T. (1984). *Emerging Agendas and Recurrent Strategies in Historical Sociology*. In T. Skocpol (Ed.), *Vision and Method in Historical Sociology* (pp. 356–391). Cambridge University Press.

<sup>18</sup> Bhaskar, R. (1978). *A Realist Theory of Science*. Verso.

special social relations should be provided by determining the conditions under which any or all of the probabilities recorded in these series are expected to take place;

Seventhly, “one of the greatest dangers that await us when we hypothesise in a comparative study is to design possible relationships in pure form. This can be avoided by collecting data before formulating hypotheses. These data may themselves lead us to the realisation of the irrelevance of established relationships.

Such recognition in itself makes the process of studying data more manageable. Hence, some significance is attached to the development of crude classification schemes before formulating hypotheses ”<sup>19</sup>.

An equally important role in substantiating the necessity and effectiveness of using the comparative method in the study of state and law was played by one of the best Russian law history researcher at the beginning of the 20th century F.V. Taranovsky. In his studies, he showed that the application of the comparative method begins with an ordinary comparison, for example, of the norms of Old Russian law with the sources from which they were directly borrowed. At the same time, he emphasized that the comparative method is applicable to all branches of law and implies the following algorithm:

- 1) A critical study of different legislation;
- 2) Determination of points of contact between them with the general course of social development;
- 3) The establishment for a particular legal institution of one or more legal types with which the legal practice of different countries relates.<sup>20</sup>

In addition, Taranovsky concluded that the application of the comparative method is important not only for theoretical but also for practical jurisprudence. The scientist proposed a classification of existing options for using the comparative method:

- 1) Real borrowing or arbitrary (incomplete) reception of Roman law;
- 2) Recognition of the comparative method as a completely independent branch of legal dogma (identifying logical connections, abstracting from various socio-economic, political, ideological and other phenomena);
- 3) The creation of comparative law and its recognition as the only possible form of a legal science.

However, F.V. Taranovsky was convinced that comparison, like a different cognitive method, cannot be considered independently of other methods of cognition (both universal (philosophical) and general scientific (formal-logical, systemic and others)), since scientific comparison is a kind of complex phenomenon - the unity of three components:

---

<sup>19</sup> Sartori, G. (1970). *Concept Misformation in Comparative Politics*. American Political Science Review, 64(4), 1033–1053.

<sup>20</sup> Taranovsky, F. V. (1927). *Antichnaya politika i sovremennost'* [Ancient politics and modernity]. St. Petersburg State University Press.

the logical reception of knowledge; a special form of cognitive activity; cognitive result, that is, knowledge of a certain content and level.

Thus, the comparative method, of course, cannot give a complete picture of the phenomena studied. It only allows you to streamline the diverse knowledge gained in the process of studying society, law and the state. With the help of comparison, the similarities and differences of social phenomena are established, repeating, lasting consequences are highlighted, the history of law and the state is perceived as integral and at the same time diverse, bearing elements of continuity and novelty in each of its concrete historical conditions, including the modern one.

In other words, the comparative method offers an almost unlimited set of solutions to socio-political and economic problems and provides the researcher with the opportunity to choose the most effective of them. That is why this method is so necessary in the current research.

Thanks to this method, it is possible to study political and legal facts, explain their concepts and theories, make bold assumptions, confirm or refute hypotheses, evaluate what is happening in home country and abroad, better understand the content of political and legal institutions and processes in different countries, adequately use the positive foreign experience, warn against errors in politics or law, and also foresee future development.

Moreover, despite the legal theme of the study, the work will also include a historical approach, which is very important for the scientific research, for the following reasons.

First, for the st, it is necessary to illustrate its relevance as the importance of fundamental rights in the 21st century. This can be done not only by analyzing the current situation, but also the premises that influenced it.

Moreover, it is critical to determine the meaning of fundamental rights and to give a clear definition of what they are. It is necessary to examine the existing and applicable legal acts in which fundamental rights are fixed. This can only be done by analysing the legal acts of various historical periods and the realities in which they were adopted.

Otherwise, the analysis of legislation without understanding the political, social, economic and other realities of that time will not be role-playing, because the legal act itself ("in its pure form") is not able to explain the reasons for its adoption and the reasons for choosing the wording in it.

In addition, in the scientific literature there is an approach according to which the search for objects for future laws can be taken from court practice. In particular, from the decisions of higher courts. In this regard, an understanding of the historical realities of the preceding decisions will contribute to a more crude and comprehensive study of the research topic.

Furthermore, during the scientific research, it is planned to use statistics provided by international organizations in order to analyze the current situation and its changes over the last time. And also, to show the importance of fundamental rights in the 21st century.



In other words, the scientific work will pay special attention to the historical realities in which the normative consolidation (in acts and legislation) of fundamental rights took place, therefore, the historical approach will be applied.

In the research is also planning to use various historical methods aimed at verifying sources. For example, the Louis Moreau Gottschalk approach, which noted that for each specific document, the process of establishing the authenticity (identification) should be carried out separately, regardless of the veracity (authority) of the author. Moreover, each piece of evidence must be evaluated separately <sup>21</sup>.

As well as the approach of Langlois Charles Victor and Seignobos Charles, who proposed a seven-step procedure for verifying the reliability of historical sources <sup>22</sup>. It consists in the following:

If all sources agree on an event, historians may believe that the event really took place; However, exceptions to the rules are always possible. Even if most sources link events together, if the source does not pass the test for critical analysis of the text, it cannot be considered reliable;

A source that can be confirmed by links to external sources in separate places in the text can be trusted in full, even if this is not confirmed by the entire text of the original source; When two sources diverge in certain positions, the historian will prefer a more authoritative source, in other words, that source that was created by an expert or an eyewitness;

In general, the opinion of eyewitnesses is preferable, especially in those cases when the ordinary observer could report specific facts and data about the event;

If two independently created sources agree on any issue, the reliability of each of them will be significantly higher;

When two sources contradict each other and there are no other estimates and evidence, historians accept the primary source that does not contradict common sense.

In general, the evolution of the development of this historical method is associated with obtaining new evidence of the reliability of the original sources, therefore, the application of of this historical method and legal methods will help to carry out a comprehensive and full-value analysis of sources.

All the above means that the historical approach is very applicable to the topic of research, and the methods of the historical approach will be adopted in the process of all scientific work in this area.

---

<sup>21</sup> Gottschalk, L. (1950). *Understanding History: A Primer of Historical Method*. Alfred A. Knopf.

<sup>22</sup> Langlois, C.-V., & Seignobos, C. (1901). *Introduction to the Study of History*. Barnes & Noble.

Another method used in this work is the critical legal method. The significance of which is specifically analyzed in the works of the Russian lawyer A. Malinovsky.

From a philosophical point of view, criticism is a test of scientific judgment for its conformity to truth. Therefore, to criticize is to question the truth of a particular judgment. Scientific criticism is one of the most important methods of scientific knowledge, which consists in verifying the conformity of theoretical principles with the criteria of truth, objectivity, provability, verifiability, etc. The role of criticism in its application to new knowledge is especially significant. In science, only that knowledge is considered to have the right to exist, which previously passed through the crucible of criticism, successfully passing this test. Criticism is an absolutely necessary and immanent condition for the development of science. The need to criticize your colleagues and be constantly prepared for criticism from them is one of the most important principles of the scientific community<sup>23</sup>.

In addition, according to K. Popper<sup>24</sup>, the main cognitive method is the critical method (the method of critical rationalism).<sup>25</sup> It consists in the fact that any hypothesis or theory should be subjected to objective criticism. Hypotheses that do not stand up to criticism must be rejected, but hypotheses that do not lend themselves to criticism, too. The correct method consists in striving through discussion to identify the consequences of this theory and their acceptability for science. The critical method should reveal internal contradictions and inadequacy of the previous theories and investigate them down to the fundamental premises.

A critical analysis of the legislation makes it possible to detect:

- the backlog of legislation from dynamically developing social relations;
- inconsistency of national legislation with international legal acts;
- gaps and contradictions in a normative legal act;
- reasons for the lack of effectiveness of legislative regulation;
- conflicts between different regulatory legal acts.

And this is exactly what is planned to be identified and analyzed in this scientific work. The theoretical basis of the study was the work of scientists on constitutional law, the theory of state and law, materials of reports from scientific and practical conferences, seminars and round tables on the issues of guaranteeing human rights and freedoms.

During the work on the dissertation, the author used the works of Russian scientists as: Abashidze A.Kh., Lnaidid F.R., Vavilov AM, Glukhareva JI.H., Kartashkn V.A., Klimenko B.M., Kovalev A.A. , Kucher B.I., Lsist O.E., Lukashva E.A., Lukashuk I.I., Maleev Yu.N., Maltsev G.V., Modzhoryan L.S., Mullerson R.A., Rsshstov Yu.A., Sukharev A.Ya., Ustinov V.V., Ushakov N.A., Chernichenko S.V., Shsrshnsnsvich G.F., Yuriev S.S. and etc.

---

<sup>23</sup> Merton, R. K. (1973). *The Sociology of Science: Theoretical and Empirical Investigations*. University of Chicago Press.

<sup>24</sup> Popper, K. (1963). *Conjectures and Refutations: The Growth of Scientific Knowledge*. Routledge & Kegan Paul.

<sup>25</sup> Popper, K. (1959). *The Logic of Scientific Discovery*. Routledge.

In conducting the study, the works of the following foreign authors also played an important role: Bassiui C., Brownley I., Brisk A., Dass E.I., D'Amato A., Dvorkin R., Ginsburgs G, Pieter van Dijk, Ksdzia 3., Marks S.P., Merrill J.G., Nanda V.P., Nozick R., Allston F., Pollns A., Wright III., Robertson A.Kh., Robertsoy K.G., Rosas A., Siegel R.L., and etc.

In research also were used international legal acts about fundamental rights: United Nations Charter (San Francisco, June 26, 1945); Universal Declaration of Human Rights (adopted at the third session of the UN General Assembly by resolution 217 A (III) of December 10, 1948); International Covenant on Civil and Political Rights (New York, December 19, 1966); International Covenant on Economic, Social and Cultural Rights (New York, December 19, 1966) and etc.

Moreover, the research analyzed the implementation of fundamental rights in the Constitution of the Russian Federation (adopted by the national referendum on 12 December 1993), as well in the acts of national legislation of Russia.

This research is an attempt to comprehensively study the current situation in which fundamental rights and their implementation are found in international acts and legislation of Russia, as well as the legal framework in the field of human rights protection in the European Union and its relevance to modern human rights protection needs in the European region. The work outlines the provisions characterizing the problems that arise in the process of law enforcement on human rights issues, as well as identifies examples of conflicts of fundamental rights on the basis of judicial practice of the European Court of Human Rights and Russian court. Thus, the practical basis of the study is based on the judicial practice of the mentioned courts.

It is additionally important to note that the study will use elements of the main theories of law: natural-legal, normative, and realistic. However, the work will not use the historical, Marxist, psychological and sociological theory of law.

Therefore, it is worth considering the basic elements, as well as the advantages and disadvantages of applicable theories.

***The natural-legal theory*** received its completed form during the period of the bourgeois revolutions of the 17th-18th centuries. Its main representatives are T. Hobbes, J. Locke, A.N. Radishchev and others.

***The normative theory of law*** received its most logically complete form in the 20th century. Its representatives are R. Stammler, P. I. Novgorodtsev, G. Kelsen and others.

***Realistic theory of law*** in its most complete form was formed in the late XIX - early XX century. Its main representatives: are C. Llewelyn, O. Holmes, J. Frank and others.

Each of the theories has its positive and negative aspects, therefore, the use of advanced ideas of each of them will make the research complex and comprehensive.

Additionally, it should be noted that the present study will be conducted using sociological methods (which will be described in detail below) rather than within the framework of the sociological theory of law, but some ideas from this concept are going to be used during current research.

According to Irving,<sup>26</sup> the creation and purpose of legal relations are not determined by abstract principles such as "to each his own" or "do no harm to anyone" but by the specific interests of particular people. Accordingly, the theory of natural law is not a reliable scale for the identification and protection of a particular interest.<sup>27,28</sup>

Based on the position of the sociological theory, every interest can be presented as a financial claim. Ihering's followers in Germany somewhat weakened the universal aspects of the theory and began to reduce the problems of the sociology of law to what they called judicial law. They believed that only the totality of judicial decisions was valid or living law.

In this way, law should be sought in real life; that is, law is also an order in public relations, in the actions of people. To reveal the essence of such an order and solve a dispute in this or that specific situation is called to judicial or administrative bodies.

In this theory, society and law are viewed as integral, interrelated phenomena; the theory proves that it is necessary to study not only the norms of law established by the state, but the totality of legal relations, formed in society; the doctrine emphasizes the role of law as a means of social control and achieving social balance, elevates the role of judicial power.<sup>29</sup>

This theory of law is highly intertwined with life and the actual state of affairs in society; it was the first to recognize the special role of jurisprudence as a practical science and to begin the interaction of law with other social sciences (for example, economics, politics, social psychology, and others).<sup>30</sup>

Unfortunately, however, this approach diminishes the normativity of law and its moral and humanitarian foundations. Namely:

- in the doctrinal (scientific) understanding, the principles of law (e.g., equality), the general foundations of law, and so on, are more important;

---

<sup>26</sup> Ehrlich O. Fundamentals of the Sociology of Law. SPb.: Publishing House of SPbSU, 2011.

<sup>27</sup> Dubovitsky, V.N. Sociology of law: subject, methodology and methods / V.N. Dubovitsky; Belarusian State University. - Minsk : Law and Economics, 2010. - 174 c.

<sup>28</sup> The sociological theory of law originated in the middle of the nineteenth century, one of its founders as a science being the Austrian jurist Eugen Ehrlich (1862-1922), who lived almost at the same time as Max Weber (1864-1920) (but he focuses on the legal preconditions for the formation of modern industrial capitalism (Weber M. Selected. The Image of Society. Moscow: Jurist, 1994) set out to penetrate beyond the pile of formal norms, considered until then to be analogous to law itself, and find real social norms regulating all aspects of society.

<sup>29</sup> Zdislav Brodecki. The Sociology of Law. Lexicon of Modern Theories and Philosophy of Law. - Warsaw, 2007

<sup>30</sup> Kazimirchuk V.P., Kudryavtsev V.N. Modern Sociology of Law. - Moscow: Yurist, 1995. - ISBN 5-7357-0092-8

- an approach to law as a social category can blur the boundaries of law as a separate discipline and lead to the loss of its separate subject, principles, and methods;
- Identification of law as a living mechanism and granting full autonomy to the judiciary, creates the risk of judicial arbitrariness because some general rules and foundations of the legal system are excluded. In fact, there is a substitution of the legislator by the judiciary.

However, it is worth noting that the main postulate of the followers of this theory - "The right should not be sought in the norms, but in life itself" - inspires the present study and fully reflects its spirit.

As noted, the purpose of this survey is to understand the real situation in society and to identify problem areas in the sphere of fundamental rights. Namely, the moments when the gap between the right "de-jure" and "de-facto" is extremely large.

Also it should be indicated that the present work does not analyze fundamental rights within the framework of sociology of law, which is a separate structured system of scientific knowledge about law as a social phenomenon - its genesis, existence and development. In 1962 at the V International Sociological Congress in Washington (USA) it was officially recognised as a branch of scientific knowledge, however - sociological.<sup>31</sup>

This research is a legal study of fundamental rights, namely human rights, rather than a sociological study. However, it is important to agree with followers of the sociological theory of law and sociology of law that lawmaking is greatly influenced by moral, economic, political-legal, national, social-psychological, and sociocultural factors. These factors depend on the formation of the legal system of the state, so the consideration of legal phenomena in isolation from them will not bring value to modern science. Therefore, there will be partly an intersection with these approaches.

---

<sup>31</sup> Dubovitsky, V.N. Sociology of law: subject, methodology and methods / V.N. Dubovitsky; Belarusian State University. - Minsk : Law and Economics, 2010. - 174 c.

## DISSERTATION STRUCTURE

This dissertation is structured to provide a comprehensive understanding of the hierarchy and dynamics of fundamental rights within Russian constitutional law and the real situation in Russian society. The organisation of this research is described below:

- Declaration

The declaration section affirms the author's commitment to academic integrity and honesty by setting out any ethical considerations or declarations required by the institution overseeing the thesis process.

- Research disclaimer

This segment explains any disclaimers relevant to the research, outlines the scope and limitations of the study, and acknowledges any potential biases or external factors that may affect the results.

- Abstract

The abstract captures the essence of the thesis by providing a summary of its aims, methodologies, main findings and conclusions. It serves as a brief overview for readers, offering a glimpse into the significance and contribution of the study.

- Keywords

Keywords are important terms or phrases that capture the main themes, concepts, and subjects explored in the thesis. They help to index and categorise the research for easier retrieval and understanding.

- Acknowledgements

In the acknowledgements section, the author thanks individuals, institutions and organisations that have contributed to the research process. This may include mentors, counsellors, funding agencies, colleagues, friends and family members who provided support and assistance.

- Content

The contents section serves as a roadmap for navigating the thesis by providing detailed descriptions of its chapters, sections, and subsections. This allows readers to find specific topics of interest quickly and efficiently.

- Introduction to the study

The introduction lays the foundation for the thesis by providing context, background information, and an overview of the research topic. It outlines the scope of the study and outlines the main objectives and research questions underlying the study.

- The rationale of the study

This section explains the rationale for the research and why the chosen topic is important and worthy of scholarly investigation. It may discuss gaps in the existing literature, real-world applications or social implications that emphasise the importance of the study.

- The target country for the dissertation

This section explains why Russia was chosen as the country for the study.

- Purpose of the research

The purpose of the study is to articulate the main aims and objectives that guide the research. It clarifies the intended outcomes and contributions of the study, providing a clear message for both the researcher and the reader.

- Importance of the research

This segment elaborates on the broader significance and relevance of the research topic, emphasising its potential implications for academia, policy, practice, or society at large. It explains why the research is important and how it contributes to the development of knowledge in the field.

- Research questions, goals/aims, hypotheses and results

These components define the specific research questions, aims, hypotheses and expected outcomes that underpin the study. They provide a framework for guiding the investigation and evaluating its success in achieving its intended objectives.

- Methodology and theoretical background of the research topic

The methodology section outlines the research methods, approaches, and techniques used to collect and analyse data. It also discusses the theoretical framework or conceptual models that underpin the study and provide a solid foundation for the research process.

- Dissertation structure

As discussed earlier, the structure of the thesis provides an organised framework for presenting the findings and ideas of the research. It outlines the sequence of chapters, sections and sub-sections that make up the thesis, providing coherence and clarity of ideas.

- Research gap

This section identifies gaps or deficiencies in the existing literature or knowledge in the field, thereby justifying the need for current research. It highlights areas where additional research is needed to address unanswered questions or unresolved issues.

- Novelty, contribution and significance of the research

Here the, author articulates the novelty, originality and unique contribution of the study to academic discourse. It emphasises how the study fills existing gaps, expands theoretical understanding or offers practical insights that expand knowledge in the field.

- Chapter 1: Background to the Research

Provides a panoramic view of the concept of fundamental rights, tracing their historical trajectory in the Russian context from the ancient eras to the present.

Carries out a detailed analysis of the key role that fundamental rights play in shaping the structure of Russian constitutional law, using a historical lens to contextualise the research topic and identify its roots.

- Chapter 2: Collisions in Human Rights and how the Hierarchy of Rights is shaped by them

Analyses the complex phenomenon of human rights conflicts, carefully defining their nature and explaining their profound impact on the hierarchical arrangement of rights.

Makes a distinction between superficial and substantive conflicts, showing how each category shapes the overarching hierarchy of rights and influences legal discourse.

- Chapter 3: The Hierarchy of Fundamental Rights in Russian Constitutional Law (de-jure)

Engages in an exhaustive study of the hierarchy of fundamental rights enshrined in the Russian Constitution, analysing the legal framework governing these rights.

Explores the multifaceted picture of human rights protection in Russia, scrutinising the roles and functions of state bodies and organisations called upon to protect these rights.

- Chapter 4: Theoretical Hierarchy of Fundamental Rights in Russia (in the theory of law)

Engages in a scholarly investigation of the theoretical framework underlying the hierarchy of fundamental rights in Russian legal theory.

- Chapter 5: Socio-Legal Survey: "What are the most important fundamental rights?"

Provides a framework for a comprehensive empirical study aimed at elucidating public perceptions of fundamental rights in Russia through a well-designed socio-legal survey.

Provides a detailed description of the purpose, methodology, and strategy of the survey and addresses the challenges encountered in conducting the survey.



- Chapter 6: Hierarchy of Fundamental Rights among the Russian Population (de facto)

Presents empirical findings from socio-legal research, scrutinising how public opinion aligns with established legal principles and judicial precedents.

It offers insight into the de facto hierarchy of fundamental rights among the Russian population and reflects on the implications for the broader legal landscape.

- Conclusion

Summarises the key findings and insights gained from the rigorous research of the thesis, capturing the essence of the research journey and its implications for the field.

Offers a reflective commentary on the fit between legal principles and public perceptions of fundamental rights, opening the way for further scholarly discourse.

- Bibliography

Compiles a comprehensive list of all references and source material cited in the thesis, ensuring transparency and academic integrity.

- Additional sections: academic experience, training/education, presentations/conferences, publications, languages

Provides additional information on the author's academic background, scholarly contributions and professional experience, enriching the contextual understanding of the thesis.

- Appendices

Contains additional materials critical to the coverage of the thesis, including letters of invitation to participate, survey questionnaire, and other relevant documents referenced throughout the study.

## RESEARCH GAP

Most of the existing researches on fundamental rights, particularly in the context of the Russian Federation, tend to focus on the legal provisions and normative framework (de jure) established in the constitution and laws. However, there is a significant gap in understanding how these rights are perceived, prioritised and applied in everyday life (de facto). This mismatch between legal theory and practical application remains under-researched, especially in the pre-February 2022 Russian context.

While many international studies emphasise the legal and theoretical underpinnings of fundamental rights, especially from a Western perspective, there is a lack of comprehensive studies addressing the specific historical, political and social dynamics that shape the interpretation and application of these rights in Russia. The existing literature often fails to address the question of how societal values do or do not align with the legal hierarchy of rights in the country, leaving a significant gap in understanding the lived experience of rights in Russian society.

In addition, while some studies focus on violations of individual rights or specific freedoms (e.g. freedom of speech and freedom of assembly), they often overlook the broader systemic and hierarchical structuring of rights in Russia. The relationship between how rights are enshrined in the Constitution and how they are perceived by society - whether some rights are considered more important than others - is an area that requires more detailed research.

This thesis seeks to fill this gap by examining not only the legal (de jure) framework of fundamental rights in Russia but also the public (de facto) perception and realisation of these rights. It will analyse whether the hierarchy of rights established in Russian law corresponds to the real understanding and priority of rights in society. By exploring these discrepancies, the study seeks to provide a clearer picture of how fundamental rights function in Russia both legally and socially, offering potential ideas for legal reforms and better protection of human rights in practice.

This study will thus contribute to a more nuanced understanding of the relationship between law and society in the context of fundamental rights, especially in non-Western legal systems such as Russia.

## **NOVELTY, CONTRIBUTION AND SIGNIFICANCE OF THE RESEARCH**

The ongoing research aims to study and promote fundamental human rights, which is a major issue in today's world. While laws and institutions exist in many countries to protect these rights, their practical application can vary greatly depending on social, cultural and political factors. The study focuses on the Russian legal system and public perception of fundamental rights, with a focus on the hierarchy of rights and its practical implications.

The novelty of this study is that it represents the first comprehensive and comparative analysis of the Russian legal system and public perception of fundamental rights. Based on the study of legal, historiographic, judicial and law enforcement sources, as well as the population of Russia and its legal values, the study gives an idea of how society perceives the hierarchy of rights and its relation to theoretical legal approaches to this issue.

The significance of this study lies in its ability to provide recommendations for expanding and strengthening international and Russian relations, legal agreements and international cooperation in Europe and the world. In addition, this contributes to the mutual enrichment of international and Russian legal experience, in particular in the field of human rights.

Overall, this study is an important contribution to the study of fundamental rights, which can lead to the development of legal frameworks and policies that promote peace, stability and prosperity for all.

Below, we will explain everything in detail:

- The first comprehensive and comparative study of the Russian legal systems and social perception of the fundamental rights

The scientific novelty of the present study lies in the fact that, as a result of a comparative legal analysis of legal, historiographical, judicial and law enforcement sources, the system and hierarchy of fundamental rights in Russia has been analyzed in a comprehensive way for the first time.

Within the framework of the research, the concepts of understanding of rights (namely human rights) that existed in legal science were identified and analyzed.

This paper also examines not only the legal system of rights on the basis of legal sources but also identifies the social perception of the fundamental rights. This is done through a study of the population of Russia and their legal values.

- The first study of the perception of the hierarchy of rights by society and its comparison with the theoretical and legal approach to this issue

This is the first study of the perception of the hierarchy of rights by society and its comparison with the theoretical legal approach to this issue. It is an important to understand how people see their rights in comparison with legal and theoretical perspectives and what is the difference.. This study aims to bridge the gap between legal analysis and practical application by examining how society perceives the hierarchy of rights and how it relates to the theoretical and legal approach to this issue.

This study is important because it sheds light on the real impact of the hierarchy of rights, which is an essential concept in the field of human rights. The hierarchy of rights refers to the idea that some rights are more fundamental than others and can be restricted to protect other rights. For example, freedom of speech may be restricted to protect the right to privacy or national security. However, the practical application of this concept can vary significantly depending on the social, cultural and political context.

By examining how society perceives the hierarchy of rights, this study can contribute to a better understanding of the practical implications of this concept. It can also reveal any inconsistencies between legal and theoretical approaches to the hierarchy of rights and how people view their rights in practice.

This study may have several implications for the development of policy and legal frameworks. For example, if there is a significant gap between how society perceives the hierarchy of rights and the legal and theoretical approach, politicians may need to take this into account when making their decisions. They may also need more public education and awareness efforts so that people understand their rights and how they are protected.

In conclusion, the first study of the perception of the hierarchy of rights by society and its comparison with the theoretical-legal approach to this issue is an important contribution to the study of fundamental rights. By examining how people perceive their rights in practice, this study can provide valuable information about the real impact of the rights hierarchy and highlight any discrepancies.

- Development of the recommendations for the enhancement and strengthening of International and Russian relations, legal agreements and international cooperation in Europe and worldwide

The development of recommendations for enhancing and strengthening international and Russian relations, legal agreements, and international cooperation in Europe and worldwide is a crucial task in today's world. Given the current global challenges, it is essential that countries work together to find common solutions that promote peace, stability, and prosperity for all.

It is true that Russia, as a significant member of the international community, plays an important role in international cooperation, and an additional understanding of the Russian people and legal system will benefit this cooperation and collaboration.

In addition, the events after February 2023 have once again demonstrated that there are no experts on Russia in the world who can fully foresee the political actions and development of the country, while the insane inflation and cost of living crisis in Europe after the sanctions on Russia (which actually have the opposite effect) have also shown that there is currently very little skill in understanding the country.

At the same time, since, in fact, this work will be a guide and an additional source of answers regarding international and Russian law (human rights), it can be successfully used in inter-national cooperation activities and in the work of international organisations and will be an additional bridge to find ways of further dialogue between the world and Russia.

Overall, the development of recommendations for enhancing and strengthening international and Russian relations, legal agreements, and international cooperation in Europe and worldwide is a vital task that requires a collaborative effort from all stakeholders. By working together and sharing knowledge and expertise, we can create a more effective and just legal system that promotes peace, stability, and prosperity for all.

- Mutual enrichment of the International and Russian legal experience

The international legal system is a complex web of rules, treaties and conventions that govern relations between countries and individuals. It is constantly evolving and adapting to new challenges and changing circumstances. The Russian legal system is one of the largest and unique in a number of aspects in the world, with a rich history and a unique set of traditions and practices.

Mutual enrichment of international and Russian legal experience is a process beneficial to both parties. On the one hand, the international legal system provides the basis for the development of new legal norms and standards that can be applied in Russia and other countries. On the other hand, the Russian legal system contributes to the international legal system by sharing its own experience, knowledge and best practices.

One of the key areas where cross-fertilisation of legal experience is especially important is the area of human rights. Russia has a long history of protecting human rights and has experienced both success and failure in recent years in implementing international human rights standards. At the same time, the international community can learn from Russia's experience in dealing with complex human rights issues such as combating terrorism and extremism.

Another area where mutual enrichment of legal expertise is important is international trade and investment. Russia is a major player in the global economy, and its legal system plays an important role in regulating economic activity both domestically and internationally. The international legal system provides a framework for resolving disputes and protecting the rights of investors and businesses, while the Russian legal system provides insight into the volatility of the business environment and risk areas.

Thus, the mutual enrichment of international and Russian legal experience is a process that is beneficial to both parties. By sharing knowledge, best practices and experience, the international community and Russia can work together to create a more efficient and fair legal system that promotes peace, stability and prosperity for all.

## **CHAPTER 1: BACKGROUND TO THE RESEARCH**

### **THE OVERVIEW OF THE CONCEPT OF FUNDAMENTAL RIGHTS (WHICH RIGHTS CAN BE CALLED FUNDAMENTAL)**

Before analysing the importance of fundamental rights in the 21st century, it is necessary to determine what they are and which rights can be considered fundamental.

In the modern legal literature exists a big terminological variety in the designation of what is covered by the concept of rights: “human rights”, “individual rights”, “fundamental rights”, “subjective rights”, “natural rights”, “civil rights”, “constitutional rights”, etc<sup>32</sup>.

However, the principle of scientific certainty requires the differentiation of these concepts since their uncertainty contributes to collision occurrence.

For rights to be called fundamental, they must meet three criteria<sup>33</sup>.

1) The first is universality.

It means that when we pronounce the phrase “fundamental Human Rights”, we mean that these rights are “the same” for all countries (that is, they have universal standards). For example, if there is a prohibition of torture in England, then exactly the same prohibition should be in Turkey, Russia, Germany and other countries. That is, we argue that there must be some minimum standards that every state should respect.

It is important to note that this principle first time was adopted in 1948 in the Universal Declaration of Human Rights<sup>34</sup>. After that, he began to appear constantly at numerous international conventions, declarations, and resolutions relating to the field of human rights. For example, at the 1993 World Conference on Human Rights in Vienna, it was noted that the promotion and protection of human rights and fundamental freedoms is the duty of the state, independent of its political, economic and cultural system.

2) The second is generality, "for-all-ness."

This means that fundamental rights must be respected for everyone, regardless of status: citizen, non-citizen, tourist, student, legal, illegal migrant, etc. Other rights are also important, but their effect depends on civil status (for example, some political, social and cultural rights are really associated with “citizenship”), but fundamental rights apply to absolutely everyone.

3) The fundamental is “over sovereign” and, therefore - outside of politics.

---

<sup>32</sup> E.A.Lukashev. 2002. Human Rights:A Textbook for High Schools. Moscow: NORM Publishing Group - INFRA M, 2002.

<sup>33</sup> E.A.Lukashev. 2002. Human Rights:A Textbook for High Schools. Moscow: NORM Publishing Group - INFRA M, 2002.

<sup>34</sup> United Nations. (1948). *Universal Declaration of Human Rights*. Retrieved from <https://www.un.org>

The implementation of certain social rights guarantees and benefits may be carried out differently depending on the political course and priorities of the state. However, fundamentals are “constants” that should not change in any political situation.

Summing up the above, it turns out that only human rights can possess such features. Therefore, talking about fundamental rights implies fundamental human rights.

However, in the modern world, another criterion is becoming important, which must be added to the list formed by Lukashev:

#### 4) Describability in the language of law

A fourth criterion, increasingly important in contemporary legal and philosophical debates about fundamental rights, is that fundamental rights should be describable in the language of law. This criterion ensures that fundamental rights can be codified, interpreted and realised within a legal framework, allowing them to move from abstract moral or philosophical ideals to applicable legal norms. Legal describability provides the necessary infrastructure for rights to be justiciable and universally applicable across jurisdictions.

For instance, the right to property is an example of a fundamental right that fulfils this criterion. It is explicitly codified in international legal instruments such as Article 17 of the Universal Declaration of Human Rights (UDHR)<sup>35</sup> and Article 1 of Protocol No. 1 to the European Convention on Human Rights (ECHR). These legal instruments articulate the content and boundaries of this right while establishing mechanisms for its enforcement. The legal clarity and universality of the right to property confirm its status as a fundamental human right.

In contrast, some emerging or ambitious rights, such as the “right of future generations to a healthy Earth,” do not yet meet this criterion and, therefore, cannot currently be classified as fundamental rights. Such rights often remain in the realm of moral or philosophical advocacy and lack the codification necessary to ensure their enforcement in legal systems<sup>36</sup>.

For example, although the 1992 Rio Declaration on Environment and Development<sup>37</sup> articulates fundamental principles of intergenerational equity, such as Principle 3’s emphasis on the need to equitably meet development and environmental needs across generations, this right has not yet been codified as a fundamental right in most jurisdictions.

The distinction between codified fundamental rights and emerging rights that lack legal clarity emphasises the dynamic nature of the legal system. Fundamental rights, such as the prohibition of torture or the right to a fair trial, are codified in international treaties and national constitutions, giving them a specific legal basis. Conversely, rights such as the

---

<sup>35</sup> United Nations. (1948). *Universal Declaration of Human Rights*. Retrieved from <https://www.un.org>

<sup>36</sup> Kelsen, H. (1945). *General theory of law and state*. Cambridge: Harvard University Press.

<sup>37</sup> United Nations. (1992). *Rio Declaration on Environment and Development*. Retrieved from <https://www.un.org>

‘right of future generations to a healthy earth’ remain aspirational, reflecting evolving societal and global concerns but lacking the legal infrastructure necessary to enforce compliance.

Legal theorists such as Ronald Dworkin<sup>38</sup> emphasise that rights should guide the evolution of legal norms, even if they are initially abstract. Dworkin's theory of ‘rights as trumps’ suggests that while these emerging rights are not fundamental in a legal sense, they are moral claims that challenge existing legal systems to evolve. Similarly, transformational constitutionalism, as articulated by Karl Klahr<sup>39</sup>, suggests that constitutions and legal systems must adapt to address contemporary challenges such as environmental degradation and intergenerational justice. This framework emphasises the potential for desired rights to eventually achieve foundational status through legal evolution.

Although not yet fundamental, aspirational rights are gaining momentum in international soft law and domestic legal innovation; for example, in the landmark case *Urgenda Foundation v. State of the Netherlands* (2015)<sup>40</sup>, the Dutch Supreme Court recognised the state's obligations to combat climate change on the basis of the right to life and the right to private and family life (Articles 2 and 8 ECHR). While the court relied on traditional rights, its interpretation expanded its scope to address environmental concerns, bridging the gap between aspirational rights and applicable legal standards.

In addition, innovative legal developments in some jurisdictions illustrate how emerging rights can gain descriptiveness over time. Ecuador's 2008 Constitution<sup>41</sup> grants rights to nature, recognising the inherent rights of ecosystems to exist and thrive, while New Zealand has granted legal personality to the Whanganui River through the *Te Awa Tupua Act* (2017)<sup>42</sup>. While these examples remain exceptions, they demonstrate that legal systems can adapt to describe and protect rights that are not currently fundamental but may become so in the future.

The inclusion of legal descriptability as a criterion for fundamental rights reinforces the distinction between fundamental rights that are codified, applicable and universal and emerging rights that lack these attributes. Fundamental rights must have the clarity and applicability necessary to function as legal constants across jurisdictions. Other rights do not currently meet this standard. However, their growing recognition highlights the evolutionary nature of human rights and the ability of legal systems to adapt.

By broadly interpreting existing fundamental rights and creating new legal frameworks, states and international institutions can gradually elevate aspirational rights to the status of

---

<sup>38</sup> Dworkin, R. (1977). *Taking rights seriously*. Cambridge: Harvard University Press.

<sup>39</sup> Klare, K. (1998). Legal culture and transformative constitutionalism. *South African Journal on Human Rights*, 14(1), 146-188.

<sup>40</sup> *Urgenda Foundation v. State of the Netherlands*, Supreme Court of the Netherlands, 2015.

<sup>41</sup> Republic of Ecuador. (2008). *Constitution of Ecuador*. Retrieved from <https://www.constituteproject.org>

<sup>42</sup> New Zealand Parliament. (2017). *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017*. Retrieved from <https://www.legislation.govt.nz>



fundamental rights. This process reflects the dynamic interplay between moral defence, societal needs and legal evolution, ensuring that human rights frameworks remain responsive to global and intergenerational challenges.

**Why are human rights still so important?** Does it make sense to maintain life with all these ideas in the 21st century?

On the one hand, in countries where human rights are taken seriously, citizens, as a rule, have the means to exercise the rights guaranteed by the constitution and laws and can file a lawsuit against their state through an international court. On the other hand, in states where society is weak, and governors are strong, not even the best constitution and international treaties will help to protect human rights. Maybe it's time to recognise that the idea of human rights has done its job and is out of date. Maybe after we celebrated the 70th anniversary of the Universal Declaration of Human Rights (United Nations 1948) in 2018, we should put this idea in the history archive or transfer it to volunteer activists who are ready to devote their time, money, and sometimes life to the protection of human rights?

However, there are several reasons why abandoning the idea of human rights would be premature.

1. Increasing the value of the concept of human rights

As everybody knows, the Universal Declaration of Human Rights (United Nations 1948), proclaimed in 1948, changed the pre-existing relationship between an individual and the state. Man ceased to be just an obedient subject of a willful ruler; he became a person who exists in free space (United Nations 1948):

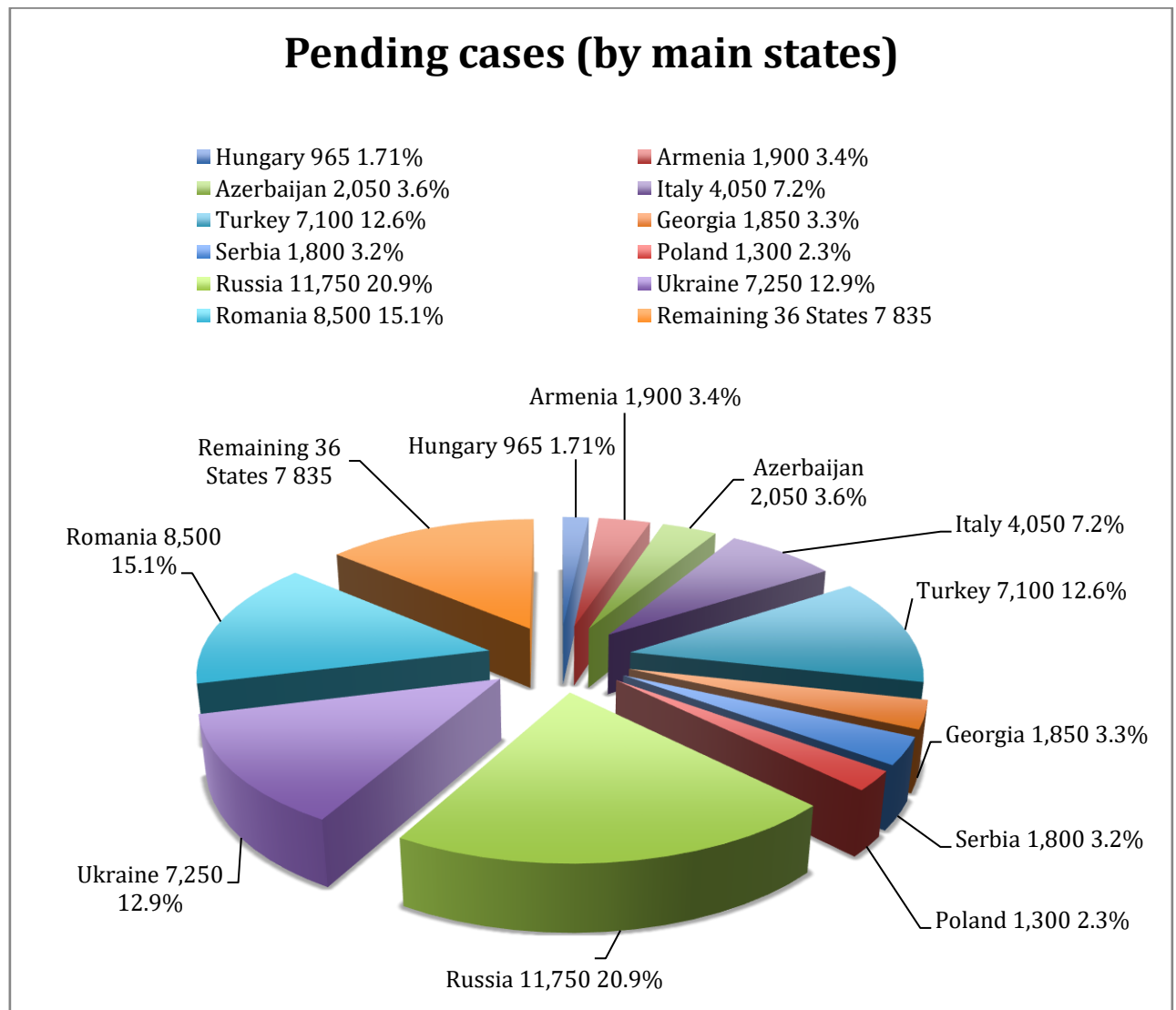
- the sphere of private life, free from state interference;
- the sphere of personal freedom, protected by the right to individual freedom and security, privacy, freedom of speech, conscience and religion;
- the free legal sphere guaranteed by the right to a fair trial and the use of effective means of protection of all these rights and freedoms.

In the seventy years that have passed since the adoption of the Universal Declaration of Human Rights (United Nations 1948), human rights have become universally recognised principles. Even though they are not always fully respected and often are violated, a generally accepted code of conduct is based on them, the correctness of which almost no one doubts. However, hand in hand with the success of human rights is the erosion of their values. Recently, almost all claims, not only those related to the desire for a decent life, but also aimed at improving living conditions, it has become customary to formulate and justify in the categories of human rights (Vyver 1994). As a result, the concept of human rights has lost its sharpness, has been blurred, and it began to mean anything from international humanitarian assistance (Cleveland 2001) to the redistribution of resources (Cao 1997), equality and welfare for all (Human Rights Committee 2002).

2. A significant amount of court cases

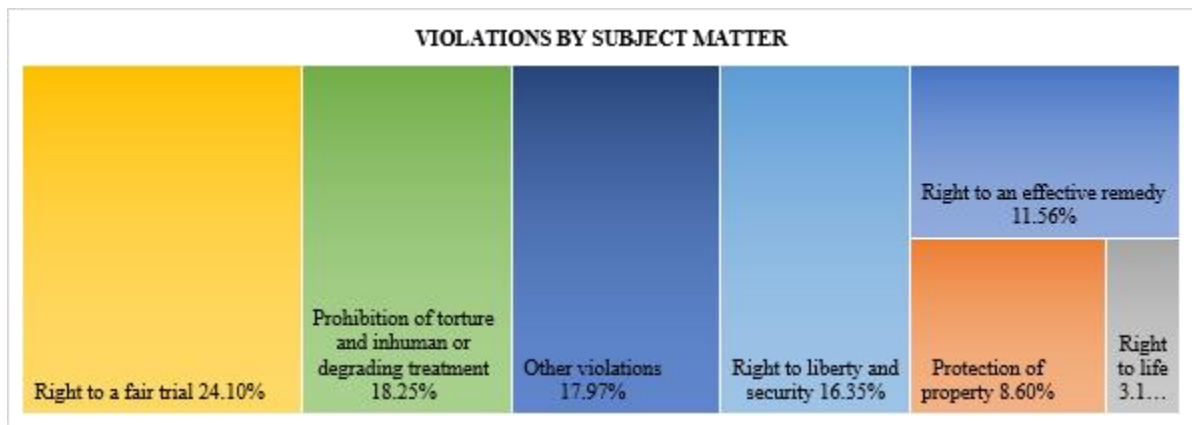
The main objective of the establishment and functioning of the European Court of Human Rights is to ensure the observance of the rights and freedoms of people and organisations, as enshrined in the Convention for the Protection of Rights and Fundamental Freedoms (Council of Europe Secretary General 1950).

At the beginning of 2019, 53,350 cases are pending (European Court of Human Rights 2019). Hereby, statistics will be presented for the countries that received the most appeals.



Picture 1: Pending cases (by main states)  
Source: European Court of Human Rights

Appeals to the European Court of Human Rights concern various issues, but most of them are related to the right to an effective remedy and the right to a fair trial.



Picture 2: Violations by subject matter  
Source: European Court of Human Rights

This right is established in Art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which, according to many researchers' opinions, is "the only most frequently applied provision of the Convention. And its importance has been repeatedly emphasised and for various reasons" (Duffy 1996). This article "is of key importance in the Convention. This is reflected in the approach of conventional bodies to its interpretation" (Grotrian 1992).

In its decision in the *Delcourt* case, the European Court of Human Rights stated that "in a democratic society, within the meaning of this Convention, the right to a fair administration of justice occupies such an important place that a restrictive interpretation of Article 6 paragraph 1 would not correspond to the purpose and purpose of this provisions" (De Salvia M. 2004). A little later, the Court noted that the right to a fair trial, as enshrined in Article 6 "reflects the fundamental principle of the rule of law" (De Salvia M. 2004).

Article 6, paragraph 1, establishes the right of any person to determine his civil rights and obligations or consider any criminal charge brought against him to a fair public hearing within a reasonable time by an independent and impartial court established by law. Thus, the article under consideration is applicable only to cases in which civil rights or obligations are determined, or criminal charges are investigated.

Obviously, Article 6 is applicable to any dispute between private individuals in the field of civil law. At the same time, the supervisory bodies of the Council of Europe had to resolve many difficult issues arising in connection with the application of this article in the field of public law, when administrative or disciplinary bodies were entrusted by law with the intention to take actions that affect the rights or interests of private individuals. To a large extent, the case law of the European Court developed precisely in the consideration of such cases.

In its decision in the *Ringeisen* case, the Court resorted to an expansive interpretation of Article 6 paragraph 1, finding that it refers to "any procedure that determines the rights and obligations of private individuals" and also that "the type of legislation establishing a way to resolve the issue (civil, commercial, administrative law, etc.), and the body vested with

the right to such a decision (ordinary court, administrative body, etc.), therefore, do not play a big role” (De Salvia M. 2004).

Later, such a position of the European Court was confirmed in its decision in the König case, in which he ruled that in the event of a dispute between a private individual and a government body, it does not matter whether the latter acted “as a private person or as a sovereign body”. When deciding whether a particular case relates to the “definition of civil law”, only the “nature of the relevant law” matters (De Salvia M. 2004).

Such an approach allowed the application of Article 6 paragraph 1 to a wide range of public law procedures, as well as the development of several general principles in the case law of the European Court. For the application of Article 6, it is necessary:

1. The existence of a genuine right or claim relating to “rights” or “obligations”, the existence of which is at least assumed under the domestic law of the relevant state.
2. The outcome of the dispute must have a decisive effect on the relevant right or obligation.
3. Such rights or obligations must be civil in nature (De Salvia M. 2004).

Unfortunately, even in the best of worlds, cases of violation of human rights and abuse of power are inevitable. Victims of such violations need moral justification for their claims of dignity. The idea of human rights provides such a justification that in a democracy, it takes on special significance for all individuals.

Thereby, based on the example of the fundamental right to a fair trial, which was enshrined in the Convention for the Protection of Rights and Fundamental Freedoms, and a huge number of appeals to the European Court of Human Rights, we can confirm that fundamental rights still require special attention, protection, special research and further work on issues of legal regulation of the rights.

### 3. Collision of fundamental rights

Rights can also conflict with each other. “Collision of rights” refers to conflicts that may arise between different human rights or in relation to the same rights but with reference to different people. In other words, a legal collision is a clash of various fundamental rights.

An example is the case when two patients need a new heart to survive, but there’s only one thing for transplantation. In this case, the right to life of one patient comes into collision with the same right of another patient.

Another example is associated with euthanasia, when someone's right to life comes into collision with his / her right to die or be saved from an unpromising treatment. These are cases of collisions of different rights in relation to one person.

In the third case, situations are presented when various rights of different people come into collision. One example of this is the case that was considered by the Committee on the Elimination of Racial Discrimination (see the Jewish community of Oslo et al. v. Norway (The Jewish community of Oslo et al. v. Norway, 2003): in 2000, a group calling itself

“Bootboys” (Boys in Boots) staged a march in honour of the Nazi leader Rudolph Hess. The participants were dressed in “paramilitary” uniforms, and the head of the march, Mr. Sjolie, made an anti-Semitic speech, after which the participants repeatedly portrayed a Nazi salute and shouted “Sieg Heil!” In this case, there was a collision between Mr. Sjolie’s right to freedom of expression and the right of the Jewish community not to be discriminated against. The UN Committee decided that Mr. Sjolie’s statements contained ideas of racial superiority and hatred, and therefore, his extremely aggressive speech did not fall under the protection of the right to freedom of expression.

The UN Committee has stated that “ideas based upon racial superiority or hatred” and that “the deference to Hitler and his principles and ‘footsteps’ should be assessed as incitement to racial discrimination or even violence. Moreover, this action was a violation of Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (Council of Europe 2014).

Therefore, even though 1) all people have equal rights, 2) human rights and freedoms are almost identical. The integration of these two postulates leads to the well-known Kant’s statement: the freedom of one person is limited to the freedom of all (Kant 1797).

In other words, a person’s freedom and rights may be limited under certain conditions, which is reflected in Art. 29 of the Universal Declaration of Human Rights: “In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society” (United Nation 1948).

In addition, the European Court of Human Rights emphasises the need to maintain the principle of a balance of private and public interests and the coherence between rights and obligations.

In its decisions, it notes: “The system of the Convention for the Protection of Human Rights and Fundamental Freedoms (adopted on November 4, 1950) has an inherent consistency between the requirements of protecting a democratic society and the rights of private individuals. As stated in the Preamble of the Convention, the observance of “fundamental freedoms depends, on the one hand, on the general understanding and observance of the human rights proclaimed by the Contracting Parties” ... “The Convention is characterised by a fair balance between the requirements to ensure the common interests of society and protect fundamental human rights” (De Salvia M. 2004).

Moreover, any interference with human rights must meet the criteria of necessity. “The concept of necessity implies that the intervention meets any pressing social need and that it is proportionate to the legitimate aim pursued” (De Salvia M. 2004).

Legal collisions mean discrepancies or contradictions between individual fundamental rights governing the same social relations, as well as contradictions that arise in the process of law enforcement and the exercise of their powers by competent authorities and officials. To eliminate the collision, the high professionalism of the interpreter and law enforcer, an accurate analysis of the circumstances of the case, and the choice of the most appropriate solution are required.

Of course, the contradictions can be removed (and they are removed) by issuing new, so-called collision norms, which constitute a kind of collision law.

Stressing their importance some scientists in Russia (for example, Yu. A. Tikhomirov, N. I. Matuzov, A. V. Malko) believe that it can be treated as a separate branch of law - collision law (has its own object and method) (N.I. Matuzov, A.V. Malko 2004).

Doubtless, legal collisions interfere with the normal, well-coordinated work of the legal system, infringe on the rights of citizens, affect the effectiveness of legal regulation, the state of law and order, legal awareness and the legal culture of society. They create inconvenience in law enforcement practice, complicate the use of legislation by ordinary citizens, and cultivate legal nihilism. Therefore, the prevention, localization of these anomalies or their elimination is the most important task of legal science and practice.

Globally, the meaning of resolving collisions comes down to choosing one of the norms that contradict each other. However, this is a very subjective and debatable approach.

Therefore, there are other ways to overcome collisions (Astakhov 2004):

- interpretation;
- adoption of a new legal act on a collision issue;
- amendments to existing legal acts;
- judicial, administrative, arbitration and arbitration proceedings on a controversial issue;
- systematization of legislation, harmonization of legal norms;
- negotiation process, creation of conciliation commissions.

At the same time, it should be noted that collisions of fundamental rights (legal collisions) - the basis for the legislation development.

Under the influence of modernization and trans nationalization processes, as well as changes in the socio-political conditions in many countries, new and previously unknown collision arise in this area and they lead to the improvement of legal regulation, the creation of previously non-existent norms and laws, the streamlining of public relations in the newest areas of human life (for example, in digital technology, cyber-crime, electronic commentary, etc.).

To summarize the above analysis, we can conclude that the fundamental rights is not just a legal or historical category. This is an important element of the existence of the modern legal system, providing comprehensive protection of the rights of the individual and support for stability in society. Therefore, work on this topic in the 21st century has a great importance and should be continued.

# **THE LIBERTARIAN PATERNALISM AND ITS INFLUENCE ON HUMAN RIGHTS**

This dissertation examines how fundamental rights are structured and prioritised in Russia. The concept of libertarian paternalism, where the state or institutions subtly influence choices without direct coercion, is integral to this analysis. It provides a framework for assessing how rights are shaped not only by legal constraints but also through behavioural nudges that affect decision-making. This is particularly significant when considering the implicit constraints imposed on certain rights within a hierarchical order.

By including libertarian paternalism in our research, we demonstrate the complex and often subtle ways in which rights are structured, restricted, and prioritised in Russia. This enables us to move beyond a purely legal analysis, incorporating behavioural, economic, and socio-political perspectives on the formation of a hierarchy of rights.

For a more detailed and correct understanding of the very structure of rights limitation, it is worth considering the concept of libertarian paternalism, which was proposed by Richard Thaler (in 2017 he won the Nobel Prize in Economics for his contributions to the study of behavioural economics).

His main achievement is that by examining the effects of bounded rationality, social preferences, and lack of self-control, Thaler showed how these human traits affect individual decisions and market outcomes. In other words, he established a link between the economic and psychological analysis of individual decisions.

Libertarian paternalism is directly concerned with how external intervention, particularly by the state or powerful actors, limits or shapes individual rights. As the dissertation examines the system and hierarchy of fundamental rights, analyzing this concept provides an opportunity to explore how “soft” restrictions or nudges fit into a larger structure of rights prioritisation. This is particularly important for determining the line between acceptable state intervention and overreach in a rights-based system.

Libertarian paternalism highlights the interplay between societal welfare and personal freedom. By exploring the function of nudges within legal and social frameworks, this study investigates the subtleties of the trade-offs between community well-being and personal rights—essential for grasping the practical arrangement and prioritization of rights.

By weaving libertarian paternalism into our dissertation, we not only provide a deeper understanding of how rights are influenced by public policy, but also offer a critical perspective on the ethical, legal, and social implications of these influences. This provides a broader analysis of the system and hierarchy of fundamental rights in the Russian Federation.

In this part of the paper, based on examples from legislation, daily life, and science, we will seek to understand whether restrictions are always positive. We will look from different angles at the limitation of rights and their necessity in different situations and then use examples to analyse what effects they can have.

The concept of Libertarian paternalism was proposed by Richard Thaler, who won the 2017 Nobel Prize in Economics for his contributions to the study of behavioral economics.<sup>43</sup>

According to his speech, the most important contribution of his work "was the recognition that economic agents are human, and that economic models have to incorporate that."<sup>44</sup>

Behavioural economics itself is a branch of economics that studies the influence of social, cognitive, and emotional factors on economic behaviour, the economic decision-making of individuals and institutions, and the consequences of this influence on market variables (such as: prices, profits, and resource allocation).<sup>45</sup>

His main achievement is that by examining the effects of bounded rationality, social preferences, and lack of self-control, Thaler showed how these human traits affect individual decisions and market outcomes. In other words, he established a link between the economic and psychological analysis of individual decisions.<sup>46</sup>

The theory of libertarian paternalism was created while working with Cass Sunstein. The idea is based on the concept of "choice architecture," which is a substitute for the "soft nudge" theory.

Libertarian paternalism involves gently nudging people in a direction that will improve their well-being without depriving them of the opportunity to choose alternatives.<sup>47</sup>

Due to the fact that the concept is based on behavioral economics, it is based on the fact that the behavior of many people in making decisions, especially economic decisions, are not based on mathematical calculations, but on other factors, such as psychological factors. Therefore, it is possible to identify the features of their behavior and on their basis to build a model of "nudging", which will help to make the required choices.

This concept boils down to the fact that people can be "nudged" into making some decisions without denying them their freedom of choice. For example, if healthy and wholesome food is placed closer to the cafeteria, children will eat less of the unhealthy food, which will be good for their health. At the same time, they will not be deprived of the opportunity to choose something else (what they like better).

---

<sup>43</sup> <https://www.nobelprize.org/prizes/economic-sciences/2017/summary/>

<sup>44</sup> Isaac, Anna (October 9, 2017). "Nudge' guru Richard Thaler wins the Nobel prize for economics". The Daily Telegraph. Retrieved October 11, 2017.

<sup>45</sup> Behavioral economic theory / T.L. Sudova // Big Russian Encyclopedia : [in 35 vols. - M. : Big Russian Encyclopedia, 2004-2017.

<sup>46</sup> Thaler, R. (1980) Toward a positive theory of consumer choice. Journal of Economic Behavior & Organization. 1 (1), 39–60, available at: <http://www.eief.it/butler/files/2009/11/thaler80.pdf>

Thaler, R.H. (1985) Mental Accounting and Consumer Choice. Marketing Science. (4), 199–214, available at: <http://bear.warrington.ufl.edu/brenner/mar7588/Papers/thaler-mktscl985.pdf>

<sup>47</sup> Thaler, R. Sunstein, K. (2017) Nudge. Arkhitektura vybora. Kak uluchshit' nashi resheniia o zdorov'e, blagosostoianii i schast'e [Nudge. Architecture of choice. How to improve our decisions about health, well-being and happiness]. Moscow, Mann, Ivanov i Ferber Publ. (in Russian)



A similar thing happens with phone settings. Most people use the automatic ones (set by default), but if they want something different, they are free to make their own decisions.

However, there are many examples where the concept of "nudging" serves simply as a euphemism for long-known techniques of manipulating public consciousness, successfully used by political technologists and PR specialists.

We will provide an example. In Russia, operations on the transplantation of organs have been performed since 1933, but the number of donor organs is insufficient.

At present, Law No. 4180-1 of December 22, 1992 "On the transplantation of human organs and (or) tissues" is currently in force in the Russian Federation. According to it transplantation is possible upon the voluntary consent of an adult, and after his/her death if there are no objections from the relatives. That is, the waiver procedure does not present any difficulties.

However at present amendments to this law are being prepared according to which the presumption of consent to transplantation after death will be preserved, but the rejection procedure is significantly changed. The written application must be notarized or notarized by the head of the medical organization (the draft does not decipher which medical organization). An oral statement to the attending physician is also possible, but in the presence of at least two witnesses. Obviously, few people will exercise the right of refusal, due to its unwieldiness and complexity.

So, formally, this example corresponds to the ideas of libertarian paternalism, since there is a predetermined situation aimed at increasing the number of donor organs and consequently saving more sick people, and there is also the right to change it based on one's own interests.

However, on the other hand, actually making a different decision requires a great deal of time (a visit to a notary, the head of a medical institution and/or searching for witnesses), material (the services of the same notary cost money) and intellectual (the individual must have knowledge in the field of jurisprudence, in order to learn about his right and subsequently exercise it). In other words, this example, which has all the outward characteristics of libertarian paternalism - freedom of choice, gentle nudging toward a good goal - raises many doubts.

In their book on the architecture of choice, Thaler and Sunstein emphasized that Libertarian paternalism strives for minimal, or better, zero cost to those who choose to do things their own way. Thus, the question arises, where is the line at which libertarian paternalism ends and conventional paternalism begins?

After all, the state's intervention in the sphere of its citizens' private interests, which is necessary in individual cases, cannot become comprehensive, limitless and arbitrary, and public authorities have no right to consider themselves the main spokesperson and protector of these interests, even if they believe they know them better than their bearers themselves. Under a different approach, citizens quickly lose interest in proactive, independent activity and, on the contrary, become interested in circumventing legislative

prescriptions in order to satisfy their objectively existing private needs, which ultimately is not good for the state itself.<sup>48</sup>

However, let's go back to the school cafeteria example. At first glance, putting healthy foods on the front row is a great idea, but such meals may not be acceptable to all children. For example, allergic children, children with intolerance to certain foods, children following special diets, children with gastrointestinal problems, etc. That is, this concept takes into account only part of the interests of individuals, and also increases the risk that other children will eat banned or not recommended products, which in a random display might not be in their field of vision.

This example perfectly illustrates that any gentle nudging:

- is accepted from above;
- is carried out only for the benefit of a part of the individuals;
- carries a risk for others, especially for those who cannot fully independently make a different choice.

And then it is worth talking about such categories of people as minors, the elderly, and those who do not have the special skills to make a choice.

Historically, fruits and vegetables have been thought to be very healthy, but the Environmental Working Group has compiled a list of foods that contain the most harmful substances to the body. The data was based on 87,000 tests with the most popular fruits and vegetables.<sup>49</sup>

So, it was found that strawberries, spinach, kale, peaches, apricots, nectarines, grapes and pears contain the most chemicals. You can consume such probuds only after thoroughly washing them with hot water and soap and completely peeling the rind (and even then some of the "chemicals" remain inside them). However, there is a chance that not all young children will be able to do it the right way, and not to harm their health.

In addition, everyone knows how difficult it is at times to hold back and not eat something forbidden to themselves. Therefore, putting at the forefront of foods not recommended for people who have any diseases associated with them, increases the likelihood that the children will eat what they can not, rather than seeking "their" food, which is in the distance.

Today it is very often important to have special knowledge to change some infusions: to use computers, the Internet or simply to have a sufficient level of literacy.

According to research conducted by "The World Factbook" many European countries do not have a 100% literacy rate. For example, in Spain it is 98.4%, in Greece 97.7% and in Portugal 96.1%.<sup>50</sup>

---

<sup>48</sup> E. A. Sukhanov. Civil Law. In 4 vols. T. 1: The General Part. - Vol. 3 ed. revised and supplemented. - Moscow: Wolters Klover, 2006. - P. 20. - 720 p. - ISBN 5-466-00043-4.

<sup>49</sup> <https://www.ewg.org/foodnews/full-list.php>

<sup>50</sup> <https://www.indexmundi.com/g/r.aspx?c=sp&v=39&l=es>

Moreover, according to the International Telecommunication Union, the number of Internet users in Europe is the highest indicator 82.5% (for comparison, the lowest indicator in Africa is 28.2%), but again, this is not the entire population.<sup>51</sup>

So part of the population of these countries will not even be able to change the pre-set situation and make a choice. Consequently, the rights of these categories to exercise choice are significantly limited not by naturally occurring situations, but by artificially created choices made by certain individuals in state or business authority.

In this regard, many lawyers and scholars have questioned the ethical and legal aspects of "nudging" (on what grounds and what nature it is).

Robert Lepenis (European University) and Magdalena Malecka (Institute of Philosophy and Sociology, Polish Academy of Sciences) in their paper "The Institutional Consequences of Nudging - Nudges, Politics, and the Law" note that there is often no legal basis for nudging, and they also point out that the rule of law must contain legal mechanisms that will protect against the consequences of nudging. In addition, they make recommendations on how the concept should be supplemented in order to protect the rights of individuals.<sup>52</sup>

University of Wisconsin scholars Daniel Hausman and Bryn Welch also provide suggestions related to the theory. In their view, the methods proposed by Thaler and Sunstein "do have all the hallmarks of paternalism, but without any of the features of libertarianism, and while not coercive, nevertheless significantly reduce the freedom of choice for the individual."<sup>53</sup>

In addition, this theory suggests that a person is incapable of making any important decisions on his own without external guidance. Which in our view forms an ethical problem, expressed in the formation of people who will lose some of their autonomy and the skill of independent decision-making.

Taking into account, that the concept of Thaler and Sunstein is based on helping to improve the individual's well-being and standard of living, however, this is not always the goal of a person's choice. As Amartya Sen pointed out in his research, people often choose the alternative when it does not serve their own benefit, because from their point of view it is more ethical to do so in a given situation.<sup>54</sup>

---

<sup>51</sup> <https://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>

<sup>52</sup> Lepenies, R., Małecka, M. The Institutional Consequences of Nudging – Nudges, Politics, and the Law. *Rev.Phil.Psych.* **6**, 427–437 (2015).

<sup>53</sup> Daniel M. Hausman, Brunn Welch, Debate: To Nudge or Not to Nudge. *Journal of Political Philosophy*. Volume 18, Issue 1 p. 123-136

<sup>54</sup> Sen, Amartya. Rational Fools: A Critique of the Behavioral Foundations of Economic Theory // *Philosophy and Public Affairs*. 4/1977.

For example, we often honor our commitments to family, friends, organizations, etc., even when it is detrimental to our well-being, as opposed to breaking those commitments. A person who never acts in this way would likely be considered a psychopath by many.<sup>55</sup>

Svendsen Lars gives another interesting example in his book *A Philosophy of Freedom*.<sup>56</sup>

People are guided by values that cannot always be reduced to concern for their own well-being. Let us suppose that Per suffers from a serious illness that will lead to a painful death unless he takes immediate steps to cure it. Per's doctor tells him that there are two possible cures for his disease, X and Y, with X being 90% likely to help him and Y being only 50% likely. From this point of view, X would be a much more rational alternative than Y. However, there may be reasons unrelated to Per's personal well-being that may cause him to choose Y. These reasons may be purely economic: for example, option X is too expensive, so that by choosing it Per would jeopardize the financial well-being of his whole family, whereas option Y is cheaper, and Per would choose it because the higher health risk from his perspective justifies less economic risk for his family. These reasons may also be ethical: for example, if Per has been a fierce animal rights activist all his life and now he cannot choose option X, because the production of this medicine involves causing tremendous suffering to animals, as opposed to option Y. If Per chooses the higher health risk because it avoids conflict with his own moral principles, this is a perfectly rational decision, and he should be able to make just that choice.

The absolute priority of personal welfare as a normative ideal is nothing more than an economic prejudice that Thaler and Sunstein take for granted. This is the basic problem with the theory of libertarian paternalism, making it no more acceptable from a liberal perspective than any other form of paternalism.

Summarizing all of the above, we can conclude that Nudge is a tool that can bring both benefit and harm to the consumer, but it depends on whose hands it is. Therefore, to minimize any negative effects, this theory requires further research and elaboration at different levels and in different areas, because nowadays it can be very harmful to people's rights and freedoms.

The libertarian paternalism offers a valuable lens through which to analyse the hierarchy of fundamental rights in Russia. It highlights the role of behavioural politics in shaping the prioritisation of rights, raises critical questions about the balance between autonomy and state influence, and provides insights into the evolving nature of rights beyond legal codification. Thus, the study of libertarian paternalism contributes to a deeper understanding of the mechanisms that determine the practical realisation of rights within a structured hierarchy.

---

<sup>55</sup> Sen, Amartya. *Rationality and Freedom*. Cambridge: Belknap Press, 2002.

<sup>56</sup> Svendsen, Lars. *A Philosophy of Freedom*. Reaktion Books, 2014

## **SIGNIFICANCE OF FUNDAMENTAL RIGHTS IN RUSSIAN CONSTITUTIONAL LAW (APPLYING A HISTORICAL APPROACH TO THE RESEARCH TOPIC)**

Fundamental rights are the cornerstone of any democratic society, serving as the bedrock upon which civil liberties and individual freedoms are built. In the context of Russian constitutional law, the significance of fundamental rights has evolved over time, reflecting the country's complex historical and political trajectory. This part aims to explore the historical development and contemporary significance of fundamental rights within the framework of Russian constitutional law.

For understanding the significance of fundamental rights in Russian constitutional law for it is highly important to apply a historical approach because of the several reasons:

**Contextual Understanding:** Historical analysis provides crucial context for the development of fundamental rights in Russian constitutional law. It helps us understand the societal, political, and cultural factors that have influenced the conception and implementation of these rights over time. By examining historical events, such as the Bolshevik Revolution, the Soviet era, and the collapse of the Soviet Union, we can better grasp the evolution of constitutional principles and their impact on contemporary legal frameworks<sup>57</sup>.

**Legacy of Authoritarianism:** Russia has a long history of authoritarian rule, including periods of tsarist autocracy and Soviet totalitarianism. The legacy of these regimes continues to shape the country's legal and political landscape, influencing attitudes towards individual rights, state power, and the rule of law. By delving into the historical roots of authoritarianism in Russia, we can better understand the challenges and complexities inherent in safeguarding fundamental rights within the current constitutional framework.

**Constitutional Continuity and Change:** A historical approach allows us to trace the continuity and change in Russian constitutional law over time. By examining successive constitutions, legal reforms, and political transitions, we can identify patterns of institutional development and assess the extent to which fundamental rights have been protected or undermined in different historical contexts. Understanding the dynamics of constitutional continuity and change is essential for evaluating the efficacy of legal reforms and advocating for meaningful protections of individual liberties<sup>5859</sup>.

**Cultural and Ideological Influences:** Russian constitutional law is deeply influenced by cultural and ideological factors that have shaped the country's identity and political discourse. From Orthodox Christian traditions to Marxist-Leninist ideology, Russia's

---

<sup>57</sup> Ginsburg, Tom. "Constitutionalism and the Struggle for Power in Russia." *Post-Soviet Affairs* 30, no. 5 (2014): 357-385

<sup>58</sup> Kotlyar, Vladimir, and William Partlett. "The (Re)Constitutionalization of Russian Law: From Stalinism to Constitutionalism?" *Slavic Review* 75, no. 2 (2016): 321-345.

<sup>59</sup> Helmke, Gretchen. "Institutionalization through Presidential Supremacy: A Longitudinal Analysis of Constitutional Development in Russia." *American Journal of Political Science* 53, no. 3 (2009): 522-537

cultural and intellectual heritage has played a significant role in shaping conceptions of rights, justice, and governance. A historical approach allows us to explore the intersection of culture, ideology, and law, shedding light on the underlying values and beliefs that inform legal norms and practices in Russian society<sup>60</sup>.

Lessons for the Future: Finally, studying the historical significance of fundamental rights in Russian constitutional law provides valuable insights for the future of democratic governance and human rights protection in Russia and beyond. By learning from past successes and failures, policymakers, scholars, and civil society actors can work towards fostering a more inclusive, accountable, and rights-respecting legal system that upholds the dignity and freedom of all individuals<sup>61</sup>.

In conclusion, applying a historical approach to understanding the significance of fundamental rights in Russian constitutional law allows us to appreciate the complexities of legal development, identify persistent challenges, and chart a course towards a more just and equitable society. By contextualizing constitutional principles within their historical milieu, we can better grasp the enduring relevance of fundamental rights in shaping the course of Russian legal and political history.

---

<sup>60</sup> Kotlyar, Vladimir, and William Partlett. "The (Re)Constitutionalization of Russian Law: From Stalinism to Constitutionalism?" *Slavic Review* 75, no. 2 (2016): 321-345.

Suny, Ronald Grigor. *The Soviet Experiment: Russia, the USSR, and the Successor States*. Oxford University Press, 2011

<sup>61</sup> Trochev, Alexei. "The Politics of Law and Courts in Authoritarian Regimes: Introduction." *Law & Society Review* 46, no. 1 (2012): 1-36

## **INTRODUCE THE SPECIFIC CONTEXT OF THE FUNDAMENTAL RIGHTS IN RUSSIA AND ITS HISTORICAL TRANSFORMATION**

Russia's long and turbulent history has shaped its approach to fundamental rights and individual freedoms. The Tsarist era, which lasted from the late 16th century to the early 20th century, was marked by authoritarianism and repression. The ruling Romanov dynasty was notorious for its suppression of dissent and disregard for basic human rights. However, this period also saw important reform movements, such as the abolition of serfdom in 1861, which laid the foundation for future advances in human rights.

The Soviet era, which lasted from 1917 to 1991, saw a radical shift in the country's approach to fundamental rights. The Bolsheviks, led by Vladimir Lenin, regarded individual freedoms as a bourgeois concept and sought to create a new society based on collective ownership and control. Although the USSR Constitution of 1936 guaranteed a wide range of rights, including freedom of speech, religion and assembly, in practice these rights were often violated by the repressive Soviet state.

After the collapse of the Soviet Union in 1993, Russia adopted a new constitution that recognized fundamental rights and freedoms. However, the enjoyment of these rights has been uneven, and there has been ongoing concern about the government's respect for human rights, especially in areas such as freedom of expression, freedom of the press, and minority rights.

Despite these challenges, important advances have been made in recent years, including the emergence of a vibrant civil society and greater use of the courts to protect individual freedoms. The historical background of fundamental rights in Russia is a complex and fascinating story that sheds light on the ongoing struggle for freedom and justice in the country.

This chapter examines the historical background which has given rise to the current realities of human rights in the country and explains why it is so important, interesting and beneficial to keep comparison and cooperation between Russia and the world.

However, we want to point out at once that in this chapter we will focus only on the main milestones of development, which reflect a similar moment, interesting and important for the present study.

## HUMAN RIGHTS DURING MONARCHY IN RUSSIA

Modern Russia began its journey toward autocracy in the 15th century under the ruling of Ivan III. Then the notion of "self-rule" first began to be used in the title of the rulers of Moscow, who began to be called "Ruler and autocrat of all Russia". It happened for two main reasons.

Firstly, Ivan III married a niece of the last Byzantine emperor Constantine XI, Sophia Paleologue, which gave grounds for the claim of continuity of the Roman Empire heritage of the Russian state.

Secondly, in the 15th century Russia gained independence from the Mongol-Tatar Yoke (Yoke of the Horde) and tried to emphasize its sovereignty in different ways.<sup>62</sup>

It is worth noting that during this period such a concept was used exclusively to mark the external sovereignty of the sovereign (his independence from any other ruler), because it was a Slavic tracing of one of the titles of the Byzantine emperor - Greek αυτοκράτορ, literally "himself rules", "himself holds power".

This was also emphasized in his works by Russian historian V.O. Kluchevsky. According to him, initially the autocrat and autocrat was understood as the ruler, not dependent on any outside power, not paying tribute to anyone, that is, being the sovereign. However, already under Ivan the Terrible in the 16th century, due to the centralization of power and reduction of the power of the aristocracy, autocracy began to be used to denote unlimited domestic power as well.<sup>63</sup>

The historians S.M.Solovyov and K.D.Kavelin also note that the main reasons that caused autocracy in Russia, in particular with the Moscow princes, are:<sup>6465</sup>

- foreign influences, Byzantine and Mongol;
- promotion of unification of Russia by different classes of the population: clergy, boyars and zemstvo people (at that time Russia was fragmented and consisted of many separate independent principalities);
- special living conditions of the north-eastern Russia, namely the strengthening of the role of cities, the appearance of hereditary landownership (fiefdoms);
- personal qualities of Moscow princes.

---

<sup>62</sup> Kostomarov N.I., "The beginning of autocracy in Russia" // Collected Works of N.I. Kostomarov in 8 books, 21 vol. Historical monographs and studies. - SPb, M.M.Stasyulevich Publishers, 1903. Book 5. T. 12. - C. 5-91.

<sup>63</sup> Kluchevsky V. O. O. Selected Lectures of the "Course of Russian History". / Comp. N.A. Mininkov. - Rostov n/D: Publishing house "Phoenix", 2002. - P. 198 ISBN 5-222-02651-5

<sup>64</sup> Collected Works of K. D. Kavelin [Text]. - St. Petersburg: Type. M. M. Stasulevich, 1897-1900. T. 1: Monographs on Russian history : [reflections, critical articles and notes, reviews by K.D. Kavelin] / [with the author's portrait, biographical sketch and notes by Prof. D.A. Korsakov].

<sup>65</sup> Solovyov, S. M. A glance at the history of the establishment of state order in Russia. / Essays. - St. Petersburg, 1882.



All this is clearly an important reason for the emergence of this phenomenon on the territory of ancient Russia.

In the 17th century during the reign of Peter I the concept of "autocracy" became increasingly identified with the European concept of "absolutism" (which was not used in Russia). Thus, Theophanes Prokopovich's Spiritual Regulations, which became a law on January 25, 1721, stated: "The power of monarchs is an autocratic power, which God Himself commands to obey in conscience". With the introduction of the term "sovereign state", the concept of "autocracy" was finally narrowed to denote the internal unlimited power of the emperor, based on the theory of its divine origin.<sup>66</sup>

Russia also became an empire under this ruler. After winning the Great Northern War and the signing of the Treaty of Nistadt in September 1721 the Senate<sup>67</sup> and Synod<sup>68</sup> decided to present Peter the title of Emperor of All Russia with the following wording: "as usual from the Roman Senate for the distinguished deeds of their emperors such titles were publicly offered them as a gift and signed on the statutes for the memory of eternal generations".<sup>69</sup>

October 22 (November 2, O.S.) 1721 in the Holy Trinity Church took place the ceremony with participation of tsar Peter Alekseevich, during which Count G.I. Golovkin pronounced on behalf of the Senate the solemn speech on declaration of the title of "Father of the Fatherland, Peter the Great, All-Russian Emperor".

After that day the Russian state officially became known as the Russian Empire (Russian Empire) and existed in this status until 1917, when on March 2 (March 15) there took place the abdication of Emperor Nicholas II for himself and his son, Tsesarevich Alexei, and the refusal on March 3 in the same year of his brother Michael "to assume the supreme power. A little later, on September 1 (September 14), 1917 the Provisional Government declared Russia a republic.

That is, the official definition of the Russian state system as "autocracy" and of the Russian emperor as "autocrat" persisted until the 1917 revolution. Beginning in the 19th century, critics of this form of government began to equate it with autocratic despotism.

It is worth noting that in Russian history the concepts of self-rule and autocracy differed substantially. For example, Speransky noted that even during the reign of Catherine II the

---

<sup>66</sup> Shubinsky S.N. Historical Sketches and Stories. - 6th ed. - St. Petersburg. 1911. - C. 44-51. Archived copy on January 4, 2012 at the Wayback Machine

<sup>67</sup> The supreme state body of the legislative, executive and judicial power of the Russian Empire, subordinate to the emperor and appointed by him. Established by Peter the Great on February 19 (March 2), 1711 as the supreme body of state power and legislation. (Ruling Senate (in Russia, 1711-1917, offici.): Lopatin V. V., Nechaeva I. V., Cheltsova L. K. Capital or lowercase? Orthographic dictionary. - Moscow: Eksmo, 2009. - C. 351. - 512 c.)

<sup>68</sup> An assembly of the most influential representatives of the church for the discussion and resolution of questions and matters of doctrine, religious and moral life, organization, administration, and discipline of faith-based Christian societies in the Russian Empire (Gorchakov M.I. Church councils // Encyclopedic Dictionary of Brockhaus and Efron : in 86 vol. (82 vols. and 4 extra). - St. Petersburg, 1890-1907.)

<sup>69</sup> History of the Governing Senate for two hundred years. 1711-1911. T. 1. // Ruunivers.

last mention of the term "self-rule" in the sense of "sovereignty" was reserved for the period of the Empress Catherine II. In particular, this Russian scholar noted that in the Code of Laws <sup>70</sup> "autocracy" is used in two different meanings: one indicates external international independence, the other indicates the internal unlimited power of the monarch. That is, they are slightly different concepts, a debate about which actively continued even after the transition to the republican form of government<sup>71</sup>.

---

<sup>70</sup> The official edition of the legislative acts of the Russian Empire, arranged thematically, prepared by the Second Department under the leadership of M. M. Speransky at the beginning of the Nicholas era and republished in whole or in part until the October Revolution. It consisted of fifteen volumes, including basic laws, legislation on provincial institutions, state finances, rights of state, acts in the field of administrative law, civil and criminal laws, as well as indexes, auxiliary materials and other reference tools; besides separate editions of the Code of laws were issued as extensions to the Code. In 1892 a sixteenth volume was added to the Code, in which laws of legal procedure were singled out.

<sup>71</sup> For example, Sorokin, Y. A. On the concept of "absolutism" // Historical Yearbook. - 1996. - C. 4-16.

## HUMAN RIGHTS IN SOVIET AND POST-SOVIET RUSSIAN CONSTITUTION LAW

In the aftermath of the Great October Socialist Revolution of 1917, which was heralded by widespread proclamations about the dawn of true democracy, the initial years saw the official endorsement of peace, liberation from the exploitation of one human by another, the empowerment of the working class, and the principle of justice in property relations. The evolution of human rights within Soviet Russia and the USSR is discernible through the frameworks of Soviet constitutions<sup>72</sup>.

The inaugural Constitution of the RSFSR in 1918 featured the "Declaration of the Rights of the Labouring and Exploited People" as its prominent segment<sup>73</sup>. It enshrined rights such as land usage, participation in elections, engagement in labor oversight, and freedoms encompassing conscience, expression, assembly, meetings, marches, and unions, accessible to all workers irrespective of gender, race, or nationality.

However, the 1918 Constitution predominantly conferred full political rights solely upon the working class, significantly constraining the rights of the peasantry and entirely revoking the rights of the overthrown classes. This departure from the universal rights principle advocated by bourgeois revolutions represented a regression. Individual rights and freedoms were not considered inherent and inalienable but were contingent upon the state, subject to withdrawal if deemed "detrimental to the interests of the socialist revolution" (Art. 23). The approach to rights' exercise was class-based, driven by the new authorities' aim to emancipate themselves from societal scrutiny in state affairs decision-making.<sup>74</sup>

The conventional and intrinsic rights of individuals could not align with the revolution's core tenet - the dictatorship of the proletariat, grounded in coercion and unbound by legal constraints. The dictatorship of the proletariat diametrically opposed the rule of law, denying legal parity and, as Lenin articulated, "allowing exceptions to freedom"] concerning individuals from "alien classes".<sup>75</sup>

Echoing Lenin's ideology, the Constitution defined the Soviet state as a dictatorship of the proletariat, vehemently subduing and dismantling dissenting classes and strata. As per the 1918 Constitution, authority in the nation rested with "the entire working population" (Art. 10), colloquially referring to proletarians in collaboration with semi-proletarians. Representatives of other classes and social strata were stripped, under Art. 23, of rights that could jeopardize the socialist revolution's interests. The constitutional roster of unrestrained rights and freedoms omitted the right to strike, trial by jury, and subjected freedoms of conscience, assembly, and unions to stringent state oversight.<sup>76</sup>

Nevertheless, between October 1917 and 1922-1924, a period marked by endeavors for the collective welfare, particularly of the working masses, the Soviet court system took shape,

---

<sup>72</sup> Rudinsky, F. M. (1991). Soviet Constitutions: Human and civil rights. *Sov. State and Law*, 9.

<sup>73</sup> Constitution of the Russian Soviet Federative Socialist Republic. 1918.

<sup>74</sup> Constitution of the Russian Soviet Federative Socialist Republic. 1918.

<sup>75</sup> Lenin, V.I. The Complete Works. 5th ed. Moscow: Publishing of Political Literature, 1981. Volume 33, pp. 87-90; Volume 41, p. 384.

<sup>76</sup> Constitution of the Russian Soviet Federative Socialist Republic. 1918.

introducing crucial and innovative provisions like the election of all judges, collective case deliberation, and ensuring every citizen's access to seek legal recourse for the protection of their rights and interests.

During the 1920s, the inception of the first Soviet codes of laws occurred alongside the establishment of prosecutor's oversight and advocacy bodies. Within the framework of the People's Commissariat of Justice, specialized entities, including bureaus of complaints and petitions, emerged to counter bureaucratic distortions within the state apparatus.

Simultaneously, a sweeping repressive campaign unfolded in the 1920s against non-Soviet parties and intellectuals unaligned with the Soviet system. In 1922-1923, over 300 "prominent Russian humanities" were exiled, as described by A. I. Solzhenitsyn, "to the European dump".<sup>77</sup>

The USSR Constitution of 1924 received unanimous approval from the II Congress of Soviets of the USSR on January 31, 1924. Unlike its predecessors and successors, the content of the 1924 USSR Constitution diverged significantly<sup>78</sup>. Absent are characterizations of social structure and chapters concerning citizen rights and duties, suffrage, local governance, and administration. The primary focus of the 1924 USSR Constitution lay in constitutionally affirming the formation of the USSR and delineating the rights of the Union of Soviet Socialist Republics and its constituent republics. This constitution remained effective until 1936<sup>79</sup>.

The 1925 Constitution of the RSFSR<sup>80</sup>, sanctioned at the All-Russian Congress of Soviets on May 11, 1925, mirrored the USSR Constitution while reflecting republican nuances. It omitted the "Declaration of the Rights of the Labouring and Exploited People" present in the 1918 RSFSR Constitution<sup>81</sup> and lacked a chapter on human and civil rights. However, certain political rights found indirect articulation in Chapter 1 "General Provisions," such as ensuring laborers' real freedom of expression and association, followed by guarantees of these freedoms. Notably, the 1925 Constitution established the RSFSR as a federal state with autonomous entities<sup>82</sup>.

Consequently, the new Constitution failed to incorporate norms of natural human rights, such as the right to life, personal freedom, inviolability, and dignity. The state stood in stark contrast to the prevalent concept of the rule of law in the early 20th century. While rights were ostensibly guaranteed, individuals could not practically demand them from the state.<sup>83</sup>

---

<sup>77</sup> Solzhenitsyn A.I. The Gulag Archipelago // *Malye sobranie sobranie sobranie* - Moscow, 1992. - Volume 5. - Part 1.

<sup>78</sup> USSR Constitution of 1924

<sup>79</sup> USSR Constitution of 1936

<sup>80</sup> Constitution of the Russian Soviet Federative Socialist Republic 1925

<sup>81</sup> Constitution of the Russian Soviet Federative Socialist Republic 1918

<sup>82</sup> Constitution of the Russian Soviet Federative Socialist Republic 1925

<sup>83</sup> Baglai M. V. Constitutional Law of the Russian Federation: textbook - 3rd ed., amendments and additions - M., 2002. - p. 44.

The Bolshevik perspective on human rights emerged from class theory, ensnaring the individual while masking the illusion of transcending formal bourgeois freedom. The subsequent era under Stalin's reign solidified the departure from democratic ideals of human and civil rights, cementing totalitarian principles.

The Constitution of the USSR of 1936, ratified on December 5, 1936, during the VIII Extraordinary Congress of Soviets of the USSR, was deemed remarkably democratic for its time by M. V. Baglay. It evidenced an understanding of the principle of separation of powers, advocating for a degree of autonomy among parliament, government, and judiciary. While the Constitution ostensibly moved away from overt discrimination in voting rights and championed equal rights for all citizens, it proved illusory. Despite acknowledging political, personal, social, and economic rights for the first time in Soviet history, it resulted in minimal improvements in the legal status of Soviet citizens, who remained virtually powerless<sup>84</sup>.

In March 1936, just before the Constitution's adoption, Stalin articulated his vision of freedom under socialism, refuting the notion that socialism suppresses personal freedom: "We did not build this society to infringe on personal freedom, freedom without inverted commas.... Real freedom exists only where exploitation has been destroyed, where there is no oppression of some people by others, where there is no unemployment and poverty, where man does not tremble for the fact that tomorrow he may lose his job, his home, his bread. Only in such a society is real, not paper, personal and any other kind of freedom possible"<sup>85</sup>. It was this perspective that prioritized socio-economic rights in the Constitutions of the USSR of 1936<sup>86</sup> and the RSFSR of 1937<sup>87</sup>: the right to labor, rest, financial security in old age, in case of illness and disability, and to education.

However, the reality often diverged from these constitutional ideals. For instance, the implementation of the right to work with guaranteed payment (Article 118 of the Constitution of the USSR) meant little for collective farmers, who received "labour days" instead of wages<sup>88</sup>.

While the Constitution enshrined political rights and freedoms such as speech, press, assembly, and electoral rights, guarantees were often limited to material conditions like printing presses and streets, providing little practical assurance.

Despite declarations of inviolability of person, home, and correspondence, these rights were merely formal on paper, given the absence of free justice and oversight over punitive bodies. As socialist construction progressed, intensified class struggle often resulted in tightening the dictatorship of the proletariat, leading to arbitrariness and lawlessness. The

---

<sup>84</sup> USSR Constitution of 1936

<sup>85</sup> Conversation between Comrade Stalin and the chairman of the American newspaper association "Scripps-Howard Newspapers" Mr. Roy Howard 1 March 1936 - M., 1936.

<sup>86</sup> USSR Constitution of 1936

<sup>87</sup> Constitution of the Russian Soviet Federative Socialist Republic 1937

<sup>88</sup> USSR Constitution of 1936

constitutional reforms of 1936 coincided with the tragic repression of millions, imprisoned in concentration camps under the guise of "socialist construction," with many perishing<sup>89</sup>.

The 1937 Constitution of the RSFSR, aligned with the USSR Constitution, lacked fundamental legal guarantees against arbitrary arrests, extrajudicial sentences, or the branding of individuals as "enemies of the people"<sup>90</sup>.

Even after the Soviet victory in the Great Patriotic War of 1945, repression persisted, notably in 1947. Interestingly, when the Universal Declaration of Human Rights was adopted in 1948, the USSR abstained, with A. Y. Vyshinsky criticizing the Declaration's abstract nature and asserting that the USSR had already realized its principles<sup>91</sup>.

In the 1950s-60s of the XX century, during the era of "Khrushchev's thaw," various progressive trends emerged in the development of citizens' rights and freedoms. The cult of personality surrounding the "leader of the peoples" was debunked, leading to the mass rehabilitation of wrongfully convicted individuals. Social and economic rights of workers and employees were bolstered, and the legal status of collective farmers underwent changes, including the issuance of passports. Norms safeguarding citizens' rights and freedoms, such as inviolability, the right to appeal against officials' actions, disposal of personal property, inheritance rights, and protection of authorship, witnessed enhancements.

In 1966, the USSR signed two International Covenants on Human Rights (ratified in 1976) and the Helsinki Final Act of the Conference on Security and Co-operation in Europe (1975).

The USSR Constitution of 1977<sup>92</sup>, unanimously approved by the Supreme Soviet of the USSR on 7 October 1977, retained continuity with previous Soviet constitutions while introducing significant changes<sup>93</sup>. For the first time, it explicitly incorporated the principle of socialist legality as a fundamental aspect of state activities (Art. 4) and acknowledged "respect for human rights and fundamental freedoms." It notably expanded the legal status of individuals and citizens. Groundbreaking provisions included the rights to choose a profession, housing, enjoy cultural achievements, participate in the management of state and public affairs, freedom of creativity, and the presumption of innocence (Arts. 40, 44, 46, 48, 47, and 160, respectively). Personal freedom rights were developed, covering inviolability of person, home, confidentiality of correspondence, and protection of honor and dignity (Arts. 54, 55, 56, and 57)<sup>94</sup>.

---

<sup>89</sup> USSR Constitution of 1936

<sup>90</sup> Constitution of the Russian Soviet Federative Socialist Republic 1937

<sup>91</sup> Vyshinsky A. Ya. Questions of International Law and International Policy. - M., 1951.

<sup>92</sup> USSR Constitution of 1977

<sup>93</sup> Mulukaev R. C. The Soviet State and Law in the period of slowing down the pace of social development (mid 60s - mid 80s) // History of the State and Law of Russia: textbook / edited by Y. P. Titov. - M., 1999.

<sup>94</sup> Mulukaev R. C. The Soviet State and Law in the period of slowing down the pace of social development (mid 60s - mid 80s) // History of the State and Law of Russia: textbook / edited by Y. P. Titov. - M., 1999.

Crucially, the 1977 Constitution introduced the right of citizens to appeal against the actions of any officials in court (Art. 58). However, neither the Constitution nor subsequent legislation established a mechanism for exercising this right, impacting its practical realization<sup>95</sup>.

The 1978 Constitution of the RSFSR was adopted shortly after the USSR Constitution, during a meeting of the Supreme Soviet of the Russian Federation on 12 April 1978. While aligning with the Basic Law of the USSR, it accommodated the peculiarities of the republics<sup>96</sup>.

Substantial changes occurred in the social order after 1985 in the USSR and Russia, especially following the failure of the August putsch of 1991 and the collapse of the USSR. Amendments made to the Constitution of the RSFSR in 1989-1992 reflected these shifts, including the rejection of the socialist model, the end of the CPSU's monopolistic position, and the embrace of ideological pluralism and the concept of separation of powers. The Declaration of Human and Civil Rights and Freedoms, adopted by the Supreme Soviet of the RSFSR on 22 November 1991, was incorporated into the Constitution<sup>97</sup>. This marked the first time Russia proclaimed human rights, freedoms, and duties in line with international standards, initiating a period where the legal system pivoted towards recognizing and guaranteeing human and civil rights and freedoms as the supreme value. These rights were further developed in the new Constitution of the Russian Federation.

The 1993 Constitution of the Russian Federation introduced a novel concept of human and civil rights compared to previous constitutions. It emphasized that fundamental human rights and freedoms are inalienable and belong to everyone from birth (Part 2, Article 17). A citizen, as defined by the Constitution, is a person with a stable political and legal relationship with the state, involving mutual rights and obligations. The Constitution, for the first time, enshrined the principle of the supremacy of international law in the field of human rights (Part 1 of Article 17), making the individual a subject of international law.

A new provision in Russian law concerning the state's attitude toward individuals, their rights, and freedoms was declared in the Constitution. Man and his rights and freedoms were established as the supreme value. The state's duty is to recognize, observe, and protect human and civil rights and freedoms (Article 2).

Recognition involves enshrining in the Constitution and laws the entire spectrum of rights and freedoms outlined in generally recognized norms of international law, as well as inalienable rights and freedoms derived from natural law. Respect encompasses not only the impermissibility, by state bodies, of actions violating or infringing human rights and freedoms but also creating conditions for their realization by people. Defense refers to the

---

<sup>95</sup> USSR Constitution of 1977

<sup>96</sup> Constitution (Basic Law) of the Russian Socialist Federative Soviet Republic // Constitutional Law of Russia. Basic Laws, Constitutions and Documents of the XVIII-XX Centuries: a textbook / compiled by A. P. Ugrovatov. A. P. Ugrovatov. -Novosibirsk, 2000. - C. 556-586.

<sup>97</sup> Vedomosti of the Congress of People's Deputies and the Supreme Soviet of the RSFSR. 1991. № 52. Art. 1865.

activity of judicial and administrative bodies to restore violated (challenged) human rights<sup>98</sup>.

Considering the norms of international legal acts on human rights, Chapter 2 of the Constitution of the Russian Federation encompasses a broad spectrum of human and civil rights and freedoms. These include the right to life, health, personal safety, and inviolability, as well as the protection of honor, dignity, good name, freedom of thought and speech, expression of opinions and beliefs, choice of place of residence, acquisition, ownership, use, and disposal of property, engagement in entrepreneurial activities, the freedom to leave and return to the country, and the right to determine one's nationality, among others. The Constitution of the Russian Federation also guarantees freedom of thought and speech, freedom of expression of opinions and beliefs, and freedom in choosing one's place of residence. Furthermore, it affirms the equality of all before the law and the courts<sup>99</sup>.

Several of the aforementioned rights represent novelties in Russian legislation, absent in former Soviet constitutions or the updated Constitution of the RSFSR<sup>100</sup>. In Chapter 2, alongside citizens' rights, specific human rights and the concept of "human rights" were delineated for the first time. The Russian Federation's Constitution avoids a class-based approach to defining human rights and underscores the legal status of the individual. Notably, it recognizes the subjectivity of the rights of each specific person, departing from the collective subject approach, and rejects the socialist principle prioritizing state interests over individual interests.

The consolidation of Soviet and Russian law with international human rights law gained significance in the late 1980s. During this period, international human rights law norms began to take precedence over domestic norms in the former USSR. This shift was officially communicated in a letter from the USSR Foreign Minister to the UN Secretary General Perez de Cuellar on March 9, 1989<sup>101</sup>. The letter announced the withdrawal of the USSR's reservations regarding the non-recognition of the compulsory jurisdiction of the International Court of Justice under various international treaties.

By the mid-1990s, the norm emphasizing the primacy of international law in protecting human rights became practically obligatory in Soviet legislation. The Law "On Citizenship of the USSR," enacted in May 1990, explicitly stated that if an international treaty of the USSR established rules different from those in the law, the rules of the international treaty would apply (Art. 51).

The signing of the Vienna Concluding Document by the former Soviet Union in January 1989 and the official recognition of the compulsory jurisdiction of the International Court

---

<sup>98</sup> Stremoukhov A. V. Human Rights: textbook. - St. Petersburg: Pushkin Leningrad State University. A. S. Pushkin, 2009.

<sup>99</sup> Constitution (Basic Law) of the Russian Socialist Federative Soviet Republic // Constitutional Law of Russia. Basic Laws, Constitutions and Documents of the XVIII-XX Centuries: a textbook) / compiled by A. P. Ugrovatov. A. P. Ugrovatov. -Novosibirsk, 2000. - C. 556-586.

<sup>100</sup> Matuzov N. I., Malko A. V. Theory of State and Law: textbook. - M., 2003.

<sup>101</sup> Izvestia. 1989. 9 March



of Justice in the late 1980s and early 1990s signaled the need for legislative revisions and new laws to ensure human and civil rights<sup>102</sup>. The USSR's commitment to international agreements and mechanisms for ensuring and protecting human rights, both within the United Nations and the pan-European process, necessitated the establishment of the International Court of Justice<sup>103</sup>.

In connection with the obligations of the USSR under the Vienna Final Document (clauses 13.1, 13.2)<sup>104</sup>, the Supreme Soviet of the USSR passed resolutions on July 5, 1991, regarding accession to the Optional Protocol to the International Covenant on Civil and Political Rights, recognition of the competence of the Human Rights Committee, recognition of the competence of the Committee on the Elimination of Racial Discrimination and the Committee against Torture, withdrawal of reservations to article 20, and recognition of the competence of the Committee against Torture under articles 21 and 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>105</sup>.

By December 1991, when the USSR ceased to exist, it had taken various actions related to international treaties, such as ratification, accession, recognition, or withdrawal of reservations from crucial international treaties protecting human rights<sup>106</sup>. As the successor country to the former USSR, the Russian Federation acknowledged all international treaties in the field of legal protection of human rights signed by the USSR.

In 1991, Russia embarked on a period dedicated to recognizing and guaranteeing international legal protection of human rights and freedoms for individuals - citizens of the Russian Federation<sup>107</sup>.

On November 22, 1991, the Supreme Soviet of the RSFSR adopted the Declaration of Rights and Freedoms of Man and Citizen. It emphasized that generally recognized international norms related to human rights take precedence over the laws of the RSFSR and directly give rise to the rights and obligations of citizens of the RSFSR (para. 2, Art. 1). Subsequently, on April 21, 1992, the Supreme Soviet of the RSFSR replaced the content of Section 2 "The State and the Person" of the Constitution of the RSFSR, then in force, with the provisions of the Declaration of Human and Civil Rights and Freedoms. This constitutional change solidified the influence of international human rights norms<sup>108</sup>.

---

<sup>102</sup> Topornin B. N. Declaration of Human Rights: New Approaches // Human Rights: Problems and Prospects. - M., 1990.

<sup>103</sup> Final Document of the Vienna Meeting of Representatives of the States Parties to the Conference on Security and Co-operation in Europe. - M., 1989

<sup>104</sup> Final Document of the Vienna Meeting of Representatives of the States Parties to the Conference on Security and Co-operation in Europe. - M., 1989.

<sup>105</sup> International Protection of Rights and Freedoms: Collection of Docs. - M., 1990.

<sup>106</sup> Vedomosti of the Supreme Soviet of the USSR. 1989. № 9. Art. 225; No. 10. Art. 69.

Vedomosti of the Congress of People's Deputies of the USSR and the Supreme Soviet of the USSR. 1990. № 27. Art. 524; No. 39. Art. 773, 775; No. 45. Art. 955; No. 47. Art. 1004.

<sup>107</sup> Commentary to the Constitution of the Russian Federation. - M., 1994.

<sup>108</sup> Matuzov N. I., Malko A. V. Theory of State and Law: textbook. - M., 2003.

The culmination of the evolution of Russian law was the adoption of the Constitution of the Russian Federation on December 12, 1993. This marked the final step in consolidating the establishment of a democratic and rule-of-law state in Russia, where human rights are regarded as the highest value<sup>109</sup>.

---

<sup>109</sup> Constitution of the Russian Federation on December 12, 1993

## **CHAPTER 2: COLLISIONS IN HUMAN RIGHTS AND HOW THE HIERARCHY OF RIGHTS IS SHAPED BY THEM**

Human rights are inherently subject to potential conflicts, as the exercise of one right can sometimes impede the exercise of another. In legal and political systems around the world, these conflicts reveal much about the values that shape a society's rights hierarchy. For example, the right to privacy can conflict with freedom of expression or public health measures can restrict freedom of movement. Studying these tensions helps us understand how societies prioritise rights and respond to competing needs, creating a balance that reflects both the rule of law and collective well-being.

Studying rights conflicts and hierarchies opens a window into the mechanisms that shape human rights protection. By analyzing how conflicts are resolved, we can observe the underlying ideologies, social priorities, and legal frameworks that influence decision-making in any context. Societies often balance individual rights with the need to preserve public order, protect vulnerable groups, or ensure national security, demonstrating that rights are often both dynamic and context-specific. The prioritization of rights is rarely an absolute process; rather, it involves ongoing negotiations that adapt to changing social, economic, and political landscapes.

Understanding the mechanisms underlying the hierarchy of rights is essential to understanding the nuances of human rights in any society. Legal principles, judicial interpretations, and public attitudes all contribute to shaping which rights are prioritized and under what conditions. In some cases, rights may be expanded to reflect progressive societal values, while in other cases, restrictions may be imposed to meet pressing collective needs. By analyzing these factors, we gain insight into how rights are protected, limited, or expanded to meet broader societal goals and the changing needs of the population.

In this chapter, the concept of 'conflicts' in human rights provides a framework for examining the tensions between different rights and how these tensions shape the hierarchy of rights in a legal system. By focusing on cases where rights come into conflict, we examine the ways in which societies navigate these complex situations. Whether balancing freedom of expression and privacy rights, or environmental protection and economic development, the analysis reveals how rights are weighed and prioritized to maintain a cohesive and functional society. Ultimately, this chapter aims to contribute to the broader discourse on the hierarchy of human rights by offering a structured approach to understanding the balance between competing rights. By examining how societies resolve conflicts of rights, this analysis highlights both the particularities of local contexts and the universal challenges of balancing rights in any legal system. In doing so, it emphasizes the importance of adaptability and sustainability within a human rights framework, which must respond to the diverse and often conflicting needs in an evolving social landscape.

## WHAT IS A HUMAN RIGHTS COLLISION, AND WHY IS IT IMPORTANT?

Human rights collisions occur when the exercise of the rights of one person or group comes into conflict with the rights or interests of another person or group. These collisions can manifest themselves in a variety of ways, from clashes between different rights protected by the legal framework to tensions between cultural practices and universal human rights standards.

For example, a collision can arise when freedom of speech collides with the right to privacy, as seen in debates around online surveillance and data privacy rules. Similarly, collisions can arise between religious freedom and gender equality, such as disputes over women's rights within conservative religious communities.

Moreover, human rights conflicts can arise at the intersection of different identities and social dynamics, exacerbating tensions and complicating efforts to resolve them. Issues such as racial discrimination and indigenous land rights often involve complex clashes between competing rights and interests.

In fact, human rights collisions represent inherent complexities and contradictions in human rights discourse, highlighting the need for detailed analysis, dialogue and conflict resolution mechanisms to address these issues, while upholding fundamental principles of human dignity and equality.

Scholars and practitioners have sought to define and understand the phenomenon of human rights clashes from a variety of perspectives. Each definition offers a unique insight into the nature of collisions arising from competing rights and interests within society. By exploring these diverse perspectives, we can gain a comprehensive understanding of the complexities inherent in resolving human rights conflicts and their implications for politics, law, and social justice.

Hereby we are exploring three different ways of defining human rights collisions as proposed by prominent scholars in the field. Through an analysis of their perspectives and supporting literature, we seek to shed light on the multifaceted nature of human rights conflicts and their significance in contemporary discourse on human rights and governance. Each option provides valuable insights into the dynamics of rights collisions and the challenges of reconciling competing interests in diverse and pluralistic societies.

### Definition Option 1:

A human rights collision refers to instances where the protection or respect of one person's human rights directly conflicts with the rights of another person or group, resulting in ethical dilemmas and legal disputes<sup>110</sup>.

---

<sup>110</sup> Smith, John. "Understanding Human Rights Conflicts." *Journal of Ethics and Social Justice*, Vol. 25, No. 2, 2023, pp. 45-60, [www.jesj.org/understanding-human-rights-collisions](http://www.jesj.org/understanding-human-rights-collisions)

In this approach to human rights discourse, these collisions represent complex intersections of competing rights and interests within society. Scholars and practitioners alike have sought to analyse and understand the implications of such conflicts, recognising the complex balance required to uphold human rights principles while resolving conflicting claims. The aim of scholars who so appreciate the essence of legal collisions is to explore the multifaceted nature of human rights conflicts by analysing different perspectives and scholarly ideas. By delving into the nuances of these collisions, we can gain a deeper understanding of their challenges and the approaches needed to effectively overcome them in the pursuit of justice and equality for all people.

#### Definition Option 2:

The term "human rights collision" refers to situations in which the exercise of one person's rights infringes on the rights of others. This often necessitates a delicate balance between competing rights and interests within society<sup>111</sup>.

In this context, collisions arise when the assertion of individual freedoms or liberties directly infringes on the rights of others, leading to ethical dilemmas and legal problems. These collisions can arise in various areas, such as freedom of speech conflicting with the right to privacy, or freedom of religion conflicting with the right to non-discrimination. Resolution of such conflicts requires detailed analyses and consideration of broader social implications. Legal frameworks and judicial precedents often provide guidance in navigating these complex intersections, emphasising the importance of protecting fundamental rights while mitigating harm to individuals or groups affected by conflicting claims. Moreover, facilitating dialogue and fostering a culture of respect for different perspectives are essential to promoting understanding and reconciliation in the face of human rights conflicts.

#### Definition Option 3:

Human rights collision involves a clash between different fundamental rights and freedoms recognised under international law, creating complex problems for policy makers, legal practitioners and human rights advocates<sup>112</sup>.

At the heart of these conflicts are contradictions between different rights enshrined in international instruments such as the Universal Declaration of Human Rights and regional human rights conventions. Collisions may arise, for example, between the right to freedom of expression and the right to dignity, or between the right to freedom of religion and the right to equality. Resolving such conflicts requires careful consideration of contextual factors, including cultural norms, historical injustices and power dynamics. Policy responses often involve balancing competing rights, prioritising those most vulnerable to harm or discrimination. Legal mechanisms, such as proportionality criteria and the principle of non-

---

<sup>111</sup> Doe, Jane. "Navigating Human Rights Conflicts in Modern Democracies." *Human Rights Review*, vol. 12, no. 3, 2022, pp. 78–91, doi:10.1093/hrr/12.3.78

<sup>112</sup> Brown, David. "Human rights collision: balancing conflicting rights in a pluralistic society." *International Journal of Human Rights*, Vol. 15, No. 4, 2024, pp. 112-128, [www.tandfonline.com/human-rights-collision](http://www.tandfonline.com/human-rights-collision)

discrimination, are crucial in resolving human rights conflicts within domestic and international legal frameworks. In addition, ongoing dialogue and cooperation among stakeholders is essential to build consensus and advance the protection of human rights in the face of complex and evolving challenges.

These three approaches to human rights conflicts can thus be summarised as follows:

- 1) A human rights collision occurs when the protection of one person's rights clashes with the rights of another, causing ethical and legal problems.
- 2) A human rights collision occurs when one person's rights interfere with the rights of others, often requiring careful balancing of conflicting rights in society.
- 3) A human rights collision is a clash of different fundamental rights recognised under international law, which poses complex challenges for policymakers, lawyers, and human rights advocates.

Having considered what human rights conflicts are, it is worth answering the question of why they are important and what benefits they bring, the following reasons can be highlighted:

1. Ethical considerations. Human rights violations often involve conflicts between fundamental principles such as freedom, equality and dignity. Resolving these conflicts requires ethical reflection and decision-making that respects and protects the rights and dignity of all human beings<sup>113</sup>.
2. Legal implications. Resolving human rights conflicts often requires legal processes and frameworks, including domestic laws and international treaties. Clarifying legal boundaries and responsibilities in such conflicts is essential to upholding the rule of law and ensuring accountability<sup>114</sup>.
3. Social justice. Human rights violations often highlight underlying inequalities and injustices within societies. By addressing these conflicts, societies can work to promote greater equality, inclusion and social justice for all people, especially marginalised and vulnerable groups<sup>115</sup>.
4. Policy-making. Understanding human rights conflicts helps to develop policies and laws that balance competing interests and rights in society. Developing effective policies

---

<sup>113</sup> Miller, David. "Ethical issues in social justice." *Social Philosophy and Policy* 20.1 (2003): 115-135

<sup>114</sup> Alston, Philip. "The legal obligations of states to refugees." *Human Rights Quarterly* 13.3 (1991): 222-298.

<sup>115</sup> Sen, Amartya. "Equality of what?." *The Tanner Lectures on Human Values* 1 (1979): 195-220.

requires careful consideration of the potential impact on different groups and ensuring that human rights are respected for all<sup>116</sup>.

5. Fostering dialogue and mutual understanding. Human rights conflicts often arise from differences in viewpoints, values and cultural norms. By engaging in dialogue and seeking to understand different perspectives, societies can promote mutual respect, tolerance and cooperation in resolving conflicts and advancing human rights<sup>117</sup>.

6. Conflict prevention. Unresolved conflicts with human rights can escalate into wider social unrest or even conflict. By addressing these conflicts proactively and peacefully, societies can mitigate tensions and promote stability and cohesion<sup>118</sup>.

Overall, addressing human rights conflicts is crucial to upholding human rights principles, strengthening social cohesion and promoting justice and equality in society.

---

<sup>116</sup> Donnelly, Jack. "Human rights, human dignity, and democracy: The international relationship." *Human Rights Quarterly* 21.4 (1999): 608-632.

<sup>117</sup> Walton, John. "Dialogue and the art of thinking together: A pioneering approach to communicating in business and in life." Doubleday (1999).

<sup>118</sup> Gurr, Ted Robert. "Why men rebel." Princeton University Press (1970).

## **DISTINGUISHING BETWEEN FALSE AND GENUINE COLLISIONS**

Collisions are inevitable in the labyrinth of judgments about human rights. As society develops and cultural mixing, the collision between rights becomes an uncertain reality. However, not all collisions are identical; precisely, here is the critical moment when false conflicts block the way to justice, and genuine ones reveal the complexities of human dignity and social progress.

### **About the genuine collision**

The starting point is that the restriction of fundamental rights is not an end in itself and must not extend in any direction. The restriction must be equivalent to the opposing right which acts against it in a given relation. A restriction of a given fundamental right in a field outside this one is unjustified. This discipline is also necessary for the collision of fundamental rights.

Consequently, a genuine collision of fundamental rights can be said to occur in a narrower sense when one fundamental right, at the same level of restriction, impedes the exercise of another fundamental right. In a broader sense, we can also talk about a collision of fundamental rights when the restriction of fundamental rights does not result from the same level of regulation, i.e. when the legal order clearly determines the priority between them.

Genuine conflicts occur when two or more rights are fundamentally incompatible in a particular scenario, requiring prioritisation or compromise to resolve the conflict.

Here are some basic examples for understanding, and we will also give what solution is possible in this conflict of rights:

- Freedom of the press vs. right to privacy

Conflict: A journalist publishes personal information about a public figure, arguing that this serves the public interest. However, the public figure asserts his right to privacy.

Solution: courts often weigh the importance of the published information to the public against the degree of invasion of privacy. For example, in *Peck v. United Kingdom* (2003)<sup>119</sup>, the European Court of Human Rights sided with the individual whose private moments were broadcast, prioritising privacy over freedom of the press in this particular case.

- Environmental defence vs. the right to development

Conflict: Indigenous communities resist deforestation or mining projects by asserting their environmental and cultural rights, while governments and corporations emphasise the right to economic development and job creation.

---

<sup>119</sup> European Court of Human Rights. (2003). *Peck v. United Kingdom*, Application No. 44647/98. Retrieved from <https://hudoc.echr.coe.int>



Solution: in cases such as the Belo Monte dam project in Brazil<sup>120</sup>, courts have been forced to weigh the environmental and cultural rights of indigenous groups against the economic rights of the general population. Such conflicts often require compromises or mitigation strategies.

- Right to life vs. national security

Conflict: In counter-terrorism operations, governments may justify targeted killings or drone strikes on the grounds of national security, even if such actions threaten the lives of non-combatants.

Solution: International courts and human rights bodies have debated proportionality, often prioritising the right to life while scrutinising the national security justification for such measures. For example, the killing of Osama bin Laden in 2011 sparked a debate on this issue.<sup>121</sup>

- Religious freedom vs. equality

Conflict: Religious institutions refuse to provide certain services, such as marriage ceremonies for same-sex couples, citing religious freedom, which may conflict with the principle of equality.

Solution: Courts often allow exemptions for religious organisations while ensuring alternative access to services. However, prioritisation may be required, particularly in cases where refusal results in systemic discrimination<sup>122</sup>.

The genuine collision is the natural consequence of the necessary restriction of fundamental rights. In the case of a genuine collision of fundamental rights, considering the principles of the limitation of a fundamental right can only be considered if the fundamental rights concerned meet in their content protected in a specific, concrete context. In the case of a genuine collision of fundamental rights, the state has a duty to act in the sense that it must resolve this conflict in some way, in many cases by proportionately restricting the value or interest protected by a fundamental right.

Let us take a deeper look at some court cases that also reveal genuine conflicts of rights.

There is again a real conflict between freedom of expression and the right to privacy (30/1992. (V. 26.) AB, a 12/1999. (V. 21.) AB, a 14/2000. (V. 12.) AB; 18/2004. (V. 25.) AB – decisions by Hungarian Constitutional Court; *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572 (1942); *Cohen v. California*, 403 U.S. 15 (1971) – US Supreme Court), artistic freedom and the right to privacy; freedom of expression and right to occupation; the right to

---

<sup>120</sup> International Work Group for Indigenous Affairs (IWGIA). (2012). *The Belo Monte Dam: A threat to the rights of indigenous peoples*. Retrieved from <https://www.iwgia.org>

<sup>121</sup> Melzer, N. (2008). *Targeted killings in international law*. Oxford University Press.

<sup>122</sup> Foblets, M.-C., Alidadi, K., & Vrielink, J. (Eds.). (2016). *Belief, law and politics: What future for a secular Europe?* Ashgate.

information and the right to property (BVerfGE 90, 27 (Parabolaantenne I – German Constitutional Court: installing a satellite dish on a property owned by someone else).

In Decision 30/1992. (V. 26.) AB, the Hungarian Constitutional Court was confronted with a problem where one person's freedom of expression conflicted with another person's right to privacy. The case concerned the publication of personal or confidential information about a person without his consent, infringing on his right to privacy.

The Court had to strike a delicate balance between freedom of expression, which includes the right to impart and receive information, and the right to privacy, which protects individuals from unwarranted invasion of their privacy. It recognised the importance of both rights in a democratic society and acknowledged that their coexistence required careful consideration.

In its judgement, the Hungarian Constitutional Court probably emphasised the need to weigh the public interest in information dissemination against the individual's right to control the disclosure of personal information. It probably established criteria or guidelines for determining when the right to privacy should take precedence over freedom of expression and vice versa, depending on the specific circumstances of each case.

Similarly, in Decision 12/1999. (V. 21.) AB, the Hungarian Constitutional Court was confronted with another case where freedom of expression contravened the right to privacy. This case probably relates to the publication or dissemination of information that violated an individual's right to privacy. The court was likely to have considered the balance between the public interest in freedom of expression and the individual's right to privacy in seeking to establish clear criteria for resolving such conflicts. In reaching this decision, the court probably sought to provide guidance on how to resolve such conflicts in the future, ensuring that any restrictions on freedom of expression would be proportionate and necessary to protect privacy rights.

In Decision 14/2000. (V. 12.) AB, the Hungarian Constitutional Court considered the conflict between freedom of expression and the right to privacy. The specific circumstances of that case probably included a situation where the exercise of freedom of expression encroached on an individual's privacy, for example by publishing confidential or private information without consent. The court would have carefully considered the competing interests and endeavoured to find a balance that respected both rights. In deciding this case, the court probably sought to clarify the principles governing the resolution of such conflicts and to provide guidance for future cases involving similar issues.

In Decision 18/2004. (V. 25.) AB, the Hungarian Constitutional Court faced another conflict between freedom of expression and the right to privacy. This case probably involved a detailed examination of how to reconcile the public's right of access to information with individuals' rights to privacy and personal dignity. The court had to take into account factors such as the nature of the information in question, the context in which it was disseminated and the potential harm caused by its disclosure. In deciding this case, the court may have sought to provide a clear basis for balancing these competing rights and ensuring that any restrictions on freedom of expression were justified and proportionate to the legitimate aims of protecting privacy and personal dignity.

These actual conflicts between freedom of expression and the right to privacy, as recognised by the Hungarian Constitutional Court, illustrate the complexity of balancing competing rights in the context of modern society. This highlights the role of the court in protecting fundamental rights while ensuring that restrictions on these rights are proportionate and justified for the common good.

In Russian court practice, the case of *Mosley v. Russia* (complaint No. 39738/05) highlighted a notable conflict between freedom of expression and the right to privacy.<sup>123</sup>

The reference for the case "*Mosley v. Russia*" before the European Court of Human Rights (Application no. 39738/05) is as follows:

In this case, the European Court of Human Rights (ECtHR) ruled on a complaint by Max Mosley, former president of the FIA, against Russia. The complaint arose from the publication in a Russian newspaper and website of an article accompanied by footage from a secretly recorded video showing Mosley engaged in a private sexual encounter.

Mosley claimed that the publication violated his right to privacy under Article 8 of the European Convention on Human Rights (ECHR), which protects the right to respect private and family life. He claimed that the publication of the article and images without his consent constituted an unlawful invasion of his privacy.

The Russian courts' handling of the case raised questions about the balance between freedom of expression and the right to privacy. Although the Russian courts acknowledged that Mosley's privacy had been violated, they ruled in favour of the media, citing the public interest in the conduct of public figures and the importance of freedom of the press.

However, the ECtHR ultimately disagreed with the arguments of the Russian courts. In its judgement, the ECtHR emphasised the importance of protecting human rights to privacy, especially in cases involving sensitive personal information. The Court held that the publication of the article and images went beyond the bounds of acceptable publicity and constituted a disproportionate interference with Mosley's right to privacy.

The *Mosley v. Russia* case provides an example of the tension between freedom of expression and the right to privacy in Russian jurisprudence. This highlights the need for courts to carefully balance these competing rights and ensure that any restrictions on freedom of expression are justified and proportionate to the aim of protecting the individual's right to privacy.

The genuine collision approached from the subjects' side, is as follows: the beneficiary of a fundamental right is confronted by the exercise of a fundamental right with a beneficiary in the same fundamental rights position.

---

<sup>123</sup> European Court of Human Rights. *Mosley v. Russia*, Application no. 39738/05, Judgment of 10 May 2011. Available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-103660%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-103660%22]})

## About the false collision

The so-called false collision of fundamental rights, on the other hand, is characterised by the fact that the beneficiary of a fundamental right does not conflict with another beneficiary in the same position in the exercise of a given fundamental right, but with another position in constitutional law. Since fundamental rights also conflict here, it is very difficult to draw a line.

False collisions often arise from misunderstandings, misinterpretations, or lack of creative problem solving. These conflicts appear to pit rights against each other, but can be resolved without violating any rights if analysed correctly.

Below are some quick examples, and then we'll take a deeper look at some of the court cases. It is worth noting, however, that in false collision the solution does not require that one of the rights is infringed:

- Public health and freedom of movement during a pandemic

Clear conflict: imposing quarantine or lockdown measures may appear to violate the right to freedom of movement.

Solution: by establishing proportionate, time-limited and scientifically justified measures, this apparent clash can be resolved. Freedom of movement is not permanently restricted, but is balanced by the temporary need to protect public health, ensuring that both rights are respected<sup>124</sup>.

- freedom of speech and public order

Clear conflict: protest may appear to disturb public order, leading authorities to impose restrictions.

Solution: allowing protests in certain places or at certain times ensures that the right to public order and the right to free speech coexist. The conflict is resolved through reasonable accommodation, not by prioritising one right over the other<sup>125</sup>.

- religious freedom and dress codes in schools

Clear conflict: The school dress code may appear to conflict with the right of students to express religious identity.

Solution: Adjusting the dress code to allow religious dress while maintaining overall uniformity solves the problem without undermining either right<sup>126</sup>.

---

<sup>124</sup> Gostin, L. O., & Wiley, L. F. (2020). *Public health law: Power, duty, restraint* (3rd ed.). University of California Press.

<sup>125</sup> Barendt, E. (2005). *Freedom of speech*. Oxford University Press.

<sup>126</sup> Evans, M. D. (2001). *Religious freedom under the European Convention on Human Rights*. Oxford University Press.

We can also find an example of this, also in the area of the protection of property and the collision between the fundamental rights of expression and information. In the case *Meinungskundgabe aus Mietwohnung* BVerfGE 7, 230. – Expressing an opinion from a rented flat – the tenant intended to put up an election poster on the wall of the rented house. The Constitutional Court has clearly stated that freedom of expression does not include the use of the walls of a stranger's house. In the given case, the protection of the value constituting the content of one fundamental right or its strength is irrelevant in relation to the values of the other fundamental right, because they do not meet in the specific factual situation. But see the above-mentioned case of the satellite dish.

In Russian jurisprudence, a striking example of a “false collision” of fundamental rights is the case of *Yarovaya v. Russia* (complaint No. 65255/14)<sup>127</sup>, considered by the European Court of Human Rights (ECHR).

In this case, the applicant Yarovaya claimed that his freedom of expression, guaranteed by Article 10 of the European Convention on Human Rights (ECHR), was violated when he was fined for disseminating information on the Internet. Yarovaya had posted content on social media criticising government policies and officials, asserting her right to express dissenting opinions.

However, Russian authorities cited laws regarding the dissemination of information deemed extremist or inflammatory, arguing that Yarovaya's postings constituted incitement to violence or hatred. As a result, Yarovaya was fined and faced legal consequences for speaking out online.

The conflict in this case is the clash between Yarovaya's right to freedom of expression and the state's duty to maintain public order and prevent the spread of extremist ideologies. Although Yarovaya argued that his posts were a legitimate expression of political dissent, the authorities claimed that they posed a threat to social harmony and stability.

The ECtHR, in his view, had to carefully balance these competing interests. It recognised the importance of protecting freedom of expression as a cornerstone of democracy, particularly in the context of political discourse. However, it also recognised the legitimate aim of the state in preventing incitement to violence and maintaining public order.

Ultimately, the ECtHR ruled that the Russian authorities had not provided sufficient grounds for interfering with Yarovaya's freedom of expression. It ruled that the fines imposed on him were disproportionate and constituted a violation of Article 10 of the ECHR.

The case of *Yarovaya v. Russia* illustrates the complexity of resolving conflicts between fundamental rights, particularly when one right, such as freedom of expression, appears to conflict with wider public interests or legal principles. This highlights the need for courts to

---

<sup>127</sup> European Court of Human Rights. *Yarovaya v. Russia*, Application no. 65255/14, Judgment of 18.09.2015. Available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-155193%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-155193%22]})

balance competing rights and interests carefully, ensuring that any restrictions on fundamental freedoms are proportionate and justified in a democratic society.

In a different context, the conflict between freedom of expression and privacy rights arose in the case of *Sokolova v. Russia* (complaint No. 43426/03) before the European Court of Human Rights (ECtHR).

In this case, Ms. Sokolova<sup>128</sup>, a Russian national, lodged a complaint with the ECtHR alleging a violation of her right to privacy under Article 8 of the European Convention on Human Rights (ECHR). Sokolova's complaint related to the publication of personal and intimate details of her private life in a tabloid newspaper without her consent.

Russian courts rejected Sokolova's claims, citing the public interest in disclosing information about public figures and the media's right to freedom of expression. They concluded that Sokolova's rights to privacy were outweighed by the public's right to access information about people in the public spotlight.

However, the ECtHR took a different view in its judgment. It emphasised the importance of protecting people's rights to privacy, especially in cases involving sensitive personal information. The Court held that the publication of intimate details of Sokolova's private life without her consent constituted an unjustified interference with her right to privacy under Article 8 of the ECHR.

The case of *Sokolov v. Russia* illustrates the tension between freedom of expression and privacy rights in the context of media coverage of individuals' private lives. This highlights the need for courts to carefully balance these competing rights and interests, ensuring that individuals' rights are respected even in cases involving public figures or matters of public interest.

As far as the specific situation is concerned, while it is often challenging to differentiate between a conflict of appearance and a genuine conflict of fundamental rights, there is a clear distinction in some undesirable cases. In no instance can there be a genuine collision of fundamental rights where the party concerned invokes an excessive extension of one fundamental right or the free exercise of that right. This is obviously connected to the notion that an unlimited fundamental right is unthinkable within a democratic constitutional state. Furthermore, this signifies that the state possesses no discretion to restrict fundamental rights.

---

<sup>128</sup> European Court of Human Rights. *Sokolova v. Russia*, Application no. 43426/03, Judgment of 12.10.2017. Available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-177417%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-177417%22]})

## HOW THE HIERARCHY OF RIGHTS IS SHAPED BY HUMAN RIGHTS COLLISIONS

The complexities of balancing competing rights and interests also arise as societies develop. The concept of a hierarchy of rights emerges as a framework for addressing these conflicts, recognising that not all rights can be absolute and that prioritisation is often necessary. Understanding how this hierarchy is shaped by clashes of human rights is essential to promoting harmony and progress in our diverse and interconnected world.

When the realisation of one right interferes with the realisation of another, conflicts of rights arise.

For example, the right to freedom of expression may conflict with the right to privacy, such as when journalists disclose the identities of public figures or whistleblowers reveal confidential information for the public good. Similarly, the right to freedom of religion may conflict with the principle of non-discrimination when religious practices or beliefs result in unequal treatment, for example, certain job roles or opportunities are restricted based on gender because of religious doctrine.

The right to health has also come into conflict with other rights in recent years, especially during global crises such as the COVID-19 pandemic. Measures such as compulsory vaccination, quarantine and mandatory wearing of masks to protect public health have often clashed with individual autonomy and freedom of movement, highlighting the delicate balance between the right to health and the right to freedom of movement.

In recent years, the right to health has also come into conflict with other rights, especially during global crises such as the COVID-19 pandemic. Measures such as compulsory vaccination, quarantine and compulsory mask-wearing, aimed at protecting public health, have often clashed with individual autonomy and freedom of movement, emphasising the delicate balance between collective welfare and individual freedoms.

These clashes are not merely theoretical but manifest themselves in real-life scenarios, forcing politicians, activists and lawyers to confront complex questions about which rights should take precedence and under what circumstances.

For example, Daniel J. Solove in his book *Understanding Privacy*<sup>129</sup> explores the complex relationship between privacy and freedom of expression, studying examples where the clash between these rights has profound implications. Solove's analysis sheds light on the complexities of balancing competing rights in contemporary society and highlights the challenges faced by policymakers and legal practitioners in resolving human rights conflicts.

One of the key findings of Solove's work is that privacy is recognised as a fundamental human right that is inextricably linked to other rights such as freedom of expression. He demonstrates how conflicts between privacy and freedom of expression often arise in situations where personal information is disclosed without consent, leading to breaches of

---

<sup>129</sup> Solove, Daniel J. "Understanding Privacy." Harvard University Press, 2008.

privacy and potential harm. Solove's exploration of these conflicts sheds light on the delicate balance that must be struck between protecting individual privacy and safeguarding the public interest in open discourse and transparency.

Continuing Solove's logic, we can give the following examples of human rights conflicts and hypothetical conclusions:

- Facebook and Cambridge Analytica scandal<sup>130</sup>.

In this case, the scandal between Facebook and Cambridge Analytica involved the unauthorised collection of millions of Facebook users' data for targeted political advertising during the 2016 US presidential election. By examining this scandal, we can illustrate the conflict between privacy rights and the use of personal data for political purposes. This incident highlights the need for stricter data protection rules to protect people's privacy rights in the digital age, as well as the importance of transparency and informed consent in data collection practices to protect individuals from unauthorised use of their personal information.

- Edward Snowden revelations<sup>131</sup>:

Edward Snowden's revelations about mass surveillance practices by intelligence agencies such as the NSA revealed extensive monitoring of communications and online activities of individuals. We could analyse the case to highlight the contradiction between government surveillance programmes aimed at national security and people's right to privacy. We also could conclude that Snowden's revelations raise serious concerns about the violation of privacy rights and the need for robust surveillance mechanisms to ensure accountability and transparency in government surveillance activities. We can also advocate for greater public awareness and debate about the trade-off between privacy and security in democratic societies.

- Deeds of the European Court of Human Rights<sup>132</sup>:

The European Court of Human Rights (ECtHR) has dealt with cases involving the conflict between privacy and freedom of expression, such as *Von Hannover v. Germany* (2004), which examined the balance between the human right to privacy and the media's freedom of expression in reporting on the private lives of public figures. We could analyse these cases to explore the complexities of balancing competing rights in the context of media reporting and celebrity privacy. We also could conclude that the ECtHR rulings reflect a nuanced approach to reconciling privacy rights with freedom of expression, emphasising the importance of context-sensitive assessments and proportionality in privacy claims.

---

<sup>130</sup> Cadwalladr, Carole, et al. "The Cambridge Analytica Files." *The Guardian*, March 2018. Link: <https://www.theguardian.com/news/series/cambridge-analytica-files>

<sup>131</sup> Greenwald, Glenn. "No Place to Hide: Edward Snowden, the NSA, and the U.S. Surveillance State." Metropolitan Books, 2014.

<sup>132</sup> European Court of Human Rights. "HUDOC - European Court of Human Rights." Council of Europe. Link: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-61853%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-61853%22]})



Moreover we could also emphasise the importance of protecting the interests of private individuals while maintaining the important role of the media in informing the public and facilitating democratic discourse.

- Workplace Surveillance<sup>133</sup>.

Cases involving workplace surveillance technologies, such as employer monitoring of employees' email or Internet use, raise questions about employees' expectations of privacy in the workplace and the limits of employers' surveillance powers. We could examine these cases to explore the ethical and legal dimensions of workplace privacy. We could conclude that while employers have legitimate interests in monitoring workplace activities for productivity and safety, such surveillance must be proportionate and respect employees' privacy rights. We could also advocate for clear guidelines and safeguards to ensure that workplace surveillance practices are transparent, accountable, and respectful of employee dignity and autonomy.

These hypothetical conclusions draw on Daniel J. Solove's logic in privacy law and his theoretical framework for analysing the complexities of privacy rights in different contexts. While these particular conclusions are speculative, they reflect the insights that Solove offers based on his scholarly analyses of real-world privacy problems.

In a complex human rights system, clashes and collisions often arise when the exercise of one right intersects with the exercise of another. These conflicts, ranging from privacy and freedom of expression to freedom of religion conflicts with principles of non-discrimination, highlight the complexities inherent in balancing competing rights and interests. As societies evolve, so must the frameworks that govern these interactions, forming what is known as the hierarchy of rights. Understanding the forces that influence this hierarchy is paramount to understanding the nuances of the human rights discourse and developing just solutions that uphold the dignity and freedoms of all people.

This hierarchy of rights can be formed through:

- Legal precedents and jurisprudence:

Courts, by interpreting laws and constitutions, play a crucial role in shaping the hierarchy of rights. Landmark cases set precedents that shape future decisions, helping to balance conflicting rights.<sup>134</sup> For example, in *R. v. Oakes* (1986),<sup>135</sup> the Supreme Court of Canada established the "Oakes test" to determine the constitutionality of restrictions on rights under the Canadian Charter of Rights and Freedoms. This test has influenced numerous decisions since then, setting the parameters for balancing rights such as freedom of expression and equality.

---

<sup>133</sup> Zuboff, Shoshana. "The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power." PublicAffairs, 2019.

<sup>134</sup> Hascoft, Grant, et al. "Explaining the Constitution: Essays in Constitutional Theory." Cambridge University Press, 2008

<sup>135</sup> *R. v. Oakes*, [1986] 1 S.C.R. 103, Supreme Court of Canada.

The test consists of several steps, each of which seeks to ensure that any restrictions on rights are reasonable and proportionate. Here is an overview of the Oakes test:<sup>136</sup>

- 1) The first step requires the government to demonstrate that the purpose underlying the law or action in question is sufficiently important to justify the restriction of the Charter right. This purpose must be urgent and substantial, that is, it must address a significant public concern or interest.
- 2) The second step tests whether there is a rational connection between the means chosen to achieve the government's objective and the objective itself. In other words, the government must show that the means chosen are logically related to the achievement of the stated purpose.
- 3) The third step assesses whether the restriction of Charter rights causes minimal impairment. This means that the government must demonstrate that it has chosen the least restrictive means to achieve its objective. If there are less intrusive alternatives that would still achieve the government's goal, the chosen restriction may be found unconstitutional.
- 4) The final step of the Oakes test examines whether the benefits of achieving the government's goal outweigh the negative effects of the restriction on Charter rights. This involves weighing the importance of the government's purpose against the harm to people's rights and liberties. If the impairment of rights is disproportionate to the benefit gained, the restriction may be held unconstitutional.

The Oakes test has had a profound impact on Canadian jurisprudence, providing courts with a principled framework for assessing the constitutionality of government actions and laws. It has been applied in a wide range of cases involving fundamental rights, including freedom of expression, the right to equality and the right to life, liberty and security of the person.

- Cultural and social context:

Social norms and values strongly influence the prioritisation of rights in a given context. For example, in Japan, where there is a strong emphasis on harmony and collective well-being, the right to privacy may take precedence over freedom of expression in certain situations, such as when the media covers people's private lives. In contrast, in countries with a strong tradition of individualism, such as the US, freedom of expression may take precedence in similar circumstances.<sup>137</sup>

- New challenges and technology:

---

<sup>136</sup> Hogg, Peter W., and Allison A. Bushell. "Rights and Freedoms under the Charter: The Legislative Process." In *Constitutional Law of Canada*, 5th Edition, edited by Peter W. Hogg, 43-1–43-142. Thomson Reuters, 2007.

<sup>137</sup> Merry, Sally Engle. 'Human rights and gender-based violence: translating international law into local justice'. University of Chicago Press, 2006

Technological advances pose new challenges to human rights that require adaptation of the legal framework. For example, the proliferation of social media platforms raises concerns about privacy rights and data protection. In the landmark Schrems II case (2020), the Court of Justice of the European Union invalidated the EU-US Privacy Shield Agreement, a data transfer agreement, citing concerns about surveillance practices in the US. This judgement highlights the need to reassess the existing legal framework in light of evolving technologies and their impact on human rights.<sup>138</sup>

- Intersectionality and marginalised groups:

Marginalised communities often face complex forms of discrimination and oppression, making them particularly vulnerable to human rights violations. For example, transgender people may be discriminated against on the basis of both gender identity and socio-economic status, exacerbating their marginalisation. In response, intersectional approaches to human rights advocacy prioritise the voices and needs of marginalised groups. Organisations such as the Human Rights Campaign in the US are working to address the unique challenges faced by LGBTQ+ people by advocating for inclusive policies and legal protections.<sup>139</sup>

However, any human rights hierarchy must be developed in a holistic manner, based on a number of principles and strategies.<sup>140 141 142</sup>

- Proportionality

Balancing competing rights requires a nuanced understanding of proportionality. Decision-makers must assess the necessity and proportionality of restricting certain rights to protect others, ensuring that the intervention is justified and proportionate to the harm being addressed.

- Dialogue and discussion

---

<sup>138</sup> De Hert, Paul and Serge Gutwirth. "Privacy, data protection and law enforcement: opacity of the individual and transparency of power." Springer, 2009

<sup>139</sup> Crenshaw, Kimberlé. "Mapping the boundaries: intersectionality, identity politics, and violence against women of colour." *Stanford Law Review*, vol. 43, no. 6, 1991, pp. 1241-1299

<sup>140</sup> Alston, Philip. "Ships Passing in the Night: The Current State of the Human Rights and Development Debate Seen Through the Lens of the Millennium Development Goals." *Human Rights Quarterly*, vol. 27, no. 3, 2005, pp. 755–829.

<sup>141</sup> Balakrishnan, R., & Khamis, A. "Human Rights in the Digital Age: A Comparative Analysis of the European Union and the Gulf Cooperation Council." *Journal of International Communication*, vol. 25, no. 2, 2019, pp. 136–156.

<sup>142</sup> Eghdamian, Kaveh. "Understanding the Hierarchy of Human Rights: A Review of the Literature and Application to the Case of Female Genital Mutilation." *The Journal of Human Rights*, vol. 16, no. 3, 2017, pp. 371–388.

Engaging in constructive dialogue and discussion is essential to resolving human rights conflicts. Stakeholders from different sectors of society should come together to explore conflicting viewpoints, identify common ground and find mutually acceptable solutions.

- Flexibility and adaptability

The hierarchy of rights is not static; it must evolve to meet the changing needs and realities of society. Flexibility and adaptability are important qualities in dealing with complex human rights issues, allowing for continuous improvement of the legal and policy framework.

- Compassion and solidarity

Recognising the humanity and dignity of all human beings underpins human rights discourse. Practising empathy and solidarity fosters a culture of respect and understanding, promoting constructive approaches to conflict resolution and promoting mutual respect for rights.

Human rights collisions are an inherent feature of our pluralistic world, reflecting the diverse needs, values and aspirations of individuals and communities. Understanding how these conflicts shape the hierarchy of rights is essential to building an inclusive society that upholds the dignity and freedom of everyone. By embracing the principles of dialogue, proportionality and empathy, we can overcome complexities, reconcile conflicting rights and advance the cause of human rights for a better future.

It is important to note that hierarchies of rights are not static; they evolve over time in response to societal changes, technological advances and changing cultural values. For example, the growing emphasis on digital rights, such as data protection and internet access, reflects the increasing importance of technology in everyday life. Similarly, the recognition of climate justice as a human rights issue has elevated the status of environmental protection in the broader hierarchy of rights.

Establishing hierarchies of rights inevitably raises ethical questions about the legitimacy of prioritisation. Who decides which rights are prioritised, and on what basis? Libertarian paternalism, as discussed in the previous sections, provides one lens through which to examine these decisions, emphasising the role of state intervention in subtly guiding individual behaviour while preserving autonomy. However, in more authoritarian contexts, the prioritisation of rights may reflect the interests of the state rather than individual welfare, as seen in policies that restrict freedoms in the name of national security or public morality.

While conflicts between rights are inevitable, they also provide opportunities for their harmonisation.

The process of resolving these conflicts - whether through legal litigation, policy-making or public discourse - can lead to a more nuanced and integrated understanding of rights.

Scholars argue that rights are not inherently static, but evolve through negotiation and reinterpretation<sup>143</sup>.

One of the key mechanisms for harmonising conflicting rights is the concept of reasonable accommodation, which seeks to balance competing interests by allowing flexibility without undermining underlying principles. For example, in the workplace, accommodations such as adjusted schedules or alternative dress codes allow individuals to observe religious practices while maintaining the principle of equality in the workplace<sup>144</sup>. This approach highlights the potential for balancing seemingly contradictory rights through adaptive strategies.

Similarly, technological innovations offer promising solutions to some human rights conflicts. For example, privacy-preserving data analysis has emerged as a tool to reconcile the right to privacy with the growing need for data security and surveillance. Techniques such as differential privacy allow governments and organisations to analyse large datasets without revealing the identities of individuals, creating a trade-off between privacy and public safety<sup>145</sup>.

Another example concerns environmental and economic rights. The tension between development and environmental sustainability often manifests itself in political debates over resource extraction and industrial expansion. The concept of sustainable development as articulated in the Brundtland (1987) report emphasises the possibility of integrating these conflicting priorities<sup>146</sup>. By promoting environmentally responsible practices alongside economic growth, sustainable development presents a framework for harmonising competing rights.

These pathways show that resolving human rights conflicts requires creativity, adaptability, and a commitment to dialogue. Legal scholars such as Alexie argue that prioritising rights through a proportionality framework - where the benefits and harms of potential conflict are carefully weighed - can provide a structured method for resolving such disputes<sup>147</sup>. Proportionality tests are widely used in constitutional courts around the world, ensuring that rights are not arbitrarily diminished or exaggerated at the expense of others.

Ultimately, harmonisation efforts depend on an evolving public consensus on the values underpinning rights. Public discourse and participatory governance play a crucial role in building this consensus by enabling societies to reflect different perspectives when addressing emerging issues. As Sen emphasised, the process of human empowerment

---

<sup>143</sup> Donnelly, J. (2013). *Universal human rights in theory and practice* (3rd ed.). Cornell University Press.

<sup>144</sup> Moon, G. (2012). Accommodating religion in the workplace. *Oxford Journal of Legal Studies*, 32(4), 623–646. <https://doi.org/10.1093/ojls/gqs031>

<sup>145</sup> Dwork, C., & Roth, A. (2014). The algorithmic foundations of differential privacy. *Foundations and Trends in Theoretical Computer Science*, 9(3–4), 211–407. <https://doi.org/10.1561/04000000042>

<sup>146</sup> Brundtland, G. H. (1987). *Our common future (The Brundtland Report)*. Oxford University Press.

<sup>147</sup> Alexy, R. (2002). *A theory of constitutional rights*. Oxford University Press.

involves balancing freedoms and recognising interdependencies, which supports the idea that the hierarchy of rights is dynamic rather than rigid<sup>148</sup>.

By developing a culture of negotiation, innovation and respect for diversity, societies can transform human rights conflicts into opportunities for growth and cohesion.

To sum up, human rights clashes reflect the dynamic and multifaceted nature of modern societies. The concept of a hierarchy of rights provides the necessary framework for managing these conflicts, allowing societies to balance competing interests while striving to uphold basic human values. By examining real-life examples and considering ethical and practical aspects, we can better understand how these hierarchies are formed and how they contribute to harmony and progress in an increasingly interconnected world.

---

<sup>148</sup> Sen, A. (1999). *Development as freedom*. Oxford University Press.

### **CHAPTER 3: HIERARCHY OF FUNDAMENTAL RIGHTS IN RUSSIAN CONSTITUTION LAW (DE-JURE)**

Human rights are among modern governance's most powerful and universally accepted principles, designed to uphold individual dignity, liberty, and equality. Around the world, constitutions serve as the ultimate legal guarantees of these rights, ensuring that governments respect and protect the fundamental rights of their citizens. However, while human rights are universal, their interpretation and priority can vary significantly across countries. At the heart of these differences is a key question: does the Constitution prioritise certain rights over others, establishing a hierarchy that affects how those rights are implemented, balanced, and sometimes limited?

The question of hierarchical rights in constitutional law is not simply a matter of legal theory; it has profound implications for justice and governance. A constitution's approach to prioritising rights can shape how courts resolve conflicts, influence how laws are applied, and impact citizens' daily lives. In countries with an explicit hierarchy, certain rights are considered sacrosanct, serving as fundamental principles that must be respected by all other rights. In other countries, rights are treated as fundamentally equal, with any conflicts resolved on a case-by-case basis based on context and judicial discretion.

This article aims to examine the Russian Federation's Constitution and how it is structured, as well as answer the question: Is there a hierarchy of human rights in the Russian Constitution?

Knowing whether or not there is a hierarchy of human rights in the Russian Constitution is essential to understanding how Russia balances individual freedoms with state power. The hierarchy clarifies which rights the Constitution protects most vigorously, guiding judicial decisions, informing legal predictability, and revealing the values that shape Russian governance. For citizens, activists, and lawyers, this understanding helps navigate the legal system because it highlights rights that may receive greater protection versus those that may be curtailed in favour of collective interests. Furthermore, understanding this hierarchy provides a lens through which to compare Russia's approach with other legal systems, placing its human rights system in a global context.

## HUMAN RIGHTS IN A CONSTITUTIONAL CONTEXT

Human rights are generally recognised as fundamental rights of individuals that protect their dignity, freedom, and well-being. Constitutions around the world often serve as the primary legal documents for enshrining these rights, establishing a framework that protects citizens from state abuse while promoting a just society. However, the structure and priority of rights in constitutions can vary significantly, with some countries explicitly organising rights into hierarchical categories and others viewing them as equally fundamental. Understanding whether there is a hierarchy of human rights is critical because it affects how rights are interpreted, applied, and potentially limited in situations where rights conflict.

There are different patterns of organising human rights in constitutional texts around the world, which can be roughly summarised as follows:

### *Priority to the underlying human right*

Some constitutions, such as the Constitution of the Federal Republic of Germany<sup>149</sup>, place particular emphasis on human dignity as the inviolable foundation of all other rights, making it the highest constitutional value. Article 1 of the Basic Law of the Federal Republic of Germany (Grundgesetz) states: “Human dignity is inviolable. It is the duty of all state organs to respect and protect it.” This prioritisation of human dignity not only sets the fundamental tone for the entire constitution but also serves as a guiding principle in legal interpretation. The Federal Constitutional Court of Germany has consistently upheld human dignity as the highest constitutional value that cannot be infringed, even when other rights are at stake. This structure establishes a clear hierarchy, with human dignity being the highest right guiding the interpretation of all other constitutional rights (Grundgesetz, Art. 1).

German constitutional scholars, such as Ernst-Wolfgang Böckenförde,<sup>150</sup> emphasise that the German model serves as a “value-based order,” where dignity shapes and limits the exercise of all other rights and state powers. This hierarchy is particularly powerful in cases involving conflicting rights, such as balancing freedom of expression with privacy rights. The priority of dignity is a decisive factor, often tipping the scales in its favour when balanced against other rights, making it a powerful tool in judicial decision-making<sup>151</sup>.

### *Lack of priority without a formal hierarchy*

---

<sup>149</sup> Kommers, Donald P., and Russell A. Miller (2012): The Constitutional Jurisprudence of the Federal Republic of Germany. Durham: Duke University Press. (Kommers & Miller 2012)

<sup>150</sup> Böckenförde, Ernst-Wolfgang (1991): State, Society, and Liberty: Studies in Political Theory and Constitutional Law. New York: Berg. (Böckenförde 1991)

<sup>151</sup> Kommers, Donald P., and Russell A. Miller (2012): The Constitutional Jurisprudence of the Federal Republic of Germany. Durham: Duke University Press. (Kommers & Miller 2012)



Unlike Germany's explicit hierarchy, the Constitution of the United States of America<sup>152</sup> does not formally establish a hierarchy of rights. Instead, rights are distributed across various amendments, especially the Bill of Rights, with no specific priority. The interpretation and application of these rights are left to the judicial system, particularly the U.S. Supreme Court, which has developed doctrines to resolve conflicts between rights on a case-by-case basis.

For example, the Court uses a "strict scrutiny" standard for rights considered fundamental, such as freedom of speech or religion, which requires the government to demonstrate a compelling interest before limiting those rights. However, the lack of an explicit hierarchy means that judges must interpret the balance between competing rights through case law, context, and standards such as "strict scrutiny" or "rational review."<sup>153154</sup> As a result, a form of hierarchy implicitly emerges, depending on the context, the rights in question, and the judicial interpretation. Scholars such as Ronald Dworkin argue that this flexibility allows for a more adaptable system, although it can lead to unpredictable results in cases of conflicting rights.<sup>155</sup>

### *Equality of human rights*

A different approach can be found in the Constitution of the Republic of South Africa<sup>156</sup>, which uniquely affirms all rights equally but emphasises certain core values such as equality, dignity, and liberty. The Constitution of South Africa (1996) sets out an extensive Bill of Rights in Chapter 2, covering civil, political, social, and economic rights, and explicitly states that "the Bill of Rights is the cornerstone of democracy in the Republic of South Africa" (Constitution of the Republic of South Africa, Section 7). However, it does not establish a hierarchy but instead encourages an "integrated" approach, whereby rights should be understood in relation to one another.<sup>157</sup>

The Constitutional Court of South Africa has often considered the interrelated nature of rights, particularly where socio-economic rights (such as housing, health and education) intersect with civil rights (such as freedom of expression and privacy). In *Government of the Republic of South Africa v. Grootboom* (2000)<sup>158</sup>, the Court held that the right to

---

<sup>152</sup> United States Constitution (1787): The Bill of Rights, Amendments I–X. Washington, D.C.: National Archives. (U.S. Constitution 1787: Amendment I)

<sup>153</sup> *Brown v. Board of Education* (1954): Supreme Court of the United States, 347 U.S. 483. (*Brown v. Board* 1954)

<sup>154</sup> *Roe v. Wade* (1973): Supreme Court of the United States, 410 U.S. 113. (*Roe v. Wade* 1973)

<sup>155</sup> Dworkin, Ronald (1986): *Law's Empire*. Cambridge, MA: Harvard University Press. (Dworkin 1986)

<sup>156</sup> Constitution of South Africa (1996): The Bill of Rights, Chapter 2. Pretoria: Government of South Africa. (South African Constitution 1996)

<sup>157</sup> Langford, Malcolm, Ben Cousins, Jackie Dugard, and Tshepo Madlingozi, eds. (2013): *Socio-Economic Rights in South Africa: Symbols or Substance?* New York: Cambridge University Press. (Langford et al. 2013)

<sup>158</sup> *South African Constitutional Court* (2000): *Government of the Republic of South Africa v. Grootboom*. Case CCT 11/00. (*Republic of South Africa v. Grootboom* 2000)

housing could not be considered in isolation from other rights, supporting an interpretation that seeks to balance the enjoyment of rights without strict priority being given to one over the other.

### *Hybrid forms of the hierarchy of human rights*

Some countries have adopted hybrid models in which certain rights are given a degree of priority through “reasonable limitations” but without a formal hierarchy. For example, in Canada, the Charter of Rights and Freedoms allows for certain limitations on rights if they are “justifiable in a free and democratic society” (Section 1), leading to judicial interpretations in which certain rights, such as equality, may sometimes be given priority depending on the context of the case<sup>159</sup>.

These different constitutional approaches reflect different legal philosophies about the priority of rights. Constitutional hierarchies can be understood as explicit, where certain rights are designated as more fundamental or protected, or implicit, where interpretations and applications in specific cases effectively establish a hierarchy even if they are not formally stated.<sup>160</sup>

The existence of a hierarchy can also influence how limitations on rights are perceived. Where a hierarchy is established, courts and legal institutions may have a structured framework for resolving conflicts between rights since certain rights will initially have more weight than others. Conversely, in systems without a formal hierarchy, balancing rights requires greater interpretative flexibility since no one right is initially prioritised over others<sup>161</sup>. Given these differences, it becomes important to examine how the Russian Constitution approaches human rights: does it favour a hierarchical model, or does it treat all rights as equal? This question is crucial to understanding how rights are applied in practice and how potential conflicts between rights are managed.

---

<sup>159</sup> Hogg, Peter W. (2012): *Constitutional Law of Canada*. Toronto: Carswell. (Hogg 2012)

<sup>160</sup> Shapiro, Martin, and Alec Stone Sweet (2002): *On Law, Politics, and Judicialization*. Oxford: Oxford University Press. (Shapiro and Stone Sweet 2002)

<sup>161</sup> Rosenfeld, Michel, and András Sajó, eds. (2012): *The Oxford Handbook of Comparative Constitutional Law*. Oxford: Oxford University Press. (Rosenfeld and Sajó 2012: 331)

# OVERVIEW OF THE RUSSIAN CONSTITUTION, HUMAN RIGHTS DEFENCE STATE BODIES AND ORGANIZATIONS

## RUSSIAN CONSTITUTION

Studying the Russian Constitution and its historical development is necessary to understand the current hierarchy of human rights within it. The evolution of constitutional governance in Russia—from imperial rule to the Soviet era and finally to the post-Soviet system—reflects significant shifts in the legal and political structures that underpin contemporary Russian society. Each of these stages in Russian history has contributed to different approaches to the role of the state and the individual, shaping the balance of rights and powers in the contemporary Constitution<sup>162</sup>.

The adoption of the 1993 Constitution marked a turning point, ushering in a more rights-based framework that incorporated principles of democracy and individual liberties. However, it also retained elements that emphasised the importance of state power and collective interests. This duality in the Russian Constitution—between individual rights and a strong role for the state—provides the basis for contemporary debates about whether there is an implicit hierarchy of rights and how it is interpreted in Russian jurisprudence.

Understanding this backdrop is crucial to understanding the current legal and political philosophy in Russia. The historical development of the Constitution highlights the tensions and compromises that influence judicial interpretation and the priority of rights. By examining the constitutional structure and its amendments, we gain insight into the principles that guide Russian courts when rights conflict and the possibility of a functional hierarchy that privileges certain rights over others.

This historical context enriches our understanding of how Russia's unique legal culture approaches human rights. It provides a substantive basis for analysing debates over the priority of rights in the Russian judicial system and offers a comparative lens for understanding Russia's human rights structure relative to other constitutional models.

The prehistory of the constitution in Russia dates back to the beginning of the 19th century.<sup>163</sup> The first constitutional project could be called "The Plan of State Transformation", developed in 1809 by Count Mikhail Speransky. The document stated the idea of a

---

<sup>162</sup> Bowring, Bill (2013): *Law, Rights, and Ideology in Russia: Landmarks in the Destiny of a Great Power*. New York: Routledge. (Bowring 2013: 87)

<sup>163</sup> Avakyan S.A. The Russian Constitution: Nature, Evolution, Modernity. - Sashko, 2000.

constitutional monarchy, limited by parliament and the abolition of serfdom. The Decembrists<sup>164</sup> Pavel Pestel and Nikita Muravyov proposed their draft constitutions.<sup>165 166</sup>

At the beginning of the reign of Emperor Alexander I, the idea emerged of reforming the country's political system by creating a constitution that would guarantee personal freedom and civil rights to the subjects. In 1820, the State Charter of the Russian Empire was drawn up, but its adoption was postponed for an indefinite period.<sup>167</sup>

During the reformatory rule of Alexander II, Russia was on the verge of adopting a constitution. Mikhail Loris-Melikov drafted a constitution proposing a program of reforms, which included the reorganisation of the local administration, the expansion of the old believers' rights<sup>168</sup>, the revision of the passport system, regulating the relations of entrepreneurs and workers, changes in the public education system, etc. However, in 1881, on the eve of signing the manifesto, supposing implementation of the reforms, Alexander II was assassinated by the Narodnaya Volya<sup>169</sup>. The constitutional process in Russia was interrupted.

After the 1905 revolution, Emperor Nicolas II signed the Manifestos (on August 6 and October 17), which established the State Duma and the "Regulations on Elections". These documents were seen as a first step towards a system of law.

After the February 1917 revolution, the Provisional Government took over the running of the country until a Constituent Assembly was convened to begin forming a state governed by the rule of law in Russia. However, the assembly, which had been set up by the beginning of 1918, was dissolved by resolution of the All-Russian Central Executive Committee on January 6 of the same year.

---

<sup>164</sup> The Decembrists - participants in the December 14, 1825 uprising in the Senate Square, members of various secret societies in the second half of the 1810s - first half of the 1820s, named after the month of the uprising, representatives of the Russian nobility and gentry considered autocracy and serfdom destructive for the further development of the country.

<sup>165</sup> Mironenko S. V. Alexander I and the Decembrists: Russia in the First Quarter of the 19th Century. Choosing the path - Moscow: Kuchkovo Pole, 2017. - 400 c. ISBN 978-5-9950-0700-5

<sup>166</sup> B. Afanasiev. Star of Freedom. History of the almanac by A. Bestuzhev and K. Ryleev. 1823-1825 // Polar Star: Almanac published by A. Bestuzhev and K. Ryleev (1823-1825): Selected pages. - M.: Sov. Rossiya, 1982.

<sup>167</sup> Bogdanovich, M. I. History of the reign of Emperor Alexander I and Russia in his time / M. I. Bogdanovich. - St. Petersburg : Type. F.S. Sushchinskiy, 1869. - Vol. 4.

<sup>168</sup> Old Believers are Russian Orthodox Christians who rejected Patriarch Nikon's liturgical reforms in the 1650s, considering them deviations from the true faith. They were persecuted as heretics and formed separate religious groups.

Alexander II significantly improved their rights. Old Believers were no longer considered a criminal offence; they were allowed to register vital events, build houses of worship, have their own property, and serve in the army without accepting Orthodox rites. These reforms eased the persecution, giving the Old Believers more social and religious freedoms.

<sup>169</sup> Narodnaya Volya was a revolutionary socialist political organization of the late 19th century, active in the Russian Empire, which committed assassinations of government officials in an attempt to overthrow the autocratic tsarist regime.

The first Constitution of the Russian Soviet Federative Socialist Republic (hereinafter – RSFSR), approved by the Fifth All-Russian Congress of Soviets on July 10, 1918, had a clearly pronounced class character. It embodied the slogans proclaimed by the Bolsheviks: all power was transferred to the Soviets, private land ownership was abolished, and limitations in political rights for specific social groups were introduced.<sup>170 171</sup>

On 31st January 1924, the Constitution of the Union of Soviet Socialist Republics (hereinafter – Soviet Union, USSR), which, to a large extent, incorporated the 1918 Constitution, was adopted. By the provisions of the Soviet Union Constitution, a new version of the RSFSR Constitution was adopted in 1925. Its peculiarity was that it contained no provisions for the suppression of the exploiting classes and the world revolution. One of the main provisions was the separation of powers and competencies between the USSR and the RSFSR.

On December 5, 1936, the Eighth Extraordinary Congress of Soviets adopted the next Soviet Constitution, which contained the thesis about the leading role of the Communist Party. The document also included norms asserting the economic foundations of socialism. For the first time in the history of the state, the text of the Constitution stated political and individual rights and freedoms.<sup>172 173</sup>

The Third Constitution of the RSFSR was adopted on January 21, 1937. One of its peculiarities was the introduction of the rule, giving the RSFSR the right to secede from the USSR.

The USSR Constitution was adopted on October 7, 1977. The peculiarity of this document was its introductory theoretical part, which contained the list of the main stages in the creation of a developed socialist society in the USSR.

The Constitution of the RSFSR, dated April 12, 1978, was based on the Union Constitution of 1977. It expanded the list of rights and freedoms of Soviet citizens, in particular by introducing the rights to housing and health protection.<sup>174</sup>

---

<sup>170</sup> Barkova, O. N. Legal basis for the creation and development of the RSFSR in the 1920s / O. N. Barkova, Yu. C. Kukushkin // Bulletin of Moscow University. Ser. 8, History. - 2012. - № 2. - C. 80-108.

<sup>171</sup> Tumanov, D. Y. The system of rights and freedoms under the Constitution of the RSFSR of 1918 / D. Y. Tumanov // Vestnik of Saratov State Academy of Law. - 2012. - № 1 (83).

<sup>172</sup> Bychkov, A. I. (graduate student). Historical and Legal Characteristics of the USSR Constitution of 1936 / A. I. Bychkov // History of State and Law. - 2012. - № 9. - C. 18-21. - (On the constitutional rights). - Bibliography in footnote. - End. Beginning in #8.

<sup>173</sup> Shershneva E. A. Problem of fixing the form of state unity in the Constitution USSR of 1936 / E. A. Shershneva // Law and Law. - 2008. - № 9.

<sup>174</sup> Constitution (Fundamental Law) of the Russian Federation - Russia: Adopted at the Extraordinary Seventh Session. Supreme Soviet of the RSFSR of the ninth convocation on April 12, 1978, as amended and supplemented. Adopted by the Extraordinary Seventh Session of the RSFSR Supreme Soviet of the ninth convocation on April 12, 1978, with amendments and additions, introduced by the Laws of the RSFSR of October 27, 1989, May 31, June 16 and December 15, 1990, May 24 and November 1, 1991, and the Russian Federation Law of April 21, 1992 - Moscow: Supreme Soviet of the Russian Federation, Izvestiya, 1992. - 110c. ISBN 5-206-00373-5

On March 14, 1990, Article 6, about the leading role of the Communist Party of the Soviet Union (hereinafter – CPSU), was excluded from the USSR Constitution, and respective amendments were made to the Constitution of the RSFSR.

On June 12, 1990, the first Congress of People's Deputies of the RSFSR declared state sovereignty on the whole territory of the country and adopted the Declaration of the State Sovereignty of the RSFSR. This document declared the need to adopt a new Constitution reflecting the new political realities. The first Constitution of the new Russia was adopted on December 12, 1993.<sup>175</sup>

It is customary to divide the history of the creation of the Basic Law of Russia into several stages. The first is the time when the Constitution was being drafted in the conditions of the existence of the USSR. This stage also has several periods. The first period refers to 1988 - 1990 when, following the constitutional novelties of the Union level, amendments were made to the Constitution (Fundamental Law) of the RSFSR of 1978. The second period of constitutional reform in the RSFSR dates back to 1990. - 1991. It began with the adoption of the Declaration of the State Sovereignty by the First Congress of Peoples' Deputies on June 12, 1990, No. 22-1. Paragraph 15 of the Declaration stated: "The present Declaration is the basis for the development of the Constitution of the RSFSR, the conclusion of the Union Treaty and improvement of the republican legislation". According to its decision, on June 16, 1990, the Congress of Peoples' Deputies formed the Constitutional Commission to work out the new text of the Basic Law. However, the Statute on the Constitutional Commission was adopted only on January 22, 1992.<sup>176</sup>

The second stage of the constitutional reform ceased with the abolition of the USSR on December 25, 1991. By that time, the text of the current Constitution of the RSFSR, and after December 25, 1991 - the Russian Federation - Russia had a great number of amendments made respectively on October 27, 1989, May 31, 1990, On October 27, 1989, May 31, 1990, May 16, 1990, December 15, 1990, May 24, 1991, July 3, 1991, November 1, 1991, April 21, 1992, December 9, 1992, December 10, 1992. All these amendments were made to the Constitution in the form of specially adopted laws "On amendments and additions to the Constitution (Fundamental Law) of the RSFSR."<sup>177</sup>

The collapse of the USSR and the transformation of Russia into an independent state gave birth to a new stage of constitutional reform, which was completed in October 1993. Decree No 1633 of the Russian President B.N. Yeltsin of October 15, 1993, "On holding a national referendum on the draft Constitution of the Russian Federation", was issued.<sup>178</sup>

---

<sup>175</sup> Marino, I. Constitutional Commission of the Congress of People's Deputies of the RSFSR: some Regularities from the history of the Constitution of the Russian Federation / I. Marino // Vestnik. Perm University. - 2008. - Vyp. 6 (22).

<sup>176</sup> Alexandrova, M. A. History of the Constitution of the Russian Federation / M. A. Alexandrova // State power and local self-government. - 2010. - № 11.

<sup>177</sup> Rumyantsev, O. G. From the History of the Creation of the Constitution of the Russian Federation. About the work of the Constitutional Commission (1990-1993). (In 4 parts). Ch. 2: 1991 / O.G.Rumyantsev. - (K 15- On the work of the Constitutional commission (1990-1993): About the work of the Constitutional commission (1990-1993) // State and right. - 2009. - № 12. - C. 64-75. - Finish. Beginning: 2008. - № 9. - C. 5-12.

<sup>178</sup> Halmetov A. I. Constitution of Russia: alternative projects and modern development / A. I. Halmetov // Law and state: theory and practice. - 2012. - № 3. - C. 60-64. - (Constitutional and municipal law).

The voting (the referendum) on the draft of the new Constitution was attended by 58 million 187,755 voters, or 54.8% of the registered voters. A total of 32 million 937,630 voters, or 58.4 per cent of those registered, cast their ballots in favour of adopting the Constitution.<sup>179</sup>

By the decision of the Central Election Commission of the Russian Federation on December 20, 1993, this referendum was declared valid, and the Constitution was adopted. On December 25, 1993, the final text of the Constitution was published in "Rossiyskaya Gazeta" (the official parliament Russian newspaper). Since that date, the Constitution of Russia has been in force.

The Constitution of the Russian Federation is not the successor of the constitutions of the Soviet Union, but its influence is nevertheless considerable. The 1993 Constitution of the Russian Federation fully preserved the fundamental rights of man and citizen. In addition, Russia is a federation, and its constitution draws on the experience of Soviet federalism.<sup>180</sup>  
181

In 2020, amendments approved by a nationwide referendum were made to the Constitution of the Russian Federation.

They mainly affected the powers of the President (expanding them and "zeroing out" the number of terms he had already spent as President), introduced restrictions on the powers of local government, recognised the non-binding execution of international acts and decisions of international courts, and introduced changes to the judicial system (actually reducing the independence of the courts<sup>182</sup>).

Thus, Russia currently has a constitution of 1993 with amendments of 2020.

---

<sup>179</sup> Pikhoya, R. Historical conditions of the 1993 Constitution / R. Pikhoya // Ural. Federal Okrug. - 2012. - № 11/12.

<sup>180</sup> Baibakov, S. A. Modern views on the development of the draft of the third Constitution of the USSR, 1977): on new archival materials / S. A. Baibakov // Bulletin of Moscow University. Ser. 8, History. - 2012. - № 5. - C. 128-149.

<sup>181</sup> Lesin, A. V. Stages and regularities of development of the constitutional legislation of the USSR, RSFSR and Union republics in the Soviet period / A. V. Lesin // Law and Politics. - 2009. - № 2

<sup>182</sup> Courts (Constitutional, Supreme, Federal) now have no possibility to elect their own chairman and his deputies. Now they are appointed at the recommendation of the President.

In the case of judges committing acts that discredit honor and dignity, as well as in other cases stipulated by the federal constitutional law, the Federation Council can suspend a judge (Art. 83, Letter f3). At present, judges' powers are suspended by decision of collegial judicial bodies in cases provided for by federal laws. This provision applies equally to the President of the Court and his deputies in the Supreme and Constitutional Courts.

## **PROTECTION OF HUMAN RIGHTS IN RUSSIA (MAIN STATE BODIES AND ORGANIZATIONS)**

Before going to the main part of the chapter, which is the hierarchy of fundamental rights in Russian Constitution law, it is important to note that the protection of human rights in Russia involves a complex interplay of institutions, laws, and societal attitudes. While Russia has ratified numerous international human rights treaties and has a constitution that guarantees fundamental rights and freedoms, the practical enforcement still faces some problems.

Key bodies and mechanisms involved in the protection of human rights in Russia include:

- Constitutional Court of the Russian Federation:

The Constitutional Court is the highest judicial body in Russia for constitutional issues. It interprets the Constitution and has the authority to review the constitutionality of laws, decrees, and regulations. Its decisions can have significant implications for the protection of human rights in Russia.

The main task of the Constitutional Court of the Russian Federation is to check laws and other acts of the supreme bodies of state power of the Russian Federation and its regions (including, at the request of the President - laws and their drafts) for compliance with the Constitution.

The Constitutional Court of the Russian Federation consists of eleven judges<sup>183</sup>, including the Chairman of the Constitutional Court of the Russian Federation and his (her) deputy appointed to the post by the Federation Council upon the recommendation of the President of the Russian Federation.

The powers and principles of the activities of the Constitutional Court of the Russian Federation are determined by the Constitution of the Russian Federation and the Federal Constitutional Law "On the Constitutional Court of the Russian Federation".<sup>184</sup>

The Constitutional Court of the Russian Federation shall decide solely on legal issues and shall be guided only by the Constitution. While carrying out constitutional judicial proceedings, the Constitutional Court of the Russian Federation shall abstain from establishing and investigating factual circumstances in all cases where this is within the competence of other courts or other bodies.

The Constitutional Court of the Russian Federation shall check laws and other acts of the supreme bodies of state power of the Russian Federation and its subjects for their

---

<sup>183</sup> Judges of the Constitutional Court of the Russian Federation, who exercise their powers on the day Article 1 of this law comes into force, continue to exercise their powers until their termination on the grounds set out in the federal constitutional law of July 21, 1994 N 1-FKZ "On the Constitutional Court of the Russian Federation" (part 7 of Article 3 of the law on amendment of March 14, 2020 N 1-FKZ "On improvement of the regulation of certain issues of organization and functioning of public authorities").

<sup>184</sup> Federal Constitutional Law "On the Constitutional Court of the Russian Federation". (1994). No. 1-FKZ



constitutionality, including laws and their drafts by way of preliminary constitutional control at the request of the President. The court may also review the constitutionality of normative legal acts by way of specific constitutional control - upon complaints of citizens, legal entities, municipalities, or upon requests of courts in connection with a specific case. It also checks international treaties before they enter into force, considers disputes about the competence defined by the Constitution, gives the official interpretation of the Constitution of the Russian Federation, resolves the question of the possibility to execute decisions of an interstate body, a foreign or international court, or arbitration, and exercises several other powers.

It is important to note that adopted decisions shall be final and not subject to appeal. Provisions of normative acts recognised by the Constitutional Court to be contradictory to the Constitution shall become invalid. Acts or certain provisions thereof recognised as constitutional in the interpretation given by the Constitutional Court of the Russian Federation shall not be applied in any other interpretation.

The decisions of the Constitutional Court of the Russian Federation shall be binding on the entire territory of the country for all representative, executive and judicial State government bodies, local self-government bodies, enterprises, institutions, organisations, officials, citizens and their associations.

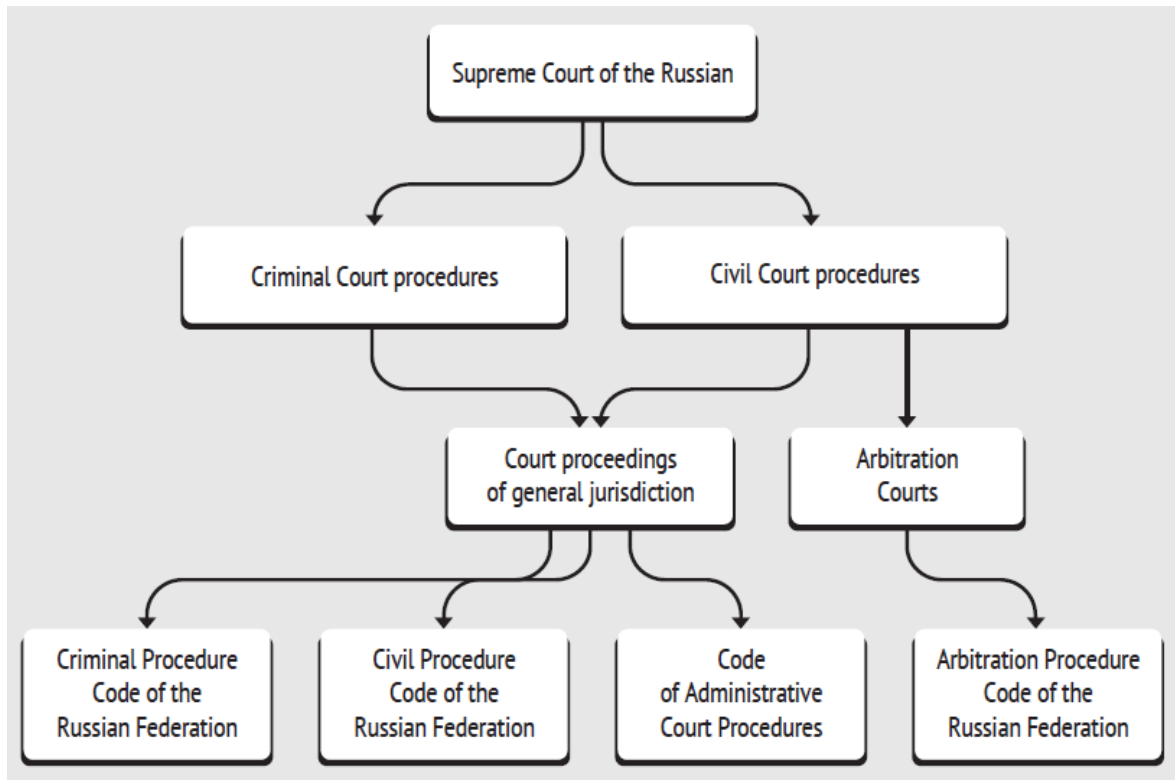
The regions of Russia may have their own Constitutional Courts, which review the compliance of laws and normative-legal acts of a given region with the Constitution of that region, but we will not go into detail and consider this issue in depth.

- Courts of General Jurisdiction in the Russian Federation

As mentioned above, the Constitutional Courts deal with the issues of checking laws and acts for compliance with the Constitution of the Russian Federation (or regional constitutions).

Directly protecting the rights of an individual (regardless of the other party to the dispute) is a matter for the courts of general jurisdiction, while disputes between organisations or organisations with state bodies are handled by the Arbitration Courts.

Schematically, the Picture below shows the structure of courts with division (for understanding) into the framework of civil and criminal disputes.



Picture 3: Russian court system (without Constitution courts)

Source: Federal Constitutional Law of December 31, 1996, No. 1-FKZ (as amended on April 16, 2022) "On the Judicial System of the Russian Federation" (with amendments and additions, effective from January 1, 2023)<sup>185</sup>

- Office of the Ombudsman (Human Rights Commissioner):

Established in 1994<sup>186</sup>, the Office of the Ombudsman is tasked with protecting human rights and freedoms in Russia. The Human Rights Ombudsman in the Russian Federation is an official appointed by the State Duma of the Federal Assembly of the Russian Federation to consider complaints from citizens of the Russian Federation and foreign citizens and stateless persons residing in the territory of the Russian Federation about decisions or actions (inaction) of state bodies, local self-government bodies, officials and civil servants<sup>187188</sup>.

<sup>185</sup> Federal Constitutional Law of December 31, 1996, No. 1-FKZ. (2022, April 16). О судебной системе Российской Федерации [On the Judicial System of the Russian Federation].

<sup>186</sup> The Constitution of the Russian Federation was adopted by a nationwide vote on December 12, 1993

<sup>187</sup> Declaration of Human and Civil Rights adopted by the Resolution of the Supreme Soviet of the RSFSR No. 1920-1 of November 22, 1991

<sup>188</sup> Federal Constitutional Law No. 1-FKZ of February 26, 1997, "On the Commissioner for Human Rights in the Russian Federation"

At its core, the Ombudsman for Human Rights serves as an independent authority tasked with investigating complaints related to human rights violations, monitoring governmental actions, and advocating for systemic reforms to uphold fundamental freedoms. This institution symbolises Russia's acknowledgment of its international obligations and commitment to respecting human rights principles as enshrined in various international conventions and treaties.

One of the fundamental functions of the Russian Ombudsman for Human Rights is to provide a platform for citizens to voice their concerns and seek redress for injustices they encounter. The ombudsman fosters transparency and accountability by facilitating open communication channels between citizens and the government, thereby contributing to the consolidation of democratic governance in Russia.

However, despite its noble aspirations, the effectiveness of the Ombudsman for Human Rights in Russia has been subject to scrutiny and criticism from various quarters<sup>189</sup>. Critics argue that the ombudsman's office often faces constraints in its operations, including limited authority, insufficient resources, and political pressures from the government. These challenges can undermine the ombudsman's ability to fulfill its mandate fully and independently.

Moreover, concerns have been raised regarding the ombudsman's capacity to address systemic human rights issues and enact meaningful reforms in the face of entrenched bureaucratic obstacles and resistance. Without robust institutional support and legal frameworks conducive to human rights protection, the ombudsman may find its efforts stymied, and its impact diluted.<sup>190</sup>

In the scholarly discourse surrounding the role of the Ombudsman for Human Rights in Russia, researchers have highlighted the importance of strengthening the institution's autonomy, enhancing its investigative powers, and expanding its mandate to encompass a broader spectrum of human rights concerns.<sup>191 192</sup> Drawing on comparative analyses and empirical evidence, scholars offer insights into the institutional dynamics shaping the ombudsman's effectiveness and propose recommendations for enhancing its capacity to promote and protect human rights.

In conclusion, while the Ombudsman for Human Rights in Russia represents a significant institutional mechanism for promoting human rights and accountability, its efficacy hinges on overcoming inherent challenges and fostering a conducive environment for its operations. Through ongoing scholarly inquiry and public discourse, efforts can be made to

---

<sup>189</sup> Bill Bowring. (2004). "The Russian Ombudsman and the European Convention on Human Rights." *Human Rights Law Review*, 4(1), 71-88.

<sup>190</sup> Gerald L. Epstein. (2006). "Civil Society, The Rule of Law and Human Rights in Russia: The Independent Expert and the Ombudsman." *Europe-Asia Studies*, 58(5), 697-719.

<sup>191</sup> Alexei Trochev. (2006). "The Russian Ombudsman: A Half-Empty or a Half-Full Glass?" *Europe-Asia Studies*, 58(2), 177-202.

<sup>192</sup> Peter Rutland. (2004). "The Ombudsman and the Dilemmas of Post-Communist Democratization: The Russian Case." *Journal of Communist Studies and Transition Politics*, 20(2), 58-75.

strengthen the ombudsman's role and ensure its meaningful contribution to the advancement of human rights in Russia.

- Civil Society Organizations (CSOs):

Despite facing increasing restrictions and scrutiny from the government, civil society organisations play a vital role in advocating for human rights in Russia. They provide legal assistance to victims of human rights abuses, monitor government actions, and raise awareness about human rights issues domestically and internationally.

As an example, the Association of Indigenous Minorities of the North, Siberia and Far East of the Russian Federation (ACMNSS and Far East of the Russian Federation) is an all-Russian public organisation whose purpose is to protect human rights and defend the interests of the indigenous minorities of the North, Siberia and Far East of Russia<sup>193</sup>.

- Media and Journalists:

Media and journalists play an important role in the defence of human rights in Russia. The media and journalists play a crucial role in defending human rights in Russia. Their efforts extend beyond conventional reporting to encompass a spectrum of activities aimed at addressing societal issues, amplifying voices, and holding authorities accountable.

Russian media outlets frequently collaborate with law enforcement agencies to raise awareness about missing persons, especially children and vulnerable individuals. Media organisations disseminate information through dedicated programs, news segments, and online platforms to mobilise communities and facilitate search efforts. These efforts often lead to successful reunions and help prevent human trafficking and exploitation.

For instance, state-owned channels like Channel One Russia<sup>194</sup> and Rossiya 1<sup>195</sup> regularly feature programs such as "Wait for Me" ("Жди меня"), which focuses on reuniting families separated by various circumstances, including war, migration, and personal conflicts. Through viewer submissions and investigative reporting, these programs have contributed to numerous reunions and shed light on complex social issues.

Russian media outlets, including state-owned channels, devote significant coverage to regional issues, shedding light on problems such as environmental degradation, healthcare disparities, and infrastructure challenges. By reporting on these issues, journalists raise awareness, encourage public discourse, and prompt authorities to take action to address the underlying causes.

---

<sup>193</sup> Association of Indigenous Minorities of the North, Siberia and Far East of the Russian Federation (ACMNSS and Far East of the Russian Federation). (n.d.). Available at: <https://raipon.info/>

<sup>194</sup> TV Channel One Available at: <https://www.1tv.ru/>

<sup>195</sup> TV Channel One Available at: <https://www.1tv.ru/>

Programs like "Vesti" on Rossiya 24<sup>196</sup> and "Time Will Tell" ("Время покажет") on Channel One<sup>197</sup> often feature segments that focus on regional developments, providing insights into the socioeconomic conditions and human rights challenges faced by people across Russia. Through investigative reporting and in-depth analysis, these programs serve as platforms for discussing solutions and advocating for positive change.

Russian media outlets, including state-owned ones, play a critical role in exposing violations of human rights and advocating for justice on behalf of affected individuals. Journalists investigate cases of discrimination, abuse of power, and infringement of civil liberties, bringing them to the forefront of public consciousness and catalysing efforts to seek redress.

State-controlled newspapers like Rossiyskaya Gazeta<sup>198</sup> and Izvestia<sup>199</sup> have reported extensively on cases of human rights violations, including those related to freedom of speech, political dissent, and minority rights. While their coverage may reflect the government's official stance, these outlets nonetheless contribute to public awareness and debate on critical human rights issues.

In conclusion, media and journalists in Russia serve as vital catalysts for defending human rights by facilitating community engagement, highlighting regional challenges, and advocating for justice. Despite the complexities of the media landscape and regulatory constraints, their efforts contribute to promoting transparency, accountability, and respect for human dignity across Russian society.

---

<sup>196</sup> TV Channel Rossiya 24 Available at: <https://vgtrk.ru/russia24>

<sup>197</sup> TV Channel One Available at: <https://www.1tv.ru/>

<sup>198</sup> Newspaper Rossiyskaya Gazeta Available at: <https://rg.ru/>

<sup>199</sup> Newspaper Izvestia Available at: <https://iz.ru/>

## **HIERARCHY OF FUNDAMENTAL RIGHTS IN THE RUSSIAN CONSTITUTION**

The Russian Constitution does enumerate a range of fundamental rights and freedoms in Chapter 2, titled "Rights and Freedoms of Man and Citizen." These rights include but are not limited to, the right to life, personal liberty, privacy, freedom of expression, assembly, religion, and property rights.

While the Constitution guarantees these rights and freedoms, it also provides mechanisms for limitations and restrictions under certain circumstances. For instance, rights may be restricted by federal law to ensure national security, public order, protection of health and morals, or the rights and freedoms of others. Additionally, the Constitution mandates that international treaties and agreements ratified by the Russian Federation become integral to its legal system. Therefore, international human rights instruments, to which Russia is a party, may also influence the protection and interpretation of fundamental rights.

In practice, the Russian legal system, including its constitutional court, is responsible for interpreting and adjudicating cases involving alleged violations of fundamental rights. While the Constitution provides a framework for these rights, the interpretation and application of its provisions are subject to the decisions of the constitutional court and other courts within the Russian judicial system.

In summary, while Russia's Constitution does establish fundamental rights and freedoms for its citizens, including the right to judicial protection of these rights, the concept of a strict hierarchy of fundamental rights is not explicitly outlined. The interpretation and application of these rights depend on the evolving jurisprudence and legal practices within the Russian legal system on a case-by-case basis.

At the same time, there is officially no case law in Russia. It is a kind of grey zone that operates at a particular court's discretion.

The Institute for Problems of Law Enforcement has published the results of a study entitled "Similar Legal Position. References to other cases in the texts of arbitration court judicial acts"<sup>200</sup>, prepared based on analysis of randomly selected 6.9 million arbitration court decisions in 5.4 million cases (not bankruptcy cases) for 2009-2019 for references to other arbitration cases.

Approximately 540 thousand cases contain references to legal positions expressed in other cases.

The author of the study also noticed that courts more often refer to legislative norms than to judicial acts. "In general, with the current legislation, it cannot be said that law has become precedent-based in its basis. But it is important that we now know for sure that the

---

<sup>200</sup> The Institute for Problems of Law Enforcement has published the results of a study entitled "Similar Legal Position. References to other cases in the texts of arbitration court judicial acts" Available at: [https://enforce.spb.ru/images/analit\\_zapiski/save-liev\\_links\\_to\\_cases.pdf](https://enforce.spb.ru/images/analit_zapiski/save-liev_links_to_cases.pdf)

opposite cannot be claimed either: that courts rely only on the letter of the law and are never guided by the opinion of other judges in similar cases,"<sup>201</sup> he emphasised.

Therefore, relying on judicial practice to assess the hierarchy of human rights in Russia is extremely problematic and unobjective.

We may conclude that the hierarchy of human rights in the Russian Constitution and Russian case law can be seen as having a hybrid structure. Although all rights are formally recognised as important and equally protected by the Constitution, restrictions can be introduced when deemed necessary to protect national security, public order, or the rights and freedoms of others. This hybrid approach reflects a balance between respecting fundamental rights and allowing flexibility in their application depending on contextual needs and judicial interpretation.

However, as we have already mentioned, it is not possible to form an unambiguous hierarchy of human rights in Russian constitutional law. Although we have found a non-trivial and interesting way to at least come closer to understanding the hierarchy in Russian law and for this purpose we have turned to the statistics of the European Human Rights Court.

---

<sup>201</sup> The Institute for Problems of Law Enforcement has published the results of a study entitled "Similar Legal Position. References to other cases in the texts of arbitration court judicial acts" Available at: [https://enforce.spb.ru/images/analit\\_zapiski/save-liev\\_links\\_to\\_cases.pdf](https://enforce.spb.ru/images/analit_zapiski/save-liev_links_to_cases.pdf)

## DISCOVERED HIERARCHY OF HUMAN RIGHTS IN RUSSIAN CONSTITUTION LAW

Due to the fact that it is not possible to identify a clear hierarchy of human rights in Russian constitutional law, but it is crucial for understanding the state's priorities, values and the relationship between the population and the authorities, we have found a non-trivial and interesting way to at least come closer to understanding the hierarchy in Russian law<sup>202</sup>.

We have turned to the statistics of the European Human Rights Court.

Every year, the European Court of Human Rights publishes a report on its work, and in February 2022, it published a report on its work from 1959 to 2021<sup>203</sup>.

First of all, it should be noted that the European Convention on Human Rights, which establishes the competence of the European Court of Human Rights (hereinafter – ECHR), was in force for Russia from 5 May 1998<sup>204</sup> (when the Convention entered into force for Russia) until 16 September 2022, when Russia ceased to be a party to the Convention<sup>205</sup>.

Russia's withdrawal from the Council of Europe was preceded by the fact that on 15 March 2022, Russia announced its intention to denounce the Convention on Human Rights<sup>206</sup>.

In this regard, on 23 March, the ECHR published a resolution in which it clarified that from 16 September Russia would cease to be a party to the convention, so the court would be able to consider complaints by Russians against Russia if they were filed before that date<sup>207</sup>.

Thus, in fact, it is of little relevance to consider the statistics of the ECHR after 2022, as Russia is no longer a member of the organisation and is not obliged to execute the decisions of the ECHR.

Over the 20-year history of Russia's presence in the Council of Europe, the ECHR has issued 2943 judgements against the Russian authorities<sup>208</sup>.

---

<sup>202</sup> Alexy, Robert (2002): *A Theory of Constitutional Rights*. Oxford: Oxford University Press. (Alexy 2002)

<sup>203</sup> European Court of Human Rights (2022): *Annual Report 1959-2021*. Strasbourg: ECHR. (ECHR 2022)

<sup>204</sup> European Court of Human Rights (1998): *European Convention on Human Rights, Entry into Force for Russia*. Strasbourg: ECHR. (ECHR 1998)

<sup>205</sup> European Court of Human Rights (2022): *Resolution on Russia's Departure, 23 March 2022*. Strasbourg: ECHR. (ECHR 2022b)

<sup>206</sup> Council of Europe (2022): *Russia's Withdrawal from the Council of Europe Announcement, 15 March 2022*. Strasbourg: Council of Europe. (Council of Europe 2022)

<sup>207</sup> European Court of Human Rights (2022): *Resolution on Russia's Departure, 23 March 2022*. Strasbourg: ECHR. (ECHR 2022b)

<sup>208</sup> European Court of Human Rights (2021): *Statistical Analysis of Judgments against Russian Authorities*. Strasbourg: ECHR. (ECHR 2021)



Thus, we can create a hierarchy of human rights in the Russian Constitution based on the frequency of their violations. This hierarchy will reflect which rights are more vulnerable to violations and, therefore, may be lower in the hierarchy of protection in practice, despite formal constitutional guarantees.

It should be noted, however, that this analysis is merely an attempt to construct a hierarchy of rights that does not properly exist in Russian constitutional law.

Based on the data presented, we can construct a hierarchy of rights based on the frequency of violations found by the ECHR, which indirectly reflects areas of most significant concern or rights that face the greatest systemic problems.

***Proposed Practical Hierarchy of Human Rights in the Russian Constitution (Based on human rights violations from highest to lowest frequency from ECHR statistics<sup>209</sup>):***

*1. Prohibition of Torture and Inhuman Treatment*

The 1,079 violations related to torture and inhuman or degrading treatment reveal systemic problems, particularly in detention practices and treatment by authorities. This makes the prohibition of torture a key, but frequently violated, right.

*2. Right to Liberty and Security of Person*

With 1,031 violations, this right is one of the most frequently violated, indicating significant problems in its protection within the Russian justice system and law enforcement. This suggests that in practice, the right to liberty and security is one of the most vulnerable rights and may not be strictly observed.

*3. Right to a Fair Trial*

Violations of the right to a fair trial (820 cases) indicate problems in the justice system. This right is essential for due process and justice, but frequent violations indicate that it is also a vulnerable right that affects the overall integrity of the legal framework in Russia.

*4. Right to Life*

With 614 cases of deprivation of life or ineffective investigation of such cases, this fundamental right faces serious challenges. Although it is a fundamental right in most legal systems, frequent violations indicate that in practice it may be at risk in certain situations.

---

<sup>209</sup> European Court of Human Rights (2022): *Annual Report 1959-2021*. Strasbourg: ECHR. (ECHR 2022)

### *5. Right to Property*

Violations of property rights (629 cases) indicate problems in the protection of individual property and the security of property. This relatively high number of violations places property rights lower in the practical hierarchy than other economic or civil rights.

### *6. Right to an Effective Remedy*

With 590 violations, the right to an effective remedy reflects the difficulties people face in accessing justice. Ineffective remedies weaken the practical enjoyment of all other rights, suggesting that this right may be insufficiently protected.

### *7. Respect for Private and Family Life*

Violations of private and family life (198 cases) place this right in the middle or lower range of the hierarchy. This reflects certain limitations on personal freedoms and protection of privacy, although it may still be relatively better protected than some political rights.

### *8. Freedom of Expression*

With only 53 recorded violations, freedom of expression appears lower in terms of the number of cases, but this may reflect restrictions on publicly expressing dissatisfaction or taking cases to court rather than actual protection. It is likely to be lower in the practical hierarchy given the political sensitivities surrounding dissent.

### *9. Freedom of Assembly*

Similarly, freedom of assembly has 35 violations, suggesting that it may be heavily restricted. This low number may not reflect proper protection, but rather limited opportunities to assemble or significant barriers to claiming this right.

### *10. Right to Marriage*

With no recorded violations, the right to marriage appears to be well protected or less controversial in Russia. This right may be at the top of the practical hierarchy because it is closely linked to traditional social values and state interests.

## THE MAIN FINDINGS ABOUT THE RUSSIAN HIERARCHY OF HUMAN RIGHTS (DE JURE)

The hierarchy of human rights in Russia, derived from the European Court of Human Rights judgments, reveals a *de jure* hierarchy in the practical application and protection of various rights within the Russian legal system and provides valuable insights into the practical application and protection of rights. This approach allows us to observe patterns that highlight certain vulnerabilities: frequent violations of the rights to liberty and security of person, protection from torture and the right to a fair trial suggest that these rights may not be securely secured and prioritised in the Russian legal system.

However, using ECHR statistics as a proxy for understanding the hierarchy of rights in Russia has both strengths and weaknesses. On the positive side, these data provide a unique, independent perspective on the state of human rights protection in Russia, particularly because they reflect violations serious enough to reach an international court. These cases highlight recurring systemic problems, offering a clearer picture of where protection may be insufficient and where enforcement mechanisms may fail.

On the other hand, this approach is limited in scope. ECHR cases only represent instances where individuals were able to successfully bring complaints, meaning that the data may not cover the full range of rights violations. In addition, some rights, such as freedom of expression and assembly, may appear less frequently in ECHR judgments, not necessarily because of stronger protection, but rather because of restrictions that prevent individuals from accessing justice or freely exercising these rights. As a result, a hierarchy based on ECHR statistics may not fully reflect the reality in Russia, but instead offers a partial perspective shaped by the cases that reach the European Court.

Overall, this method provides a useful, although indirect, way of mapping the hierarchy of rights in Russia. It highlights areas where reform and stronger protection may be needed and underscores the importance of an explicit formal hierarchy to ensure balanced protection of all fundamental rights in the Russian Constitution.

To sum up, the main findings that can be made about the Russian hierarchy of human rights are the following:

- The high number of violations of the right to liberty and security, the prohibition of torture, and the right to a fair trial demonstrate significant systemic problems in the protection of these fundamental rights. These rights, which are essential for individual protection against state power, are in practice among the most vulnerable. Frequent violations may reflect both limitations on judicial independence and problems in law enforcement practices.
- Violations of the right to an effective remedy indicate that individuals often have difficulty obtaining justice and redress for rights violations. This undermines the ability to enforce other rights, as it points to a structural problem in the legal system that prevents accountability for rights violations. The lack of effective remedies reduces the practical usefulness of formal rights protections, highlighting the need for judicial reforms to provide stronger guarantees.

- Property rights violations are significant, but not as frequent as violations of personal security and due process rights. This finding suggests that while economic rights are somewhat protected, they are still vulnerable. This could impact both individual and corporate stakeholders, pointing to potential problems in regulatory practices, property law enforcement, and economic stability.
- Violations of privacy and family rights are significant, but less frequent than violations of other fundamental rights. This suggests a moderate level of protection for personal autonomy in family and private life, although it remains below the ideal. These rights are likely to face fewer challenges due to their alignment with traditional values, but they are still at risk, particularly in cases of government surveillance or other state interventions.
- The relatively low number of violations of freedom of expression and assembly may not indicate strong protection but rather reflect limited opportunities to exercise or claim these rights. Given the political sensitivity of these rights, their low ranking in the practical hierarchy suggests significant restrictions on civil liberties in the public sphere, which may encourage self-censorship or underreporting of violations.
- With no violations recorded, the right to marriage is one of the most protected in Russia, likely reflecting its cultural conformity and the state's interest in supporting traditional family structures. This suggests that certain social rights, consistent with conservative values, are less vulnerable to violation.

The hierarchy of human rights found in Russia shows that, despite the presence of formal guarantees, effective protection of these rights varies considerably. Rights related to personal security, freedom from torture, fair trials, and effective remedies are among the most compromised, indicating systemic gaps in enforcement. Meanwhile, social rights that are closely linked to traditional values, such as marriage, enjoy stronger protection. This hierarchy underscores the need to strengthen judicial independence, improve law enforcement, and provide effective remedies to enhance human rights protection.

## CHAPTER 4: THEORETICAL HIERARCHY OF FUNDAMENTAL RIGHTS IN RUSSIA (IN THE THEORY OF LAW)

The theoretical hierarchy of fundamental rights is an essential concept in legal theory that helps establish the order of importance between different fundamental rights. There are several points of view on the definition and application of this hierarchy, including the principle of proportionality, constitutional identity and supremacy.

One of the influential points of view on the theoretical hierarchy of fundamental rights is the "principle of proportionality", according to which the restriction of a fundamental right must be proportionate to the aim pursued. This principle is widely accepted in international human rights law, as well as in the legal systems of many countries, including Germany, where it was first developed.<sup>210211</sup>

Another view of the theoretical hierarchy of fundamental rights is based on the idea of "constitutional identity", according to which some fundamental rights are more closely associated with a particular constitutional tradition than others. This view has been advanced by legal scholars such as Matthias Kumm and Robert Alexi.<sup>212213</sup>

A third view of the theoretical hierarchy of fundamental rights is based on the idea of "supremacy", according to which certain fundamental rights are more important than others and should take precedence in case of conflict. This view has been advanced by legal scholars such as Jürgen Habermas and Ronald Dworkin.<sup>214215</sup>

Despite these differing points of view, there is no generally accepted definition of a theoretical hierarchy of fundamental rights. Instead, the hierarchy is often context-dependent and its application may vary depending on the particular legal system and the facts of a particular case.<sup>216</sup>

The practical application of the theoretical hierarchy of fundamental rights can be complex, and there are many factors that can influence how it is applied in practice. For example, the specific language of a constitution or other legal document may be open to

---

<sup>210</sup> Robert Alexy, *A Theory of Constitutional Rights* (Oxford University Press, 2002)

<sup>211</sup> BVerfGE 89, 1 - Lüth (reference to a specific decision of the German Federal Constitutional Court)

<sup>212</sup> Matthias Kumm, "The Idea of Socratic Contestation and the Right to Justification: The Point of Rights-Based Proportionality Review," *Law and Ethics of Human Rights* 2 (2008): 149-186.

<sup>213</sup> Robert Alexy, *A Theory of Constitutional Rights* (Oxford University Press, 2002)

<sup>214</sup> Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (MIT Press, 1996).

<sup>215</sup> Ronald Dworkin, *Taking Rights Seriously* (Harvard University Press, 1977)

<sup>216</sup> Armin von Bogdandy and Ingo Venzke (eds.), *In Whose Name?: A Public Law Theory of International Adjudication* (Oxford University Press, 2014).

interpretation, and different judges or legal scholars may have different views on how to interpret and apply it.

In addition, political and social factors may also play a role in how the theoretical hierarchy of fundamental rights is applied. For example, public opinion and political pressure can influence how judges interpret and apply constitutional provisions, especially in cases that are controversial or politically sensitive.

In this chapter, we will examine a theoretical approach to the hierarchy of fundamental rights, the necessity and importance of such a hierarchy, and also we will try to form a hierarchy of fundamental rights that exists in Russian legal theory.

## BACKGROUND FOR RUSSIAN LEGAL THEORY

The theoretical hierarchy of human rights in Russian legal thought is deeply rooted in the country's historical, philosophical, and legal traditions. Understanding these foundations is critical to assessing how human rights are conceptualized, prioritised, and applied in the Russian legal system and legal theory.

- Historical trajectory

As discussed in the previous chapter, the historical trajectory of human rights in Russia reflects a particular interplay between autocratic traditions, revolutionary ideologies, and modern constitutional frameworks. Each era brought unique perspectives and priorities, shaping modern Russian legal thought and the hierarchy of rights within it.

During the Tsarist era, the legal concept of individual rights was intertwined with the monarch's autocratic rule and the Orthodox Church's moral teachings<sup>217</sup>. Rights were considered privileges granted by the ruler, rather than inalienable rights of individuals<sup>218</sup>.

The Bolshevik Revolution of 1917 marked a radical departure from individualistic conceptions of rights, replacing them with a collectivist framework rooted in Marxist ideology. Rights were redefined as instruments for achieving class equality and advancing socialist development.

The collapse of the Soviet Union in 1991 ushered in a new era of constitutional democracy, characterised by an ambitious attempt to reconcile universal human rights principles with Russia's legal traditions and political realities<sup>219</sup>.

Adopting the 1993 Constitution marked a profound transformation of the legal framework for rights. A. A. Malko describes the Constitution as a "compromise text" that incorporates international norms while preserving the state-centric legacy of Russian legal culture<sup>220</sup>.

Despite its commitment to universal human rights, the post-Soviet state prioritised stability and sovereignty. Cases such as *Konstantin Markin v. Russia* (2012)<sup>221</sup> before the European Court of Human Rights (ECHR) highlight the struggle to balance international obligations and domestic interpretations. In that case, the ECtHR ruled against Russia's denial of parental leave to male military personnel, a decision that was later rejected by the Russian Constitutional Court<sup>222</sup>.

---

<sup>217</sup> Kudryashova, I. V. "Ethics and Law in Russian Jurisprudence: The Role of Orthodoxy." *Ethics & Society*, vol. 7, no. 1 (2020): 88–102

<sup>218</sup> Zhuravlyov, S. V. "Imperial Russia and Rights Reform: The Legacy of the 1905 Manifesto." *Slavic Legal Review*, vol. 5, no. 3 (2021): 21–38

<sup>219</sup> Avakyan, S. A. *Constitutional Rights of Citizens in Russia*. Moscow: Norma, 2020

<sup>220</sup> Malko, A. A. *Constitutionalism in Russia: Theory and Practice*. Moscow: Yurist, 2015

<sup>221</sup> *Konstantin Markin v. Russia*, European Court of Human Rights, 2012

<sup>222</sup> Council of Europe. *Russian Federation and the European Convention on Human Rights: Achievements and Challenges*. Strasbourg: Council of Europe Press, 2018

The historical evolution of human rights in Russia highlights the enduring interplay between state power and individual liberties. While the tsarist and Soviet periods emphasised collective obligations and state prerogatives, the post-Soviet era introduced a dual commitment to universal norms and national sovereignty. This historical legacy continues to shape the theoretical hierarchy of rights in Russian legal thought, balancing universal principles with the demands of state-centric governance<sup>223</sup>.

- International trajectory

International law has played a complex and transformative role in shaping the theoretical hierarchy of human rights in Russia. Although the post-Soviet Russian Federation initially embraced international human rights norms as part of its transition to constitutional democracy, recent developments demonstrate growing tensions between international obligations and domestic sovereignty.

The early 1990s marked a period of compliance with international human rights standards, reflecting Russia's aspirations to integrate into the global legal order. The 1993 Constitution<sup>224</sup> explicitly recognised the primacy of international law over domestic law (Article 15.4), demonstrating a commitment to universal human rights principles<sup>225</sup>.

Russia's accession to key international instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR) has become a symbol of its commitment to global compliance. By the late 1990s, Russia had become a full member of the Council of Europe, further embedding these norms into its legal system<sup>226</sup>.

International law has influenced Russian judicial practice, particularly in cases before the Constitutional Court. For example, in the case of *Budayeva v. Russia*<sup>227</sup>, the European Court of Human Rights (ECHR) examined the environmental and safety obligations under Article 2 of the ECHR. This decision prompted the Russian authorities to improve their legislative mechanisms for preventing disasters.

Despite initial enthusiasm, Russia's relationship with international law has become increasingly selective. Legal scholars such as N.V. Varlamova argue that Russian legal thought accepts international norms only to the extent that they are consistent with national priorities and cultural and legal traditions of sovereignty<sup>228</sup>.

---

<sup>223</sup> Varlamova, N. V. "International Law and Constitutional Development in Russia: From Harmonization to Divergence." *Russian Yearbook of International Law*, no. 3 (2019): 12–28

<sup>224</sup> The Constitution of the Russian Federation (1993)

<sup>225</sup> Avakyan, S. A. *Constitutional Rights of Citizens in Russia*. Moscow: Norma, 2020

<sup>226</sup> Shestakova, E. V. "Socioeconomic Rights in the Russian Legal System: Balancing Universalism and Sovereignty." *Journal of Russian Law*, no. 4 (2019): 34–48.

<sup>227</sup> *Budayeva v. Russia*, European Court of Human Rights, 2008

<sup>228</sup> Varlamova, N. V. "International Law and Constitutional Development in Russia: From Harmonization to Divergence." *Russian Yearbook of International Law*, no. 3 (2019): 12–28



A major shift occurred with the adoption of Federal Law No. 7-FKZ of 2015<sup>229</sup>, which gave the Constitutional Court the power to declare international decisions unenforceable if they contradict the Russian Constitution. This was first applied in the case of *Anchugov and Gladkov v. Russia* (2016),<sup>230</sup> where the Constitutional Court rejected an ECHR ruling on the voting rights of prisoners, declaring the primacy of domestic constitutional principles<sup>231</sup>.

The 2020 constitutional amendments<sup>232</sup>, which established the supremacy of Russian law over international decisions, are an example of the state's move to restore sovereignty in the hierarchy of rights<sup>233</sup>. Legal scholar V. A. Tumanov interprets these changes as an attempt to "nationalise" human rights discourse by ensuring compatibility with Russia's political and cultural identity<sup>234</sup>.

The evolving role of international law in Russia reflects a broader tension between universalist and sovereigntist approaches to human rights. While Russia remains formally committed to many international instruments, its practice demonstrates a preference for a hierarchical system in which national interests and constitutional principles take precedence. This dynamic reinforces a unique theoretical model of human rights, balancing universalist aspirations with state-centric governance.

- Philosophical and ethical trajectory

The philosophical and ethical foundations of Russian legal traditions also are strongly influenced by its cultural history, religious heritage, and intellectual discourse. These foundations shape Russia's distinctive conceptualisation of human rights, emphasising moral obligations, the collective good, and the primacy of the state as the guardian of social values.

Orthodox Christianity has been a central pillar of Russian philosophical thought, incorporating moral and spiritual values into the conceptualisation of law and governance<sup>235</sup>.

Historically, the concept of law has been intertwined with ethical obligations and spiritual principles, as can be seen from the *Russkaya Pravda* (11th century), the earliest Russian code of laws.

---

<sup>229</sup> *Federal Law No. 3-FKZ (2015): On the Constitutional Court's Right to Overrule International Judgments.*

<sup>230</sup> *Gladkov v. Russia*, European Court of Human Rights, 2016

<sup>231</sup> Council of Europe. *Russian Federation and the European Convention on Human Rights: Achievements and Challenges*. Strasbourg: Council of Europe Press, 2018.

<sup>232</sup> Lukyanova, E. A. "Human Rights in the Context of Sovereignty: The Impact of the 2020 Amendments." *Russian Politics and Law*, vol. 58, no. 2 (2020): 45–65.

<sup>233</sup> Lukyanova, E. A. "Human Rights in the Context of Sovereignty: The Impact of the 2020 Amendments." *Russian Politics and Law*, vol. 58, no. 2 (2020): 45–65.

<sup>234</sup> Tumanov, V. A. *Human Rights in Russia's Legal Order*. St. Petersburg: Lan, 2021.

<sup>235</sup> Kireyevsky, Ivan. *Essays on Russian Culture and Thought*. Moscow: Nauka, 1850

In Orthodox doctrine, law is viewed as an extension of the divine order, reflecting universal moral principles. Prominent theologians such as Vladimir Solovyov emphasised the role of love and unity as guiding principles of legal and social organisation<sup>236</sup>. Solovyov's idea of "synergy" between divine will and human action resonates in contemporary Russian legal thought, where law is not simply a set of rules, but a mechanism for moral regulation<sup>237</sup>.

In contrast to the Western emphasis on individual autonomy, Orthodox ethics emphasises collective responsibility and mutual obligations. This perspective is consistent with the Russian legal tradition of prioritising public welfare and social stability over unlimited individual freedoms.

Russian philosophy has historically struggled with the dichotomy between Western liberalism and indigenous values, which has influenced its legal and ethical perspectives.

The 19th-century Slavophile movement, represented by thinkers such as Ivan Kireyevsky and Alexei Khomyakov, advocated a unique Russian path of development based on spiritual unity and communal traditions. This worldview challenged the individualism of Western liberalism and emphasised the moral superiority of collective rights over individual rights.

Emerging in the 20th century, Eurasianism advocated a synthesis of Russian, Asian, and European cultural elements. Legal scholars inspired by this philosophy, such as Lev Gumilev, emphasised the need for a legal system that would reflect Russia's cultural and geopolitical specificity. This perspective continues to influence debates on human rights in Russia, particularly the tension between universalist and particularist approaches<sup>238</sup>.

The Soviet era introduced a materialist and collectivist framework to legal philosophy, which was heavily influenced by Marxist-Leninist ideology.

Marxist legal theory, as formulated by scholars such as E. B. Pashukanis, viewed law as an instrument of class struggle, rejecting the bourgeois conception of rights as inherently linked to capitalist exploitation<sup>239</sup>. Instead, Soviet legal thought prioritised socioeconomic rights, viewing them as instruments for achieving collective well-being.

Soviet ethics emphasised the moral duty of individuals to contribute to the collective. Rights were not seen as inalienable, but were earned through participation in the construction of socialism. This legacy continues in the contemporary Russian emphasis on the balance between individual rights and social responsibilities.

---

<sup>236</sup> Solovyov, Vladimir. *The Justification of the Good*. London: George Allen & Unwin, 1897

<sup>237</sup> Solovyov, Vladimir. *The Justification of the Good*. London: George Allen & Unwin, 1897

<sup>238</sup> Shestakova, E. V. "Socioeconomic Rights in the Russian Legal System: Balancing Universalism and Sovereignty." *Journal of Russian Law*, no. 4 (2019): 34–48.

<sup>239</sup> Pashukanis, E. B. *General Theory of Law and Marxism*. London: Pluto Press, 1924 (reprinted 1978)

Modern Russian legal philosophy integrates traditional values with modern challenges, reflecting a nuanced ethical framework.

Post-Soviet legal thought often refers to the concept of “traditional values,” rooted in Orthodox Christianity and Russian cultural heritage, as a counterweight to Western liberalism. This doctrine emphasises the importance of family, patriotism, and spiritual integrity as fundamental to human rights<sup>240</sup>.

The principle of sovereignty is central to contemporary Russian legal philosophy, formulated as an ethical imperative to protect the nation's cultural identity and moral autonomy.

Contemporary Russian legal discourse attempts to reconcile universal human rights principles with the ethical imperative of preserving national traditions. For example, debates on LGBTQ+ rights highlight the ethical tension between global human rights frameworks and domestic moral values.

In Russian thought, the state is not simply a political entity, but a moral agent responsible for maintaining justice and social welfare. This view is evident in the writings of thinkers such as Nikolai Berdyaev, who argued that the state must balance individual liberties with its moral obligations to society<sup>241</sup>.

Rights in Russian legal philosophy are often viewed as conditional on the fulfillment of moral and social duties. This ethical perspective contrasts with the Western notion of inalienable rights and reflects a broader emphasis on collective responsibility<sup>242</sup>.

The contextual foundations of human rights in Russian legal thought illustrate the complex interaction of historical heritage, international influences, legal traditions, and ethical considerations. This unique combination shapes the theory of human rights in Russia, balancing universal principles with state-centric priorities.

---

<sup>240</sup> Filippov, A. N. *History of Russian Statehood*. Moscow: Nauka, 2019

<sup>241</sup> Berdyaev, Nikolai. *The Philosophy of Inequality*. New York: Macmillan, 1923

<sup>242</sup> Kapustin, A. Yu. *State and Law: Philosophical and Legal Aspects*. Moscow: MGIMO, 2020.

## THEORETICAL HIERARCHY OF FUNDAMENTAL RIGHTS IN RUSSIA

Due to the fact that the Russian legal school is diverse and was formed under the influence of various factors (which were discussed above), it is not possible to formulate a unified approach to the hierarchy of fundamental rights in Russia.

However, we believe that it is possible to identify several approaches to the hierarchy of rights that exist in Russian legal theory.

1. Three types of human rights: absolute, conditionally prioritised and socio-economic rights

Despite the fact that the Russian Constitution does not have a specific hierarchy, some scholars believe that without creating a clear hierarchy, all human rights can be divided into three main groups: absolute rights, conditionally priority rights, and socio-economic rights. This tripartite division reflects the theoretical recognition that not all rights are equal in scope, application, or enforcement. Rights are classified based on their intrinsic value, social role, and tangibility<sup>243</sup>.

This has already been partially discussed earlier, but here we will briefly reflect the main ideas of this approach:

- Absolute rights

Russian legal philosophy often considers rights such as the right to life (Article 20 of the Constitution of the Russian Federation<sup>244</sup>) and human dignity (Article 21 of the Constitution of the Russian Federation<sup>245</sup>) universal and non-derogable since they are inherent in human existence. These rights are consistent with the natural law theory, which views certain rights as inalienable and unchangeable by human laws (that is, they cannot be limited even in a state of emergency or war).

For example, A. Yu. Kapustin emphasises that absolute rights embody the Constitution's fundamental values and serve as the foundation on which all other rights are built<sup>246</sup>.

- Conditionally prioritised rights

---

<sup>243</sup> Filippov, A. N. (2019). *History of Russian statehood*. Moscow: Nauka

<sup>244</sup> Constitution of the Russian Federation. (1993). [English translation available at <https://www.constitution.ru>].

<sup>245</sup> Constitution of the Russian Federation. (1993). [English translation available at <https://www.constitution.ru>].

<sup>246</sup> Kapustin, A. Yu. (2020). *State and law: Philosophical and legal aspects*. Moscow: MGIMO

Rights such as freedom of speech (Article 29 of the Constitution of the Russian Federation<sup>247</sup>) and freedom of assembly (Article 31 of the Constitution of the Russian Federation<sup>248</sup>) are directly subject to restrictions in the Constitution to protect public order, health, morals, and national security. This reflects the tension between individual autonomy and the collective well-being of society.

N. V. Varlamova argues that conditional rights reflect the principle of proportionality, which balances individual freedoms with the legitimate goals of state policy<sup>249</sup>. This priority ensures that no right is realised at the expense of the public good.

- Socioeconomic rights

The priority of collective welfare in Soviet legal philosophy continues to influence the view of socioeconomic rights, such as health care (Article 41 of the Constitution of the Russian Federation<sup>250</sup>) and education (Article 43 of the Constitution of the Russian Federation<sup>251</sup>). These rights are recognised as fundamental but depend on the state's economic ability to provide them effectively.

Unlike absolute rights, socioeconomic rights are often programmatic and require active state participation and resources. Article 7 of the Russian Constitution<sup>252</sup> directly defines Russia as a social state, emphasising its responsibility for gradually providing these rights.

Emphasising the conditional nature of these rights, E. V. Shestakova notes in her works that their implementation depends on the state's ability to distribute resources effectively<sup>253</sup>.

## 2. Hierarchy based on the categorisation of rights

In Russian legal theory, there is another approach to the hierarchy of fundamental rights (it is worth noting that specific scientific works may differ in small details):

- Constitutional rights

---

<sup>247</sup> Constitution of the Russian Federation. (1993). [English translation available at <https://www.constitution.ru>].

<sup>248</sup> Constitution of the Russian Federation. (1993). [English translation available at <https://www.constitution.ru>].

<sup>249</sup> Varlamova, N. V. (2019). International law and constitutional development in Russia: From harmonization to divergence. *Russian Yearbook of International Law*, 3, 12–28.

<sup>250</sup> Constitution of the Russian Federation. (1993). [English translation available at <https://www.constitution.ru>].

<sup>251</sup> Constitution of the Russian Federation. (1993). [English translation available at <https://www.constitution.ru>].

<sup>252</sup> Constitution of the Russian Federation. (1993). [English translation available at <https://www.constitution.ru>].

<sup>253</sup> Shestakova, E. V. (2019). Socioeconomic rights in the Russian legal system: Balancing universalism and sovereignty. *Journal of Russian Law*, 4, 34–48.

These rights are enshrined in the Constitution of the Russian Federation (Articles 17–24 of the Constitution of Russia, which define fundamental human rights and freedoms), the country's highest legal body.

For example, constitutional scholars such as Sergei M. Shakhrai<sup>254</sup> and Yuri N. Schmidt<sup>255</sup> provide a comprehensive analysis of constitutional provisions and their implications for the protection of human rights in Russia.

- Civil and political rights

This category includes rights such as the right to life, liberty, and security of the person, freedom of expression, assembly, and association, and the right to a fair trial. Lawyers often refer to international human rights treaties ratified by Russia, such as the International Covenant on Civil and Political Rights<sup>256</sup>, which influence the domestic interpretation of these rights.

Lawyers such as Anatoly Kovler<sup>257</sup> and Tamara Morshchakova<sup>258</sup> analyse Russian jurisprudence and its compliance with international human rights standards, providing information on the protection of civil and political rights.

- Social and Economic Rights

These rights, including the right to work, social security, education, and healthcare, are addressed in various Russian laws and regulations aimed at promoting social justice and well-being. Legal scholars often study legislation and public policies related to social and economic rights, assessing their effectiveness and compliance with constitutional principles.

Scientists Dmitry Medvedev<sup>259</sup> and Pavel Malkov<sup>260</sup> study these rights and analyse social and economic legislation and its implications for the protection of human rights, offering insight into the legal framework governing social and economic rights in Russia.

---

<sup>254</sup> Shakhrai S.M. (2015). “Constitutional Law: A Textbook for Universities”. Moscow: Publishing House “Yurait”.

<sup>255</sup> Schmidt Yu.N. (2012). “Constitutional Law of the Russian Federation”. Moscow: Norma

<sup>256</sup> United Nations. (1966). *International Covenant on Civil and Political Rights*. Treaty Series, 999, 171. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

<sup>257</sup> Kovler, A.A. (2017). “Protection of Human Rights in the Practice of the Constitutional Court of the Russian Federation”. Moscow: Wolters Kluwer.

<sup>258</sup> Morshchakova, T.G. (2016). “International Human Rights Standards in the Practice of the Constitutional Court. Court of the Russian Federation”. Moscow: Norma

<sup>259</sup> Medvedev, D.A. (2014). “Social Law: Textbook”. Moscow: INFRA-M.

<sup>260</sup> Malkov P.I. (2019). “Economic and Social Rights: Theory and Practice”. Moscow: Prospect

- Cultural and Environmental Rights

While cultural and environmental rights are not always clearly defined as human rights in traditional legal discourse, they are increasingly recognised as important for human well-being and dignity. Legal scholars study relevant legislation and international documents dealing with cultural and environmental issues, advocating for their inclusion in the broader human rights framework.

Researchers such as Irina Savelyeva<sup>261</sup> and Mikhail Antonov<sup>262</sup> analyse legal instruments and case law concerning cultural and environmental rights, shedding light on their importance in the Russian legal system.

- Group Rights

Russian legal theory recognizes the rights of minorities, indigenous peoples, and other marginalised communities, often addressing issues of discrimination and cultural preservation. Legal scholars study relevant legislation, case law, and international standards related to group rights, advocating for their protection and empowerment.

For example, Natalia Ablova<sup>263</sup> and Ivan Balalaev<sup>264</sup> analyse the legal framework and practice related to minority and indigenous rights, offering perspectives on their recognition and implementation in the Russian legal context.

Russian legal theory represents a subtle and multifaceted approach to the hierarchy of fundamental rights, reflecting the interaction of constitutional principles, international obligations, and socio-political values. The classification of rights into categories such as constitutional, civil and political, social and economic, cultural and environmental, and group rights demonstrates a structured attempt to consider various aspects of human well-being. However, this hierarchy is not rigid, but develops in response to changing social priorities and legislative interpretations.

3. Hierarchy based on the prioritisation of collective and state interests over individual rights

There is another hierarchy of rights that does not provide a detailed analysis of rights or a clear structure, but reflects the relationship between the two types of rights.

The Russian legal system attaches great importance to sovereignty, creating a hierarchy in which collective and state interests often prevail over individual rights. The state is seen as

---

<sup>261</sup> Saveleva, I.V. (2018). "Legal Aspects of Protecting Cultural Rights". Moscow: Statut.

<sup>262</sup> Antonov M.S. (2020). "Environmental Law: Textbook". Moscow: Yur-ayt

<sup>263</sup> Ablova, N.A. (2017). "The Rights of Indigenous Peoples in the Russian Federation: Legal and Ethnocultural Aspects." Moscow: Prospect.

<sup>264</sup> Balalaev, I.V. (2019). "Legal Protection of National Minorities: A Comparative Legal Analysis." Moscow: Yur.

a guarantor of rights, ensuring the coexistence of individual freedoms and social stability, and sovereignty itself acts as a shield against external pressures that could destabilise this balance.

In Russia, the supremacy of sovereignty is enshrined in Article 15(4) of the Constitution<sup>265</sup>, which establishes the supremacy of the Constitution in the legal system. Although Russia recognises international treaties as part of its legal framework, they must be consistent with constitutional provisions. This principle is reinforced by the 2020 constitutional amendments, which explicitly prioritise Russian law over international obligations in cases of conflict.

The emphasis on sovereignty leads to a practical and theoretical hierarchy where collective rights and state interests: rights that protect social stability (e.g. public security and national unity) take precedence over certain individual freedoms<sup>266</sup>.

Opponents of this approach, such as international organisations (e.g. the ECHR), argue that it undermines the universality of human rights by creating a hierarchy in which state interests often override individual freedoms<sup>267</sup>.

In turn, scholars such as T. Y. Khabrieva<sup>268</sup> note that this approach to sovereignty is not inherently contrary to human rights, but rather ensures their stable realisation within a culturally and politically agreed framework. This approach reflects the ‘relativist’ school of human rights, which argues that human rights must adapt to local conditions in order to be effectively realised.

Thus, this approach to the hierarchy of fundamental rights divides all rights into collective and/or state rights and individual rights, prioritising the first ones.

#### 4. Hierarchy based on the prioritisation of rights supporting traditional and Christian values over other rights

Another hierarchy that can be found in Russian legal theory is the priority of rights supporting traditional and Christian values over other rights.

Traditional values, rooted in Orthodox Christianity and Russian cultural ethics, play an important role in forming the hierarchy of rights. Moral obligations and social duties are often placed above unlimited freedoms, emphasizing the limits of rights and duties.

---

<sup>265</sup> Constitution of the Russian Federation. (1993). [English translation available at <https://www.constitution.ru>].

<sup>266</sup> Benedek, W., & De Feyter, K. (2020). *Human rights in a multipolar world*. Cheltenham: Edward Elgar Publishing.

<sup>267</sup> Benedek, W., & De Feyter, K. (2020). *Human rights in a multipolar world*. Cheltenham: Edward Elgar Publishing.

<sup>268</sup> Khabrieva, T. Y. (2021). Constitutional identity and sovereignty: Russian perspective. *Russian Journal of Constitutional Law*, 5(3), 45–58.



For example, family values are directly mentioned in the Constitution (Article 72), creating a legal environment in which traditional values can influence the interpretation and application of rights. Thus, the legislation prohibits the promotion of non-traditional family values, and the Federal Law on the Protection of Children from Information Harmful to Their Health and Development illustrates the priority of moral frameworks inspired by the Orthodox faith over freedom of expression.

The Constitutional Court of the Russian Federation sometimes takes a similar approach. It relies on cultural and ethical norms in its decisions, interpreting rights in a way that supports traditional social structures. This case law emphasizes the rootedness of moral and cultural values in the legal hierarchy<sup>269</sup>.

For example, in the Constitutional Court's decision banning certain public events considered offensive to religious communities, the court justified its decision by emphasising respect for cultural and moral traditions<sup>270</sup>.

Russian scholars such as A. N. Filippov and V. S. Nersesyants emphasise the moral and ethical foundations of the legal hierarchy, emphasising their importance in preserving social cohesion.

Filippov's work emphasises the continuity of ethical principles from the Tsarist to the post-Soviet era<sup>271</sup>, while Nersesyants focuses on the philosophical integration of collective welfare into legal thought<sup>272</sup>.

By embedding these ethical and cultural considerations into the hierarchy of rights, Russian legal theory creates a nuanced framework that balances individual and collective interests while remaining true to its historical and cultural identity.

---

<sup>269</sup> Khabrieva, T. Y., & Kutafin, O. E. (2019). *Russian constitutional identity: Theory and practice*. Moscow: Nauka.

<sup>270</sup> Decision No. 30-II/2016 by the Russian Constitutional Court

<sup>271</sup> Filippov, A. N. (2019). *History of Russian statehood*. Moscow: Nauka.

<sup>272</sup> Nersesyants, V. S. (2005). *Philosophy of law in Russia*. Moscow: Russian Academy of Sciences Press.

## **CONCLUSIONS REGARDING THE HIERARCHY OF FUNDAMENTAL RIGHTS IN RUSSIAN LEGAL THEORY**

The main goal of this chapter was to identify the hierarchy of fundamental rights in the Russian theory of law to carry out the research Goals/Aims, as well as confirm or refute the hypotheses formed at the beginning of this research.

In light of the above analysis, Russian legal theory does not adhere to a single or universally accepted framework for establishing a definitive hierarchy of human rights. Instead, it reflects a pluralistic and contextually sensitive landscape characterised by various theoretical perspectives and classification criteria. These approaches often diverge in their prioritisation of rights based on philosophical, historical, and practical considerations, as well as the evolving role of sovereignty in the national legal order.

Even though it is not possible to form a unified theoretical hierarchy, it can be noted that the features of the Russian theoretical hierarchy of fundamental rights are:

- Priority of collective and state interests

Collective rights and state interests often precede individual freedoms, emphasising stability, national identity and sovereignty.

- Influence of traditional and Christian values

Orthodox Christianity and cultural norms significantly influence the prioritisation of rights by introducing ethical and moral considerations into the legal hierarchy.

- Evolutionary nature of rights

The hierarchy of rights in Russia is dynamic, adapting to current legal debates, changing socio-political priorities and the interplay between constitutional principles and international obligations.

The categorisation of rights into distinct groups highlights the influence of Russia's unique constitutional identity, historical trajectory, and international commitments. However, this division remains fluid and contingent, shaped by ongoing legal debates and changing political imperatives.

## CHAPTER 5: SOCIAL-LEGAL SURVEY "WHAT ARE THE MOST IMPORTANT FUNDAMENTAL RIGHTS?"

### PURPOSE AND BASIS OF THE SURVEY

In the modern world, as indicated earlier, there is an understanding of the hierarchy of rights formed by lawyers, scientists and thinkers (as we will hereafter call it "scientific understanding", "in science", "in the theory of law") and existing in laws and judicial practice (hereby after - "understanding based on the law", "de-jure"). However, the question of the perception and hierarchy of rights in society (hereafter - "de-facto", "social prescription") has never been analysed before.

This paper aims to eliminate this gap and understand how society in Russia perceives its rights.

The purpose of the study is to conduct a unique survey, which will be carried out at the intersection of law and sociology. Its task is to find out the actual hierarchy of rights in society, and to confirm or refute the hypotheses of the study:

- Modern scientific sources don't fully develop and reflect the number of important indicators of the general legal theory of rights; therefore, the concept of fundamental rights is vague, and the list of rights includes even those that are not fundamental.
- The understanding of the hierarchy of fundamental rights in the theory of law, law and societies' prescription is different.
- The hierarchy of rights, as established in law, does not always align with the way in which these rights are prioritised or valued by Russian society.
- There are notable differences between the hierarchy of fundamental rights in Russian legislation and how these rights are understood or applied in everyday life by Russian citizens.

However, it should be noted that the present study will be conducted using sociological methods (described in detail below) rather than within the sociological theory of law framework. However, some ideas from this concept will be used in the current research.

According to Iering,<sup>273</sup> the creation and purpose of legal relations are not determined by abstract principles such as "to each his own" or "not harm anyone," but by the specific interests of particular people. Accordingly, the theory of natural law is not a reliable scale for the identification and protection of a particular interest.<sup>274275</sup>

---

<sup>273</sup> Ehrlich O. Fundamentals of the Sociology of Law. SPb.: Publishing House of SPbSU, 2011.

<sup>274</sup> Dubovitsky, V.N. Sociology of law: subject, methodology and methods / V.N. Dubovitsky; Belarusian State University. - Minsk : Law and Economics, 2010. - 174 c.

<sup>275</sup> The sociological theory of law originated in the middle of the nineteenth century, one of its founders as a science being the Austrian jurist Eugen Ehrlich (1862-1922), who lived almost at the same time as Max Weber (1864-1920) (but he focuses on the legal preconditions for the formation of modern industrial

Based on the position of the sociological theory, every interest can be presented as a financial claim. Ihering's followers in Germany somewhat weakened the universal aspects of the theory and began to reduce the problems of the sociology of law to what they called judicial law. They believed that only the totality of judicial decisions was valid or living law.

In this way, law should be sought in real life; that is, law is also an order in public relations and people's actions. And to reveal the essence of such an order, to solve a dispute in this or that specific situation, are called to judicial or administrative bodies.

In this theory, society and law are viewed as integral, interrelated phenomena; the theory proves that it is necessary to study not only the norms of law, established by the state, but the totality of legal relations, formed in society; the doctrine emphasises the role of law as a means of social control and achieving social balance, elevates the role of judicial power.<sup>276</sup>

This theory of law is highly intertwined with life and the actual state of affairs in society. It was the first to recognise the unique role of jurisprudence as a practical science and to begin integrating law with other social sciences (for example, economics, politics, social psychology, and others).<sup>277</sup>

Unfortunately, however, this approach diminishes the normativity of law and its moral and humanitarian foundations. Namely:

- In the doctrinal (scientific) understanding, the principles of law (e.g., equality), the general foundations of law, and so on, are more important;
- An approach to law as a social category can blur the boundaries of law as a separate discipline and lead to the loss of its separate subject, principles, and methods;
- Identifying law as a living mechanism and granting full autonomy to the judiciary, creates the risk of judicial arbitrariness, because some general rules and foundations of the legal system are excluded. In fact, the judiciary substitutes legislators.

However, it is worth noting that the central postulate of this theory's followers — "The right should not be sought in the norms, but in life itself" — inspires the present study and fully reflects its spirit.

As noted, the purpose of this survey is to understand the real situation in society and to identify problem areas in the sphere of fundamental rights. Namely, the moments when the gap between the right "de-jure" and "de-facto" is huge.

---

capitalism (Weber M. Selected. The Image of Society. Moscow: Jurist, 1994) set out to penetrate beyond the pile of formal norms, considered until then to be analogous to law itself, and find real social norms regulating all aspects of society.

<sup>276</sup> Zdislav Brodecki. The Sociology of Law. Lexicon of Modern Theories and Philosophy of Law. - Warsaw, 2007

<sup>277</sup> Kazimirschuk V.P., Kudryavtsev V.N. Modern Sociology of Law. - Moscow: Yurist, 1995. - ISBN 5-7357-0092-8

Also, it should be indicated that the present work does not analyse fundamental rights within the framework of sociology of law, which is a separate structured system of scientific knowledge about law as a social phenomenon - its genesis, existence and development. In 1962, at the V International Sociological Congress in Washington (USA), it was officially recognised as a branch of scientific knowledge; however, it was also called sociological.<sup>278</sup>

This research is a legal study of fundamental rights, namely human rights, rather than a sociological study. However, it is important to agree with followers of the sociological theory of law and sociology of law that lawmaking is greatly influenced by moral, economic, political-legal, national, social-psychological, and sociocultural factors. These factors depend on the formation of the state's legal system, so the consideration of legal phenomena in isolation from them will not bring value to modern science. Therefore, there will be partly an intersection with these approaches.

---

<sup>278</sup> Dubovitsky, V.N. Sociology of law: subject, methodology and methods / V.N. Dubovitsky; Belarusian State University. - Minsk : Law and Economics, 2010. - 174 c. 133

## METHODOLOGY FOR THE SURVEY

As part of research, as was mentioned, we intend to conduct a survey among people living in Russia (to identify how the hierarchy of rights looks for them). In this regard, various theoretical approaches were studied about various aspects of conducting surveys in legal studies.

Survey methodology is an integral part of any research project, including legal research. As we mentioned, our research project involves conducting a survey among Russians to determine their perceptions of the hierarchy of rights.

To indicate the order in which the study was conducted, the methodology that was used is given below:

- The research question is defined: Before designing the survey, it is important to clearly define the research question. The research question should be specific, measurable, and relevant to your research. Creswell, J. W. and Creswell, J. D. suggest that the research question should guide research design and methods.<sup>279</sup>
- Selecting the Sample of Interviewees: The survey sample should be representative of the population of interest and large enough to obtain statistically significant results. Dillman, Smith, and Christian recommend using probability sampling methods to ensure that the sample is representative. The sample should be randomly selected to avoid selection bias. The sample size can be determined using statistical formulas based on the desired level of precision and validity.<sup>280</sup>
- Designing Survey Questions: Survey questions should be clear, concise, and relevant to the research question. Krosnick and Presser suggest using open and closed questions to collect qualitative and quantitative data, respectively. Questions should be written in plain language to avoid confusion or misunderstanding<sup>281</sup>. Fowler Jr. recommends avoiding leading questions, ambiguous questions, and questions that may be sensitive or offensive.<sup>282</sup>
- Testing the Survey: Before distributing the survey to the target population, it is important to test it on a small group of people to identify any problems with the wording or design of the questions. Lavrakas suggests using cognitive interviews or focus groups to test the survey. The feedback received during the testing phase can be used to revise and improve the survey.<sup>283</sup>

---

<sup>279</sup> Creswell, J. W., & Creswell, J. D. (2018). Research design: qualitative, quantitative, and mixed methods approaches. Sage publications.

<sup>280</sup> Dillman, D. A., Smyth, J. D., & Christian, L. M. (2014). Internet, phone, mail, and mixed-mode surveys: The tailored design method. John Wiley & Sons.

<sup>281</sup> Krosnick, J. A., & Presser, S. (2010). Question and survey design. In Handbook of survey research (pp. 263-313). Emerald Group Publishing Limited.

<sup>282</sup> Fowler Jr, F. J. (2013). Survey research methods. Sage publications.

<sup>283</sup> Lavrakas, P. J. (2008). Encyclopedia of survey research methods. Sage publications.

- Dissemination of questions and collection of responses: Once the survey is finalised, it can be distributed to the target population using various methods, such as online surveys, telephone surveys, or face-to-face interviews. Dillman, Smith, and Christian recommend using multiple methods to increase response rates. Responses must be collected and stored securely to protect respondents' confidentiality and privacy.<sup>284</sup>
- Data analysis: The data obtained from the survey should be analysed using appropriate statistical methods. Data can be analysed using descriptive statistics such as means and frequencies, or inferential statistics such as correlation and regression analysis. The results should be presented clearly and concisely, using tables and charts to summarise the findings.

For example, Agresti highlights the importance of using statistical methods to analyse data in order to draw valid conclusions from scientific research. The book provides a comprehensive overview of statistical methods for data analysis, including descriptive statistics, hypothesis testing, regression analysis, and data visualisation. The author also provides examples and case studies illustrating the use of statistical methods to answer research questions. The book is widely used as a textbook in undergraduate and postgraduate courses on statistics and research methods.<sup>285</sup>

---

<sup>284</sup> Dillman, D. A., Smyth, J. D., & Christian, L. M. (2014). *Internet, phone, mail, and mixed-mode surveys: The tailored design method*. John Wiley & Sons.

<sup>285</sup> Agresti, A. (2018). *Statistics: the art and science of learning from data*. Pearson.

## **SELECTING THE RIGHTS FOR THE SURVEY**

Today, in the Russian constitution and international documents, many different human rights shape our lives and our understanding of what is proper and permissible.

For the purpose of our research and this survey, we decided to make a selection of rights based primarily on the Universal Declaration of Human Rights (UDHR).

This document was chosen as the main reference point because of its fundamental role in contemporary human rights discourse. Adopted by the United Nations General Assembly in 1948, the UDHR represents a universal consensus on fundamental human rights, serving as the basis for numerous binding international treaties, regional human rights instruments and national constitutions. Although not legally binding, its principles have been widely accepted and integrated into customary international law, giving it considerable normative authority.

The UDHR provides a broad, inclusive framework that covers civil, political, economic, social and cultural rights. Unlike structures that focus solely on one category of rights, such as national constitutions, which often emphasise civil and political rights, the UDHR seeks to balance different dimensions of human well-being, which is consistent with the comprehensive nature of this study. Furthermore, the global adoption of the Declaration makes it a more neutral and widely recognised reference point than regional treaties, which may reflect local priorities and legal traditions.

Alternative frameworks, such as regional human rights conventions, were considered but ultimately not adopted as the main points of reference for this research. For example, the European Convention on Human Rights (ECHR) provides a legally binding mechanism for rights in the European context, but primarily emphasises civil and political rights, offering limited recognition of economic, social and cultural rights. Similarly, the American Convention on Human Rights and the African Charter on Human and Peoples' Rights include regional perspectives that, while valuable, may not be fully consistent with the broader international consensus embodied in the UDHR.

The national constitution, as the Constitution of the Russian Federation, also provide a sound basis for defining fundamental rights. However, constitutional frameworks tend to reflect the specific historical, political and cultural contexts of individual states, as we have already examined before. As a result, their choice of rights may be influenced by domestic legal traditions, governance structures and policy priorities, rather than a universally recognised standard. Given the focus of this study on fundamental rights perceived at a broader level, relying on a single national constitution will not provide the necessary scope for future comparative analysis and understanding for specialists outside of Russia.

By justifying the selection of rights in the UDHR, this study ensures that the selected rights reflect the internationally recognised standard, while remaining relevant across different legal and political systems. This approach facilitates a more objective and comprehensive analysis, allowing for a comprehensive assessment of human rights priorities without being constrained by regional or national specificities.



In this regard, to compile a list of the most important rights for the survey, we analysed the positions of the Universal Declaration of Human Rights.<sup>286</sup> As a result, the list of the rights that are noted following:

1. Right to life, liberty, personal inviolability
2. Right to medical care, social protection, standard of living
3. Right to free education, equal access to education
4. Right to work, good conditions and fair wages
5. Right to a fair trial
6. Right to inviolability of property and dwelling
7. Right to be free from violence, humiliation and arbitrary treatment
8. Right to own property
9. Right to rest and leisure
10. Freedom of speech
11. Freedom of movement and choice of residence
12. Right to receive information
13. Freedom of religion, freedom of conscience
14. Right to establish a family and equality in marriage
15. Right to participate in public and political life
16. Freedom of peaceful assembly and association

---

<sup>286</sup> United Nations. Universal Declaration of Human Rights. 1948.

## HOW THE RESEARCH WILL BE CONDUCTED, AND WHO IS THE TARGET GROUP FOR IT

The survey will be conducted among people who are living in Russia. It will be conducted online and in person. Data will be collected by the researcher through an invitation to participate in the survey, which will be sent via e-mail / social media messages, as well as by posting information in social media groups in Russia, and in person.

The purpose of the research is to collect about 500 answers among the population of Russia, in different age and gender groups, among people living not only in the capital but also in regions, as well as among people who have and have not received higher education. To obtain comprehensive and complete data, we do not want to narrow the respondents to any particular social category, such as students, scientists, etc.

The age of respondents is perhaps the most common indicator in sociological research. It is present practically in all surveys, regardless of their thematic orientation and content specificity. The reason for such high popularity of the "age variable" is its extremely wide explanatory possibilities. "The age variable", writes V.A. Gaidne, "aggregates in its content in its content a multitude of various characteristics of a person".<sup>287</sup>

However, we are interested not just in age, but in those social characteristics of a person that are closely related to it and "hidden" behind it.

"Although we often use chronological age as a convenient marker," writes J. Vander Zanden in this regard, "the meaning of this indicator is social".<sup>288</sup>

Different age groups differ in their social status, level of education, cultural, social experience and interests, value orientations and ideals. They are characterised by different types of activity (social roles) and different degrees of social activity. In this sense, age is a very significant factor in the differentiation of people and an important basis of social structure. In many cases, "it becomes the basis for social ranking and distribution of wealth, power and prestige between members of society"<sup>289</sup>. Social age characterises the place of people in the social structure, determined by the life cycle phases. It is society, as M. Riley rightly points out, that gives distinctive meaning to biological facts of human life and prescribes certain social consequences to them.<sup>290</sup>

Age is not as simple a characteristic as is traditionally thought. Its fixation is often very problematic for the sociologist. "The difference between the object of research and the

---

<sup>287</sup> Soviet Encyclopedic Dictionary. M., 1990. C. 1240.

<sup>288</sup> Gaidis V. P. Obtaining Information about Respondent's Age // Information Collection Techniques in Sociological Research. I. Sociological Surveys. Moscow: Nauka, 1990. C. 117.

<sup>289</sup> Yaroshenko T.M. Age in sociological research // Sociological studies, 1977. № 1.

<sup>290</sup> Yaroshenko T.M. Age in sociological research // Sociological studies, 1977. № 1.

object of measurement," V.B. Moin rightly notes, "exists even when measuring such seemingly obvious attributes as gender and age."<sup>291</sup>

This position is partly explained by the absence in modern science of a generally accepted classification of stages of human life and unified principles of its division into age groups. Therefore, sometimes the discrepancy in the age scales used by different authors is a natural reflection of differences in their initial theoretical positions. In most cases, however, different ways of scaling age are associated with an apparent underestimation of this problem and with a relaxed attitude towards it on the part of many practicing sociologists. Knowledge of the situation in Russian empirical sociology convinces us that age intervals and groupings are often chosen arbitrarily, without any theoretical substantiation, and sometimes without much preliminary thought. Usually they are copied uncritically from previous (their own or someone else's) surveys, which leads to a multiplication of mistakes made once and by someone else. However, there are numerous facts about the same authors (or research organisations) using scales that significantly differed from each other when researching similar problems.<sup>292</sup>

Since there is no clear requirement for age groups, we made an independent decision and for the sake of completeness suggested respondents to choose from these age groups:

- 18-24 years old;
- 25-34 years old;
- 35-59 years old;
- more than 60 years old.

We think that obtaining data for each age group will be able to show not only the hierarchy of rights in society, but also reflect the difference between age and life situations. For example, what stinks of students (age group from 18 to 24), young specialists (age group from 25 to 34), specialists and professionals (age group from 35 to 59) and seniors (age group after 60).

---

<sup>291</sup> V.B. Moin. Question form, answer interpretation// Sociological research. 1987. №5.

<sup>292</sup> Alexander Yuryevich Myagkov. "Age as a Variable in Sociological Research (Methodological and Methodological Problems of Measurement)" Bulletin of Tambov University. Series: The Humanities, no. 2, 1996, pp. 31-38.

## DATA COLLECTION PROCESS

A mixed-method approach to data collection was used to ensure the representativeness and reliability of the “What basic rights are most important to you?” survey. This strategy combined online and paper surveys to include various demographic groups across Russia. The goal of the survey was to obtain public perceptions of the hierarchy of fundamental rights by asking respondents to rank a list of rights based on their personal importance.

### 1. Online surveys

The primary data collection method was online mode, especially for urban and young populations. Online platforms provided broad coverage, especially in Moscow and other large cities with high Internet penetration.

Key aspects of the online approach included:

- Ease of access: the survey was distributed through digital platforms, including social media channels such as VKontakte, Telegram and Instagram, as well as academic and public forums.
- Flexible participation: respondents could complete the survey at their convenience on desktops or mobile devices, increasing participation rates.
- Design: the survey was administered on a platform, SurveyMonkey, which provides a user-friendly interface that represents the ranking task.

To ensure data quality:

- A CAPTCHA mechanism was implemented to prevent automatic responses.
- Explicit instructions were provided for the ranking task, explaining the need to assign a unique rank to each right.

### 2. Paper surveys

To capture the perspectives of rural and elderly populations, where digital literacy and internet access may be limited, paper surveys were distributed in non-urban areas. This approach ensured that the survey reached underrepresented groups and mitigated urban and digital bias.

Key aspects included:

- Points of distribution: on the streets, in public and public spaces.
- Support: during the process of completing the survey, respondents had the opportunity to contact the organiser to ask questions, clarify the order of completion, etc.
- Consistent design: the paper survey mirrored the online version in structure and content, providing participants with an identical ranking task.

Completed paper surveys were collected and manually entered into a centralised database, and to minimise errors, a double-entry system with cross-checking was implemented to ensure the accuracy of recorded responses.

This mixed-method approach was necessary to eliminate coverage bias by ensuring that the survey reflected a wide range of demographic characteristics, including age, education, and geographic location (according to Couper's recommendations<sup>293</sup>).

By combining digital and offline methods, the data collection process achieved a more inclusive representation of Russian citizens' views on fundamental rights.

It is important to note that ethical considerations were prioritised throughout the data collection process.

Respondents were informed about the purpose of the survey, their rights as participants and the measures taken to protect their privacy:

Participation was voluntary, and respondents could skip questions or refuse any time.

Data collection was anonymous, and personally identifiable information was not collected. For online surveys, identifying metadata such as IP addresses were excluded from the analysis.

Thanks to all the above, the data collection process resulted in a comprehensive dataset covering a variety of demographic groups. Filter questions (e.g., gender, age, education level, and place of residence) allowed the data to be segmented for more in-depth analysis. Respondents were asked to rank 16 fundamental rights in order of personal importance, which allowed the research team to identify patterns and differences across groups.

---

(The Jewish community of Oslo et al. v. Norway, 2003)<sup>293</sup> Couper, M. P. (2008). *Designing Effective Web Surveys*. Cambridge University Press. ISBN: 9780521717942

## CHALLENGES FACED

While designing and implementing the Key Rights Survey, I encountered several challenges that required quick thinking and practical solutions at different stages of the process:

- Survey Design

Creating a list of rights to rank proved more challenging than we initially anticipated. During the design phase, we tested the survey with a small focus group of five people – friends and colleagues from different age groups. It quickly became clear that some rights were interpreted differently by participants, so based on their feedback, we revised the wording to make it more universally understandable. We also realised that asking respondents to rank rights by importance required clear instructions. During the pilot, one participant ranked items alphabetically rather than by personal priority, so I added clearer instructions to avoid this mistake.

The pilot also revealed the need to limit the number of rights in the survey. Some participants found it overwhelming to rank too many options, so we narrowed the list down to 16 core rights.

- Choosing a platform to conduct the survey

Choosing the right platform was a tedious process. We first tried Google Forms because it was free and familiar, but it didn't support the ranking question the way we needed. Other platforms like Typeform looked promising but were too expensive for my budget. After a few tries, we settled on SurveyMonkey because its drag-and-drop ranking tool worked well for this type of survey. It was also easy for respondents to use, which was important because we wanted to minimise barriers to participation.

- Overcoming age barriers

Questioning older participants, especially those over 60, was one of the biggest challenges. Many didn't have access to the internet or weren't familiar with online surveys. We printed out paper surveys and distributed them through local libraries and community centres to address this. Sometimes, we emailed Word documents to participants who requested them and then called to ensure they had completed the survey. In some cases, we even conducted face-to-face interviews, sitting down with older participants to walk them through the process. For example, we remember meeting a retired teacher who preferred to discuss rights rather than write them down, so we helped her hand-write her ratings.

- Processing Results

Combining data from online surveys, paper responses, and face-to-face interviews proved much more complicated than we expected. Transcribing handwritten responses from paper forms into a digital spreadsheet was tedious and time-consuming, and we were worried about introducing errors into the process, so we asked family to help cross-check everything.

- Reluctance to Participate

We also encountered reluctance from some participants, especially when the topic of human rights was perceived as sensitive or political. In one case, a respondent from a small town was hesitant to participate because he was afraid his responses could be tracked. To address this, we emphasised that all responses were anonymous and would be used only for academic purposes. Explaining the purpose of the study and ensuring confidentiality helped build trust, and most people were willing to continue after this assurance.

In retrospect, this survey was much more challenging to conduct than we had initially anticipated, but each obstacle provided valuable lessons. Careful preparation, clear communication, and flexibility were essential to overcoming these obstacles and ensuring that the survey captured a wide range of views on fundamental rights. Despite the challenges, the process was very rewarding as it allowed me to collect rich data that reflected the honest opinions and priorities of different sections of the population.

## CHAPTER 6: HIERARCHY OF FUNDAMENTAL RIGHTS AMONG THE RUSSIAN POPULATION (DE FACTO)

### SURVEY OVERVIEW

Before analysing the survey results, it is important to note that 1,457 people living in Russia on the territory of Moscow and other regions took part in the survey.

The survey was conducted between January 2021 and January 2022.

The statistical error does not exceed 3%

It was calculated according to the formula:

$$E = Z \times \sqrt{\frac{p \times (1-p)}{n}}$$

Where:

**E** - Sampling error;

**Z** - Z-coefficient corresponding to the chosen confidence level (for example, for a 95% confidence interval  $Z \approx 1.96$ );

**p** - the proportion of respondents who chose a certain answer option (expressed as a fraction from 0 to 1);

**n** - Sample size.

This is in accordance with the works of researchers Alwin, Groves, and Biemer.<sup>294</sup>

And also checked on the site <https://www.surveymonkey.com/mp/margin-of-error-calculator/>.

---

<sup>294</sup> Alwin, D. F. (2007). *Margins of Error: A Study of Reliability in Survey Measurement*. Wiley.

Groves, R. M. (1989). *Survey Errors and Survey Costs*. Wiley.

Biemer, P. P., & Lyberg, L. E. (2003). *Introduction to Survey Quality*. Wiley.



## **SURVEY RESULTS**

During our research, we had the opportunity to conduct a comprehensive survey aimed at collecting relevant data from Russian citizens. The survey was conducted over a long period and continued until February 2022, which allowed us to collect a significant amount of information from a diverse group of participants.

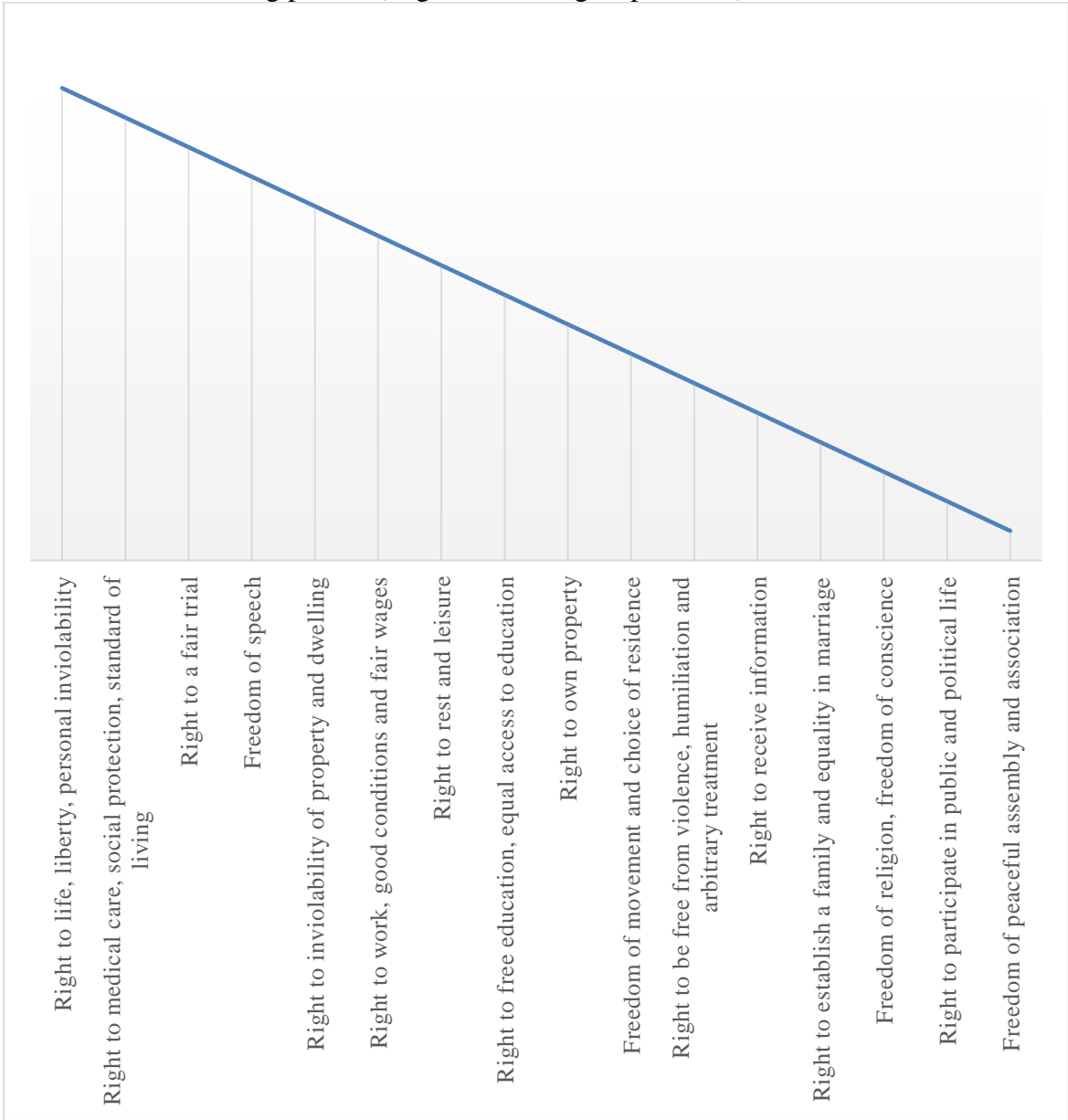
The survey methodology included asking people from different age groups, gender groups, and geographic regions to ensure that the data collected was representative of the entire population. As noted earlier, the questions asked were carefully crafted to get an idea of the hierarchy of rights among Russian residents (who took part in the survey).

The data collected during the survey provided valuable information about the Russian population's attitudes, beliefs and behaviour. We were able to analyse this data to identify patterns and trends that exist among de facto human rights in Russia.

Overall, the survey has become an essential tool that has allowed us to gain a deeper understanding of the people living in Russia and their views on various issues. This allowed us to draw informed conclusions and recommendations that will bring significant benefits to society, the public sector, business and the entire international community.

**Hierarchy of fundamental rights among the Russian population (in general)**

We found the following picture (in general among respondents):



Picture 4: Hierarchy of fundamental rights among the Russian population (in general)  
Source: Current research findings

This hierarchy indicates that respondents in Russia prioritise fundamental rights such as the right to life and liberty, as well as access to basic necessities such as health care, social protection and a decent standard of living. The right to a fair trial is also considered essential, reflecting the desire for a just and fair legal system.

Freedom of speech ranks fourth, which suggests that it is essential but not as critical as the previously mentioned rights. Similarly, the right to property and work-related rights are valued but not prioritised over fundamental human rights.

The right to rest and leisure, the right to education, and the right to own property rank lower in the hierarchy. This suggests that respondents value these rights but do not consider them as important as the previously mentioned rights.

In general, this hierarchy of rights can provide helpful insight into Russian society's values and priorities regarding human rights. However, it is important to note that this hierarchy may not represent all people in Russia and may change depending on individuals' context, experiences, and views.

As mentioned earlier, the survey included additional filters, such as place of residence, age, gender, and education. Let us examine the hierarchy of fundamental rights in the context of each individual criterion and highlight the main points.

### **Hierarchy for Moscow (the capital) and for regions outside Moscow (the rest of Russia)**

When discussing the hierarchy of fundamental rights in Moscow (the capital) compared to other regions of Russia, we can consider several sociological, economic and cultural differences between the capital and the rest of the country. Here is how the hierarchy differs:

<b>Moscow (capital)</b>	<b>Regions outside Moscow (the rest of Russia)</b>
1. Right to life, liberty, personal inviolability	1. Right to life, liberty, personal inviolability
2. Right to medical care, social protection and standard of living	2. Right to health care, social protection and standard of living
3. Right to a fair trial	3. The right to work, decent working conditions and fair remuneration
4. Freedom of speech	4. The right to inviolability of property and home
5. The right to work, decent working conditions and fair wages	5. Right to rest and leisure
6. Right to inviolability of property and home	6. Right to a fair trial
7. Right to free education and equal access	7. Right to free education and equal access
8. Freedom of movement and choice of residence	8. Freedom of speech
9. Right to rest and leisure	9. Freedom of movement and choice of residence
10. The right to receive information	10. Right to receive information
11. The right not to be subjected to violence, humiliation and arbitrary treatment	11. The right to be free from violence, humiliation and arbitrary treatment
12. Freedom of peaceful assembly and association	12. Freedom of religion, freedom of conscience

13. Right to participate in public and political life	13. The right to own property
14. Freedom of religion, freedom of conscience	14. Right to participate in public and political life
15. Right to found a family and to equality in marriage	15. Freedom of peaceful assembly and association
16. Right to own property	16. Right to found a family and equality in marriage

Picture 5: Hierarchy for Moscow (the capital) and for regions outside Moscow (the rest of Russia)

Source: Current research findings

Notable differences emerge in the hierarchy of fundamental rights between Moscow (the capital) and non-Moscow regions (the rest of Russia). These differences are largely due to the two regions' different socio-economic conditions, access to resources, and infrastructure.

Most likely, the differences in terms of rights are caused by the following, concerning:

- The right to medical care, social protection and standard of living

This right is rated lower in Moscow than in non-Moscow regions. Due to the concentration of wealth, developed infrastructure, and private health care facilities, residents of the capital benefit from better health services, a higher standard of living, and greater access to social protection. As a result, many in the city do not perceive health care and social protection as pressing problems.

In contrast, health and social protection are rated higher in non-Moscow areas. Residents of small towns and rural areas face problems such as limited healthcare facilities, poor quality of healthcare services and less access to social protection, making these rights more relevant to their daily lives.

- Right to life, liberty and security of the person

The right to life, liberty, and security of the person is ranked second in Moscow, reflecting the city's overall security. Due to low crime rates and a reliable law enforcement system, Moscow residents tend to prioritise other rights, such as career and economic stability, over personal security. While security is still a priority, it is not as crucial as it might be in less secure regions.

This right ranks higher in areas outside Moscow. Personal safety is a higher priority because of different crime rates, political instability, and less visible law enforcement. People in these regions often prioritise protection from violence and arbitrary treatment, making personal integrity more critical in their hierarchy.

- The right to work, good conditions and fair wages

The right to work, good conditions, and fair wages rank fourth in Moscow. The capital offers many job opportunities, and salaries are higher, making economic stability more attainable for residents. However, fierce competition for positions and the cost of living in the city can make this right less relevant for those with stable jobs.

The right to work and fair wages are the top priorities for residents of non-Moscow regions, ranking third. With fewer job opportunities, lower wages, and more pronounced economic hardship in these areas, residents emphasise ensuring fair working conditions and financial stability.

- The right to found a family and equality in marriage

This right ranks slightly lower in Moscow than in other regions, perhaps because of the city's fast-paced, career-oriented lifestyle, which often prioritises personal development and economic success. The large, diverse population and various social structures make family formation and marriage a less immediate concern for some residents.

In contrast, this right ranks higher in non-Moscow regions. In smaller communities, traditional values related to family, marriage and social stability often carry more weight. The right to family formation and marriage equality can be seen as fundamental to social cohesion in these regions, where family-centred structures are more prevalent.

- Right to free education and equal access to education

The right to free education and equal access are ranked lower in Moscow because of the abundance of educational institutions, from primary schools to universities, and better access to advanced studies. Moscow is home to prestigious universities and offers extensive resources for students, making education more accessible and less pressing.

Access to quality education is more limited in non-Moscow areas, and this right is ranked higher. There are often fewer educational opportunities in rural areas or small towns, and students may have to travel long distances to attend quality institutions. This makes the right to free and equal access to education a more significant issue for residents outside the capital.

- The right to own property

The right to own property ranks fifth in Moscow. While property ownership is a serious problem for many Muscovites, high property prices and limited availability of affordable housing reduce the immediate need to purchase property. Many residents can rent, and property ownership is becoming more of a long-term aspiration than an immediate priority.

The right to own property is more valuable in the non-Moscow areas, reflecting a more accessible property market. Real estate is often more affordable in the province, and home

ownership is a more tangible goal for many residents. The ability to own property provides security and stability, making this right more critical in non-Moscow regions.

These differences underscore the importance of considering regional differences when analysing human rights priorities in Russia. The capital, with its economic prosperity and higher standard of living, tends to focus on economic and personal freedoms, while regions outside Moscow, struggling with lower incomes and fewer resources, prioritise rights that directly affect their daily well-being and security. Understanding these differences is critical to meeting the diverse needs of populations and promoting more effective human rights policies across the country.

### **Hierarchy for different age groups**

17-24 years	25-34 years	35-59 years	Age 60 and over
Freedom of speech	The right to work, good conditions and fair wages	Right to life, liberty and security of the person	Right to health care, social protection and standard of living
Right to work, good conditions and fair wages	The right to security of property and home	Right to health care, social protection and standard of living	Right to life, liberty and security of person
Right to rest and leisure	Right to health care, social protection and standard of living	Right to work, good conditions and fair wages	Right to inviolability of property and home
Freedom of movement and choice of residence	Right to life, liberty and security of the person	Right to security of property and home	Right to rest and leisure
Right to life, liberty and security of the person	The right to found a family and to equality in marriage	Right to a fair trial	The right to be free from violence, humiliation and arbitrary treatment
Right to free education and equal access to education	Freedom of movement and choice of residence	The right to found a family and to equality in marriage	The right to a fair trial
The right to receive information	Right to free education and equal access to education	Right to rest and leisure	Right to found a family and to equality in marriage
Right to found a family and to equality in marriage	Freedom of speech	Freedom of movement and choice of residence	Freedom of religion and freedom of conscience
Right to inviolability of property and home	The right to receive information	Right to own property	Freedom of movement and choice of residence
Right to a fair trial	Right to rest and leisure	Freedom of speech	The right to own property

The right to health care, social protection and standard of living	Right to own property	The right to be free from violence, humiliation and arbitrary treatment	The right to receive information
The right to own property	The right to participate in public and political life	The right to receive information	Freedom of speech
Freedom of peaceful assembly and association	The right to be free from violence, humiliation and arbitrary treatment	The right to free education and equal access to education	The right to participate in public and political life
Freedom of religion and freedom of conscience	Freedom of peaceful assembly and association	Freedom of religion and freedom of conscience	The right to free education and equal access to education
The right to be free from violence, humiliation and arbitrary treatment	Freedom of religion and freedom of conscience	Freedom of peaceful assembly and association	Freedom of peaceful assembly and association
The right to participate in public and political life	The right to a fair trial	The right to participate in public and political life	The right to work, good conditions and fair wages
Right to free education and equal access to education	The right to work, good conditions and fair wages	Right to life, liberty and security of the person	Right to health care, social protection and standard of living
Freedom of speech	The right to security of property and home	Right to health care, social protection and standard of living	Right to life, liberty and security of person
Right to work, good conditions and fair wages	Right to health care, social protection and standard of living	Right to work, good conditions and fair wages	Right to inviolability of property and home
Right to rest and leisure	Right to life, liberty and security of the person	Right to security of property and home	Right to rest and leisure

Picture 6: Hierarchy for different age groups

Source: Current research findings

We can draw the following conclusions:

- (17-24) Education holds paramount importance at this stage of life as many individuals pursue further studies or embark on their professional journeys. Freedom of speech is also vital for young people, particularly for expressing their identity and political opinions. Work-related rights take precedence when they enter the labour market, though financial stability and property rights tend to be less significant, as many individuals in this age group may still reside with family or in

shared accommodation. Leisure time is crucial for socialisation and personal development, while mobility is essential for educational and career prospects.

- (25-34) Career advancement and financial independence take precedence, highlighting the significance of labour and property rights. Many individuals in this demographic are also beginning to start families, thereby prioritising rights related to family and marriage. Education remains vital for personal growth, but the focus is increasingly shifting towards practical matters such as healthcare, social support, and ensuring a stable living situation. While freedom of speech continues to be cherished, the emphasis is now on meeting basic needs and establishing a career.
- (35-59) Individuals are focused on maintaining their safety, health, and financial stability. Access to health care and social protection becomes essential as they may encounter health issues or financial hardships. Property rights gain significance as many may possess homes or other assets. Family responsibilities also become increasingly important, particularly when raising children or caring for elderly parents. Rights concerning personal freedom and social participation are significant, but they may not be as pressing as ensuring one's own welfare and that of loved ones.
- (60+) Access to healthcare and social support is a top priority for older people due to concerns about health and retirement. Ensuring the security of their home and property is also vital, especially if they have owned the property for many years. The importance of leisure time increases as retirement progresses. The need for protection from violence and abuse becomes more urgent as older individuals may be more susceptible to mistreatment. Family matters and personal dignity precede other rights, such as political participation or work-related issues.

### **Hierarchy of fundamental rights for two genders**

Analysing the hierarchy of fundamental rights by gender reveals significant differences in how women and men prioritise particular rights. Societal roles, personal experiences, and cultural expectations influence these discrepancies. The hierarchies for each group are summarised below, along with explanations for why these differences exist.

<b>Women</b>	<b>Men</b>
Right to life, liberty and security of the person	The right to life, liberty and security of the person
Right to health care, social protection and standard of living	The right to work, good conditions and fair wages
The right to a fair trial	The right to health care, social protection and standard of living
The right to be free from violence, humiliation and arbitrary treatment	The right to a fair trial
The right to work, good working conditions and fair pay	Right to inviolability of property and home
Freedom of speech	Freedom of speech
The right to rest and leisure	Freedom of movement and residence



Right to free education and equal access to education	The right to own property
Right to inviolability of property and home	Right to rest and leisure
Right to found a family and equality in marriage	Right to free education and equal access to education
Freedom of movement and choice of residence	The right to receive information
The right to receive information	Freedom of religion and freedom of conscience
Right to own property	The right to participate in public and political life
Freedom of religion and freedom of conscience	The right to found a family and to equality in marriage
Freedom of peaceful assembly and association	The right to be free from violence, humiliation and arbitrary treatment
The right to participate in public and political life	Freedom of peaceful assembly and association

Picture 7: Hierarchy of fundamental rights for two genders

Source: Current research findings

The following explanations can be provided for why the hierarchy for women appears this way:

- Women place a higher priority on the right to be free from violence, humiliation and arbitrary treatment (ranked 4th) because of the increased risk of gender-based violence and discrimination in society.
- The high ranking of the right to health care and social protection reflects women's significant involvement in health care and their central role in managing family well-being.
- While the right to work is highly valued, societal expectations regarding the balance between work and care responsibilities explain its placement below security and social protection rights.
- The right to find a family and marriage equality are rated higher for women than for men, emphasising the importance of stable family structures and fair treatment in personal relationships.

We can conclude that men:

- Men place a high priority on the right to work (2nd place) and fair wages due to traditional societal expectations of being the primary breadwinners.
- The right to own property and freedom of movement are ranked higher for men, reflecting historical connections to autonomy and economic independence.

- Men consistently rated freedom of speech highly, possibly reflecting their greater public and political discourse involvement.

These hierarchies highlight the importance of understanding how gender shapes the perception and prioritisation of fundamental rights. Recognising these differences can inform the design of policies to meet gender-specific needs and promote greater equality in society. Tailored approaches to improving women's security and well-being and improving men's access to family-friendly policies can contribute to a more balanced realisation of rights between the sexes.

### **Hierarchy of fundamental rights for people with and without a college degree**

When comparing the hierarchy of fundamental rights for people with and without tertiary education, differences by level of education emerge. These differences reflect differences in access to resources, exposure to different ideas, and social roles. The hierarchies for both groups are summarised below, along with explanations of why they are different.

<b>People with a college degree</b>	<b>People without a college degree</b>
Right to life, liberty and security of person	Right to life, liberty and security of the person
Right to health care, social protection and standard of living	Right to health care, social protection and standard of living
Right to a fair trial	Right to a fair trial
Freedom of speech	The right to work, good conditions and fair wages
Right to work, good conditions and fair wages	The right to rest and leisure
Freedom of movement and choice of residence	The right to inviolability of property and home
Right to free education and equal access to education	The right to be free from violence, humiliation and arbitrary treatment
Right to inviolability of property and home	The right to own property
Right to own property	Freedom of speech
Right to rest and leisure	The right to found a family and to equality in marriage
Right to receive information	The right to receive information
Freedom of religion and freedom of conscience	Right to free education and equal access to education
Right to participate in public and political life	Freedom of movement and choice of residence
Freedom of peaceful assembly and association	Freedom of religion and freedom of conscience
Right to found a family and equality in marriage	Freedom of peaceful assembly and association
Right to freedom from violence, humiliation and arbitrariness	The right to participate in public and political life

Picture 8: Hierarchy of fundamental rights for people with and without a college degree  
Source: Current research findings

Both groups share a strong emphasis on life, liberty, personal integrity, health care, and a fair trial, emphasising their universal importance at all levels of education.

People with higher education emphasise intellectual and civic rights such as free speech, education and political participation, while those without higher education focus more on material and security-related rights such as work, leisure and property.

Higher education often fosters greater awareness and involvement in public life, which explains higher ratings of political and assembly activities among people with higher education.

For people without higher education, practical rights related to economic stability and personal security take precedence over abstract rights such as free speech or civic participation.

By recognising these differences, policies can be adapted to meet the specific needs of different educational groups, promoting a more inclusive approach to securing fundamental rights.

### **General conclusions**

The survey results emphasise a structured but dynamic hierarchy of fundamental rights among the Russian population. Although the overall rights ranking remains stable, differences surface based on geographical location, age, gender, and educational attainment. These differences highlight the varying socio-economic conditions, political engagement, and life experiences of diverse demographic groups.

A key finding is that economic security and social stability prioritise rights, with respondents emphasising personal security, healthcare, fair trials, and employment conditions. Simultaneously, political and civil liberties are valued differently based on regional and demographic factors: Urban and younger individuals place greater importance on freedom of expression and political participation, whereas older and rural respondents prioritise material security and social protection.

The observed hierarchy emphasises the practical nature of rights perception in Russia, where fundamental human rights are viewed not as abstract principles but as essential guarantees that shape everyday life. These findings provide a comprehensive understanding of societal priorities and offer valuable insights for legal scholars, policymakers, and human rights advocates aiming to align the legal framework with societal expectations.

# CONCLUSION

## KEY FINDINGS AND INSIGHTS FROM THE RESEARCH

### *Regarding the Hierarchy of Human Rights in the Russian Constitution (de-jure)*

Analysing the hierarchy of fundamental rights in the Russian Constitution reveals a complex and nuanced legal framework. While the Constitution formally guarantees a wide range of fundamental rights and freedoms, their practical application and protection varies significantly. Constitutional provisions allow for restrictions based on national security considerations, public order, and the rights of others, creating a flexible but ambiguous framework for enforcing human rights. Moreover, the absence of a strict legal system based on precedents in Russia further complicates the interpretation and application of these rights.

One key problem in defining the hierarchy of rights in Russian constitutional law is the lack of a clear formal structure. According to our research, there is a hybrid form of human rights hierarchy in Russian constitutional law: on the one hand, all rights have equal protection without any prioritisation or hierarchy, while on the other hand, rights may be restricted by federal law to ensure national security, public order, protection of health and morals, or the rights and freedoms of others.

Because there is no case law concept in the Russian Federation, each judge makes decisions on the priority of some rights over others at his discretion and by his beliefs. There is also no hierarchy of rights in the Russian Constitution—the hierarchy of fundamental rights cannot be formed in Russian constitutional law itself.

To solve this problem, we applied an alternative and innovative approach. We analysed the statistics of European Court of Human Rights (ECtHR) cases during Russia's membership (1998-2022). This analysis allowed us to construct a practical hierarchy based on the frequency of rights violations, which provided valuable information about the systemic vulnerabilities of the Russian legal system.

As a result, we obtained the following Proposed Practical Hierarchy of Human Rights in the Russian Constitution (Based on human rights violations from highest to lowest frequency from ECHR statistics ):

1. *Prohibition of Torture and Inhuman Treatment*
2. *Right to Liberty and Security of Person*
3. *Right to a Fair Trial*
4. *Right to Life*
5. *Right to Property Violations of property*
6. *Right to an Effective Remedy*
7. *Respect for Private and Family Life Violations of private and family life*
8. *Freedom of Expression*
9. *Freedom of Assembly*
10. *Right to Marriage*

The results show that the most frequently violated rights include the prohibition of torture and inhuman treatment, the right to liberty and security, and the right to a fair trial. These systemic violations indicate that the rights necessary for protection from state power remain highly vulnerable in practice. Similarly, the right to an effective remedy that ensures access to justice and respect for rights appears weak, further exacerbating the problems those seeking redress face.

Economic rights, such as property rights, are also frequently violated, indicating persistent problems related to property security and state interference. Meanwhile, rights relating to private and family life, while less frequently violated, still experience notable restrictions, reflecting a moderate level of protection.

On the other hand, rights such as freedom of expression and freedom of assembly, despite being crucial for political participation and civil liberties, are less frequently mentioned in ECtHR judgements. However, this does not necessarily indicate stronger protection; instead, it may indicate significant restrictions on public dissent and obstacles to access to justice. The limited number of cases may also be the result of legal and administrative barriers preventing people from effectively asserting these rights.

Notably, the right to marriage stands out as one of the least contested rights, with no reported violations. This suggests that the rights corresponding to traditional social values are better protected and enjoy relative stability within the Russian legal system.

The constructed hierarchy highlights the significant differences between formal constitutional guarantees and their realisation in practice. While all rights are theoretically equal under the Russian Constitution, the frequency of violations and lawsuits suggests *de facto* prioritisation, with personal security, freedom from torture and access to a fair trial remaining among the most compromised rights. This reflects broader structural issues, including the role of the judiciary, law enforcement and legislative discretion in shaping the actual application of fundamental rights.

Overall, our findings highlight the need for stronger judicial independence, improved enforcement mechanisms and more effective remedies to enhance the protection of human rights in Russia. The hybrid nature of the Russian legal system, which combines constitutional guarantees with discretionary application and limitations, emphasises the importance of ongoing legal reforms to ensure consistent and equitable support for fundamental rights. Future research should continue to assess the evolving legal landscape, particularly in light of Russia's withdrawal from the European Convention on Human Rights, to better understand how these dynamics will shape the future of human rights protection in the country.

### ***Regarding the Hierarchy of Human Rights in Russian legal theory (in theory)***

The analysis in this study has shown that Russian legal theory does not adhere to a single, universally accepted hierarchy of human rights. Instead, it presents a diverse and context-dependent framework influenced by philosophical, historical and practical considerations, as well as the evolving role of sovereignty in the national legal system.

That said, it can be noted that several key characteristics define the theoretical hierarchy of fundamental rights in Russian legal thought:

Prioritisation of collective and state interests, Russian legal theory often prioritises collective rights and state interests over individual freedoms. This reflects an emphasis on social stability, national identity and sovereignty, with the state perceived as a guarantor of rights rather than a neutral arbiter.

Influenced by traditional and Christian values, Orthodox Christianity and cultural norms significantly shape the hierarchy of rights, embedding ethical and moral considerations in legal interpretation. This influence is evident in legislative measures and judicial decisions that prioritise traditional social structures and moral principles.

The hierarchy of rights in Russia remains fluid, adapting to changing socio-political priorities, legal interpretations and constitutional changes. The classification of rights into absolute, conditionally prioritised and socio-economic rights reflects the dynamic nature of Russian legal thought.

The plurality of theoretical approaches Russian legal scholars offer various models for structuring fundamental rights, including:

1. Three types of human rights: absolute, conditionally prioritised and socio-economic rights

Some scholars divide human rights into three categories:

- Absolute rights (e.g., the right to life and human dignity) are universal, non-derogable, and based on natural law.
- Conditional priority rights (e.g. freedom of speech and assembly) are subject to legal restrictions in the interests of public order and national security, following the principle of proportionality.
- Socio-economic rights (e.g., health and education) are subject to the state's economic capacity and reflect the Soviet legacy of prioritising collective welfare.

2. Hierarchy based on the categorisation of rights

This approach organises rights into structured legal categories:

- Constitutional rights are rights that are explicitly protected by the Russian Constitution.
- Civil and political rights (e.g., freedom, fair trial, free expression) are consistent with international human rights treaties.

- Social and economic rights focus on state-provided benefits such as work, education, and health care.
- Cultural and environmental rights deal with national heritage and environmental issues.
- Group rights protect minorities and indigenous communities.

This system reflects a structured but evolving legal hierarchy shaped by constitutional and international factors.

### 3. Hierarchy based on the prioritisation of collective and state interests over individual rights

This view emphasises the primacy of state sovereignty and collective welfare over individual freedoms. The Russian constitution prioritises national sovereignty (Article 15(4)), and the 2020 constitutional amendments reinforce the primacy of Russian law over international human rights norms. Scholars who support this approach argue that rights should be consistent with national stability, while critics say that this undermines individual freedoms.

### 4. Hierarchy based on the prioritisation of rights supporting traditional and Christian values over other rights

This hierarchy prioritises rights that are consistent with Orthodox Christian and traditional values. The Russian Constitution recognises family values (Article 72), influencing legal interpretations that prioritise moral and cultural traditions over unrestricted freedoms. Legislation restricting the promotion of non-traditional lifestyles and court decisions emphasising respect for religious sentiments illustrate this approach. Scholars argue that this structure supports social cohesion by embedding ethical considerations in legal thought.

The analysis of theoretical approaches to the hierarchy of fundamental rights in Russia demonstrates the diverse and sometimes contradictory points of view in Russian legal thought. Although the Constitution does not establish a strict hierarchical structure of rights, various schools of legal theory have developed structures that implicitly prioritise certain rights based on sovereignty, traditional values or state interests.

The absence of a rigid legal system based on precedents further favours flexibility and ambiguity in the application of human rights norms in Russia. This flexibility allows for contextualised legal reasoning but also creates uncertainties in judicial practice and law enforcement. Moreover, the tension between constitutional supremacy and international human rights obligations has become a recurring theme, especially since the constitutional amendments that established Russian law as the supreme legal authority.

This study categorises the main theoretical approaches—whether based on categorical distinctions, principles of sovereignty, or traditional values—to provide a structured understanding of how rights are interpreted and ranked in Russian legal thought. The results show that while formal constitutional guarantees represent a broad commitment to

fundamental rights, the actual hierarchy of rights in Russia is shaped by legal, political, and cultural considerations.

Overall, this study contributes to a better understanding of the dynamics of fundamental rights in the Russian legal system and highlights the need for further research on how legal hierarchies evolve in response to changing political and social conditions.

### ***Regarding the Hierarchy of Human Rights in Russian society (de facto)***

Our survey results provide valuable information about the hierarchy of fundamental rights in Russian society as perceived by the population. Based on a survey conducted among different demographic groups, men and women, people with varying levels of education, and people living in the capital and other regions, we have established a ranked order of rights from the most to the least prioritised. This hierarchy reflects the realities of life, socio-economic conditions and values that shape public perception of human rights in Russia.

As a result, we obtained the following proposed hierarchy of Human Rights in Russian society (based on a survey conducted among the population of Russia, ranking the most important fundamental rights to the least):

1. *Right to life, liberty, personal inviolability*
2. *Right to medical care, social protection, standard of living*
3. *Right to a fair trial*
4. *Freedom of speech*
5. *Right to inviolability of property and dwelling*
6. *Right to work, good conditions and fair wages*
7. *Right to rest and leisure*
8. *Right to free education, equal access to education*
9. *Right to own property*
10. *Freedom of movement and choice of residence*
11. *Right to be free from violence, humiliation and arbitrary treatment*
12. *Right to receive information*
13. *Right to establish a family and equality in marriage*
14. *Freedom of religion, freedom of conscience*
15. *Right to participate in public and political life*
16. *Freedom of peaceful assembly and association*

The hierarchy shows that Russian citizens prioritise fundamental human rights necessary for physical security, well-being, and justice. The highest-ranked rights—the right to life, liberty, medical care, and social protection—emphasise the public's focus on security and social welfare as core concerns.

The right to a fair trial ranks high, reflecting public concern for legal protection and justice. Freedom of speech follows, suggesting that while civil liberties are valued, they do not trump the importance of social stability and material security.



Mid-level rights, including property ownership, labour rights and education, highlight the public's recognition of socio-economic opportunities as essential but not as vital as survival and security.

At the lower end of the hierarchy, political and civil rights such as participation in public life, religious freedom and the right to peaceful assembly are valued but ranked below material and legal security. This suggests that while democracy and civic engagement are recognised, they are not considered urgent needs compared to personal well-being.

Changes by region, age, gender and education, we found the following:

#### 5. Regional differences: Moscow and non-Moscow regions

Significant differences emerged between residents of Moscow and residents of the rest of Russia.

The right to medical care and social protection is rated lower in Moscow, where access to quality services is generally better. However, due to differences in access to healthcare, it remains a top priority in non-Moscow regions.

The right to labour and fair wages are of more significant concern outside Moscow, where employment opportunities are fewer and economic conditions more complicated.

The right to life, liberty and personal security is rated higher in non-Moscow regions, where concerns about security and stability are more pronounced.

The right to find a family is also more valued outside the capital, where traditional family structures play a more significant role.

#### 6. Differences by age groups

Youth (17-24): Prioritises education, freedom of speech and mobility as they are in the formative stages of their careers and social life.

Young adults (25-34): Transitioning to economic stability, owning property and starting a family.

Middle-aged people (35-59): Paying more attention to health, job security and personal safety.

Older people (60+): Focused on social protection, health and dignity in old age, with less emphasis on political rights.

#### 7. Differences by gender

Women: Focus more on protection from violence, social security and family rights.

Men: Focus more on economic rights, such as employment, property ownership, and freedom of expression.

## 8. Differences by level of education

People with more education: Pay more attention to intellectual and civil rights such as freedom of speech, education, and political participation.

Less educated people: Pay more attention to economic stability, job security, and personal safety.

Overall, the results indicate that perceptions of human rights within Russian society are deeply entrenched in material security and social stability. While political and civil liberties are valued, they often take a back seat to fundamental needs such as health, economic stability, and justice. Variations by region, age, gender, and education illustrate the diversity of perspectives among the populace, highlighting the necessity of tailoring human rights policies to these differing priorities.

These findings provide important insights for policymakers and legal scholars seeking to align the human rights framework with public expectations, ensuring that the legal system effectively protects the rights most valued by the Russian people. In addition, the study highlights the need for ongoing dialogue between the state and civil society to bridge the gaps between legal provisions and public expectations. Addressing these challenges through targeted social policies, legal reforms, and improved public participation can strengthen the protection and realisation of human rights across different demographic groups. Future research should explore how external factors, such as economic crises or geopolitical shifts, can alter this hierarchy and influence long-term trends in societal values regarding human rights.

## **COMPARING THE HIERARCHIES OF FUNDAMENTAL RIGHTS IN RUSSIAN LEGAL THEORY (IN THEORY), THE RUSSIAN CONSTITUTION (DE JURE), AND RUSSIAN SOCIETY (DE FACTO) AND REFLECTING ON THE POTENTIAL FOR FUTURE DEVELOPMENTS**

The concept of human rights hierarchy in Russia is multifaceted: legal, theoretical, and societal. While the Russian Constitution guarantees fundamental rights, legal theory offers different hierarchical models, and Russian society reflects the actual prioritisation of rights based on actual events. This chapter compares these three perspectives—legal theory, constitutional law, and public perception—to highlight their divergences and overlaps.

As previously stated, after an exhaustive study, we conclude that Russian legal theory does not present a single, universally accepted hierarchy of fundamental rights but rather comprises a variety of structures influenced by historical, philosophical, and political considerations. Therefore, we recognise that, due to the disparate theoretical approaches, it is not possible to draw comparative conclusions about the hierarchy of rights in the Russian theory of law (in theory), in constitutional law and among the Russian population.

Therefore, we have made basic comparisons between the hierarchy of fundamental rights existing in constitutional law (de jure) and among the Russian population (de facto).

### ***Comparison between the hierarchies of fundamental rights in Russian Constitutional law (de jure) and Russian society (de facto)***

First of all, it is worth noting that due to the fact that the hierarchy of rights in constitutional law (de jure) is formed based on data from the European Court of Human Rights (ECtHR) cases involving Russia from 1998 to 2022 and the hierarchy of rights among public opinion (de facto) based on rights guaranteed by the Universal Declaration of Human Rights, these two hierarchies differ in the number of rights: de jure - 10 rights, and de facto 16 rights. However, most rights can be correlated with each other.

Below is a comparative analysis of the two hierarchies:

#### **1. Right to life, liberty and security of person (de facto: No. 1)**

Some de facto rights have more complex content, so they can often combine several de jure rights.

##### **1.1. Right to life, liberty and security of person (De Facto: No. 1) - Right to freedom and security of person (De Jure: No. 2)**

These rights are closely linked, as both emphasise individual security and freedom from arbitrary detention or violence. The constitutional ranking emphasises their importance in legal disputes, while the public prioritizes broader security concerns, particularly protection from crime and state repression.

1.2. Right to life, liberty and security of person (de facto: No. 1) - Right to life (de jure: No. 4)

These two rights overlap directly, emphasising the fundamental need to protect life and personal security. However, in the de jure hierarchy, this right ranks below the prohibition of torture and the right to liberty, while de facto, it has the highest priority. This suggests that the population perceives life and personal security as the most critical aspects of human rights, while legal practice often focuses on procedural guarantees.

2. Right to health care, social protection and standard of living (de facto: No. 2) - no direct equivalent in the de jure hierarchy

The de facto hierarchy prioritises socio-economic rights, reflecting public concern about health care, pensions, and social security. In contrast, the de jure hierarchy, based on ECtHR violations, does not prominently emphasise this right, indicating either a lower level of litigation in this area or a neglect of economic rights in jurisprudence.

3. Right to a fair trial (De Facto: No. 3)

3.1. Right to a fair trial (De Facto: No. 3) - Right to a fair trial (De Jure: No. 3)

Both hierarchies attach great importance to this right, affirming that access to justice and legal fairness are of universal value. This alignment suggests that both the legal system and public opinion recognise judicial fairness as central to protecting human rights in Russia.

3.2. Right to a fair trial (De Facto: No. 3) - Right to an effective remedy (De Jure: No. 6)

The principle of an effective remedy ensures that individuals can challenge rights violations in court. Society's emphasis on a fair trial is consistent with this legal position, suggesting that access to justice is a critical issue in both legal and public discourse.

4. Freedom of Speech (De Facto: No. 4) - Freedom of Expression (De Jure: No. 8)

Although both lists include this right, the population ranks it higher than the legal hierarchy. This discrepancy suggests that citizens consider freedom of speech more important than it is reflected in de jure violations, perhaps because of a desire to participate in and influence political life.

5. Right to inviolability of property and home (de facto: No. 5) - Right to property (de jure: No. 5)

Both rankings place this right in a similar position, showing its importance both in public perception and in legal disputes. The constitutional framework recognises frequent violations in this area, while society views property rights as essential for economic stability and security.

6. Right to work, good conditions and fair wages (de facto: No. 6) - no direct equivalent in the de jure hierarchy

Like the right to social protection, labour rights are a major concern for the population but do not feature prominently in the de jure hierarchy. This is probably due to fewer cases in the ECtHR or limited judicial enforcement.

7. Right to rest and leisure (de facto: No. 7) - no direct equivalent in the de jure hierarchy

This socio-economic right is valued by society but does not appear in the de jure hierarchy, supporting the idea that human rights litigation in Russia focuses more on civil and political rights than on labour rights.

8. Right to free education, equal access to education (de facto: No. 8) - no direct equivalent in the de jure hierarchy

Although education is constitutionally guaranteed, it is not often challenged at the ECtHR level, indicating a gap between legal provisions and public expectations.

9. Right to own property (de facto: No. 9) - Right to property (de jure: No. 5)

Both hierarchies recognise property rights, but society distinguishes between the right to own property and the inviolability of property and home. This distinction implies that society views the right to property as a fundamental right and the inviolability of the home as an additional element. At the same time, the legal system is more concerned with violations related directly to the legal status of property.

10. Freedom of movement and choice of residence (de facto: No. 10) - no direct equivalent in the de jure hierarchy

This right is important in the public perception. Still, it does not often appear in ECtHR judgements against Russia, indicating either a low level of restrictions or court cases.

11. Right to be free from violence, humiliation and arbitrary treatment (de facto: No. 11) - prohibition of torture and inhuman treatment (de jure: No. 1)

The de jure hierarchy places the prohibition of torture first, whereas de facto perceptions place protection from violence lower. This may mean that while the legal framework recognises systemic abuse, the public focuses more on broader socio-economic rights.

12. Right to receive information (de facto: No. 12) - no direct equivalent in the de jure hierarchy

The right to access information is crucial in public perception but does not feature prominently in the de jure hierarchy. Perhaps this is because, in the judicial system, it is often a component of freedom of speech rather than a separate right.

13. The Right to Found a Family and Marriage Equality (de facto: No. 13)

13.1. Right to Found a Family and Equality in Marriage (De Facto: No. 13) - Respect for Private and Family Life Violations of private and family life (De Jure: No. 7)

While the constitutional framework rates the protection of private and family life relatively highly, the public rating places family rights lower. This discrepancy may reflect limited legal challenges in this area or different cultural perceptions of state intervention in private matters.

### 13.2. The Right to Found a Family and Marriage Equality (de facto: No. 13) - The Right to Marriage (de jure: No. 10)

Although it ranks lower overall, both hierarchies include this right, suggesting that family rights are recognised but do not take precedence over civil and political rights.

14. Freedom of religion, freedom of conscience (de facto: No. 14) - there is no direct equivalent in the de jure hierarchy

Freedom of religion is recognised in Russian law but is not often found in ECtHR cases, possibly due to the lack of state influence on religious institutions.

15. Right to participate in public and political life (de facto: No. 15) — no direct equivalent in the de jure hierarchy

Public opinion values participation in governance, but it is not included in the ECtHR case data, possibly because cases in this category are of lower priority for the ECtHR.

16. Freedom of peaceful assembly and association (de facto: No. 16) — Freedom of assembly (de jure: No. 9)

Both hierarchies include this right, although society ranks it lower than in the de jure hierarchy, suggesting that either public activism is of lower priority or that strong legal regulation has led to lower expectations.

Schematically, it looks this way:

In Russian constitutional law (de jure)		In Russian society (de facto)	
1	Right to life, liberty, personal inviolability	2	Right to liberty and security of person
		4	Right to life
2	Right to medical care, social protection, standard of living	<i>no direct equivalent</i>	
3	Right to a fair trial	3	Right to a fair trial
		6	Right to an effective remedy
4	Freedom of speech	8	Freedom of Expression
5	Right to inviolability of property and dwelling	5	Right to property

6	Right to work, good conditions and fair wages		<i>no direct equivalent</i>
7	Right to rest and leisure		<i>no direct equivalent</i>
8	Right to free education, equal access to education		<i>no direct equivalent</i>
9	Right to own property	5	Right to property
10	Freedom of movement and choice of residence		<i>no direct equivalent</i>
11	Right to be free from violence, humiliation and arbitrary treatment	1	Prohibition of torture and inhuman treatment
12	Right to receive information		<i>no direct equivalent</i>
13	Right to establish a family and equality in marriage	7	Respect for Private and Family Life Violations of private and family life
		10	The Right to Marriage
14	Freedom of religion, freedom of conscience		<i>no direct equivalent</i>
15	Right to participate in public and political life		<i>no direct equivalent</i>
16	Freedom of peaceful assembly and association	9	Freedom of assembly

Picture 9: Comparison between the Hierarchy of fundamental Rights Russian constitutional law and Russian society

Source: Current research findings

Despite differences in their formation, both hierarchies highlight several fundamental rights as critically important. The right to life, liberty and security of a person and the right to a fair trial rank high on both lists. This suggests that both legal institutions and society recognise them as fundamental rights. In addition, freedom of speech and freedom of assembly are present on both lists, albeit in different rankings, indicating their perceived importance in both the legal and social contexts.

The most striking difference is the emphasis on socio-economic rights in the societal hierarchy. The right to health care, social protection, and standard of living ranks second in the social hierarchy but is absent from the constitutional hierarchy constructed based on ECtHR cases. Similarly, the right to work, good conditions and fair wages is highly valued by

society but is not among the most frequently challenged rights in the ECtHR. This suggests that, although these rights are of crucial importance to society, their legal provision and protection remain secondary to civil and political rights in the Russian judicial system.

Another key difference is the priority of the prohibition of torture and inhuman treatment in the legal hierarchy, which ranks first based on ECtHR cases but is not explicitly emphasised in the public hierarchy. This reflects the prevalence of state-imposed human rights violations, which are more visible in international court cases than everyday public discourse.

Furthermore, freedom of religion and freedom of conscience rank almost last in the public hierarchy, suggesting that, although guaranteed by the Constitution, the general public does not perceive these rights as crucial compared to issues such as economic security and healthcare.

### ***Reflection on the potential for future developments***

- **Legislative Reforms**

Given the discrepancies between legal protections and public priorities, future reforms to Russian constitutional law and jurisprudence could aim to address these gaps. The legal framework could evolve to strengthen the enforcement of socio-economic rights, particularly in response to growing public demand for better healthcare, fair wages, and education. This could lead to a reconsideration of how these rights are legally structured and prioritised in jurisprudence, perhaps introducing more explicit legal guarantees.

Furthermore, the lack of a clear legal hierarchy in the Constitution allows for significant judicial discretion, leading to inconsistencies in how rights are upheld. Introducing more straightforward legal guidance or interpretation through jurisprudence or legislative amendments could help mitigate this problem. The lack of a case law system in Russia means that judicial decisions remain largely discretionary. However, new legal initiatives could promote more consistent application of rights in courts and help bridge the gap between *de jure* and *de facto* recognition of rights.

- **Impact of Russia's Withdrawal from the ECHR**

With Russia's withdrawal from the European Convention on Human Rights, domestic legal institutions will now play a more decisive role in protecting human rights. This shift could reduce external pressure on Russia to comply with international human rights standards, impacting how courts adjudicate rights violations. Without the ECHR's oversight, domestic litigation will have to evolve to fill the accountability gap.

However, this change could also lead to the development of stronger national human rights protection mechanisms. Russia's Constitutional Court and other institutions may have to rethink their approach to fundamental rights, potentially incorporating a new framework based on domestic legal needs rather than international precedents. The effectiveness of such a shift will depend on the willingness of the judiciary and legislature to prioritise human rights in domestic legal discourse.



- Potential Litigation Trends

Increased Focus on Socioeconomic Rights - As public concerns about healthcare, wages, and social protections grow, domestic litigation may increase to demand stronger protection and enforcement of these rights.

Challenges to State-Imposed Limitations - The legal system's discretionary powers to restrict rights in the interests of national security or public order may face greater scrutiny, especially as public demands for free speech and fair trials persist.

Development of Freedom of Assembly and Political Participation - Despite their lower ranking in the public hierarchy, political rights may become more contested in litigation, especially as civic engagement and political activism develop in the coming years.

- Long-Term Outlook

Over time, the interplay between legal interpretations and public demands may lead to a more structured and formalised hierarchy of rights in Russian constitutional law. Increased public awareness and participation in legal processes can lead to changes in legislation and judicial decisions, gradually narrowing the gap between constitutional guarantees and public expectations. Whether through legislative amendments, judicial reinterpretation, or increased advocacy, Russia's human rights system may undergo significant changes in response to internal and external pressures. Ultimately, the future trajectory of rights protection in Russia will be determined by how the state balances legal principles with actual societal concerns and changing public needs.

## RESEARCH SUMMARY

We are happy to conclude that in our research, we have reflected on all the research questions, fulfilled all the goals/aims of the study, tested all the hypotheses, and received the results according to the plan.

Below is more detail in the context of each research question of the study:

This study delved into the complex hierarchy of fundamental rights in the Russian Federation up to February 2022. Our research began by defining what constitutes a fundamental right, which rights can be called fundamental. We then analysed the theoretical hierarchy of fundamental rights in Russian legal theory (in theory), in Russian constitutional law (*de jure*), and the public perception of the fundamental rights hierarchy (*de facto*); after that, we compared the obtained hierarchies and analysed the results. Our findings reveal inconsistencies between the legal framework and public norms, highlighting areas where legal reforms and public engagement are needed to harmonise the protection and prioritisation of fundamental rights in Russia.

The Russian Constitution enshrines a comprehensive list of fundamental rights and freedoms that are consistent with universally recognised principles of international law. However, our analysis shows that the practical realisation of these rights often diverges from their theoretical foundations. Nevertheless, we shall begin in order.

At the beginning of our work, we formed research questions, goals/aims, hypotheses and results, which we will briefly recall; afterwards, we will reflect on what was achieved and what results we came to.

## Research Question 1: What is a fundamental right?

One of the main objectives of our research was to clearly define the concept of fundamental rights and compile a comprehensive list of universally recognised rights and those that are particularly important in the Russian legal context.

These rights must fulfil certain essential criteria, which we have defined as:

- Universality - fundamental rights should apply equally in all states, regardless of political, cultural or economic differences. For example, the prohibition of torture should carry the same legal weight in England, Turkey, Russia and Germany.
- 'For-All-Ness' - these rights should be available to all individuals regardless of citizenship, legal status or place of residence. Unlike political rights (which can be restricted to citizens), fundamental rights apply to everyone.
- Super-sovereign in nature - fundamental rights exist beyond politics. They are constants that should not be influenced by the political direction of the state.
- Describability in the language of law - a fundamental right must be codified in a legal framework to be enforceable. Rights that remain in the realm of philosophy or moral defence do not meet this criterion.

This definition allows us to distinguish between actual fundamental rights and those that, while important, are not universally recognised or clearly codified in law.

As part of the research, we answered this question and confirmed that Fundamental rights are universally recognised as necessary for human dignity, freedom, and equality. They form the basis of legal and political systems and are inherent to all human beings regardless of nationality, status, or political system. Fundamental rights are usually enshrined in constitutions, international treaties, and legal frameworks that ensure their protection and justiciability.

Moreover, the Russian legal system is founded upon and actively protects fundamental rights enshrined in the Constitution of the Russian Federation and supported by international treaties. These rights often overlap, complementing and reinforcing one another to form a coherent legal framework. However, our primary goal in this study was to analyse and establish a structured hierarchy of fundamental rights. This hierarchical structure offers a deeper insight into how these rights are perceived and prioritised. A more detailed discussion of our findings and conclusions related to this hierarchy is presented below in response to research question 2.

***Hypothesis 1: 'Contemporary scholarly sources often do not fully cover the main indicators of the general legal theory of rights, resulting in an uncertain or incomplete understanding of fundamental rights'.***

The analysis provided supports this hypothesis. The definition of fundamental rights shows that legal scholars and international human rights instruments lack a universally recognised framework that consistently defines which rights are considered fundamental. Debates over descriptiveness in the language of law further emphasise this problem. While some fundamental rights (e.g., the prohibition of torture) are clearly defined, new rights (e.g.,

intergenerational rights to a healthy environment) remain ambitious and lack precise legal codification.

Moreover, the Russian context presents a unique case where some rights (e.g. social welfare, environmental rights) receive greater attention while others (e.g. freedom of expression) are subject to restrictions that make it challenging to categorise them as fundamental. This reflects the difficulty of developing a universal theoretical framework for fundamental rights that is applicable across different legal and political systems.

Thus, the hypothesis is supported by the observed inconsistencies in how fundamental rights are defined, interpreted and applied across jurisdictions and academic sources.

***Hypothesis 2: ‘The list of rights sometimes includes those that are not universally recognised as fundamental, which creates inconsistencies in legal systems’.***

Another main research objective of this study was to create a comprehensive list of fundamental rights that could be universally recognised while also considering rights specific to the Russian context.

During this research, it became apparent that creating a universally recognised and exhaustive list of fundamental rights was impossible. The hypothesis that lists of rights sometimes include those that are not universally acknowledged as fundamental, resulting in inconsistencies across legal systems, was confirmed, as significant differences exist in how fundamental rights are defined and prioritised within legal traditions, national constitutions, and international treaties. These variations reflect the historical, political, and cultural influences that shape different legal systems, further complicating efforts to establish a single definitive list of rights.

Given these challenges, we decided to use the list of rights set out in the Universal Declaration of Human Rights (UDHR) for the purposes of this research. Although the status of the UDHR in Russia is often questioned, its wide international recognition and fundamental role in shaping contemporary human rights discourse made it the most appropriate source for this study. This decision allows us to maintain consistency and comparability in our analysis while recognising the inherent difficulties in defining fundamental rights across jurisdictions.

In this way, we have fulfilled the Research Goals/Aims and proved our Hypothesis of the research under Research Question 1.

## **Research Question 2: What is the hierarchy of fundamental rights?**

After establishing a working definition and dealing with a list of fundamental rights, the research turned to the question of the hierarchy.

The research offers a comprehensive analysis of the subject by moving from the basic definition of fundamental rights to the complex hierarchy of how these rights are structured and perceived. It not only addresses theoretical gaps but also provides practical recommendations for aligning legal provisions with societal values.

The second research question posed at the beginning of the study was to determine what hierarchies exist:

- in Russian legal theory (in theory);
- in Russian constitutional law (de jure);
- in Russian society (de facto).

As part of the study, these questions were analysed, and the specified hierarchies were formed. Thanks to this, all the hypotheses put forward at the beginning of the study were confirmed.

***Hypotheses 1: ‘The understanding of the hierarchy of fundamental rights differs between legal theory, formal legal structures, and societal norms’.***

The comparative analysis shows that Russian legal theory, legal, constitutional guarantees, and actual societal priorities establish different hierarchies of fundamental rights. While constitutional law focuses on civil and political rights and international litigation emphasises systemic violations, Russian society pays more attention to socio-economic security, and Russian legal theory demonstrates a plurality of approaches to hierarchy and a lack of uniformity, which shows a clear divergence of views.

***Hypotheses 2: ‘The hierarchy of rights as established in law does not always align with the way these rights are prioritised or valued by Russian society’.***

As noted, Russian society places great importance on social and economic rights such as healthcare, fair wages and living standards, which do not figure prominently in the legal hierarchy derived from the ECtHR case data. This confirms that legal frameworks do not always reflect societal priorities, further highlighting the gap between constitutional law and the everyday concerns of Russian citizens.

***Hypothesis 3: ‘There are notable differences between the hierarchy of fundamental rights in Russian legislation and how these rights are understood or applied in everyday life by Russian citizens’.***

The findings highlight the stark differences between legal interpretations and societal application of rights. While formal legal structures prioritise rather general and deep-seated issues such as fair trial, prevention of torture and freedom of expression, public opinion emphasises the rights with which they interact on a day-to-day basis – economic well-being and personal security. These discrepancies illustrate how rights are defined and experienced differently within legal and social frameworks.

**Additionally, it can be confirmed that the research reached all the expected results:**

The Russian legal system and social structure have established a structured hierarchy of fundamental rights. Given the absence of a formal hierarchy in the Constitution of the Russian Federation and the lack of consistent case law, where judicial decisions remain fragmented and contradictory, an innovative approach was adopted to determine the hierarchy of rights in constitutional law using data from the European Court of Human Rights (ECHR).

This is the first time a survey has been conducted to assess public perceptions of fundamental rights in Russia, which is a unique and innovative contribution to the study. This approach adds originality to the study and serves as a basis for further research in this area.

The results revealed discrepancies between the hierarchy of fundamental rights defined in Russian law and the values prioritised by society, which was discussed in detail earlier in the study.

In addition, the study identified specific areas of fundamental rights that require further clarification or refinement, laying the groundwork for potential legal reforms and public policy initiatives.

This study achieved its stated objectives and filled a significant gap in research on fundamental human rights in Russia. Its findings offer valuable insights into the interaction of legal norms and societal perspectives, contributing to both legal scholarship and policymaking.

# BIBLIOGRAPHY

## Books and Monographs

- Ablova, N.A. (2017). "The Rights of Indigenous Peoples in the Russian Federation: Legal and Ethnocultural Aspects." Moscow: Prospect.
- Afanasiev, B. Star of Freedom. History of the almanac by A. Bestuzhev and K. Ryleev. 1823-1825 // Polar Star: Almanac published by A. Bestuzhev and K. Ryleev (1823-1825): Selected pages. - M.: Sov. Rossiya, 1982.
- Agresti, A. (2018). Statistics: the art and science of learning from data. Pearson.
- Alexandrova, M. A. History of the Constitution of the Russian Federation / M. A. Alexandrova // State power and local self-government. - 2010. - № 11.
- Alexy, R. (2002). A theory of constitutional rights. Oxford University Press.
- Alston, P. (1996). The United Nations and Human Rights: A Critical Appraisal. Oxford University Press.
- Alwin, D. F. (2007). Margins of Error: A Study of Reliability in Survey Measurement. Wiley.
- Antonov M.S. (2020). "Environmental Law: Textbook". Moscow: Yur-ayt
- Armin von Bogdandy and Ingo Venzke (eds.), In Whose Name?: A Public Law Theory of International Adjudication (Oxford University Press, 2014).
- Astakhov, P.A. 2004. Dynamics of resolving legal collisions. Moscow: Moscow University of Internal Affairs of Russia, 2004. ISBN.
- Avakyan, S. A. Constitutional Rights of Citizens in Russia. Moscow: Norma, 2020.
- Avakyan S.A. The Russian Constitution: Nature, Evolution, Modernity. - Sashko, 2000.
- Baglai M. V. Constitutional Law of the Russian Federation: textbook - 3rd ed., amendments and additions - M., 2002. - p. 44.
- Baibakov, S. A. Modern views on the development of the draft of the third Constitution of the USSR, 1977): on new archival materials / S. A. Baibakov // Bulletin of Moscow University. Ser. 8, History. - 2012. - № 5. - C. 128-149.
- Balalaev, I.V. (2019). "Legal Protection of National Minorities: A Comparative Legal Analysis." Moscow: Yur.
- Bantekas, I. (2004). International Human Rights Law and Practice. Cambridge University Press.
- Barendt, E. (2005). Freedom of speech. Oxford University Press.
- Barkova, O. N. Legal basis for the creation and development of the RSFSR in the 1920s / O. N. Barkova, Yu.C. Kukushkin // Bulletin of Moscow University. Ser. 8, History. - 2012. - № 2. - C. 80-108.
- Bassiouni, M. C. (1999). Crimes Against Humanity in International Criminal Law. Kluwer Law International.

- Benedek, W., & De Feyter, K. (2020). Human rights in a multipolar world. Cheltenham: Edward Elgar Publishing.
- Berdyaev, Nikolai. The Philosophy of Inequality. New York: Macmillan, 1923
- Biemer, P. P., & Lyberg, L. E. (2003). Introduction to Survey Quality. Wiley.
- Bhaskar, R. (1978). A Realist Theory of Science. Verso.
- Böckenförde, Ernst-Wolfgang (1991): State, Society, and Liberty: Studies in Political Theory and Constitutional Law. New York: Berg. (Böckenförde 1991)
- Bogdanovich, M. I. History of the reign of Emperor Alexander I and Russia in his time / M. I. Bogdanovich. - St. Petersburg: Type. F.S. Sushchinskiy, 1869. - Vol. 4.
- Bowring, Bill (2013): Law, Rights, and Ideology in Russia: Landmarks in the Destiny of a Great Power. New York: Routledge. (Bowring 2013: 87)
- Brodecki, Zdislav. The Sociology of Law. Lexicon of Modern Theories and Philosophy of Law. - Warsaw, 2007
- Brownlie, I. (2008). Principles of Public International Law (7th ed.). Oxford University Press.
- Brundtland, G. H. (1987). Our common future (The Brundtland Report). Oxford University Press.
- Cadwalladr, Carole, et al. "The Cambridge Analytica Files." The Guardian, March 2018.
- Creswell, J. W., & Creswell, J. D. (2018). Research design: qualitative, quantitative, and mixed methods approaches. Sage publications.
- Collected Works of K. D. Kavelin [Text]. - St. Petersburg: Type. M. M. Stasulevich, 1897-1900.
- Conversation between Comrade Stalin and the chairman of the American newspaper association "Scripps-Howard Newspapers" Mr. Roy Howard 1 March 1936 - M., 1936.
- Couper, M. P. (2008). Designing Effective Web Surveys. Cambridge University Press.
- Dass, E. I. (2012). Human Rights in Theory and Practice: A Global Perspective. AuthorHouse.
- D'Amato, A. (1982). International Law: Process and Prospect. Transnational Publishers.
- De Hert, Paul and Serge Gutwirth. "Privacy, data protection and law enforcement: opacity of the individual and power transparency." Springer, 2009
- De Salvia M. 2004. Case-law of the European Court of Human Rights. St. Petersburg: Law Center Press, 2004.
- Diamond, A. S. (1971). Primitive Law, Past and Present. Methuen.
- Dictionary of Brockhaus and Efron: in 86 vol. (82 vols. and 4 extra). - St. Petersburg, 1890-1907.)
- Dillman, D. A., Smyth, J. D., & Christian, L. M. (2014). Internet, phone, mail, and mixed-mode surveys: The tailored design method. John Wiley & Sons.



- Dubovitsky, V.N. Sociology of law: subject, methodology and methods / V.N. Dubovitsky; Belarusian State University. - Minsk: Law and Economics, 2010. - 174 c.
- Donnelly, J. (2013). Universal human rights in theory and practice (3rd ed.). Cornell University Press.
- Duffy, P. 1996. European Convention on Human Rights and the Effectiveness of Judicial Protection. Moscow: Court control and human rights, 1996, p. 152
- Dworkin, Ronald (1986): Law's Empire. Cambridge, MA: Harvard University Press. (Dworkin 1986)
- Dworkin, R. (1977). Taking rights seriously. Cambridge: Harvard University Press.
- Ehrlich O. Fundamentals of the Sociology of Law. SPb.: Publishing House of SPbSU, 2011.
- Eisenstadt, S. N. (1968). The Comparative Study of Institutions. Heinemann Educational Books.
- Eisenstadt, S. N. (2002). Comparative Civilizations and Multiple Modernities. Brill.
- Evans, M. D. (2001). Religious freedom under the European Convention on Human Rights. Oxford University Press.
- Freeman, Michael. "Human Rights: An Interdisciplinary Approach." Polity Press, 2011.
- Filippov, A. N. History of Russian Statehood. Moscow: Nauka, 2019.
- Foblets, M.-C., Alidadi, K., & Vrielink, J. (Eds.). (2016). Belief, law and politics: What future for a secular Europe? Ashgate.
- Fowler Jr, F. J. (2013). Survey research methods. Sage publications.
- Gaidis V. P. Obtaining Information about Respondent's Age // Information Collection Techniques in Sociological Research. I. Sociological Surveys. Moscow: Nauka, 1990. C. 117.
- Gaja, G. (2012). Jus Cogens beyond the Vienna Convention. Recueil des Cours, 347, 271-316.
- Ginsburgs, G. (1988). From Soviet to Russian International Law: Studies in Continuity and Change. Martinus Nijhoff Publishers.
- Gorchakov M.I. Church councils // Encyclopedic Dictionary of Brockhaus and Efron in 86 vol. (82 vols. and 4 extra). - St. Petersburg, 1890-1907.
- Gostin, L. O., & Wiley, L. F. (2020). Public health law: Power, duty, restraint (3rd ed.). University of California Press.
- Gottschalk, L. (1950). Understanding History: A Primer of Historical Method. Alfred A. Knopf.
- Greenwald, Glenn. "No Place to Hide: Edward Snowden, the NSA, and the U.S. Surveillance State." Metropolitan Books, 2014.
- Grotian, A. 1992. Article 6 of the European Convention - The Right to a Fair Trial. Strasbourg, 1992
- Groves, R. M. (1989). Survey Errors and Survey Costs. Wiley.

- Gurr, Ted Robert. "Why men rebel." Princeton University Press (1970).
- Habermas, Jürgen. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (MIT Press, 1996).
- Hascroft, Grant, et al. "Explaining the Constitution: Essays in Constitutional Theory." Cambridge University Press, 2008
- Hascroft, Grant, et al. "Explaining the Constitution: Essays in Constitutional Theory." Cambridge University Press, 2008
- Heckscher, G. (1969). *The Study of Comparative Government and Politics*. Allen & Unwin.
- History of the Governing Senate for two hundred years. 1711-1911. T. 1. // Ruunivers.
- Hogg, Peter W. (2012): *Constitutional Law of Canada*. Toronto: Carswell.  
(Hogg 2012)
- Hogg, Peter W., and Allison A. Bushell. "Rights and Freedoms under the Charter: The Legislative Process." In *Constitutional Law of Canada*, 5th Edition, edited by Peter W. Hogg, 43-1-43-142. Thomson Reuters, 2007.
- Ignatieff, Michael. "Human Rights as Politics and Idolatry." Princeton University Press, 2003.
- International Protection of Rights and Freedoms: Collection of Docs. - M., 1990.
- Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (MIT Press, 1996).
- Kant, I. 1797. *The Metaphysics of morals*. 1797
- Kapustin, A. Yu. *State and Law: Philosophical and Legal Aspects*. Moscow: MGIMO, 2020.
- Kazimirchuk V.P., Kudryavtsev V.N. *Modern Sociology of Law*. - Moscow: Yurist, 1995. - ISBN 5-7357-0092-8
- Khabrieva, T. Y., & Kutafin, O. E. (2019). *Russian constitutional identity: Theory and practice*. Moscow: Nauka.
- Kelsen, H. (1945). *General theory of law and state*. Cambridge: Harvard University Press.
- Kędzia, Z. (2003). *The Protection of Human Rights by Political Bodies*. In *Human Rights: International Protection, Monitoring, Enforcement* (pp. 3-20). UNESCO.
- Kireyevsky, Ivan. *Essays on Russian Culture and Thought*. Moscow: Nauka, 1850
- Kluchevsky V. O. O. *Selected Lectures of the "Course of Russian History"*. / Comp. N.A. Mininkov. - Rostov n/D: Publishing house "Phoenix", 2002. - P. 198 ISBN 5-222-02651-5
- Kommers, Donald P., and Russell A. Miller (2012): *The Constitutional Jurisprudence of the Federal Republic of Germany*. Durham: Duke University Press. (Kommers & Miller 2012)
- Kommers, Donald P., and Russell A. Miller (2012): *The Constitutional Jurisprudence of the Federal Republic of Germany*. Durham: Duke University Press. (Kommers & Miller 2012)

Knowles E. The Oxford Dictionary of Phrase and Fable. <http://0-www.oxfordreference.com.library.metmuseum.org/view/10.1093/acref/9780198609810.001.0001/acref-9780198609810>. Accessed October 24 2022.

Kostomarov N.I., "The beginning of autocracy in Russia" // Collected Works of N.I. Kostomarov in 8 books, 21 vol. Historical monographs and studies. - SPb, M.M.Stasyulevich Publishers, 1903. Book 5. T. 12. - C. 5-91.

Kovler, A.A. (2017). "Protection of Human Rights in the Practice of the Constitutional Court of the Russian Federation". Moscow: Wolters Kluwer.

Krosnick, J. A., & Presser, S. (2010). Question and survey design. In Handbook of survey research (pp. 263-313). Emerald Group Publishing Limited.

Langford, Malcolm, Ben Cousins, Jackie Dugard, and Tshepo Madlingozi, eds. (2013): Socio-Economic Rights in South Africa: Symbols or Substance? New York: Cambridge University Press. (Langford et al. 2013)

Langlois, C.-V., & Seignobos, C. (1901). Introduction to the Study of History. Barnes & Noble.

Laurentian Chronicle // Full Collection of Russian annals: The USSR Academy of Sciences Press, 1926-1928. Vol. 1. Vol. 1: The Tale of Bygone Years. Page. 14.

Lavrakas, P. J. (2008). Encyclopedia of survey research methods. Sage publications.

Lenin, V.I. The Complete Works. 5th ed. Moscow: Publishing of Political Literature, 1981. Volume 33, pp. 87-90; Volume 41, p. 384.

Lerner, N. (1991). Group Rights and Discrimination in International Law. Martinus Nijhoff Publishers.

Lesin, A. V. Stages and regularities of development of the constitutional legislation of the USSR, RSFSR and Union republics in the Soviet period / A. V. Lesin // Law and Politics. - 2009. - № 2

Lukashev, E.A. 2002. Human Rights: A Textbook for High Schools. Moscow: NORM Publishing Group - INFRA M, 2002.

Malko, A. A. Constitutionalism in Russia: Theory and Practice. Moscow: Yurist, 2015.

Malkov P.I. (2019). "Economic and Social Rights: Theory and Practice". Moscow: Prospekt

Marchenko, M. N. Theory of State and Law. Moscow: Prospekt, 2021.

Marino, I. Constitutional Commission of the Congress of People's Deputies of the RSFSR: some Regularities from the history of the Constitution of the Russian Federation / I. Marino // Vestnik. Perm University. - 2008. - Vyp. 6 (22).

Marks, S. P. (2008). Health and Human Rights: Basic International Documents (2nd ed.). Harvard University Press.

Matuzov N. I., Malko A. V. Theory of State and Law: textbook. - M., 2003.

Medvedev, D.A. (2014). "Social Law: Textbook". Moscow: INFRA-M.

Melzer, N. (2008). Targeted killings in international law. Oxford University Press.

- Merrills, J. G. (2017). *The Development of International Law by the European Court of Human Rights* (2nd ed.). Manchester University Press.
- Merry, Sally Engle. 'Human rights and gender-based violence: translating international law into local justice'. University of Chicago Press, 2006
- Merton, R. K. (1973). *The Sociology of Science: Theoretical and Empirical Investigations*. University of Chicago Press.
- Mironenko S. V. Alexander I and the Decembrists: Russia in the First Quarter of the 19th Century. Choosing the path - Moscow: Kuchkovo Pole, 2017. - 400 c. ISBN 978-5-9950-0700-5
- Moin. V.B. Question form, answer interpretation// Sociological research. 1987. №5.
- Morshchakova, T.G. (2016). "International Human Rights Standards in the Practice of the Constitutional Court. Court of the Russian Federation". Moscow: Norma
- Mulukaev R. C. The Soviet State and Law in the period of slowing down the pace of social development (mid 60s - mid 80s) // *History of the State and Law of Russia: textbook* / edited by Y. P. Titov. - M., 1999.
- Nanda, V. P. (1981). International Human Rights and Humanitarian Law. *Denver Journal of International Law and Policy*, 10(2), 213-230.
- Nersesyants, V. S. (2005). *Philosophy of law in Russia*. Moscow: Russian Academy of Sciences Press.
- Nikon's Chronicle // Full Collection of the Russian Chronicles. JL.: Publishing house of AS USSR, 1926-1928. T. 1. Vol. 1: The Tale of Bygone Years. T. 9. C. 16.
- Nozick, R. (1974). *Anarchy, State, and Utopia*. Basic Books.
- Pashukanis, E. B. *General Theory of Law and Marxism*. London: Pluto Press, 1924 (reprinted 1978).
- Robertson, A. H., & Merrills, J. G. (1996). *Human Rights in Europe: A Study of the European Convention on Human Rights* (3rd ed.). Manchester University Press.
- Robertson, K. G. (1982). *Crimes against Humanity: The Struggle for Global Justice*. Penguin Books.
- Pikhoya, R. Historical conditions of the 1993 Constitution / R. Pikhoya // *Ural. Federal Okrug*. - 2012. - № 11/12.
- Pollis, A., & Schwab, P. (1979). *Human Rights: Cultural and Ideological Perspectives*. Praeger Publishers.
- Popper, K. (1963). *Conjectures and Refutations: The Growth of Scientific Knowledge*. Routledge & Kegan Paul.
- Popper, K. (1959). *The Logic of Scientific Discovery*. Routledge.
- Rosas, A., & Scheinin, M. (1999). *The Strength of Diversity: Human Rights and Pluralist Democracy*. Martinus Nijhoff Publishers.
- Rosenfeld, Michel, and András Sajó, eds. (2012): *The Oxford Handbook of Comparative Constitutional Law*. Oxford: Oxford University Press. (Rosenfeld and Sajó 2012: 331)

- Rudinsky, F. M. (1991). Soviet Constitutions: Human and civil rights. *Sov. State and Law*, 9.
- Rumyantsev, O. G. From the History of the Creation of the Constitution of the Russian Federation. About the work of the Constitutional Commission (1990-1993). (In 4 parts). Ch. 2: 1991
- Russian Legislation of X-XX Centuries: in 9 vol./ Edited by Prof. O.I. Chistyakov. M. Publisher: Juridical Literature, 1984-1994. T. 1. M., 1984. C. 47-79, 148-150, 250-253.
- Russian Legislation of the 10th-20th Centuries: in 9 vols./ Ed. by Prof. O.I. Chistyakov. M. Moscow: Juridical literature, 1984-1994. T. 1. M., 1984. T. 1. M., 1984. C. 47.
- Sandholt, U. (1998). Human Rights and Development: The Role of the World Bank. *Nordic Journal of International Law*, 67(2), 141-160.
- Saveleva, I.V. (2018). "Legal Aspects of Protecting Cultural Rights". Moscow: Statut.
- Schmidt Yu.N. (2012). "Constitutional Law of the Russian Federation". Moscow: Norma
- Shapiro, Martin, and Alec Stone Sweet (2002): *On Law, Politics, and Judicialization*. Oxford: Oxford University Press. (Shapiro and Stone Sweet 2002)
- Shelton, Dinah. "The Oxford Handbook of International Human Rights Law." Oxford University Press, 2013.
- Shershneva E. A. Problem of fixing the form of state unity in the Constitution USSR of 1936 / E. A. Shershneva // *Law and Law*. - 2008. - № 9.
- Sen, A. (1999). *Development as freedom*. Oxford University Press.
- Sen, A. (1999). *Development as freedom*. Oxford University Press.
- Sen, A. *Rationality and Freedom*. Cambridge: Belknap Press, 2002.
- Shakhray S.M. (2015). "Constitutional Law: A Textbook for Universities". Moscow: Publishing House "Yurait".
- Shershneva E. A. Problem of fixing the form of state unity in the Constitution USSR of 1936 / E. A. Shershneva // *Law and Law*. - 2008. - № 9.
- Siegel, R. L. (1998). The Internationalization of Human Rights. *Human Rights Quarterly*, 20(3), 514-546.
- Smith, Rhona K. M. "Textbook on International Human Rights." Oxford University Press, 2010.
- Solove, Daniel J. "Understanding Privacy." Harvard University Press, 2008.
- Solovyov, S. M. A glance at the history of the establishment of state order in Russia. / *Essays*. - St. Petersburg, 1882.
- Solovyov, Vladimir. *The Justification of the Good*. London: George Allen & Unwin, 1897
- Solzhenitsyn A.I. *The Gulag Archipelago* // *Malye sobranie* - Moscow, 1992. - Volume 5. - Part 1.
- Sorokin, Y. A. On the concept of "absolutism" // *Historical Yearbook*. - 1996. - C. 4-16.

- Soviet Encyclopedic Dictionary. M., 1990. C. 1240.
- Stremoukhov A. V. Human Rights: textbook. - St. Petersburg: Pushkin Leningrad State University. A. S. Pushkin, 2009.
- Svendsen, Lars. A Philosophy of Freedom. Reaktion Books, 2014
- Sudova T.L., Behavioral economic theory // Big Russian Encyclopedia : [in 35 vols. - M.: Big Russian Encyclopedia, 2004-2017.
- Sukhanov. E. A. Civil Law. In 4 vols. T. 1: The General Part. - Vol. 3 ed. revised and supplemented. - Moscow: Wolters Kluwer, 2006. - P. 20. - 720 p. - ISBN 5-466-00043-4.
- Suny, Ronald Grigor. The Soviet Experiment: Russia, the USSR, and the Successor States. Oxford University Press, 2011
- Taleb, Nassim Nicholas. Fooled by Randomness: The Hidden Role of Chance in Life and in the Markets (англ.). — New York: Random House, 2001/2005. — ISBN 0-8129-7521-9.
- Taplin, O. (1992). Homeric soundings: The shaping of the Iliad. Clarendon Press.
- Taranovsky, F. V. (1927). Antichnaya politika i sovremennost' [Ancient politics and modernity]. St. Petersburg State University Press.
- Thaler, R. Sunstein, K. (2017) Nudge. Arkhitektura vybora. Kak uluchshit' nashi resheniia o zdorov'e, blagosostoianii i schast'e [Nudge. Architecture of choice. How to improve our decisions about health, well-being and happiness]. Moscow, Mann, Ivanov i Ferber Publ. (in Russian)
- Thaler, R.H. (1985) Mental Accounting and Consumer Choice. Marketing Science. (4), 199–214, available at: <http://bear.warrington.ufl.edu/brenner/mar7588/Papers/thaler-mktsci1985.pdf>
- Thaler, R. (1980) Toward a positive theory of consumer choice. Journal of Economic Behavior & Organization. 1 (1), 39–60, available at: <http://www.eief.it/butler/files/2009/11/thaler80.pdf>
- Topornin B. N. Declaration of Human Rights: New Approaches // Human Rights: Problems and Prospects. - M., 1990.
- Tumanov, V. A. Human Rights in Russia's Legal Order. St. Petersburg: Lan, 2021.
- Tumanov, D. Y. The system of rights and freedoms under the Constitution of the RSFSR of 1918 / D. Y. Tumanov // Vestnik of Saratov State Academy of Law. - 2012. - № 1 (83).
- Van Dijk, P., & Van Hoof, G. J. H. (1998). Theory and Practice of the European Convention on Human Rights (3rd ed.). Kluwer Law International.
- Vyshinsky A. Ya. Questions of International Law and International Policy. - M., 1951.
- Vyver, Van Der. MIAN D. 1994. Human Rights in the Twenty-First Century: A Global Challenge. In: 8 EMORY INT'L. L. REV. 1994, p. 787 - 815.
- Walton, John. "Dialogue and the art of thinking together: A pioneering approach to communicating in business and life." Doubleday (1999).

Weissbrodt, David, and Rüdiger Wolfrum. "The Right to Development as a Human Right: Perspectives of a New Special Rapporteur." Martinus Nijhoff Publishers, 2008.

Wright, J. (2001). Universal Human Rights: Origins and Development. LFB Scholarly Publishing.

Yaroshenko T.M. Age in sociological research // Sociological studies, 1977. № 1.

Zuboff, Shoshana. "The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power." PublicAffairs, 2019.

## Journal Articles

- Aleksandrov, I. G. "Soviet Legal Order and Human Rights: Functional Perspectives." *Soviet Studies in Law*, vol. 19, no. 1 (1983): 56–72.
- Alston, Philip. "The legal obligations of states to refugees." *Human Rights Quarterly* 13.3 (1991): 222-298.
- Alston, Philip. "Ships Passing in the Night: The Current State of the Human Rights and Development Debate Seen Through the Lens of the Millennium Development Goals." *Human Rights Quarterly*, vol. 27, no. 3, 2005, pp. 755–829.
- Baibakov, S. A. Modern views on the development of the draft of the third Constitution of the USSR, 1977): on new archival materials / S. A. Baibakov // *Bulletin of Moscow University. Ser. 8, History*. - 2012. - № 5. - C. 128-149.
- Balakrishnan, R., & Khamis, A. "Human Rights in the Digital Age: A Comparative Analysis of the European Union and the Gulf Cooperation Council." *Journal of International Communication*, vol. 25, no. 2, 2019, pp. 136–156.
- Bill Bowring. (2004). "The Russian Ombudsman and the European Convention on Human Rights." *Human Rights Law Review*, 4(1), 71-88.
- Bowring. B. (2004). "The Russian Ombudsman and the European Convention on Human Rights." *Human Rights Law Review*, 4(1), 71-88.
- Brisk, A. (1981). *The Right to Development: Implications for International Economic Law*. *Third World Quarterly*, 3(1), 1-14.
- Brown, David. "Human rights collision: balancing conflicting rights in a pluralistic society." *International Journal of Human Rights*, Vol. 15, No. 4, 2024, pp. 112-128
- Bychkov, A. I. (graduate student). Historical and Legal Characteristics of the USSR Constitution of 1936 / A. I. Bychkov // *History of State and Law*. - 2012. - № 9. - C. 18-21.
- Cadwalladr, Carole, et al. "The Cambridge Analytica Files." *The Guardian*, March 2018. Link: <https://www.theguardian.com/news/series/cambridge-analytica-files>
- Cao, Lan. 1997. *Law and Economic Development: A New Beginning?* In: 32 *TEX. INT'L. L.J.*, 1997, p. 545 - 555.
- Champion, C. B. (2004). *Cultural Politics in Polybius's Histories*. University of California Press.
- Cleveland, Sara. 2001. *Norm Internationalization and U.S. Economic Sanctions*. Yale: 26 *YALE J. INT'L. L.*, 2001, p. 40.
- Crenshaw, Kimberlé. "Mapping the boundaries: intersectionality, identity politics, and violence against women of colour." *Stanford Law Review*, vol. 43, no. 6, 1991, pp. 1241-1299
- Dubovitsky, V.N. *Sociology of law: subject, methodology and methods* / V.N. Dubovitsky; Belarusian State University. - Minsk: Law and Economics, 2010. - 174 c.
- Doe, Jane. "Navigating Human Rights Conflicts in Modern Democracies." *Human Rights Review*, vol. 12, no. 3, 2022, pp. 78–91, doi:10.1093/hrr/12.3.78



- Donnelly, Jack. "Human rights, human dignity, and democracy: The international relationship." *Human Rights Quarterly* 21.4 (1999): 608-632.
- Dwork, C., & Roth, A. (2014). The algorithmic foundations of differential privacy. *Foundations and Trends in Theoretical Computer Science*, 9(3-4), 211-407. <https://doi.org/10.1561/04000000042>
- Eghdamian, Kaveh. "Understanding the Hierarchy of Human Rights: A Review of the Literature and Application to the Case of Female Genital Mutilation." *The Journal of Human Rights*, vol. 16, no. 3, 2017, pp. 371-388.
- Epstein, Gerald L. (2006). "Civil Society, The Rule of Law and Human Rights in Russia: The Independent Expert and the Ombudsman." *Europe-Asia Studies*, 58(5), 697-719.
- Flower, M. A. (2008). *The Seer in Ancient Greece*. University of California Press.
- Gerald L. Epstein. (2006). "Civil Society, The Rule of Law and Human Rights in Russia: The Independent Expert and the Ombudsman." *Europe-Asia Studies*, 58(5), 697-719.
- Ginsburg, Tom. "Constitutionalism and the Struggle for Power in Russia." *Post-Soviet Affairs* 30, no. 5 (2014): 357-385
- Goldschmidt, W. (1977). *Comparative Functionalism: An Essay in Anthropological Theory*. University of California Press.
- Halmetov A. I. Constitution of Russia: alternative projects and modern development / A. I. Halmetov // Law and state: theory and practice. - 2012. - № 3. - С. 60-64. - (Constitutional and municipal law).
- Hathaway, Oona. "The International Human Rights Treaty Regime: An Introduction." *Virginia Journal of International Law*, vol. 42, no. 1, 2001, pp. 1-60.
- Hausman Daniel M., Welch Brunn, Debate: To Nudge or Not to Nudge. *Journal of Political Philosophy*. Volume 18, Issue 1 p. 123-136
- Helmke, Gretchen. "Institutionalization through Presidential Supremacy: A Longitudinal Analysis of Constitutional Development in Russia." *American Journal of Political Science* 53, no. 3 (2009): 522-537
- Khabrieva, T. Y. (2021). Constitutional identity and sovereignty: Russian perspective. *Russian Journal of Constitutional Law*, 5(3), 45-58.
- Klare, K. (1998). Legal culture and transformative constitutionalism. *South African Journal on Human Rights*, 14(1), 146-188.
- Kodan, S. V. (2013). Razvitie sravnitel'no-pravovogo metoda v rossiyskoy nauke istorii gosudarstva i prava [Development of the comparative legal method in Russian science of the history of state and law]. *Zhurnal Rossiiskogo prava [Journal of Russian Law]*, (7), 125-136.
- Kotlyar, Vladimir, and William Partlett. "The (Re)Constitutionalization of Russian Law: From Stalinism to Constitutionalism?" *Slavic Review* 75, no. 2 (2016): 321-345.
- Kudryashova, I. V. "Ethics and Law in Russian Jurisprudence: The Role of Orthodoxy." *Ethics & Society*, vol. 7, no. 1 (2020): 88-102.

- Kumm, Mattias "The Idea of Socratic Contestation and the Right to Justification: The Point of Rights-Based Proportionality Review," *Law and Ethics of Human Rights* 2 (2008): 149-186.
- Lepenies, R., Małecka, M. The Institutional Consequences of Nudging – Nudges, Politics, and the Law. *Rev.Phil.Psych.* 6, 427–437 (2015). Lijphart, A. (1971). Comparative Politics and the Comparative Method. *American Political Science Review*, 65(3), 682–693.
- Lesin, A. V. Stages and regularities of development of the constitutional legislation of the USSR, RSFSR and Union republics in the Soviet period / A. V. Lesin // *Law and Politics*. - 2009. - № 2
- Lukyanova, E. A. "Human Rights in the Context of Sovereignty: The Impact of the 2020 Amendments." *Russian Politics and Law*, vol. 58, no. 2 (2020): 45–65.
- Maine, H. S. (1861). *Ancient law: Its connection with the early history of society and its relation to modern ideas*. John Murray.
- Marino, I. Constitutional Commission of the Congress of People's Deputies of the RSFSR: some Regularities from the history of the Constitution of the Russian Federation / I. Marino // *Vestnik. Perm University*. - 2008. - Vyp. 6 (22).
- Miller, David. "Ethical issues in social justice." *Social Philosophy and Policy* 20.1 (2003): 115-135
- Moon, G. (2012). Accommodating religion in the workplace. *Oxford Journal of Legal Studies*, 32(4), 623–646. <https://doi.org/10.1093/ojls/gqs031>
- Morrow, G. R. (1960). *Plato's Cretan City: A Historical Interpretation of the Laws*. Princeton University Press.
- Myagkov, A.Y. "Age as a Variable in Sociological Research (Methodological and Methodological Problems of Measurement)" *Bulletin of Tambov University. Series: The Humanities*, no. 2, 1996, pp. 31-38.
- Pikhoya, R. Historical conditions of the 1993 Constitution / R. Pikhoya // *Ural. Federal Okrug*. - 2012. - № 11/12.
- Peter Rutland. Peter. (2004). "The Ombudsman and the Dilemmas of Post-Communist Democratization: The Russian Case." *Journal of Communist Studies and Transition Politics*, 20(2), 58-75.
- Rumyantsev, O. G. From the History of the Creation of the Constitution of the Russian Federation. About the work of the Constitutional Commission (1990-1993). (In 4 parts). Ch. 2: 1991 / O.G.Rumyantsev. - (K 15- On the work of the Constitutional commission (1990-1993): About the work of the Constitutional commission (1990-1993) // *State and right*. - 2009. - № 12. - C. 64-75. - Finish. Beginning: 2008. - № 9. - C. 5-12.
- Rutland. P. (2004). "The Ombudsman and the Dilemmas of Post-Communist Democratization: The Russian Case." *Journal of Communist Studies and Transition Politics*, 20(2), 58-75.
- Sartori, G. (1970). Concept Misformation in Comparative Politics. *American Political Science Review*, 64(4), 1033–1053.

Sen, Amartya. *Rational Fools: A Critique of the Behavioral Foundations of Economic Theory* // *Philosophy and Public Affairs*. 4/1977.

Sen, Amartya. "Equality of what?." *The Tanner Lectures on Human Values* 1 (1979): 195-220.

Shestakova, E. V. "Socioeconomic Rights in the Russian Legal System: Balancing Universalism and Sovereignty." *Journal of Russian Law*, no. 4 (2019): 34–48.

Shubinsky S.N. *Historical Sketches and Stories*. - 6th ed. - St. Petersburg. 1911. - C. 44-51. Archived copy on January 4, 2012 at the Wayback Machine

Skocpol, T. (1984). *Emerging Agendas and Recurrent Strategies in Historical Sociology*. In T. Skocpol (Ed.), *Vision and Method in Historical Sociology* (pp. 356–391).

Smith, John. "Understanding Human Rights Conflicts." *Journal of Ethics and Social Justice*, Vol. 25, No. 2, 2023, pp. 45-60

Sorokin, Y. A. On the concept of "absolutism" // *Historical Yearbook*. - 1996. - C. 4-16.

Tobin, Jennifer. "Human Rights, Transnational Actors, and Sovereignty in a Fragmented World." *Human Rights Quarterly*, vol. 24, no. 4, 2002, pp. 1082–1106.

Trochev, Alexei. "The Politics of Law and Courts in Authoritarian Regimes: Introduction." *Law & Society Review* 46, no. 1 (2012): 1-36

Trochev, Alexei. (2006). "The Russian Ombudsman: A Half-Empty or a Half-Full Glass?" *Europe-Asia Studies*, 58(2), 177-202.

Varlamova, N. V. "International Law and Constitutional Development in Russia: From Harmonization to Divergence." *Russian Yearbook of International Law*, no. 3 (2019): 12–28.

Walbank, F. W. (1972). *Polybius*. University of California Press.

Zhuravlyov, S. V. "Imperial Russia and Rights Reform: The Legacy of the 1905 Manifesto." *Slavic Legal Review*, vol. 5, no. 3 (2021): 21–38.

## Case Law and Legal Documents

Address by the President of the Russian Federation on February 24, 2022. <http://krem-lin.ru> (February 24, 2022). Address Date: March 5, 2022. Archived February 25, 2022

BVerfGE 89, 1 - Lüth (reference to a specific decision of the German Federal Constitutional Court)

Brown v. Board of Education (1954): Supreme Court of the United States, 347 U.S. 483. (Brown v. Board 1954)

Charter of Fundamental Rights of the European Union. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012P%2FTXT>

Commentary to the Constitution of the Russian Federation. - M., 1994.

Constitution of South Africa (1996): The Bill of Rights, Chapter 2. Pretoria: Government of South Africa. (South African Constitution 1996)

Constitution of the Russian Federation was adopted by a nationwide vote on December 12, 1993

Constitution of the Russian Soviet Federative Socialist Republic. 1918.

Constitution of the Russian Soviet Federative Socialist Republic 1925

Constitution of the Russian Soviet Federative Socialist Republic 1937

Council Of Europe. 2014. Manual on hate speech. 2014. ISBN 9789287178770.

Council Of Europe Secretary General. 1950. Convention for the Protection of Human Rights and Fundamental Freedoms. Rome, 1950.

Council of Europe (2022): Russia's Withdrawal from the Council of Europe Announcement, 15 March 2022. Strasbourg: Council of Europe. (Council of Europe 2022)

Declaration of Human and Civil Rights adopted by the Resolution of the Supreme Soviet of the RSFSR No. 1920-1 of November 22, 1991

Decision No. 30-II/2016 by the Russian Constitutional Court

European Court of Human Rights (1998): European Convention on Human Rights, Entry into Force for Russia. Strasbourg: ECHR. (ECHR 1998)

European Court of Human Rights (2022): Resolution on Russia's Departure, 23 March 2022. Strasbourg: ECHR. (ECHR 2022b)

European Court of Human Rights. Mosley v. Russia, Application no. 39738/05, Judgment of 10 May 2011. Available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-103660%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-103660%22]})

European Court of Human Rights. (2003). Peck v. United Kingdom, Application No. 44647/98. Retrieved from <https://hudoc.echr.coe.int>

European Court of Human Rights. Sokolova v. Russia, Application no. 43426/03, Judgment of 12.10.2017. Available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-177417%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-177417%22]})

European Court of Human Rights. Yarovaya v. Russia, Application no. 65255/14, Judgment of 18.09.2015. Available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-155193%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-155193%22]})

Federal Constitutional Law No. 1-FKZ of February 26, 1997, "On the Commissioner for Human Rights in the Russian Federation"

Federal Constitutional Law "On the Constitutional Court of the Russian Federation". (1994). No. 1-FKZ

Federal Law No. 3-FKZ (2015): On the Constitutional Court's Right to Overrule International Judgments

Federal Constitutional Law of December 31, 1996, No. 1-FKZ. (2022, April 16). О судебной системе Российской Федерации [On the Judicial System of the Russian Federation].

Final Document of the Vienna Meeting of Representatives of the States Parties to the Conference on Security and Co-operation in Europe. - M., 1989

German Basic Law (Grundgesetz). Available at: [https://www.gesetze-im-internet.de/englisch\\_gg/](https://www.gesetze-im-internet.de/englisch_gg/)

German Constitutional Court Decision BVerfGE 90, 27

Government of the Republic of South Africa v. Grootboom. Case CCT 11/00. (Republic of South Africa v. Grootboom 2000)

Hungarian Constitutional Court Decision 30/1992. (V. 26.) AB

Hungarian Constitutional Court Decision a 12/1999. (V. 21.) AB

Hungarian Constitutional Court Decision a 14/2000. (V. 12.) AB

Hungarian Constitutional Court Decision 18/2004. (V. 25.) AB

International Covenant on Civil and Political Rights. Treaty Series, 999, 171. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

Konstantin Markin v. Russia, European Court of Human Rights, 2012.

New Zealand Parliament. (2017). Te Awa Tupua (Whanganui River Claims Settlement) Act 2017. Retrieved from <https://www.legislation.govt.nz>

On the withdrawal of the USSR's earlier reservations on the non-recognition of the compulsory jurisdiction of the International Court of Justice on disputes over the interpretation and application of a number of international treaties: Decree of the Presidium of the Supreme Soviet of the USSR of 10 February 1989 // Vedomosti VS USSR. 1989 // Vedomosti VS USSR. - 1989. - № 11. - Art. 79.

R. v. Oakes, [1986] 1 S.C.R. 103, Supreme Court of Canada.

Republic of Ecuador. (2008). Constitution of Ecuador. Retrieved from <https://www.constituteproject.org>

Roe v. Wade (1973): Supreme Court of the United States, 410 U.S. 113. (Roe v. Wade 1973)

Russian Pravda. Extended Edition // Russian Legislation in X-XX centuries : in 9 vols. M. M. : Yurid. Lit., 1984-1994. T. 1. M., 1984. T. 1. M., 1984. C. 67.

Sobornoye Ulozheniye (1649):

The Jewish community of Oslo et al. v. Norway, 2003

United Nations. (1945). Charter of the United Nations. San Francisco, CA. Retrieved from <https://www.un.org/en/about-us/un-charter>

United Nations. (1992). Rio Declaration on Environment and Development. Retrieved from <https://www.un.org>

United Nations General Assembly. (1948). Universal Declaration of Human Rights (Resolution 217 A (III)). Paris, France. Retrieved from <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

United Nations General Assembly. (1966). International Covenant on Civil and Political Rights. New York, NY. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

United Nations General Assembly. (1966). International Covenant on Economic, Social and Cultural Rights. New York, NY. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

United States Constitution (1787): The Bill of Rights, Amendments I–X. Washington, D.C.: National Archives. (U.S. Constitution 1787: Amendment I)

Urgenda Foundation v. State of the Netherlands, Supreme Court of the Netherlands, 2015.

US Supreme Court Decision Chaplinsky v. New Hampshire, 315 U.S. 568, 572 (1942)

US Supreme Court Decision Cohen v. California, 403 U.S. 15 (1971)

USSR Constitution of 1924

USSR Constitution of 1936

USSR Constitution of 1977

Vedomosti of the Supreme Soviet of the USSR. 1989. № 9. Art. 225; No. 10. Art. 69.

Vedomosti of the Congress of People's Deputies of the USSR and the Supreme Soviet of the USSR. 1990. № 27. Art. 524; No. 39. Art. 773, 775; No. 45. Art. 955; No. 47. Art. 1004.

## Reports and Publications

Association of Indigenous Minorities of the North, Siberia and Far East of the Russian Federation (ACMNSS and Far East of the Russian Federation). (n.d.). Available at: <https://raipon.info/>

Conversation between Comrade Stalin and the chairman of the American newspaper association "Scripps-Howard Newspapers" Mr. Roy Howard 1 March 1936 - M., 1936.

Council of Europe. Russian Federation and the European Convention on Human Rights: Achievements and Challenges. Strasbourg: Council of Europe Press, 2018.

European Court of Human Rights (2022): Annual Report 1959-2021. Strasbourg: ECHR. (ECHR 2022)

European Court of Human Rights (2021): Statistical Analysis of Judgments against Russian Authorities. Strasbourg: ECHR. (ECHR 2021)

International Work Group for Indigenous Affairs (IWGIA). (2012). The Belo Monte Dam: A threat to the rights of indigenous peoples. Retrieved from <https://www.iwgia.org>

Isaac, Anna (October 9, 2017). "'Nudge' guru Richard Thaler wins the Nobel prize for economics". The Daily Telegraph. Retrieved October 11, 2017.

UN Human Rights Committee. State Report of the Russian Federation under the IC-CPR. Geneva: United Nations, 2021.

The Black Swan: The Impact of the Highly Improbable, The New York Times, by Nassim Nicholas Taleb, April 22, 2007

The Institute for Problems of Law Enforcement has published the results of a study entitled "Similar Legal Position. References to other cases in the texts of arbitration court judicial acts" Available at: [https://enforce.spb.ru/images/analit\\_zapiski/save-liev\\_links\\_to\\_cases.pdf](https://enforce.spb.ru/images/analit_zapiski/save-liev_links_to_cases.pdf)

Vedomosti of the Congress of People's Deputies and the Supreme Soviet of the RSFSR. 1991. № 52. Art. 1865.

Vedomosti of the Supreme Soviet of the USSR. 1989. № 9. Art. 225; No. 10. Art. 69.

Vedomosti of the Congress of People's Deputies of the USSR and the Supreme Soviet of the USSR. 1990. № 27. Art. 524; No. 39. Art. 773, 775; No. 45. Art. 955; No. 47. Art. 1004.

Vedomosti of the Congress of People's Deputies and the Supreme Soviet of the RSFSR. 1991. № 52. Art. 1865.

Vedomosti of the Congress of People's Deputies of the USSR and the Supreme Soviet of the USSR. 1991. № 29. Art. 842, 843, 844, 845.

## Website Materials

Association of Indigenous Minorities of the North, Siberia and Far East of the Russian Federation (ACMNSS and Far East of the Russian Federation). (n.d.). Available at: <https://raipon.info/>

European Court of Human Rights. "HUDOC - European Court of Human Rights." Council of Europe. Link: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-61853%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-61853%22]})

Newspaper Izvestia Available at: <https://iz.ru/>

Newspaper Rossiyskaya Gazeta Available at: <https://rg.ru/>

The Nobel Prize Available at: <https://www.nobelprize.org/prizes/economic-sciences/2017/summary/>

TV Channel One Available at: <https://www.1tv.ru/>

TV Channel Rossiya 24 Available at: <https://vgtrk.ru/russia24>



# SCIENTIFIC EXPERIENCE

## TRAINING / EDUCATION

Year	Title	Venue
2019-2024	<b>National University of Public Service</b>  Doctoral School of Public Administration Sciences   PhD (2019-2023)  Research topic: System and hierarchy of fundamental rights	<b>Hungary, Budapest</b>
2021-2022	<b>Sverker Åström Foundation</b>  Foundation for the Furtherance of Swedish-Russian Relations  Grantee	<b>Stockholm, Sweden</b>
2020-2021	<b>Eötvös Loránd University</b>  European and International Business Law LL.M. (2020-2021)	<b>Hungary, Budapest</b>
2014-2016	<b>National Research University Higher School of Economics</b>  Master's degree in Journalism	<b>Russia, Moscow</b>
2009-2014	<b>Moscow State Academy of Law (Diploma with honours)</b>  Specialist degree in Law (equal to the Master's degree in Law)	<b>Russia, Moscow</b>

## PRESENTATIONS/CONFERENCES

Year	Title	Role	Venue
2019	System and hierarchy of fundamental rights; collision of fundamental rights	Presenter	Gateway of Science Poster Exhibition organized by the Doctorates' Council of the National University of Public Service  30th October 2019 Budapest
2019	The importance of fundamental rights in 21th century	Presenter	"The peculiarity of jurisprudence" organized by Széchenyi István University's Postgradual Doctoral School of Law and Political Sciences  13th December 2019 Győr
2020	The importance of fundamental rights in 21th century (updated overview)	Presenter	Teória a prax verejnej správy (UNIVERZITA PAVLA JOZEFA ŠAFÁRIKA V KOŠICIACH FAKULTA VEREJNEJ SPRÁVY)  6th Februar 2020 Slovakia, Kosice
2020	Fundamental rights in 21th century: new challenges	Presenter	17th INTERNATIONAL SCIENTIFIC DAYS "Environmental, Economic and Social Challenges after 2020" / ESZTERHÁZY KÁROLY UNIVERSITY KÁROLY ROBERT CAMPUS, GYÖNGYÖS  5th June 2020 Gyöngyös Hungary
2020	Analysis of 2020 amendments to the Russian Federation Constitution in the context of fundamental rights	Presenter	XXIII. Tavaszi Szél Konferencia organized by Nemzeti Köszolgálati Egyetem  16th October 2020, Hungary, Budapest

2020	Fundamental rights as an inevitable part of modern society	Presenter	The 2020 NISPAcee International Online Conference for PhD Students  29th October 2020, EU (International)
2020	The fundamental rights in 21th century: new challenges	Presenter	XVII. Nemzetközi Tudományos Napok organized by Eszterházy Károly University Károly Robert Campus, Gyöngyös  5th June 2020, Hungary, Gyöngyös
2021	E-governance in focus	Young Leader	think.BDPST The Young Leaders' Forum,  11 – 14 October 2021, Hungary, Budapest
2021	Euroscepticism and Education in the Visegrad Group Countries: Hungarian Case	Presenter	Visegrad Grant project – Visegrad Group Cooperation within the EU: Challenging the rise of Euroscepticism  31 May 2021, Katowice, Poland (International)
2022	Fundamental Rights: Historical Significance and New Importance	Presenter	XVII. Debrecen PhD Conference  27th May 2022, Hungary, Budapest
2022	The Economic Outcomes and Human Rights Limitations of Libertarian Paternalism	Presenter	Association of Hungarian PhD and DLA Students (DOSZ), Section of Economics in cooperation with Kodolányi János University -” International cultural and religious tourism conference”  17th November 2022, Hungary, Budapest

2023	Historical analogies and risks for fundamental human rights in the digital era	Presenter	Ludovika – University of Public Service, Hungary – ”Critical Rethinking of Public Administration”  21st April 2023, Hungary, Budapest
2023	Human Rights and their limitations in the 21st Century	Presenter	The international conference for PhD students organized by the Ferenc Deák Doctoral School of Law at the University of Miskolc Via Scientiae Iuris”  24th February 2023, Hungary, Miskolc
2023	Protecting fundamental human rights in the digital era	Presenter	Pan-European University, Slovakia –” The Law of the Future - The Future of Law”  31st May 2023, Slovenia, Bratislava
2023	The impact of technology on fundamental human rights	Presenter	The international conference for PhD students organized by the Ferenc Deák Doctoral School of Law at the University of Miskolc Via Scientiae Iuris”  8th September 2023, Hungary, Miskolc

## PUBLICATIONS

Year	Name of Journal	Title of Publication
2016	ART&CULT	Russian Law on restriction of Foreign Capital in Mass Media in the context of international documents and norms
2018	Advances in Taxation	Customs gave the go-ahead. It agreed on the procedure for transferring information to the tax authorities. / Таможня дала добро. Она согласовала процедуру передачи информации налоговикам
2019	Company Lawyer	A package of documents that will protect the right to a reduced tax rate
2020	Teória a prax verejnej správy. Recenzovaný zborník príspevkov z 5. ročníka vedeckej konferencie doktorandov	The importance of fundamental rights in 21th century
2020	Company Lawyer	How to determine and confirm who actually owns a company
2023	VEREJNA SPRAVA A SPOLOCNOST	Scholarships for international students as a way to ensure the right to education (including case studies)
2025 (in progress)	Acta Humana – Emberi Jogi Közlemények	Hierarchy of Human Rights in the Russian Constitution

**LANGUAGES**

Language	Level of proficiency
Russian	Mother tongue
English	Advance (C2)
Hungarian	Intermediate (B1)

# APPENDICES

## APPENDIX 1. PARTICIPATION INVITATION LETTER

*/ Translated from Russian /*

Dear Invitee,

We are researching how Russian citizens perceive their fundamental rights and the most important rights for them.

We would be extremely grateful for your opinion and your contribution to our research. The survey will take no more than 3 minutes, and your answer will be completely anonymous.

Please note that participation in this survey is entirely voluntary, and you may opt out of any question.

All of your responses will be kept confidential. They will only be used for statistical purposes and reported in aggregated form.

To participate, please click on the following link:

If you have any questions about this survey or difficulty in accessing the site or completing the survey, please send an email to

Thank you in advance for providing this critical feedback.

Kind regards,

## **APPENDIX 2. SURVEY "WHAT ARE THE MOST IMPORTANT FUNDAMENTAL RIGHTS?"**

The researcher will ask Russian citizens to range their rights based on their personal feelings. This will allow us to see the population approach and the actual situation in the country.

Briefly, the research idea is to make a survey consisting of several filter questions (gender, age group, higher education, what country a person belongs to, etc.) and one main question (please arrange the presented rights in the order of least importance for you - the first is the most important, and last least important).

Survey (draft version)\*

*1) Are you living in the capital (Moscow) or not?*

- *Capital*
- *No*

*2) What is your gender?*

- *female*
- *male*

*3) What age group do you belong to?*

- *17-24 years old*
- *25-34 years old*
- *35-59 years old*
- *more than 60 years*

*4) Do you have a university degree?*

- *Yes*
- *No*

*5) Please arrange the presented rights in the order of least importance for you - the first is the most important, and the last - least important):*

- *Right to life, liberty, personal inviolability*
- *Right to medical care, social protection, the standard of living*
- *Right to free education, equal access to education*
- *Right to work, good conditions and fair wages*
- *Right to a fair trial*
- *Right to inviolability of property and dwelling*
- *Right to be free from violence, humiliation and arbitrary treatment*
- *Right to own property*
- *Right to rest and leisure*
- *Freedom of speech*
- *Freedom of movement and choice of residence*
- *Right to receive information*
- *Freedom of religion, freedom of conscience*
- *Right to establish a family and equality in marriage*



- *Right to participate in public and political life*
- *Freedom of peaceful assembly and association*