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**Peculiarities of human
rights process in Lithuania
(1993–2006)**

Introduction

The concept and discourse of human rights is a unique phenomenon of our time. Formulated in 1948, the modern idea of human rights has gained wide spread acceptance in society. As Chinese human rights researcher Albert H. Y. Chen points out: “These are different ideas, and they led to different practical consequences in history [...] the modern doctrine of human rights is a good idea, and [...] the development of this doctrine is a sign of moral progress on the part of humankind.”¹ Human rights is not a beautiful slogans but the real process of social life, and as every real phenomenon is a part of academical research. There has been an explosion of human rights research in the last two decades. A lot of empirical texts on human rights issue over the world are supplemented by academical literature of multidisciplinary aspect, quantitative and qualitative methods are complementary used. Unfortunately, it is not the case of Lithuania. Legal and State (public authority) texts on human rights field are prevailed. Impartial academical human rights process research is at very shy beginning in Lithuania.

The aim of this paper is to point out some peculiarities of human rights process in Lithuania. This descriptive historical analyses is based on

¹ *Human Rights in Asia*, ed. R. Peerenbom, C. J. Petersen, A. H. Y. Chen, London 2006, p. 488.

documental resources and survey results, that was published in 2002 and 2005. And the method of observation is used to.

The “environment” of Lithuanian human rights process

European human rights model and its adaptation is historically developed option during Lithuania’s history. It is universally accepted that Europe has common intellectual and cultural heritage, so the question about conceptual adaptation is not relevant. However, Europe is considered as a motherland where a theory of the human rights has born, but protection of human rights became fundamental element in all states legal systems only in twenty century. The European Convention for the Protection of Human Rights and Fundamental freedoms of Council of Europe is a leading document on which whole European human rights process is based.² In 1993 Lithuania signed and in 1995 Lithuania ratified Convention and was finally affiliated to European process.

The ECHR implementation in Europe has its own history and its is purposeful to tell some words on it hear. In 1993, the process was on going and the protection of the Human Rights was sort of symbolic condition of recurrence to Europe. But in the time, when the Convention gained ground the security of human rights, frankly speaking, wasn’t very strict. It was absolutely natural to sign the Convention but not ratify it in sixties and seventies. Such examples are Federal Republic of Germany which ratified the Convention after five years it was signed on, United Kingdom in 1966 and France which ratified the 25th clause only in 1981.³ That was the reason why functioning of security mechanism of Convention was so delayed. Though the European Court of Human Rights in Strasbourg came into operation in 1960, the proceeding of the first decade was insignificant, because the majority of the states, that have been ratified the Convention, weren’t concerned to involve it to their own jurisdiction. But this situation has been radically shifted after the Cold War. All the states from the former Communist Block had to manage with more strict requirements. All the states that have been integrated in new European process since 1993

² The Convention of Europe Human Rights and Freedom was accepted on the 4th of November in 1950 in Rome. The Convention was inured in 1953 after it was ratified by ten countries on the 4th of September.

³ The 25th article enables states acknowledge security competence of the Human Rights.

were constrained acknowledge not even state's borders, support political stability, to enable more rights to the state minorities but even to ratify as much as possible legal acts of Council of Europe at the same time, and also initiate human rights security mechanisms.⁴ If formerly was required to pursue regulation after becoming a member of European Human Rights process, so by now this situation was radically changed and the essential condition of becoming a member was to pursue regulations before it. It all goes to explain why 1992 years Lithuanian Constitution's regulations of the Human Rights are so similar to the European's one. The process of framing Lithuania's Constitution was basically built on international documents.

More earlier, in 1991, Lithuania engaged to pursue Universal Declaration of Human Rights of United Nations and acceded the global Charter of Human Rights. The time when Lithuanian engaged in the global human rights process, was the time when discourse on human rights universality or cultural relativity reached his top, and in 1993 was expressed in two oposit political documents – Bangkok and Viena's declarations.⁵

Human rights process in Lithuania: its actors, institutions and problems

Prior to the ratification of the ECHR, the Constitutional Court of Lithuania was asked to provide the conclusion on the conformity of certain provisions of the ECHR and its protocols with the Constitution of the Republic of Lithuania. The Constitutional Court stated that there was no contradiction between the provisions of the Constitution of the Republik of Lithuania and the Convention. It created the legal bases for the ratification of the convention by the Republic of Lithuania. Lithuania has a legal obligation to guarantee to everyone within its jurisdiction the rights and freedoms enshrined in the Convention. The Lithuanian legal system has been

⁴ This attitude before Cold War use to be considering as “traditional” and “modern” after it. Look at: H. Storey, *Human Rights and the New Europe: Experience and Experiment*, „Political Studies”, 1995, special issue, vol. 43, p. 131–151.

⁵ In spring of 1993 delegates from Asia, and Pacific Ocean countries passed a Resolution where the main point was that human rights, though they are universal in their origin, cannot be realised and practised without a socio-cultural and political context. There has to be a great regard for national, religious, cultural and historical diversity. But the Western posotion was underlined once again during the World Conference of Human Rights in 1993 in Viena.

developing progressively in the years after ratification of ECHR. In the next four years after the ratification a lot of laws were passed seeking to approximate the Lithuanian law to the requirements to Convention. The Law of religious communities was adopted in 1995. Only in one year – 1996 – such laws as The Law of Pre-Trial-Detention, the Law of Mass Media, the Law of Legal Protection of Personal Data, the Law of the Fundamentals of Protection of the Rights of the Child, were adopted. Such important legal documents as Law of Protections of the State Secrets, laws that regulate the Aliens Rights, the Law on Human Organ Transplantation came into force up to 1999. Lithuania made quite a number of progressive amendments in the Criminal and Criminal Procedure Code concerning the ECHR requirements.

There were established such human rights institutions like the Center of Human Rights, the Ombudsman of Equal Opportunities' Rights, Ombudsman of Children Rights, The Ombudsmans of The Republic of Lithuania's Seimas, the Committee of Human Rights of Seimas. The National Human Rights Action Plan was confirmed by Seimas in November 2002.

All these conditions shaped the Lithuanian human rights process and the discourse of the human rights. Official view to the human rights process is expressed in a range of important official texts that are: "Report on Human Rights Condition in Lithuania" 2002, "Support for the National Human Rights Action Plan Implementation" 2003, "Human Rights in Lithuania" 2005. All these texts have one common point: they are medium and final reports of National Human Rights Action Plan implementation, that was sponsored by the United Nations Development Programme.

Analyzing certain texts it could be claimed that the most significant phenomenon is the one, which represents Lithuania's accession to certain international documents and its commitments. Lithuania's accession to all UN and Council of Europe documents of human rights is treated as very important for the state's participation in the human rights process. This membership enables Lithuanians to apply rights that are institutionalized in the International Human Rights Bill. The next point that is essential, according to this official texts is implementation of the pacts and their validation. It is claimed that Lithuania is not even able to translate international documents of human rights into Lithuanian that could be applied to national law system.

The evaluation of Lithuanian human rights policy by the international organizations is recognized as very important to.

In a “Report on Human Rights Conditions in Lithuania” in 2002 evaluating the possibilities of the human rights implementation in the state, the traditional “catalogue” of the human rights was chosen: civil and political rights, social economical and cultural rights, the rights of certain social groups, national minorities rights, sexual minorities rights, equal opportunities rights and human traffic problems was mentioned. In the final rapport 2005 “Human Rights in Lithuania” we can find such divisions as “Right to the private life,” “Right to get the information,” “Consumer rights,” “Right to fair court,” “Refugees rights,” “Intellectual property rights.” Some social rights, like right to the health care and trade rights are discussed to. It shows widening notion of human rights and growing scope of human rights process. Official texts outlines the human rights system in Lithuania, highlight it’s the most important strengths and weaknesses. The issues that refer to what the Lithuanian state is responsible for are usually stressed in all official documents: human traffic, refugee rights, pretrial imprisonment issues, and minority rights are treated as the main task of the Lithuanian government. Such is the “Big official picture” of the human rights process in Lithuania in 1993–2006.

There have been done two sociological analyses, in 2001 and 2004, that represented others social group, Lithuanian citizens, participating in a human rights process. The results of the study more precisely are published in *Human Rights in Lithuania (Žmogaus teisės Lietuvoje)* by A. Dobryninas and V. Gaidys⁶.

When we look to the survey data we can see a bit different picture. We can see a different hierarchy of problems at first. The most violated rights according to Lithuanian’s citizens opinion are the rights to get the appropriate salary for the ones job, the right to appropriate living standards, the right to get the job, the right to the health service, and the right to the social security. One of the frequently violated rights in Lithuania is the right to get the information from the governmental and local institutions. Such rights as rights of sexual minorities and rights of imprisonment persons are not important of all, but the government pay’s to much attention to this issue, according to respondents.

Evaluation of human rights protection institutions is quite low. 44 percent (average of 2001 and 2004 results) respondents clamed, that the courts protect human rights bad. Evaluation of Government and Seimas

⁶ A. Dobryninas, V. Gaidys, *Žmogaus teisės Lietuvoje*, Vilnius 2005, p. 316–355.

work in human rights protection sphere is worse: correspondingly 44,5 and 50 percent. The more respected institutions are NGO's, and the best human rights protection institution is the mass media. The most important source from which citizens get the information on human rights is television.

Accomplished monitoring noted positive changes in Lithuanian human rights situation and the policy of human rights. In 2004 it was evaluated much better than in 2001. People are more informed about their rights and the possibilities of these rights protection. On the other hand, it is also important to understand that the scope of human rights is not never-changing constant. We will never reach human rights Eldorado, and it is possible to talk only about tendencies of improvement. But there is one significant fact that must be stressed in this case because of its ignorance.

Concluding remarks

The human rights process in Lithuania is kind of political discourse through which every social and political group perceives and shapes its own world. Therefore many social phenomena are perceived totally different from one social group to another. One of the features of democracy is that there is no confrontation between different social groups. All of them can participate in human rights discourse without any confrontation. But the peculiarities of this discourse exist everywhere. The major participants of the public discourse of the human rights in Lithuania represent various types of state institutions or interest groups and the leading figures of this discourse are state officials. As Teun A. Dyke points out, the participants who belong to a certain state office mainly speak not for themselves but represent certain organization, or institution and its ideology.

There are some significant facts, that show a problem of cultural relativism in the human rights field. The majority of the respondents stated they are not satisfied with security of their private life but they also noted that mass media is one of the most significant institutions which is concerned about the human rights in Lithuania. It is strange, because the mass media is able to make the private sphere public and to show our very intimate problems to the whole society. What explanation for the correspondents' attitudes there can be? It seems that a key solution lies in a traditional society, because one of the most effective punishments in a traditional society used to be putting

a shame on somebody. It looks like the mass media is doing exactly this – put the shame on human rights violators.

The photo-exhibition “Contemporary Family” was organized in April 2006 in Neringa. This project was interrupted by certain Neringa community officials. Their reason some photos of non-traditional (gay and lesbian) family. This shows that the private sphere, with deals with issues such as religion, culture, status of women, the right to marry and to divorce, the protection of children, the question of choice as regards family planning, and the like, form a domain in which issues of cultural relativism in the human rights process arise. All this human life problems are deeply rooted in culture and the Neringa case represents the cultural aspect of this problem. Sometimes it seems that the Lithuanian human rights process is “locked in” legal and political dimensions because its international environment – ECHR must be implemented, national law must be harmonized according to requirements of international human rights documents, we must be politically correct as much as possible.

However, human rights are social normative constructs, which are influenced by common culture. An ignorance of cultural dimension could be declared as a denial of the experience of society and a denial of its attitudes to justice.

Specyfika procesu ochrony praw człowieka na Litwie (1993–2006) (streszczenie)

Dyskurs wokół praw człowieka – to unikalny fenomen współczesnego etapu naszego życia, który doczekał się na całym świecie wszechstronnej uwagi naukowców. Tymczasem na Litwie, w środowisku akademickim, pozostaje problemem prawie niebadanym i tylko teksty instytucji oficjalnych dominują w tym dyskursie.

Proces ochrony praw człowieka na Litwie, zdopingowany jej powrotem do Europy, rozpoczął się w 1993 roku, gdy podpisała ona *Europejską konwencję o ochronie praw człowieka i podstawowych wolności*. W tym okresie problem ochrony praw człowieka na całym świecie zetknął się już z wątpliwościami na temat uniwersalizmu pojęcia praw człowieka, przy tym w Europie tzw. tradycyjna faza procesu wcielania w życie praw człowieka była już zakończona i krajom dopiero włączającym się do niego stawiano wysokie wymagania. Wpłynęło to na szybką instytucjonalizację praw człowieka na Litwie. W ciągu czterech lat (1995–1999) zostały przyjęte podstawowe ustawy dotyczące ochrony praw człowieka,

powołano podstawowe instytucje w tym zakresie. W oficjalnym dyskursie wokół praw człowieka najczęściej są akcentowane osiągnięte sukcesy, jak też zadania, które jeszcze Litwa powinna zrealizować. Najczęściej są one formułowane poprzez wskazówki i zobowiązania napływające z Rady Europy oraz Unii Europejskiej. Z kolei postawy społeczeństwa, odzwierciedlone w sondażach socjologicznych, nie pokrywają się z zasadami przedstawianymi przez uczestników oficjalnego dyskursu dotyczącego praw człowieka. Społeczeństwo ustala odmieną od oficjalnej hierarchię praw człowieka, jak również wymienia innego rodzaju problematykę. W taki sposób uwidacznia się szczególna cecha litewskiego procesu ochrony praw człowieka, mianowicie – dwutorowość. Pozycja oficjalna zderza się i konfrontuje z kulturowo tradycyjnym postrzeganiem praw człowieka.