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CRIMINALIZATION OF HUMAN RIGHTS DEFENDERS

Аннотация: в данной статье рассматривается текущая ситуация в сфере деятельности правозащитников. Анализ, основанный на методе case-study, показал, что правозащитники сами зачастую нуждаются в правовой защите, особенно когда дело касается их деятельности в государствах, склонных к репрессивной и недемократичной внутренней политике, так как правозащитная деятельность в этом случае направлена на ограничение свободы действий государства и борьбу с произволом.

Ключевые слова: права человека, криминализация, правозащитники, произвол власти.

Abstract: this article examines current situation in the sphere of HRDs activity. Analysis, based on the case study method, showed that human rights defenders often become victims of their own successes in their work, since these achievements often cause a strong negative reaction from repressive states. At the same time, without their activities, freedom of action of the state can become unlimited and go beyond mechanisms that help society function.

Keywords: human rights, criminalization, HRDs, arbitrary.

In international law and in the sphere of the protection of human rights, the situation with human rights defenders and human rights organizations is not left to chance. There are a number of conventions establishing the right to protect human rights defenders. According to the UN Declaration on Human Rights Defenders, human rights defenders are people who alone or with others promote or defend human rights. The term «human rights defenders» cannot be understood as just a representative of a public organization, no matter how respected it may be. The Declaration states that everyone

has the right, individually and in association with others, to promote and strive to protect and exercise human rights and fundamental freedoms at the national and international levels.

Despite the fact that many states have signed the aforementioned declaration, due to the non-binding character of it, it is often ignored in domestic affairs. In order to effectively carry out their legitimate tasks, Human rights organizations must be able to freely seek and receive funding not only from government bodies in their own country, but also from institutional or individual donors, another state or multilateral structures. Most states have problems with it. For example, in the Russian Federation, the new legislation adopted in 2015 allows the executive to declare «undesirable» any foreign non-governmental organization whose activities will be assessed as posing a threat to constitutional order, national security and defense. Many human rights and anti-corruption organizations have no choice but to seek funding abroad.

Of course, human rights defenders should not be regarded as any special legal category, and they should not have any special rights that distinguish them from other people, but in connection with offenses committed against them, in connection with their activities, they should be given special guarantees protection. But in an effort to protect and realize the rights and freedoms of other people, human rights defenders as it was said before are themselves often a subject to serious and systematic violations by state and non-state structures. In human rights work there are specific risks, such as criminalization. Some states systematically resort to restricting the activities of human rights defenders, citing national security interests. Today, in many parts of the world, lawyers, trade unionists or members of non-governmental human rights organizations are intimidated, harassed and arrested.

This issue is also important, because the protection of human rights defenders at the same time protects victims of crimes, allowing them to be heard and maintaining their connection with organizations designed to protect their rights. Human rights defenders play a key role in monitoring compliance with fundamental human rights. However, their work often faces a huge number of obstacles created by government agencies, business enterprises and other actors. These actors aim to protect their own

interests and reputation, using any means to hinder the activities of human rights defenders. In this context, it can be argued that human rights defenders are victims of unlawful physical and psychological violence, in addition, sometimes semi-legal methods are used, such as defamatory campaigns, baseless accusations and prosecutions. In other words, the question arises is that human rights activities in many countries are being criminalized. In the context of the protection of human rights, criminalization is understood as the deliberate process of discrediting and hindering the work of human rights defenders by abusing the legal framework and by negative and cynical manipulation of social discourse. Criminalization includes a variety of modes of exposure. Criminal charges go hand in hand with all kinds of forms of pressure, such as threats, blackmail, and physical violence. The charges are aimed at stigmatizing human rights defenders, putting down public opinion that human rights organizations and agents are criminals, they contribute to terrorist activities or conduct subversive activities as foreign agents.

This all mentioned above happens because the work of human rights organizations is often associated with criticism of the government and the government's course. There are various strategies to criminalize human rights defenders. Laws of various states in relation to human rights defenders usually use charges of illegal gatherings, intentions to commit crimes, preparation of an uprising, terrorism, and so on. In most cases, all the charges do not have an evidence base, or all the testimony of witnesses purchased. Criminalization of the activities of human rights defenders has several grounds, first of all, this is the weakness and level of corruption of the juridical system in the state. In this case, false accusations against human rights defenders, arrests without a warrant, coercion to confess guilt, refusal to inform the accused of what he or she is accused, lack of witness protection programs, inattention to key evidence, pressure, dependence of judges are allowed. The judicial systems of many countries work for the government, passing sentences and condemning human rights defenders to years of arrest without due reason and just with the sole purpose of silencing human rights groups. Another reason may be the lack of clarity and the possibility of diverse interpretations of criminal law, as well as the existence of legislative acts that initially

impede the implementation of the activities of human rights organizations. In this case, human rights organizations must either cease their activities or constantly face criminalization.

Many states have a systematic program to destroy the reputation of human rights activities in general. The media regularly showcases of violations to the government, deliberately create an image of human rights defenders as enemy agents, thus criminalization and illegal accusations in the eyes of the public do not cause discontent and protest, but appear to be reasonable tools. For example, in Colombia, from 2002 to 2010, human rights defenders were constantly compared to those who sympathizes to terrorists and insurgents.

To draw a conclusion, nowadays there is a tendency to make the situation with human rights worse. Standards depreciate, the government does not want to point out mistakes and identify problems, and the measure of human freedom is increasingly narrowing, so the work of human rights defenders – people who uphold the value of human rights standards involved in their protection and restoration for specific people or groups of people – becomes especially important. And an increasing need is seeming to be a conversation about mechanisms to protect people who are not afraid to talk about the most difficult problems in states, oppose arbitrariness and point out to representatives of the authority's violations, work on the transparency of closed systems and open discussions on the most «inconvenient» for the government, and often society's issues.

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