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ON LEGAL PRINCIPLES IN DEFINING INTERNATIONAL RELATIONS

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Abstract: *This article is devoted to the concept of general legal principles in the theory of law, their legal nature, and their legal consolidation. Universal legal principles, such as justice, equality, humanity, and legality, are the main directions of the legal policy of the state. The article also analyzes the role of general principles of law in international law, and their international legal consolidation in the main international legal documents, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights 1966 and in many fundamental international legal documents*

Keywords *Law, Legal System, Declaration, Constitution, Legality, General Legal Principles, Legislation, Convention, Humanism, Equality, Justice, Pacta Sunt Servanda*

Introduction

The admission of the Republic of Uzbekistan to the United Nations on March 2, 1992, was the beginning of a new period for our country in the international arena. The development of international relations in the Third Millennium poses before our state and law the task of a deep rethinking of the fundamental principles of legal construction. As the President of the Republic of Uzbekistan Sh.M. Mirziyoyev noted on January 24, 2020, in his Address to the Oliy Majlis of the Republic of Uzbekistan:

"The rapidly changing complex and alarming situation, and conflicts in different regions of the world require us to always be vigilant, ready to defend our Motherland, the peaceful and calm life of our people and respond with dignity to all challenges and threats. We will continue the large-scale work we have begun to strengthen an open, pragmatic and deeply thought-out foreign policy that meets our national interests. We will expand cooperation with all countries of the near and far abroad.

In addition, this year it is expected to hold bilateral and multilateral summit meetings with the leaders of several CIS countries, Central Asia, the European

Union, and Asia. During these meetings, it is envisaged that promising projects and programs will be adopted that meet the interests of our people"[1].

Finding a person guilty only by a court verdict, proportionality of the offense and punishment, "due process of law", presumption of innocence and other guarantees of personal integrity, freedom of speech, press, religion, the right to leave one's country and return to it, the right to petition, the responsibility of officials for violations of human rights - these and other rights were first set out in the Magna Carta of 1215 in England, developed in the English Bill of Rights of 1689, the Habeas Corpus Act of 1679, and the American Declaration of Independence 1776, American Bill of Rights 1791, French Declaration of the Rights of Man and Citizen 1789.

Tracing the genesis of these values, one cannot help but recall ancient Greek philosophy, which gave impetus to the development of the doctrine of natural human rights, as well as the postulates of the Reformation and Enlightenment period, which put forward the ideas of social justice and equality.

At the international level, the Declaration became the starting point and then the core of the entire system of universal international human rights instruments adopted within the UN (about 200 documents), a legal guideline and standard for dozens and hundreds of regional and bilateral international treaties, which together constituted extensive system principles and norms that determine the types and content of human rights and freedoms, and often the procedure for their implementation and the mechanism of protection.

Universal international conventions (International Covenant on Civil and Political Rights[2], International Covenant on Economic, Social and Cultural Rights 1966[3], etc.) and regional agreements (European Convention for the Protection of Human Rights and Fundamental Freedoms 1950[4], American Convention on Human Rights 1969[5], African Charter of Human and Peoples' Rights 1981[6]) refer to it. When implementing foreign policy and regulating international relations on the part of the state, the basic principles, concepts, and principles of international legal construction are important.

[1] Poslaniye Prezidenta Respubliki Uzbekistan Shavkata Mirziyoyeva Oliy Majlisu. 24.01.2020 – https://president.uz/ru/lists/view/3324

[2] International Covenant on Civil and Political Rights – https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights

[3] International Covenant on Economic, Social and Cultural Rights – https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights

[4] European Convention on Human Rights – https://www.echr.coe.int/documents/d/echr/Archives_1950_Convention_ENG

[5] American convention on human rights ps://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm

In this regard, questions about the influence of general principles of law on the development of international relations are of relevance.

The concept of "general principles of law recognized by civilized nations" is an important legal category for both international and domestic law. The inclusion in Article 38 of the Statute of the International Court of Justice of the UN[7] a special indication that, along with an international treaty and international custom, the court also applies "general principles of law recognized by civilized nations" indicates the existence of a unique legal phenomenon in the sphere of interaction between the systems of domestic and international law.

The category of "general principles of law recognized by civilized nations" is an important tool that ensures the unification and harmonization of the law of various states and serves as an effective means of overcoming gaps and conflicts in the consideration of judicial disputes.

Establishing patterns of emergence of general principles of law recognized by civilized nations, as well as studying examples of their practical application by courts, allows for a much deeper understanding of modern international law, trends in its development, the order and conditions of its interaction with domestic law.

General principles of law represent the basic principles that determine the content, prominent features, and regulatory mechanisms of law. The principles of this are common to all legal norms and are suitable for application in all branches of law. The national law of states acquires the properties of consistency and unity, thanks to the general principles of law. General principles of law in national law are formed together with the development processes of the state and society, experiencing, among other things, the influence of political and philosophical concepts and religious ideas.

The concept of "principle" (from the Latin principium - beginning, basis, origin, root cause) as a general scientific category is traditionally defined as: 1)the basic starting position of any theory, teaching, science, worldview; 2)the basis of a certain body of facts or knowledge, the starting point of an explanation or guide to action[8]. Based on this, the following approaches to the concept of "principle oflaw" have been formed in legal science. Article 38 of the Statute of the International

Court of Justice defines "international law" as including not only "custom" and "convention" between states, but also "the general principles of law recognized by civilized countries" within national legal systems. Binh Cheng, in his famous book written in 1953 on General Principles of Law, identified the basic legal principles common to various national legal systems.

[7] The Statute of the International Court of Justice – https://www.un.org/en/about-us/un-charter/statute-of-the-international-court-of-justice

[8] Institutsii,Yustiniana. Perevod s latinskogo / Pod red.: Kofanov L.L. Tomsinov V.A.; 1998. - s.343

This monograph summarizes and analyzes general principles of law and rules of international due process, with particular attention to developments since Cheng's writing. The goal is to collect and summarize these principles and norms in one volume as a practical resource for lawyers, advocates, and scholars of international law. The information contained in this book is of great importance given the growth of intergovernmental relations that has led to the increased use of common principles over the past 70 years.

General principles can serve as decision rules, whether in interpreting a treaty or contract, determining causation, or establishing unjust enrichment. They also include a core set of procedural requirements that must be respected in any judicial system, such as the right to impartiality and the prohibition of fraud.

Although general principles are by definition basic and even rudimentary, they are vital to the rule of law in international relations. They are not intended to define the rule of law, but rather the rule of law[9].

Different views on the general principles of law in national legal systems and in international legal relations on the structure, legal sources, subjects and mechanisms of their enforcement have not become a serious obstacle to the application of general principles of law in the field of international criminal law. Emerging difficulties in their application were resolved in the process of transposition by adjusting the content of general principles taking into account the specifics of the international legal order.

General principles of law have played an important role in the development of international criminal law, as decisions of international criminal courts and tribunals clearly demonstrate their application.

The question of the applicability of general principles of law by international criminal courts and tribunals has raised several basic questions that can be combined under the following task: how international criminal courts and tribunals determine general principles of law and how to transpose them from national legal systems into international laws for further application in practice.

The purpose of this scientific research is to establish the role of international criminal courts and tribunals in developing a methodology for the application of general principles of law at the international level[10].

As part of positive law, general principles of law are considered auxiliary tools.

[9] General principles of law and international due process: principles and norms applicable in transnational disputes / Charles T. Kotuby Jr. and Luke A. Sobota. Published/Produced New York, NY : Oxford University Press, [2017] –

They represent the necessary rules for the functioning of the entire system and as such are derived from the legal reasoning of those who have the power to make legal decisions in the application of the law, in particular the judiciary. They are also system-integrating tools because they fill existing or potential legal gaps.

Given the problems with the definitions of this concept, it is first necessary to study scientific works and judicial practice on the definition of general principles of law. Likewise, before moving on to definitions and other more substantive issues, the various histories of the concept will be discussed.

In international law, general principles of law have been the subject of much doctrinal debate based on the different meanings ascribed to the concept and the theoretical problems they pose[11].

According to Pierre Brunet:

- judges do not create principles, but in the process of applying the law they must fill in the gaps using general principles of law

- Referring to general principles of law means choosing favor ofuniversal human values, which in themselves stand above other values[12].

According to Sophie Seys, Delphine de Jonghe and François Tulkens general principles of law are characterized by the following features:

- They have been formulated throughout human history and very often are of an unwritten nature;

- are not part of the written law, even if they are formulated in the text of the law;

- are general, but differ from the "ordinary" rule of law;

- represent an independent source of law to the law, but have additional value and subsidiary nature about it;

originate from the deepest aspirations of social consciousness; differ from ordinary norms, even if they are recognized by the judge depending on broad consensus;

"declared" by the judge, but not "created" by him;

- and, finally, they have an element of flexibility in the application of the law, putting the spirit of the law above the letter, justice above mere legality[13]

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[10] General principles of law in the decisions of international criminal courts and tribunals / by Fabián O. Raimondo. Published/Created Leiden; Boston: M. Nijhoff Pub., 2008 - https://pure.uva.nl/ws/files/3606050/52732_Raimondo_Uva_digital.pdf

[11] General Principles of Law. Marcelo Kohen, Bérénice Schramm. https://www.oxfordbibliographies.com/display/document/obo-9780199796953/obo-9780199796953-0063.xml

[12] Pierre Brunet. Les principes généraux du droit et la hiérarchie des norms.

Skurko defines the principles of law as the leading principles of its formation, development, and functioning[14]. Baytin M.I. believes that the principles of law are "the initial, defining ideas, provisions, attitudes that constitute the moral and organizational basis for the emergence, development and functioning of law"[15].

The unity of the approach of Russian scientists to defining the content of the term "principle of law" is expressed in the fact that scientists propose to consider "principles of law" as a kind of primary "soil" from which law "grows." In the future, law develops and functions freely and independently, but at the same time always remains "attached" to a single initial basis - the principles of law.

Baitin M.I. also draws attention to two essential functions of the principles of law: "organizational" and "moral." The "organizational" function refers to the ability of the principles of law to determine the internal structure of law and the mechanisms operating in it. Thanks to the "moral" function, the internal structure of law is filled with noteworthy value content.

General principles of law are considered as basic principles that express the most essential features, content, features and regulatory mechanisms of law. According to Frolov S.E. "general principles of law are formed in the process of development of the state and society based on the perception of the historical experience of legal regulation. General principles are generally applicable to all rules and are suitable for use in all systems and branches of law.

At the same time, in some cases, among industry and inter-industry principles, general principles can be identified that are applicable only in a certain industry or group of industries. While imparting to national law the properties of consistency and unity, general principles of law at the same time play a significant role in regulating cooperation between states. General principles contribute to the implementation by states of their international obligations. Such principles are used by states when implementing international law into national law and harmonizing domestic legislation"[16]

The general principles of law recognized by civilized nations are reflected both in the national law of states and in international law. In national law, these are certain provisions of regulations, court decisions, morality, legal consciousness. The process of formation and development of general principles of law recognized by civilized nations can be associated with two factors

[13] Sophie Seys, Delphine de Jonghe, François Tulkens. Les principes généraux du droit.- https://dial.uclouvain.be/pr/boreal/object/boreal%3A133419/datastream/PDF_01/view
[14] Skurko Ye.V. Printsipi prava. M.: Osь-89, 2008. - 192 s.
[15] Baytin M.I. O printsipax i funktsiyax prava: noviye momenti // Pravovedeniye. 2000. - № 3 - s.

"movement" from the practice of a wide range of states, when a particularprinciple arises because of a uniform solution to certain issues in the national practice of legal regulation;

a) "movement" from the understanding of the content of the principle established in international law, recognized by states, when the principle, having entered international law, is recognized by the member states of the international community along with the corresponding interpretation of its content[17].

At the same time, many general principles are reflected not only in the law of an individual state but have a "trans-border nature (the principle of recognition, respect and protection of human and civil rights, the principles of democracy, justice, legality, equality of rights and duties), i.e. can be found in the legal systems of different states. The reason for this may be a similar level of legal development, appeal to similar philosophical, political and religious concepts.

However, it is important to remember that there is a risk that principles that at first glance are common to states belonging to different legal systems (the most typical example is the principle of justice) may have slightly different content, which is also a consequence of individual historical features of the formation of such principles. In this regard, it is advisable to talk about general principles of law, recognized not by all, but by "the majority" of legal systems"[18].

One way or another, the general principles, common to most states belonging to different legal systems, represent the quintessence of the experience of the world development of law. They play a significant role in the integration of states into the international community and the coordination of the legal systems of different states.

The coincidence of practices of different states leads to the emergence of a common practice of regulating intrastate relations Subsequently, such principles become part of international law. In this regard, general principles of law are not a special category of norms of international law. the source of which is traditionally considered to be an international treaty and international custom

However, the general principles of law recognized by civilized nations play an important role, being an important "instrument" used by the International Court of Justice in resolving disputes between states. Since there is always a risk of situations arising in which the norms of international treaties and international customs are not sufficient to resolve the conflict, it is advisable to have a backup source of dispute resolution.

[16]Frolov S.E. Printsipы prava. (Voprosi teorii i metodologii): Dis.. kand. yurid. nauk: 12.00.01. Kostroma, 2001. - 168 s

[17] Chernichenko C.B. Normi i printsipi mejdunarodnogo prava. M.: Nauchnaya kniga, 1998. s.56

[18] Zemskova P.E. Obщiye printsipi prava, priznanniye sivilizovannimi natsiyami v rossiyskoy i zarubejnoy nauchnoy literature // Vestnik RGGU. 2008. № 5. S. 72

An approximate general list of principles that can be classified as "general principles of law recognized by civilized nations", formed since the practice of application by the international court of the United Nations of paragraph "c" of Article 38 of the Statute of the International Court of Justice[19], includes:

1. The principle of "humanism" (in a broad sense - the principle of ensuring human rights and freedoms). Speaking about the idea of humanism, it should be noted that The Amsterdam Declaration of 2002 proclaimed the idea of humanism, which is the result of a centuries-old tradition of free thought that has inspired many great thinkers.

The foundations of modern humanism are as follows:

1. Humanism affirms the value, dignity and autonomy of the individual, and the right of each person to the greatest possible freedom consistent with the rights of others.
2. Humanism seeks to use science creatively rather than destructively. Humanists believe that the solutions to the world's problems lie in human thoughts andactions, rather than in divine intervention. The application of science and technology must be tempered by human values, which must guide the goals.
3. Humanism supports democracy and human rights. Humanism is aimed at the fullest development of each person. He argues that democracy and human development are matters of law. The principles of democracy and human rights can be applied to many human relationships and are not limited to methods of government.

Humanism insists that personal freedom must be combined with social responsibility. Humanism risks building a world on the idea of a free person responsible to society and recognizes dependence and responsibility for the natural world. Humanism is a life position that seeks the greatest possible satisfaction through the development of an ethical and creative lifestyle and offers ethical and rational means of solving the problems of our time.

Humanism can be a way of life for everyone, everywhere[20].The principle of humanism, as is known, has two sides - legal and non-legal (moral). From a legal point of view, humanism primarily involves the prohibition of torture, violence, cruel or degrading treatment or punishment.

[19] The Statute of the International Court of Justice – https://www.un.org/en/about-us/un-charter/statute-of-the-international-court-of-justice

In the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 the principle of humanism is expressed in Article 2[21]. The European Court of Human Rights proceeds from the fact that Article 2 of the Convention cannot be interpreted as prohibiting the death penalty in general.

Compliance with the principle of humanism in this case involves certain requirements for the methods of executing the death sentence, taking into account the personal circumstances of a particular convict, observing the principle of proportionality of punishment to the gravity of the crime committed, ensuring appropriate conditions of detention in custody and while awaiting execution of the sentence.

It follows from the principle of humanism that every convicted person, regardless of the nature of the crime for which he was convicted, the punishment imposed and the conditions for its execution, has the opportunity to seek a mitigation of his fate, including through the courts, up to the complete removal of all restrictions on the rights and freedoms, which are the legal consequences of his conviction on the basis of a court verdict that has entered into legal force.

The principle of "ensuring judicial protection of violated rights" (the principle of a fair trial), which is closely related to such technical principles as "no one can be a judge in his own case", "the burden of proof is placed on the plaintiff", "negative provisions are not proven" , "every doubt is interpreted in favor of the accused", "responsibility comes only for guilt", "let the other side also be heard", "no one can plead ignorance of the law as an excuse", "deception destroys legal consequences", "res judicata "("decided matter") and a number of others.

The principle of equality (equality of all before the law). The principle of equality (equality of all before the law). The principle of equality, presupposing an equal approach to formally equal subjects, does not necessitate the provision of the same guarantees to persons belonging to different categories and equality before the law does not exclude actual differences and the need for them to be taken into account by the legislator[22].

Talking about equality before the law Acemoglu, Alexander Wolitzky write: «Equality before the law combines high levels of coercion and low levels of inequality. Factors that increase the likelihood of equality before the law include such concepts as limiting the degree of coercion, and political power for the people.

[20] https://humanistassociationscotland.com/the-amsterdam-declaration/

[21] European Convention on Human Rights – https://www.echr.coe.int/documents/d/echr/Archives_1950_Convention_ENG

The idea of equality before the law states that laws should apply equally to all citizens: simply put, no one is above the law. This idea is synonymous with the concept of the "rule of law" - it is the basis of many current constitutions and is widely seen as a central principle of a fair and just legal system[23].

The principle of equality of all citizens before the law is one of the democratic ideas that emerged and received recognition during the era of the formation of the bourgeois legal system. This principle was aimed at the destruction of feudal privileges and historically expressed the first stage of understanding and implementation of legal equality in general. Subsequently, legal thought, along with formal legal equality (equality in law), began to emphasize equality (equality before the law), as well as equal protection of the law. These three elements of legal equality act as unique facets of ensuring individual freedom in the legal sphere.

2. Principle of good faith. It should be noted that in the doctrine of international law, three main points of view have been formed on the legal nature of the principle of good faith, according to which it is only a moral principle; is a universal and independent principle of international law; is one of the elements of the principle "*Pacta Sunt Servando*".

The principle of good faith. Building a world order based on the Rule of Law provides for the conscientious fulfillment by all member states of the world community of their international obligations based on the principle of good faith - Bona fide. The rule of law includes such an important component as the obligation of states in the field of human rights. Being one of the main goals of the UN Charter, universal respect for human rights and freedoms contributes to the progressive development of humanity along the path of international law and order.

As is known, the modern **principle of Pacta Sunt Servando** puts first the obligations arising from the UN Charter and the basic principles of international law. This principle applies only to the obligations corresponding to them. As already noted, the UN Charter and basic principles establish the main content of the principle of democracy. Deviation from these principles leads to the invalidity of contracts.

22 Sennx L.N. Formalnoye ravenstvo v sotsialnoy sfere v sisteme printsipov pravovogo regulirovaniya. pravovoye regulirovaniye: problemi effektivnosti, legitimnosti, spravedlivosti. Sbornik trudov mejdunarodnoy nauchnoy konferentsii. Voronej, 02–04 iyunya 2016 g., s. 475

[23] A Theory of Equality Before the Law. Daron Acemoglu, Alexander Wolitzky. The Economic Journal, Volume 131, Issue 636, May 2021, Pages 1429–1465, https://doi.org/10.1093/ej/ueaa116

The general condition for the implementation of international law norms, including ensuring their operation, is the principle of pacta sunt servanda ("contracts must be respected" - Latin), more precisely, not even the principle itself, but the duty and task of the state to establish such a legislative regime that would fully contributed to the implementation of concluded agreements and, therefore, to the most consistent application of the principle of faithful compliance with international obligations[25].

The principle of justice. The concept of social justice in international law has no definition. The main criterion in this sense should be considered the equality of rights of all people (Article 1 of the Universal Declaration of Human Rights). The second criterion is non-discrimination against people on certain grounds (Article 2 of the Universal Declaration of Human Rights). Another condition of social justice is that special protection measures must not be detrimental to all other persons who are entitled to enjoy universally recognized human rights and fundamental freedoms (Article 8 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities 1992). Manuel Velasquez, Claire Andre, Thomas Shanks, S.J., and Michael J. MeyerNo idea in Western civilization has been more closely associated with ethics and morality than the idea of justice. Debates about justice and fairness have a long tradition in Western civilization. From ancient Greek philosopher Plato's, The Republic to Harvard philosopher John Rawls's Theory of Justice, every major workon ethics has argued that justice is the central core of morality.

Justice means giving each person what he deserves, or in more traditional terms, giving each person what he deserves. Justice and fairness are closely related terms that are often used interchangeably today. However, there was a clearer understanding of these two terms. Although fairness is usually used to refer to a standard of rightness, fairness is often used to refer to the ability to judge without regard to one's feelings or interests; justice is also used to refer to the ability to make judgments that are specific to a particular case. In any case, the idea of treating a person as he deserves is crucial to both fairness and fairness.

The principle of legality. The principle of legality is closely related to several special principles: the priority of a special law over the general one, the law/agreement does not have retroactive force, or a subsequent law/agreement has priority over the previous one, no one can transfer to another more rights than he has, and others.

[25] S.Yu.Marochkin. Yuridicheskiye usloviya deystviya norm mejdunarodnogo prava v pravovoy sisteme Rossiyskoy Federatsii. Moskovskiy jurnal mejdunarodnogo prava, 1998, № 2, s.52

The principle of legality is a purely legal phenomenon, expressed in the political and legal regime of social life, based on strict and strict compliance with legal norms by all subjects. This is a system of requirements for the lawful behavior of citizens, state bodies, and public associations in the sphere subject to law, and at the same time the fight against offenses of competent law enforcement agencies.

In scientific terms, legality is revealed in a system of structural, functional, and sectoral principles - its main ideas that govern human activity and ensure its lawful nature.

Respect for the rule of law is fundamental to a sustainable international legal order, which depends heavily on a common understanding of when coercive measures are legitimate.

The modern development of international relations poses the most important task for the world community to establish the dominance (supremacy) of law in international affairs. In the outcome documents of the 2005 World Summit, the heads of state and government reaffirmed their commitment to the purposes and principles of the Charter, international law, and international order based on the rule of law, which is a necessary precondition for peaceful coexistence and cooperation among states[27].

Albert Venn Dicey is a renowned English legal theorist on the rule of law of the 19th century. Dicey argued that England demonstrates the rule of law in three ways:

1. “No person shall be punished or lawfully subjected to suffering in body or property, except in clear violation of the law established in the ordinary course of law in the ordinary courts of the land. In this sense, the rule of law is opposed to any system of government based on the exercise by those in authority of broad, arbitrary or discretionary coercive powers";

2. “every man, whatever be his rank and station, is subject to the common law of the kingdom, and is subject to the jurisdiction of the tribunal”;

3. the general principles of a constitution (such as the right to personal liberty or the right of public assembly) are the result of judicial decisions determining the rights of individuals in specific cases brought before the courts; whereas in many foreign constitutions the security afforded to the rights of individuals flows, or appears to flow, from the general principles of the constitution.”

[26] Manuel Velasquez, Claire Andre, Thomas Shanks, S.J., and Michael J. Meyer. Justice and Fairness. - https://www.scu.edu/ethics/ethics-resources/ethical-decision-making/justice-and-fairness

Dicey's ideas emphasized fundamental core principles that remained important throughout subsequent discussions of the rule of law: a distrust of arbitrary authority and an insistence on equality before the law. Despite some shortcomings, Dicey's teaching on the rule of law in England played an important role in shaping the future generation of lawyers and scholars and put forward several key principles that are still considered important today.

Lord Tom Bingham was Lord Chief Justice of England and Wales, Master of the Rolls and Senior Law Lord. In 2010, he published a book called The Rule of Law, which sets out eight principles that he believes constitute the rule of law:

– "The law should be accessible and, as far as possible, understandable, clear and predictable";

– "Issues of legal rights and responsibilities should generally be decided by the application of the law and not by discretion";

– "The laws of the land shall apply equally to all, except where objective differences justify differentiation";

– "Legal protection of fundamental human rights,

– "There must be a means to resolve, without unreasonable cost or undue delay, bona fide civil disputes that the parties themselves are unable to resolve";

– "Ministers and civil servants at all levels must exercise the powers conferred upon them reasonably, in good faith, for the purposes for which the powers were granted, and without exceeding the limits of such powers";

Professor Martin Krieger, former member of the Steering Committee of the Rule of Law Institute, is a renowned Australian legal theorist. He is currently the Gordon Samuels Professor of Law and Social Theory at the University of New South Wales in Sydney.

Kreiger's theory of the rule of law differs from the theory and teachings of many other scholars in that he insists that one should not list the principles or institutions that are indispensable to the rule of law, but rather find out what is the value of the rule of law principle - what is the purpose of that principle, and then begin to identify the institutions and legal mechanisms that will help achieve this goal.

Krieger argues that the purpose of the rule of law is to "moderate or moderate the exercise of power to avoid its arbitrary use." Therefore, by the rule of law we mean the institutions or mechanisms that contribute to the achievement of this goal in a particular society or at a particular point in time[28].

[27] Resolution adopted by the General Assembly on 16 September 2005 – https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_60_1

International principle of the «Rule of law». At the international level, states noted the "rule of law" at first as a common principle of state building for them. In this capacity, it is recorded, in particular, in the preamble of the European Convention on Human Rights of 1950, in the Final Document of the 1990 OSCE[29] Copenhagen Meeting, and the Amsterdam Treaty of the European Union of 1997[30].

Under the circumstances of the common basic elements of the international and domestic principles of the rule of law, both principles have overlapping scopes of action: the priority of human rights, their guarantee, the responsibility of the state to all people under its jurisdiction, which leads to their interaction.

Hence, it is natural that the doctrine pays attention to the rule of law at the international level and the prospects for the development of international and domestic principles.

Conclusion

The above principles act as an effective means of overcoming gaps and conflicts when considering disputes by the International Court of Justice and other courts, when to resolve a conflict, it is necessary to turn to principles that have unconditional authority in national and international law.

It is important to keep in mind that the use of a general principle by the court, as a rule, does not automatically eliminate the gap or eliminate the conflict. The principles of law make it possible to "overcome" some uncertainty of legal regulation in a particular dispute but do not replace the functions implemented within the legislative process.

Even though the basis for building a system of interstate relations is, first, the principles of interaction and cooperation, conflicts between subjects of international law are inevitable. In such circumstances, the most important principle of modern international law applies, imposing obligations on states to use peaceful means to resolve disputes that arise between them.

In this regard, conflict situations, depending on the nature of the dispute and its jurisdiction, are subject to consideration by the International Court of Justice, the International Criminal Court, in some cases, special international tribunals are created to consider charges of committing international crimes (the most important component of the mechanism of international criminal justice), disputes in the field of private international law are resolved by international arbitration courts[31].

[28] https://www.ruleoflaw.org.au/principles/approaches-to-the-rule-of-law/

[29] Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE – https://www.osce.org/odihr/elections/14304

[30]Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts – https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:11997D/TXT

At the same time, the main judicial body, which is competent to consider a wide range of legal disputes and is "accessible to all states," is the International Court of Justice. Disputes considered by the International Court of Justice are disputes submitted to it by mutual consent of the parties, and by mutual agreement of states. Only by correctly qualifying a particular dispute as interstate, as well as if there is consent of the parties to consider it in the International Court, can one conclude the extension of the jurisdiction of the International Court of Justice to such a dispute.

The competence of the International Court of Justice is a set of powers to consider cases and issue advisory opinions. This follows from the UN Charter, the Statute of the International Court of Justice, and the practice of international justice. By the UN Charter (Article 92)[32] and Statute (Article 1), the International Court of Justice[33] is the main judicial organ of the UN, and its main task is the legal resolution of disputes between states.

By Art. 94 of the UN Charter, members of the Organization undertake to comply with the decisions of the International Court of Justice in the case in which they are parties. If any party fails to fulfill the obligation imposed on it by a decision of the Court, the other party may appeal to the Security Council, which has the authority to decide on taking measures to enforce the decision.

By Art. 38 of the Statute of the International Court of Justice, the Court resolves disputes by applying international law, in particular international treaties and international customs. In several cases, to determine the legal basis of their decision, courts turn to the doctrines of the most qualified specialists in public law in various nations.

Also, among the list of instruments that the International Court is authorized to use, "a special place belongs to the "general principles of law recognized by civilized nations." As noted earlier, the term "general principles" in the sense given to it by clause "c" of Article 38 of the Statute, combines both the principles of international law and the principles that are common "at the same time to international law and to the legal systems of various states".

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