

паспортизація в обмін на користування мінімумом життєвих прав, екоцид як створення окупаційною владою несприятливого для життя навколишнього середовища; злочини проти людяності – винищення, оборнення в рабство, насильницьке переміщення населення, незаконне позбавлення волі та обмеження права на вільне пересування; воєнні злочини – знищення і привласнення майна, що не викликане військовою необхідністю (мародерство), примусова мобілізація окупованого населення до окупаційного війська. Крім того, російською окупаційною владою на окупованих територіях України здійснюються свого роду злочини культурно-освітнього геноциду: знищення та викрадення культурних пам'яток, впровадження освітнього процесу за російськими політико-історичними наративами тощо.

З іншого боку, можливість встановлення реального правового режиму іноземної окупації вбачається тоді, коли окупація здійснюється як протидія незаконній окупації з метою подолання її негативних наслідків, відновлення правопорядку та життя на деокупованих територіях, зокрема за колективної участі міжнародних організацій. Водночас ситуація щодо покарання нинішнього агресора-окупанта, який нехтує міжнародним правом, не знаходить поки що свого ефективного політико-правового вирішення, що стане предметом подальших публікацій.

Ключові слова: іноземна окупація, режим, воєнні злочини, міжнародне право, окупаційна влада.

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THEORETICAL AND LEGAL PRINCIPLES OF THE CONVERGENCE OF EQUALITY AND JUSTICE IN THE FIELD OF PERSONALIZED MEDICINE IN THE CONTEXT OF THE STATE'S SOCIAL POLICY

Abstract. In the context of health care, social justice plays a crucial role in ensuring that individuals have equal access to quality and affordable health services. This article delves into the significance of social justice in healthcare and its impact on the overall well-being of individuals. It emphasizes the need for a regulatory framework that fosters the integration of innovative technologies to enhance the quality and duration of human life. Additionally, the article sheds light on the role of the state in upholding and providing human rights and freedoms, particularly in the realm of personalized medicine.

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It concludes that achieving a modern level of convergence of the principles of equality and social justice in health care requires a comprehensive approach that takes into account legal, moral-ethical, financial-economic, and medical-innovative aspects. By addressing these various facets, it is possible to create a healthcare system that is not only efficient and effective but also equitable and just for all individuals.

Keywords: *healthcare, social justice, equal access, regulatory framework, personalized medicine, equality.*

Introduction. Issues of compliance with the principles of equality and justice in the context of the social policy of democratic states always occupy key positions in the rhetoric of pre-election programs of political leaders. The specified topic in the field of health care is one of the most sensitive problems from the point of view of a person's perception of justice. That is why the definition of "justice" becomes an important component of the political culture, social policy of the state and an important regulator in the field of health care. Social justice is the guarantor of social stability and, at the same time, the foundation for the transformation of the economic policy of the state and the well-being of every person who has the right to a dignified life. The Constitution of Ukraine (Article 3) states that a person, his life and health, honor and dignity, inviolability and security are defined as the highest social value in Ukraine. Affirmation and provision of human rights and freedoms is the main duty of the state (Constitution of Ukraine, 1996).

The purpose of the article is to explore the intersection of healthcare, social justice, and innovative technologies within the current regulatory framework. It aims to discuss the importance of equal access to quality and affordable healthcare. The article also seeks to highlight the potential of personalized medicine and convergence of medical-innovative technologies in promoting human rights and equality within the healthcare system.

Analysis of the recent research and publications. The study of the principles of law (in particular, the principles of equality and justice), including their implementation in the field of health care, was carried out by: J. Rawls, O. Skakun, V. Opryshko, S. Pogrebnyak, N. Fedina, V. Studinskyi, O. Agarkov, N. Solonenko, I. Babich, S. Miserzhi, D. Karamyshev, I. Bahnovska, N. Shelever and many other scientists. V. Geets, O. Skrypnyuk, A. Grynenko, H. Pylypenko, M. Hansli Terens, H. Lopushnyak, S. Bondarenko, N. Bugas, U. Motornyuk, V. Lobas, V. Sobchenko and others paid attention to solving the problems of forming an effective social policy in Ukraine at the current stage of state formation in their works.

Formulation of the main material. The general philosophical principles and constitutional provisions of democratic countries profess the idea of raising the status of a person as a bearer of the highest values and a driving force in ensuring comprehensive global development of society. At the same time, taking into account the laws, customs, needs of social justice as the basic values of a democratic society, each subject seeks and has the right to realize his own benefit. At the same time, the rules and norms that ensure the humane coexistence of man and society must be clearly regulated both by the categories of moral, political and social consciousness, and by legal acts that ensure economic development and harmonize the interests of different layers of society (Pylypenko, 2013).

Actually, the very concept of social justice, according to V. Studinskyi, reflects the contradictory unity of the objective and subjective and clearly fits

into the framework of one of the main laws of dialectical philosophy "unity and struggle of opposites". It is in such a system of coordinates that the modern principles of the relationship between the object (society) and the subject (individual) are formed, which will allow in the field of new opportunities to ensure an increase in the level of satisfaction in achieving social values. The stated opinion regarding the modern assessment of the content of the category of social justice is not an expression of revolutionary views, but clearly corresponds to the idea of justice formulated by its founder, the English philosopher H. Spencer. It was he who noted that justice includes two elements at the same time – positive and negative. The positive element involves recognition of the subject's right to unimpeded activity and use of the benefits it brings. The negative element of justice, according to H. Spencer, is conditioned by the equal right to use the good of other subjects, respect for which is the basic condition for the organization of the social form of life (http://nbuv.gov.ua/UJRN/Uap_2009).

From the point of view of modern interpretation, the imbalance of the two elements should not contribute to the emergence of inconsistencies in the assessment and understanding of justice in the field of social relations, but as a modern reality in the development of information technologies, when "plus" and "minus" have become a key element of the algorithm for creating new opportunities for the development of abilities and human welfare. Careful "rocking" of the common interests of one's own and the public will make it possible to use the potential of modern innovative technologies as quickly and comprehensively as possible, which will ensure the achievement of the Olympus of sustainable development of a democratic state. It was this approach that did not and will not allow to "conserve" the category of social justice, since it, as a dynamic form of social existence, has the ability to transform under the influence of the level of development of science, culture, productive forces, socio-political consciousness and the legislative framework and its ability to timely sense changes that are characteristic of a certain period.

Given that the phenomenon of social justice, in its origin and content, is a deeply historical topic, it actively and organically generates a fluid, changing, promising and constantly stable system that guarantees a system of self-organization and a dignified human life. In this regard, at each stage of the development of social consciousness, theoretical and legal studies of ideas, foundations and reasons for identifying and justifying the emergence of new vectors and concepts of basic components of justice, necessary for building a successful state, are updated. The problem of reinterpreting justice in the direction of developing the basic principles of the health care system in the context of universal human values at the stage of rapid development and introduction of innovative technologies is of particular importance.

Market transformations in the state oblige citizens to take into account the change of emphasis in the implementation of social policy aimed at creating conditions for independent provision of a decent level of income with the simultaneous right to maximally preserve one's own health and restore physical resources necessary for the creation of public goods.

In the mind of the Ukrainian society, social justice means establishing the correspondence between European standards and achievements of one's own social protection with the right of equal access to health care programs.

Therefore, it becomes clear that precisely at the stage of tectonic changes in the implementation of the social policy of the state, there is an urgent need to bring to the public consciousness the need to modernize the national socio-economic model of equality and social justice in access to the necessary medical services aimed at ensuring the foundations of public health, as well as laying the foundation for timely access by society to use the possibilities of innovative screening technologies for prevention and personalized treatment of various pathological conditions.

The purpose of the study is to review and justify the feasibility of applying modern principles of equality and justice in the context of mechanisms for the development of the functioning of the health care system, which is aimed at preserving universal values in the conditions of reforming the medical industry, guaranteed by equal access of the population to quality medical care, and will contribute to the strengthening of public health I, as well as providing simultaneous access to the window of opportunities and advantages, which will allow to reduce the differences of the population in the use of effective tools of personalized medicine on the way to the formation of a just society.

The issue of justice and equal access of the population to medical services in the health care system is of paramount importance all over the world. However, it becomes especially relevant during the rapid development of innovative technologies, including in the medical field. The high rate of development of fundamental research in various scientific fields contributes to the creation and implementation of new technologies of screening, prevention, diagnosis and treatment, which significantly expand the possibilities of increasing the duration and quality of human life. At the same time, it should be objectively noted that the cost of providing such medical services is also increasing, which limits the population's access to their timely receipt. The situation and challenges associated with the consequences of military aggression are significantly complicated by socio-economic, demographic, and economic factors that limit the basic constitutional right of Ukrainian citizens to have fair access to medical services. Therefore, it is no coincidence that the strategic plans of the WHO "European work program for 2020-2025. Joint actions for stronger health" are aimed at finding ways to improve the health care system in the countries of the European region, which will contribute to ensuring fair and equal access of the population to medical services. That is why universal health coverage has been recognized as one of the priority tasks worldwide (European Work Program, 2021; Petryshyn et al., 2015).

At the same time, in the process of creating a model of future fair and equal access aimed at preserving health and increasing life expectancy, the world scientific community is becoming increasingly aware of the need to increase socio-economic determinants and their harmonization with innovative and technological ones, which will expand the possibilities of a new society, and will ensure the right of citizens to use the results of scientific progress in the interests of maintaining and preserving their own and, accordingly, public health.

First of all, it should be noted that scientific approaches to defining the key concepts of this study, namely: "equality", "justice", "social justice" are quite diverse. The Constitutional Court of Ukraine in its decision dated September 22, 2005 No. 5-пп/2005 stated that the requirement of certainty, clarity and unambiguity of the legal norm follows from the constitutional principles of

equality and justice, since nothing else can ensure its equal application, does not exclude unlimited interpretation in law enforcement practice and inevitably leads to arbitrariness (<http://zakon3.rada.gov.ua/laws/show/v005p710-055>).

However, in order to unify a certain understanding, it is considered appropriate to take as a basis the following statements proposed by scientists. In particular, the principle of equality in law provides for the requirement to treat identical cases equally, and different ones differently, and also prohibits discrimination as one of the most obvious violations of the principle of equality (Petryshyn et al., 2015). The category of "justice", which is simultaneously philosophical, legal, social and moral-ethical, is quite debatable. Since we are interested in justice as a legal category, it is worth paying attention to the opinion of I. Babich, according to which justice acquires the quality of a principle to the extent that it is embodied in a rule of law. And the corresponding embodiment means narrowing its application. At the same time, the principle of justice as a principle of legislation coincides with the principle of legality (Babich). Even more controversial is the phenomenon of social justice. It is believed that social justice exists as a phenomenon of social consciousness (legal, religious, moral, economic), which fixes social justice as a reward and recognition for work, providing everyone with a minimum socially guaranteed level and quality of life, equal access to social benefits (getting an education, health preservation), to information, to cultural values, etc. (Grynenko, 2009).

At the current stage of the development of society, when opportunities and needs do not always correspond to the interests of citizens, a certain turbulence arises in their consciousness. Such processes actualize issues of social justice, they acquire signs of variability, and in the mass consciousness there is a reassessment of both their own and social values. In the pursuit of minimizing modern determinants that determine the causes of inequality in the field of public health and ways to improve it, we should not lose the opportunity to save each individual person.

Article 2 of the Convention on Human Rights and Biomedicine defines that "the interests and welfare of an individual prevail over the interests of society or science" (<https://rm.coe.int/168007cf98>). That is why today, in the conditions of rapid scientific and technical progress, it is especially important to focus on the possibilities of innovative technologies as tools capable of increasing the level of health in a new way, fairly reducing gaps in the health status of various social groups of the population. It is worth noting that from the point of view of the currently valid principles of finding justice options, this issue requires additional efforts and, most importantly, an interdisciplinary approach. Understanding the need to start developing regulatory and legal documents, the scientific basis of management restructuring, financing and creating a modern infrastructure network in the field of health care will allow not only timely implementation of European norms and standards, but at the same time to achieve new principles in providing affordable and high-quality medical services to the population of Ukraine.

The development of the concept of justice policy in the field of health care should provide for the timely implementation of the achievements of innovative technologies and find mechanisms and means to incorporate the advantages and opportunities of personalized approaches into the existing public health system. Today, personalized medicine is the forerunner of the medicine of the future,

which simultaneously takes into account the interests of one's own and public health, which is necessarily transformed into a socio-economic paradigm for the revival and growth of society's well-being.

Social guarantees and economic incentives aimed at improving public and personal health should be appropriate, justified, balanced and mutually regulated. Perhaps it is worth paying attention to the existing package of social guarantees (Karamyshev & Udovichenko, 2008), where health care is far from the first position in the ranking of priorities, and to revise the ranked series. The question remains open: this order is a coincidence or a deep-seated political consciousness. Such a system unwittingly brings to mind A. Schopenhauer's famous aphorism: "There is no higher goal for science (read – society) than the goal aimed at preserving human health." And to emphasize the importance of his position, the well-known philosopher-publicist expressed an opinion with which it is difficult to disagree: "Health outweighs all the last benefits of life, and in fact a healthy beggar is happier than a sick king." These maxims express the key formula of human existence. It is necessary to clearly understand that the main human capital is health. Health is a multidimensional concept that goes far beyond having a diagnosis, which sometimes sounds like a sentence. Health is a system of numerous coordinates within which a person feels comfortable and generates the creation of his own material and public goods as important components of public health. According to the definition of WHO, health is a state of complete physical, spiritual and social well-being, and not only the absence of diseases and physical defects (WHO Basic documents, 2014). This formula of the main social good should be the starting point for all branches of the executive, research and production vertical in the formation of health care policy in the state and personally for each individual citizen.

It is important that the socio-political position and the creative potential of scientific thought are able to find a golden mean that can help balance the scales in the "individual-society" relationship. The creation of such conditions in the implementation of interrelationships and interdependence will always be in the interests of society and each of its members.

In Ukraine, today, the acceleration of these processes is significantly complicated by Russia's aggression against our state, and this objectively creates force majeure circumstances regarding the implementation of the most necessary measures. At the same time, it is worth remembering that force major challenges (or so-called "black swans") often give rise to unique chances for new advances, including in the sphere of the formation of updated social policy of the state. In addition, Ukraine is in an active phase of reforming the health care system. Ukraine needs new ideas and non-trivial solutions more than ever, because non-standard conditions require non-standard solutions. It will be about the introduction of a new effective model of the functioning of health care and the need for the urgent creation of regulatory and legal support, which would enable the timely implementation of innovative processes not only in the health care system, but also in other related areas, which would allow ensuring the synchronicity of these processes in the interests of society. The pace and patterns of socio-economic development and, in particular, in the medical field, will depend on the role and functions of expert commissions, which are obliged to conduct a timely inventory of existing proposals and contribute to the formation

of public opinion on the importance of their systemic perception and the results of their consistent urgent and delayed implementation, as a strategic perspective for the development of a socially oriented and economically motivated society. Undoubtedly, such work must simultaneously be synchronized with the best models of European legislation and meet their standards.

D. Karamyshev in his monograph interprets the role of the health care system and proposes to consider it as a system of measures of a political, economic, legal, social, cultural, scientific, medical, sanitary-hygienic and anti-epidemic nature aimed at preserving and strengthening health of every citizen, providing him with adequate medical care in case of deterioration or loss of health (Karamyshev, 2004). The basis of the modern paradigm of the development of the health care system should be the foundations of the best global practice in this direction, which are provided by partnership public-private functions, powers and responsibilities for improving the level of public and private health, and investments in human health should be recognized as the best form of accumulation of state capital.

The analysis of the latest research and scientific publications shows the evolution of the health care system against the background of public needs and requirements regarding the European integration processes of Ukraine. Today, strategies for carrying out reforms at various levels of government structures are being developed much more actively, methodological principles and legal instruments aimed at optimizing the goals of state policy in the field of health care are being updated (Chehun & Rossylina, 2023; Parubchak & Radukh, 2021; Tereshkevich, 2022). Significant progress on this path is facilitated by the in-depth study of international experience and the adaptation and approval of certain aspects of the reform policy and their impact on the state of public health (<https://www.oecd-ilibrary.org/social-iss>; Health at a Glance: Europe, 2022). The experience of individual countries of the world shows that high-quality medical services are quite successfully provided in countries with a market economy. At the same time, the socially expected results are ensured by the consolidation of effective technologies and fairness in the access system, which becomes part of economic feasibility (Colonenko et al., 2020).

A deep study of European legislation and the use of their individual provisions as standards helps the authors and experts of domestic bills to speed up the European integration processes in the medical field. Today, their efforts are aimed at finding or developing an optimal model of organization and functioning of the network of health care institutions, which would take into account the advantage of public-private partnership and the possibilities of innovative processes and use them in the interests of social progress. At the same time, it is important to provide that among the significant functions, which include ensuring comprehensive access to medical care and compliance with quality standards, the rights and opportunities to use the latest technologies of screening, prevention and personalized therapy, which will correspond to the global strategic goals of the development of society, are mandatory. It is a proven fact that society needs such a model, which would contribute to the most complete and high-quality satisfaction of human needs.

Despite the fact that market mechanisms remain contradictory and there are certain discrepancies in the models of financial support and the modern interpretation of the term "justice" in relation to health care (Karamyshev &

Udovichenko, 2008), it is worth laying down in the newest model of health care the mechanisms for the introduction of innovative technologies in the medical field as the main principle of guaranteeing medical care to every member of society in the 21st century. Market transformations in Ukraine and the world in general are the main attribute of our present and require a change of emphasis in the implementation of social policy aimed at creating conditions under which every person could enjoy benefits and ensure the restoration of the potential of their own physical resources and the well-being of society.

One of such levers and mechanisms capable of ensuring both progress in economic well-being and one's own health is personalized medicine, which is rapidly becoming part of our reality and is one of the fundamental foundations of 5P medicine, along with predictive, preventive, participatory and precession (Chehun & Rossylina, 2023; Pires et al., 2021; Cohen, 2022).

Personalized medicine is based on the vision of effective screening preventive, diagnostic, therapeutic and rehabilitation strategies based on fundamental achievements in the scientific field and accurate understanding of molecular genetic and environmental determinants of pathological processes. Recent interdisciplinary advances in science have fueled a rapid surge in biomedical discoveries, pharmaceutical innovations, and the adoption of artificial intelligence capabilities that are driving the medical industry's transition into precision technology. Modern medical innovative technologies allow providing individual levels for diagnosis, treatment and strengthening of health and prevention of diseases of social groups in general. Recently, there has been a significant increase in the amount of scientific literature that contains an in-depth analysis of the benefits and economic limitations of the widespread implementation of personalized medicine. Among the deterrents are the fairness of the distribution of social benefits, the genetic diversity of the population, implementation problems, and many less significant issues. However, as Elizabeth G. Cohn rightly points out, the achievements of modern medicine cannot wait until all these questions are answered (Cohn et al., 2017), because this approach can become the highest manifestation of social injustice in the field of health care.

However, the presence of these problems can be considered as short-term deterrent factors. The rate of accumulation and development of modern databases, in particular in the field of health care, and the involvement of information technologies are able to quickly eliminate the existing restraining factors of the introduction of personalized medicine methods, including into the structure and model of optimization of public health. An important aspect in this matter may be control and obtaining new results for the identification and fair distribution of benefits both in the interests of an individual and society in general. Undoubtedly, the mentioned topic is debatable and requires in-depth analysis and research efforts that will allow to prove the effectiveness of such a strategy. However, timely involvement and scientific and economic justification, planning and definition of research and training goals will significantly accelerate the formation of a niche of personal physical and physiological health benefits in the general scheme and structure of public health. In this case, the principle of the system of guaranteed minimum social and medical security declared by the national legislation will be able to acquire a new content regarding the level of opportunities in social solidarity, which is formed in the

interests of both the subject and the object. This approach will bring closer the perspective of improving health care, which is defined by the WHO European Bureau "Health for All", and will bring closer the implementation of the statute of the main international coordinating body for health care of the WHO, which states that the possession of the highest attainable level of health is one of the inalienable rights of any person.

The responsibility for the formation of state policy in the field of health care under the conditions of social justice is entrusted to the governments of the respective states, but when we declare the term "solidarity", we must also feel our own role in preserving the health of the nation and the quality of life of each individual person. Policy in the field of health care is one of the most sensitive problems of society. It is always formed and comes out of a certain internal idea of justice, equality and the principles of distribution of benefits.

Conclusions. The globalized world, especially in its period of change, when textbook values are being revised in the mass consciousness, is open to initiatives and new ideas. Therefore, the issue of the theoretical and legal foundations of the convergence of the principles of equality and justice and the possibilities of personalized medicine in the context of the formation of human values in the social policy of the modern state are becoming more and more relevant. Within the framework of meeting the potential needs of modern society, new tasks regarding normative and legal regulation are being formed, which would allow combining public, collective and personal interests aimed at ensuring the principles of public and social justice with a simultaneous compromise between them, aimed at strengthening health and preventing development of diseases.

The dialectical connection of the foundations of social justice based on the principles of law, innovation and humanism is able to lay the foundations for the transformation of socio-political consciousness oriented to the process of economic revival and the growth of physical and material well-being of a person. Formation of the program of state guarantees is a key tool in the field of population protection. Since financial resources are always limited (especially now during martial law), the sources of financial support must be diversified. Market conditions for the development of the country's economy oblige the legislator to normalize and delegate part of social obligations to the private sector.

When developing minimum and optimal standards of medical services and public health support, mechanisms for the introduction of innovative technologies should be established, which will be focused on improving the quality and duration of human life. In order to implement and harmonize the efforts of society-state-individuals, it is necessary to study the world experience more deeply and develop a regulatory framework for the creation of a structure of an aggregate private-state mechanism, which will allow to significantly regulate and control the consumption of medical services and motivate the introduction of new technologies to ensure and improve both one's own and public health.

Thus, achieving a modern level of convergence of the principles of equality and social justice in the field of personalized medicine in the context of the social policy of the state is a complex and multifaceted process, with the proper implementation of which it is possible to achieve a qualitatively new level of

functioning of the health care sector. However, the successful achievement of the goal is subject to a comprehensive approach to the specified issue, taking into account legal, moral-ethical, financial-economic, medical-innovative aspects.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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Ольга РОССИЛЬНА

ТЕОРЕТИКО-ПРАВОВІ ПРИНЦИПИ КОНВЕРГЕНЦІЇ РІВНОСТІ ТА СПРАВЕДЛИВОСТІ У ГАЛУЗІ ПЕРСОНАЛІЗОВАНОЇ МЕДИЦИНИ В КОНТЕКСТІ СОЦІАЛЬНОЇ ПОЛІТИКИ ДЕРЖАВИ

Анотація. У контексті охорони здоров'я соціальна справедливість відіграє вирішальну роль у забезпеченні того, щоб люди мали рівний доступ до якісних та доступних медичних послуг. У цій статті розглядається значення соціальної справедливості в охороні здоров'я та її вплив на загальний добробут людей. Вона наголошує на необхідності нормативно-правової бази, яка б сприяла інтеграції інноваційних технологій для підвищення якості та тривалості людського життя. Крім того, у статті висвітлюється роль держави у відстоюванні та забезпеченні прав і свобод людини, зокрема у сфері персоналізованої медицини.

Зроблено висновок, що при розробці мінімальних та оптимальних стандартів медичних послуг та підтримки громадського здоров'я мають бути закладені механізми впровадження інноваційних технологій, які будуть орієнтовані на покращення якості і тривалості життя людини. Для реалізації та гармонізації зусиль суспільства-держави-особистості потрібно глибше дослідити світовий досвід та розробити нормативну базу щодо створення структури сукупного приватно-державного механізму, який дозволить істотно регулювати і контролювати споживання медичних послуг та мотивувати впровадження нових технологій у забезпечення та підвищення як власного так і громадського здоров'я.

Таким чином, досягнення сучасного рівня конвергенції принципів рівності та соціальної справедливості у сфері персоналізованої медицини в контексті соціальної політики держави є складним і багатограним процесом, при належному впровадженні якого можна досягти якісно нового рівня функціонування сфери охорони здоров'я. Проте успішне досягнення мети за умови комплексного підходу до зазначеного питання з урахуванням правових, морально-етичних, фінансово-економічних, медико-інноваційних аспектів.

Ключові слова: охорона здоров'я, соціальна справедливість, рівний доступ, нормативно-правова база, персоналізована медицина, рівність.