BIOETHICS IN A TRANSFORMATION SOCIETY ON THE EXAMPLE OF THE LEGAL REGULATION

LITERATURE REVIEW

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INTRODUCTION

Entering the XXI century, humanity is experiencing a technological revolution, which is determined by the development of fundamental and applied science. Science is one of the main achievements of all mankind.

Scientific achievements of civilized nations, science and technological progress have become perhaps the most important, integral element of the functioning of postmodern society. Thanks to science, humanity has already entered the post-industrial era, where science-intensive information technologies dominate.

However, everything in social reality does not exist separately, each phenomenon or sphere is closely intertwined in other determinants. Along with scientific progress, there are profound transformations associated with this process in the socio-psychological and cultural spheres, the cause of which is the penetration into mass culture and the mentality of new ideas, conceptions and terms.

The issue of biomedical transformations and their collisions has become the subject of scientists' examination. Recent researches have addressed a number of issues related to updating the understanding of the determinants of bioethics in various areas. First of all, we should pay attention to the genesis of the basic standards of bioethics. T. Beauchamp and J. Childress in many publications and reprints have transformed the notion of the problem over the course of forty years and now agree that it should be considered within the framework of four broad moral principles: respect for autonomy, cooperation, benevolence and fairness [4]. They can and should be seen as historically and philosophically derived from general morality, as universal morality (contrary to pure relativism or pluralism) has gradually become an integral part of the principled approach [4].

Research in the field of design bioethics as a planning and use of specially designed, engineered tools for bioethical research, education and interaction and analysis of psychological levers used to motivate people (public, patients or health professionals) to make specific decisions or behavior that determine ethically relevant dimensions that should be considered for practical use [5, 14, 25, 35, 36].

A significant transformation of social reality has taken place in the last two years, due to the pandemic threat. Understanding and importance of bioethics at this time is especially relevant. L. Amy and others investigating the changes suggest that the COVID-19 pandemic caused a number of ethical concerns, but a key one was the possibility that health systems may need to ration the scarce resources to provide health care [22].

H. Malm and others address the issue of medical duty in crisis situations. The authors provide a critical analysis of the grounds for the obligation to treat: consent, indirect consent, special training, social contract, as well as professional oaths and codes and manifestations of the obligation that will arise in the context of a pandemic of infectious diseases [19].

Another area of scientific analysis is the analysis of national characteristics and global bioethical standards [9, 15, 16, 20, 31, 43]. J. Barugahare identifies the criterion of interaction as "ethical imperialism" as a potential alternative to "Western principledness". He motivates the existence of "African bioethics", which should be native to Africa and reflect African identity [2]. P. Marshall and B. Koenig in this question stand on the position of multidimensionality, as there is no unambiguous answer to whether global bioethics can implement a variety of variable sources of cultural differences [21].

Taking into consideration of all the latest trends in biomedicine, the aim of this article is to address the problem of developing biomedical legal standards in Ukraine and issues of combining them with national identity in the current pandemic crisis.

The relevance of this topic is important for several reasons:

1) can serve as a basis for a comparative analysis of the practical application of biomedical legal standards;

2) the example of Ukraine is valuable as a research standard of legal policy of the former USSR countries for the analysis of the development of the post-Soviet socio-legal and cultural sphere;

3) will allow to interpret identity in the context of globalized changes.

THE IMPORTANCE OF BIOETHICS IN THE GLOBALIZED REALITY AND ITS LEGAL REGULATION

To understand the essence of bioethics, we turn to the semantic understanding: "bios" indicates reasoning about life-dependent values, and "ethos" indicates involvement in metamorality, which evaluates the results obtained in biology and medicine. This combination reflects the synthesis of various kinds of knowledge and the tendency to unify the common rules, their interpretation and implementation in practice. At the end of the twentieth century, science was formed as a necessary search for knowledge and a section of applied ethics, a philosophical discipline that studies the problems of morality primarily in relation to human and all living things, determines which actions towards living things from a moral point of view are acceptable and which are unacceptable. The latest biological sciences and medicine have led to the emergence of a new research and applied field, as there have been new rules of conduct that have uncertainty in their understanding, moral, spiritual, cultural and scientific interpretation.

Particular attention should be paid to the need to analyze human rights in the field of medicine in the context of the global transformation of all areas of human life, the development of science, medicine and biotechnology. Such technical progress has led to conflicts and gaps in the legal regulation of many new patient rights, guarantees of their protection and area of responsibility. In particular, the development of genetics, the latest reproductive technologies, transplantation, organ and tissue cloning, sex reassignment techniques, etc. have led to the transformation and modernization of the legal sphere as a matrix for establishing and ensuring the necessary social reality in accordance with modern human development. This necessitated the consideration of debatable moral and ethical issues and their legal establishment, including the status of the embryo and fetus as a patient, intervention in the human genome, cloning, the admissibility of sex reassignment and organ transplantation, reproductive techniques. It is bioethics that is designed to find a clear line between the rights of the individual and the interests of society and future generations.

Modern medical technologies (organ and tissue transplantation) use for the treatment of embryonic and stem cells, gene therapy, in vitro fertilization, cloning, etc. Their use has caused concern and heated debate among scientists and the general public. For the most part, it was a huge responsibility to make decisions about the use of these technologies in general medical practice. After all, the possibility of manipulating the human genome has brought civilization closer to the limit, the transition through which could threaten the existence of Homo sapiens as a biological species. All these advances in biomedicine have given a powerful impulse to the formation of scientists' understanding of the need to develop moral principles that would be the basis of human behavior in relation to all living things and the environment. This objectively led to the emergence of bioethics.

Today it includes an interdisciplinary field of scientific research, the subject area of which covers biological, medical, ethical and legal issues that require comprehensive consideration for the crossing of content fields.

Bioethics eliminates social deviations from progress. It is always possible to use new opportunities for the unworthy goals. The first reaction of society is rejection and prohibition. Bioethics protects science from prohibition, promotes the development, normalization of radical manifestations of science on the basis of agreed principles and standards.

Global scientific discoveries have transformed reality in an unforeseen synergetic space, the bifurcation point of the world life can be transformed instantly and the vector of change is unpredictable. This is primarily due to the technical progress. Artificial intelligence mimics "human-specific intellectual processes, such as the ability to reason, make sense, generalize, or learn from past experience", to achieve goals without obvious programming for specific actions [1]. The development and use of such a powerful force causes fear, the wide potential for future accomplishments, uncertainty and a number of legal gaps.

Bioethics tries to use the available anthropological material to coordinate the manifestations of a globalized society and to protect the individual from the violation of their rights and freedoms, from arbitrariness, violation of the principles of human value and discrimination [10, 17, 34, 40, 44].

In turn, global crises, environmental incidents affect the individual, potential, characteristics, internal determinants. A human's personal world does not change as quickly as technical characteristics, moral and religious norms, customary and mental characteristics as well. Therefore, there is a significant impact on the anthropic environment, which causes a human-centered crisis [6, 11, 13]. The boundaries between bioethics, health law, and human rights are penetrable, and border crossings, including blind practice, are common [8, 12, 23–25].

To fulfill its task, bioethics used legal mechanisms, including regulations and institutional means. Today, several hundred international legal acts regulating the problems of biomedicine and bioethics have been developed. These acts contain international legal standards, including many international bioethical and legal standards in the field of ensuring and protecting human rights.

The Universal Declaration on Bioethics and Human Rights (UNESCO, 2005) explained that "ethical issues arising from the rapid progress of science and technology must be considered with due respect for dignity and human rights". According to art. 3 of this Declaration full respect for human dignity, human rights and fundamental freedoms should be ensured. The interests and well-being of the individual must take precedence over the interests of science and society.

In 1997, the 29th session of the General Conference of UNESCO adopted the Universal Declaration on the Human Genome and Human Rights. This is a key act, which is now the primary one; it formulates the desire to achieve a balance between the guaranteed human right to dignity and the need to ensure freedom of scientific research [41]. The disadvantage, however, is its recommendatory and often declarative nature. In general, we can group the basic principles of bioethics: recognition of the autonomy of the individual and his/her right to dispose of somatic characteristics; informed consent, which provides for voluntary and conscious permission of the patient for medical intervention; minimization of damage caused by medical inter-

vention; the principle of good will, which provides for the intention of the doctor to take action aimed solely at improving the patient's condition; the principle of fairness, which enshrines equal treatment of patients and a fair distribution of resources in the provision of medical care; the principle of human dignity, aimed at guaranteeing a dignified treatment of minors and patients, even if they lose their physical or mental capacity; the principle of human value, focused on ensuring the sanctity of psychophysical integrity of a person, the prevention of violations of personal identity on the basis of interventions in the genome, and so on.

Regional and interregional bioethical standards tend to be more specific, especially when they represent the requirements of international integrative organizations, such as the European Union or the Council of Europe. Such standards provide for stricter liability within an intergovernmental association for states that violate these standards. Such special regional international bioethical legal acts include, for example, the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, adopted by the Council of Europe in 1997 [7] and its additional protocols.

A number of organizations have been established at the institutional level, since 1993 the International Bioethics Committee has been operating, which include 36 independent experts, and the World Commission on the Ethics of Scientific Knowledge and Technology (COMEST) since 1998. However, even here, regional guarantees are more effective, in particular the functioning of the European Court of Human Rights.

However, the main array of creation and implementation of legal standards in the field of bioethics belongs to nation states. Therefore, the peculiarities of mentality, culture, legal awareness, and historical legal practices significantly affect the legal policy to establish the principles of bioethics.

UKRAINIAN LEGISLATION IN THE FIELD OF BIOETHICAL PROBLEMS

Let's start with the issues of legal regulation of the human genome. Ukrainian legislation has a significant gap in this issue. The law does not mention the genome as an element of the somatic body at all. There is also no medical code or law on patients' rights that could hypothetically regulate this issue. For modern Ukraine, the issue of genetic identification is particularly acute, because "during hostilities… the bodies of servicemen are torn, burned, damaged so much that it becomes extremely difficult, often impossible, to identify such a body using conventional methods. In addition, due to contusions, pain shock, and other medical conditions, servicemen entering medical facilities and units are unable to provide information about themselves and remain unknown", so creating a military DNA database would solve a number of problems. The issue of discrimination on the basis of genetics is also not regulated by labor law and in the field of insurance.

The modern understanding of cloning includes two types – reproductive and therapeutic. When concerning the first one the international standards on the prohibition of human reproductive cloning and a special Law on the "Prohibition of Human Reproductive Cloning" were ratified in Ukraine [30], which prohibits the creation of a person genetically identical to another living or dead person by transfer to a female gamete deprived of its own nucleus, the nucleus of another person's somatic cell, then there is no regulation of reproductive cloning [45]. Without resorting to the moral argument that the potential for infertility control is the strongest argument for banning reproductive cloning, because we understand the motivation for such a ban, we will point to the safety and demand for therapeutic cloning. Many European countries, the United Kingdom and the United States lifted the ban a decade ago on the grounds that therapeutic cloning has great potential as a means of replacing damaged tissue and organs, which can be an opportunity for a person to a decent standard of living, medical motivation for the absence of organ rejection is also important.

Another controversial unresolved bioethical issue is surrogacy as a way to procreate. Opponents of surrogacy fear the vicious practice of turning children into goods, creating a situation in which rich people can hire women to bear their offspring. Commercial surrogacy has been completely legal in Ukraine since 1997, and the state allows anyone to undergo surrogacy. According to statistics, there are about 500 surrogate pregnancies in Ukraine per year. However, these figures are probably underestimated, because in May 2020, due to quarantine restrictions, surrogate parents could not pick up as many as 46 newborns from only one clinic in Ukraine [18], which indicates a much greater spread of such business in Ukraine. Moreover, Ukraine has become a center of surrogate tourism for citizens of many countries, where this method of procreation is prohibited. However, despite the widespread use of surrogacy in Ukraine, there is still no comprehensive legal regulation of reproductive rights. The state leaves such an important issue to the jurisdiction of contractual regulation. This is not typical of a state where the normative act as a source of law classically dominates. In practice, this is rather an exceptional case, because the state is characterized by a lack of subjectivity in relations, excessively regulated problems in other areas and industries.

However, the problem is broader than the peculiarities of legal regulation. The Ukrainian community does not approve of such a medical procedure, and the moral norms of society often implement religious principles, which also deny this way of procreation. "The Fundamentals of the Social Concept of the Ukrainian Orthodox Church" notes the admissibility of insemination by a man's gametes because it does not destroy the integrity of the marriage, while heterologous insemination encounters a categorical denial as violating the sanctity of the sacrament of marriage and being a form of adultery [39]. Legal regulation should be based on its demand in social reality. Today, Ukrainian women act as surrogate mothers for foreigners, acting exclusively as people who trade their bodies. Our survey of student youth (such a group of respondents was taken deliberately to avoid the possibility of opponents to point out the outdated legal awareness of respondents), among 560 students, only 14% indicated that they consider surrogacy a method of procreation that can be legalized in the state. The results of the survey showed the public demand for the settlement of problematic aspects of medical relations and their harmonization with constitution-

al human rights. The Plenum of the Supreme Court of Ukraine in paragraphs 1, 19 of the Resolution of February 2, 2009 No. 1 "On judicial practice in cases of protection of dignity and honor of individuals, as well as business reputation of individuals and legal entities" noted that dignity should be understood as "recognition values of each individual as a unique biopsychosocial value, honor is associated with a positive social assessment of the person in the eyes of others, based on the correspondence of his/her actions (behavior) to generally accepted conceptions of good and evil" [29]. We cannot provide official data because state authorities did not conduct a legal expertise of this issue, the Verkhovna Rada of Ukraine has never held parliamentary or committee hearings in this area.

Thus, in general, we can state that there are significant gaps in the legislation in the field of bioethical issues, as well as the dissonance between moral, religious and normative rules.

We see the lack of harmonization of ethical norms in the legal regulation of medical issues in the issue of the right to abortion. It is regulated taking into account two factors – the term of pregnancy and medical and social indications. Therefore, in accordance with art. 281 part 6 of the Civil code of Ukraine "artificial termination of pregnancy if it does not exceed twelve weeks, can be carried out at the request of the woman" [33]. Artificial termination of unwanted pregnancy is carried out in accordance with the List of grounds on which artificial termination of pregnancy is possible, the term of which is from 12 to 22 weeks, approved by the Resolution of the Cabinet of Ministers of Ukraine of February 15, 2006 No. 144 [28]. In particular, such grounds may be: some infectious and parasitic diseases of women; the presence of children diagnosed with hereditary and other diseases; the age of the pregnant woman is less than 15 and more than 45 years; rape pregnancy; the likelihood of acquiring a disability due to pregnancy.

Let us turn to the genesis of the issue. On November 23, 1955, a decree of the Presidium of the Supreme Soviet of the USSR legalized abortion in the country, which is explained not by a special struggle for women's rights, but by the need for women's labor activity. This approach has been inherited in independent Ukraine from the former USSR, and it should be noted that these issues have not been reviewed and are considered positively regulated since then. Since then, the consciousness of citizens has grown significantly, attitudes toward many families and domestic values have changed, and the role of religion has changed, as the principle of religious freedom is actually ensured in an independent state.

Representatives of theological theory are naturally categorically against the legalization of abortion at any stage of pregnancy. Pope Paul VI encyclical "Humanae vitae" ("Humanae vitae tradendae munus gravissimum" – "The most important gift of human life") is devoted primarily to issues of birth control, it has become an important official position of the Catholic Church in the broad field of bioethics [26]. In contrast to the utilitarian bioethical approach, which focuses on the public good to which the individual must submit, the Christian anthropological concept defines the value and dignity of the human person as the core and main goal. The paradigm of utilitarianism solves the problem not in favor of the existence of the individual, because it recognizes the primacy of quality of life: moral rules are scantily taken into account, the emphasis is on maximum benefit, in particular for society as a whole and not for the individual.

In contrast to permissive legal regulation, restrictive actions in the field of bioethics are also important. This time we represent the position on chemical castration as a means of coercion by the state. On July 1, 2019, the Verkhovna Rada adopted a bill "On Amendments to Certain Legislative Acts of Ukraine to Strengthen Liability for Crimes Committed Against an Underage, a Minor, a Person Who Has Not Reached Sexual Maturity", which concerns, in particular, chemical castration. The law strengthens the responsibility for rape and abuse of minors by amending the Criminal Code of Ukraine, namely the introduction of art. 59–1 "Compulsory chemical castration". According to it an additional measure of punishment was introduced in the form of mandatory compulsory chemical castration of persons who committed such a crime (does not apply to persons who committed crimes under the age of 18 and over 65) [27]. The President of Ukraine vetoed this Law, arguing, inter alia, that the creation of a public register of pedophiles contradicts the Law of Ukraine "On Personal Data Protection", according to which the processing of personal data, including criminal convictions, and data relating to health, sexual life, biometric or genetic data of a person is prohibited. Thus, this Law is legally imperfect, although the basic ideological concept is not subject to discussion. It is mandatory to carry out a procedure when it comes to recidivism, because imprisonment as a means of punishment and correction has not fulfilled its main purpose, because previously convicted persons are not able to control their sexual urges. Therefore, in order to protect potential victims, such perpetrators should undergo medical treatment (chemical castration). The public is radical in its support for the bill. According to a media survey, 98% of respondents supported the idea of chemical castration, only 2% of respondents opposed chemical castration [42]. Therefore, the demand for such prohibitive regulation indicates the need to return to this issue.

CONCLUSIONS

The analysis of the represented problems gives the chance to allocate bioethical features of the Ukrainian identity. They are based on national-ethnic historical experience and stereotypes that are formed within ethnic self-consciousness, instilled in early childhood as a possible way of seeing the world [37].

Firstly, we would like to note that the understanding that health care should become a real priority for both society and the state is gradually growing. However, paternalistic attitudes persist among Ukrainians, since many members of the public are accustomed to shifting the care of their own health to the state. We find similar conclusions in M. Shchyrba's dissertation, which motivates that the careless attitude of patients to their state of health is impressive, motivating it by official indicators that for the last year only 42% of citizens turned to a doctor for a preventive examination [46]. Subsequently, the development of medicine and medical law led to the realization of bioethics as a valuable knowledge.

Secondly, the consequences of the command-administrative system remain strong, building medical relations on the

Semashko system (the model of the national health care system, in which medical services are provided by a hierarchical system of public institutions, united in the Ministry of Health and funded by national budget) and the inheritance to an independent state of legal norms and relations that have become established and are not revised in the light of globalization transformations. Medical reform has been declared as one of the priorities in the state, but no significant achievements have been made.

Thirdly, the formation of legal standards does not take into account social demand and public opinion. Often the national public position, mental principles and religious norms do not correspond to the rule-making consequences, which undermines the bioethical values in the state.

Fourthly, the state quite often does not regulate the discussion areas of relations, relying on contractual regulation. Thus, lawmakers avoid controversial areas while creating significant gaps in legal regulation, which leads to a decrease in the level of protection of the rights and legitimate interests of citizens. Our position is consistent with the ideas of scientists that "the development and implementation of the concept of strategic planning for the development of information" [38] is a necessary factor in a planned legal policy.

REFERENCES/ЛІТЕРАТУРА

1. Bali, J., Garg, R., Bali, R.T.
"Artificial intelligence (AI) in healthcare and biomedical research: Why a strong computational/AI bioethics framework is required?" Indian J Ophthalmol 67.1 (2019). DOI: 10.4103/ijo.IJO_1292_18
2. Barugahare, J.
"African bioethics: methodological doubts and insights." BMC Med Ethics 19.1 (2018): 98. DOI: 10.1186/s12910-018-0338-6
3. Beauchamp, T.L, Childress, J.F.
"Response to Commentaries." J Med Philos 45 (2020): 560–79. DOI: 10.1093/jmp/jhaa011
4. Beauchamp, T., Childress, J.
"Principles of Biomedical Ethics: Marking Its Fortieth Anniversary." Am J Bioeth 19 (2019). DOI: 10.1080/15265161.2019.1665402
5. Blumenthal-Barby, J.S., Burroughs, H.
"Seeking Better Health Care Outcomes: The Ethics of Using the "Nudge"" Am J Bioeth 12.2. (2012): 1–10. DOI: 10.1080/15265161.2011.634481
6. Cañada, J.A., Sariola, S., Butcher, A.
"In critique of anthropocentrism: a more-than-human ethical framework for antimicrobial resistance." Medical Humanities 48 (2022): e16. DOI: 10.1136/medhum-2021-012309
7. Council of Europe.
Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine Oviedo, 4.04.1997. Available from: [https://rm.coe.int/168007cf98].
8. Cortés-Capano, G., Hausmann, A., Di Minin, E., Kortetmäki, T.
"Ethics in biodiversity conservation: The meaning and importance of pluralism." Biological Conservation 275 (2022): 109759. DOI: 10.1016/j.biocon.2022.109759
9. Ten Have, H.
"The challenges of global bioethics." Glob Bioeth 33.1 (2022): 41–4. DOI: 10.1080/11287462.2021.2011008
10. Eberl, J.T.
"Can Prudence Be Enhanced?" J Med Philos 43.5 (2018): 506–26. DOI: 10.1093/jmp/jhy021
11. García Gómez, A.
"Fostering the art of convergence in global bioethics." Int J Ethics Education (2021): 195–20. DOI: 10.1007/s40889-020-00117-9
12. Gilbert, B.
"The problem of anthropocentrism and the human kind of personhood." Philosophy & Social Criticism (2022). DOI: 10.1177/01914537221110900
13. Kopnina, H., Washington, H., Taylor, B., Piccolo, J.
"Anthropocentrism: More than Just a Misunderstood Problem." J Agricultural Environmental Ethics 31 (2018). DOI: 10.1007/s10806-018-9711-1
14. Lyreskog, D.M., Pavarini, G., Lorimer, J., et al.
"How to build a game for empirical bioethics research: The case of "Tracing Tomorrow"." Health Expect 25.1 (2022): 304–12. DOI: 10.1111/hex.13380
15. Macpherson, C.
"Global bioethics: it's past and future." Glob Bioeth 33.1 (2022) 45–9. DOI: 10.1080/11287462.2021.2011009
16. Macklin, R.
"A new definition for global bioethics: COVID-19, a case study." Glob Bioeth 33.1 (2022): 4–13. DOI: 10.1080/11287462.2021.2011001
17. Macpherson, I., Roqué, M.V., Segarra, I.
"Moral dilemmas involving anthropological and ethical dimensions in healthcare curriculum." Nursing Ethics 27.5 (2020): 1238–49. DOI: 10.1177/0969733020914382
18. Українська правда.
Майже півсотні немовлят, народжених для іноземців, перебувають у готелі Києва (2020).
Ukrainska Pravda.
Almost fifty babies born to foreigners are staying in a hotel in Kyiv (2020). Available from: [www.pravda.com.ua/news/2020/05/14/7251554/].
19. Malm, H., May, Th., Leslie, P.F., et al.
"Ethics, Pandemics, and the Duty to Treat." Am J Bioeth 8.8 (2008): 14–9. DOI: 10.1080/15265160802317974
20. Flear, M.L.
"Expectations as techniques of legitimation? Imagined futures through global bioethics standards for health research." J Law Biosci 8.2 (2021): 086. DOI: 10.1093/jlb/lsaa086
21. Marshall, P., Koenig, B.
"Accounting for Culture in a Globalized Bioethics." J Law Med Ethics 32.2 (2004): 252–66. DOI: 10.1111/j.1748-720X.2004.tb00472.x
22. McGuire, A.L., Aulisio, M.P., Davis, F.D., et al.
"Ethical Challenges Arising in the COVID-19 Pandemic: An Overview from the Association of Bioethics Program Directors (ABPD) Task Force." Am J Bioeth 20.7 (2020). DOI: 10.1080/15265161.2020.1764138
23. Murdy, W.H.
"Anthropocentrism: A Modern Version." Science 187 (2023): 1168–72. DOI: 10.1126/science.187.4182.1168
24. Nortjé, N., Jones-Bonofiglio, K., Sotomayor, C.R.
"Exploring values among three cultures from a global bioethics perspective." Glob Bioeth 32.1 (2021): 1–14. DOI: 10.1080/11287462.2021.1879462
25. Pavarini, G., McMillan, R., Robinson, A., Singh, I.
"Design Bioethics: A Theoretical Framework and Argument for Innovation in Bioethics Research." Am J Bioeth 21.6 (2021): 37–50. DOI: 10.1080/15265161.2020.1863508
26. Pavlo VI.
Humanae vitae. Entsyklika (1968). Available from: [http://catholicnews.org.ua/enciklika-humanae-vitae].
27. Верховна Рада України.
Постанова Верховної Ради № 169-IX від 03.10.2019 «Про відхилення Закону України «Про внесення змін до деяких законодавчих актів України щодо посилення відповідальності за злочини, вчинені стосовно малолітньої особи, неповнолітньої особи, особи, яка не досягла статевої зрілості».
Verkhovna Rada of Ukraine.
Resolution of the Verkhovna Rada of Ukraine № 169-IX from 03.10.2019 "On the rejection of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Strengthening Liability for Crimes Committed to a Minor, a Minor, or a Person Who Has Not Reached Sexual Maturity". Available from: [https://zakon.rada.gov.ua/laws/show/169-IX#Text].
28. Кабінет Міністрів України.
Постанова від 15.02.2006 № 144 «Про реалізацію статті 281 Цивільного кодексу України».
Cabinet of Ministers of Ukraine.
Resolution from 15.02.2006 № 144 "On the implementation of Article 281 of the Civil Code of Ukraine". Available from: [https://zakon.rada.gov.ua/laws/show/144-2006-п#Text].
29. Верховний Суд України.
Постанова Пленуму Верховного Суду України № 1 від 27.02.2009 «Про судову практику у справах про захист гідності та честі фізичної особи, а також ділової репутації фізичної та юридичної особи».
Supreme Court of Ukraine.
Resolution of the Plenum of the Supreme Court of Ukraine № 1 from 27.02.2009 "On judicial practice in cases of protection of the dignity and honor of an individual, as well as the business reputation of an individual and a legal entity". Available from: [https://zakon.rada.gov.ua/laws/show/v_001700-09#Text].
30. Верховна Рада України.
Закон України «Про заборону репродуктивного клонування людини» № 2231-IV від 14.12.2004.
Verkhovna Rada of Ukraine.
Law of Ukraine "About the prohibition of human reproductive cloning" № 2231-IV from 14.12.2004. Available from: [https://zakon.rada.gov.ua/laws/show/2231-15].
31. Rudenko, S.A., Andrushchenko, T.A., Gogayeva, O.K., Kashchenko, Y.V.
"Bioethical Aspects in Modern Cardiosurgery of Coronary Artery Disease." Ukrainian Journal of Cardiovascular Surgery 4.45 (2021): 99–103. DOI: 10.30702/ujcvs/21.4512/RA062-99103

32. Ruiz, C.B., Maciel, J.C.
"A ética do cuidado do outro e a bioética ambiental." Revista Bioética 28.3 (2020). DOI: 10.1590/1983-80422020283405
33. The Civil Code of Ukraine.
Law from 16.01.2003 № 435-IV. Available from: [https://zakon.rada.gov.ua/laws/show/435-15#Text].
34. Engelhardt, H.T.
"Sin and Bioethics: Why a Liturgical Anthropology is Foundational." Christian Bioethics 11.2 (2005): 221–39. DOI: 10.1080/13803600500203905
35. Salloch, S., Ursin, F.
"The birth of the "digital turn" in bioethics?" Bioethics (2022). DOI: 10.1111/bioe.13099
36. Schneider, M.
"A Platform to Develop and Apply Digital Methods for Empirical Bioethics Research: Mixed Methods Design and Development Study." JMIR 6.5 (2022): e28558. DOI: 10.2196/28558
37. Семашко, Т.Ф.
Етнічні стереотипи та їхня роль у міжкультурній комунікації // Міжнародний філологічний часопис. – 2020. – Вип. 11, № 3. – С. 27–32.
Semashko, T.F.
"Ethnic stereotypes and their role in intercultural communication." International journal of philology 11.3 (2020): 27–32.
38. Северінова, О.Б.
Особливості державної політики у сфері інформації в умовах євроінтеграції України // Науковий вісник Ужгородського національного університету. Серія «Право». – 2019. – Вип. 55(2). – С. 59–61.
Severinova, O.B.
"Peculiarities of the state policy in the field of information in the conditions of the european integration of Ukraine." Uzhhorod National University Herald. Series: Law 55.2 (2019): 59–61.
39. Українська православна церква.
Соціальна концепція.
Ukrainian Orthodox Church.
The social concept. Available from: [http://orthodox.org.ua/page/sots%D1%96alna-kontsepts%D1%96ya].
40. Kearsley, S.
"Anthropological Perspectives in Bio-Ethics." International Encyclopedia of Public Health (2008): 184–93. DOI: 10.1016/B978-012373960-5.00140-4
41. UNESCO.
The Universal Declaration on the Human Genome and Human Rights was adopted unanimously and by acclamation at UNESCO's 29th General Conference on 11 November 1997. The following year, the United Nations General Assembly endorsed the Declaration. Available from: [https://en.unesco.org/themes/ethics-science-and-technology/human-genome-and-human-rights].
42. Інформатор.
Українці за хімічну кастрацію педофілів, – опитування.
Informator.
Ukrainians for chemical castration of pedophiles, survey. Available from: [https://informator.press/ukraintsi-za-khimichnu-kastratsiiu-pedofiliv-opytuvannia/].
43. Varkey, B.
"Principles of Clinical Ethics and Their Application to Practice." Medical Principles and Practice 30 (2021): 17–28. DOI: 10.1159/000509119
44. Wolf-Meyer, M.
"Multibiologism: An anthropological and bioethical framework for moving beyond medicalization." Bioethics 34.2 (2020): 183–9. DOI: 10.1111/bioe.12658
45. Zharovska, I., Blikhar, M., Matkivska, R., Cherkasova, L.
"Protection of reproductive health: international and national experience." Reproductive Endocrinology 66 (2022): 109–17. DOI: 10.18370/2309-4117.2022.66.109-117
46. Щирба, М.Ю.
Правовий статус пацієнтів: теоретико-правове дослідження. Кваліфікаційна наукова праця на правах рукопису. — Львів, 2020. — 519 с.
Shchyrba, M.Y.
Legal status of the patients: theoretically legal investigation. Qualifying scientific work presented as a manuscript. Lviv (2020): 519 p.

BIOETHICS IN A TRANSFORMATION SOCIETY ON THE EXAMPLE OF THE LEGAL REGULATION

Literature review

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The article is devoted to bioethical problems that exist in a transformational society. The most important issues are considered, including organ and tissue transplantation, use of embryonic and stem cells for the treatment, gene therapy, in vitro fertilization, cloning, etc. It is emphasized that along with scientific progress there are deep transformations connected with this process in the socio-psychological and cultural spheres, the reason for which is the penetration into mass culture and the mentality of new ideas, conceptions and terms.
Emphasis was placed on the need to create a DNA database of servicemen, which is especially relevant during the wartime in Ukraine. Attention is drawn to the need to create special legislation for quality legal regulation of surrogacy, which is especially relevant today.
The problems of biomedical transformations and their conflict became the subject of consideration by scientists. Recent studies are devoted to a number of issues related to updating the understanding of the determinants of bioethics in various directions. First of all, attention should be paid to the genesis of the basic standards of bioethics. T. Beauchamp and J. Childress in many editions and reprints have transformed the understanding of the problem over forty years, and it is now agreed that it should be considered within four broad moral principles: respect for autonomy, benevolence, and justice. They can and should be seen as arising historically and philosophically from general morality, as universal morality (as opposed to pure relativism or pluralism) gradually became an integral part of the principled approach.
Taking into account all the latest trends in the field of biomedicine, the purpose of this article is to address the problem of the development of biomedical legal standards in Ukraine and the issues of combining them with national identity in the current conditions of the pandemic crisis. The relevance of this topic is important for several reasons: it can serve as a basis for a comparative analysis of the practical application of biomedical legal standards; the example of Ukraine is valuable as an experimental benchmark of the legal policy of the states of the former USSR for the analysis of the development of the post-Soviet socio-legal and cultural sphere; will make it possible to interpret identity in the context of globalized changes.

Keywords: human rights, bioethics, transformational society.

БІОЕТИКА В ТРАНСФОРМАЦІЙНОМУ СУСПІЛЬСТВІ НА ПРИКЛАДІ УКРАЇНСЬКОГО ПРАВОВОГО РЕГУЛЮВАННЯ

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Стаття присвячена біоетичним проблемам, що існують у трансформаційному суспільстві. Розглянуто найважливіші питання, серед яких пересадка органів і тканин, використання для лікування ембріональних і стовбурових клітин, генна терапія, екстракорпоральне запліднення, клонування тощо. Акцентовано увагу на тому, що разом із науковим прогресом відбуваються пов'язані з цим процесом глибокі перетворення в соціально-психологічній і культурній сферах, причина яких – проникнення в масову культуру й менталітет нових ідей, уявлень і термінів.
Наголошено на необхідності створення бази даних ДНК військовослужбовців, що надзвичайно актуально під час війни в Україні. Зосереджено увагу на потребі створення спеціального законодавства для якісного правового регулювання сурогатного материнства, що в сьогоденні має особливу актуальність.
Проблема біомедичних перетворень та їхніх колізійних норм ставала предметом розгляду науковців. Останні дослідження присвячені низці питань, пов'язаних з оновленням розуміння детермінант біоетики в різних спрямуваннях. Першочергово слід звернути увагу на генезис основних стандартів біоетики. T. Beauchamp і J. Childress у багатьох виданнях та перевиданнях протягом сорока років трансформували уявлення про це питання, і нині погоджено, що його слід розглядати в межах чотирьох широких моральних принципів: повага до автономії, доброзичливість і справедливість. Стандарти біоетики можна і слід розглядати як такі, що історично та філософськи випливають із загальної моралі як універсальної моралі (на відміну від чистого релятивізму чи плюралізму), яка поступово стала невід'ємною частиною принципового підходу.

З огляду на всі новітні тенденції в галузі біомедицини, метою статті є звернення до проблеми розвитку біомедичних правових стандартів в Україні та питань поєднання їх із національною ідентичністю в сучасних умовах пандемічної кризи. Актуальність цієї тематики вагома з кількох причин: може слугувати основою для компаративного аналізу практичного застосування біомедичних правових стандартів; приклад України є цінним як дослідний еталон правової політики держав колишнього СРСР для аналізу розвитку пострадянської соціально-правової та культурної сфери; дає змогу інтерпретувати ідентичність у контексті глобалізованих змін.

Ключові слова: права людини, біоетика, трансформаційне суспільство.