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STATE AND LEGAL POLICY IN THE FIELD OF HEALTH PROTECTION UKRAINIAN CITIZENS

Abstract

The article analyzes the evolution and current state of state and legal policy in the healthcare system of Ukraine, viewing human health as a dynamic concept that transcends purely physical dimensions to include mental (psychic) state—a crucial criterion for assessing social quality and policy effectiveness. The primary methodological challenge identified is the need to shift from a fragmentary to a systematic, multidimensional study of health policy, especially given the contradictions inherent in a transitional state undergoing market reforms, globalization, and military aggression.

The research focuses on defining the state and legal policy, identifying its structural elements, and optimizing its implementation to minimize threats to the physical and mental health of Ukrainians, including the impacts of war, internal migration, and resource imbalances. The analysis traces the evolution of healthcare policy models in Ukraine (from the Zemstvo to the Soviet and post-Soviet/modern), highlighting the detrimental effects of institutional borrowings and the shift towards a person-centric project that led to a decline in service

quality for the majority and increased social conflict.

The paper argues for the re-establishment of a paternalistic model where the state bears primary responsibility, contrasting this with the liberal-legal paradigm of personal responsibility. It critically examines concepts like the "corporation-state," noting how prioritizing corporate interests over national welfare jeopardizes social policy.

Furthermore, the study addresses the regional dimension of health policy, revealing significant negative factors stemming from the "capital–province" imbalance. These include the lack of material and personnel resources in regions and the functional blurring between central authorities (Ministry of Health, NHSI) and local self-government bodies (UTCs). The author stresses the need for clear demarcation of powers and a revised financing system to ensure the effective operation and restoration of healthcare infrastructure at the local level. International documents like the European Social Charter are examined to frame the state's obligation to provide health protection.

Keywords: State and Legal Policy, Healthcare System, National Security, Regionalism, Paternalistic Model, European Social Charter, Mental Health, Systemic Crisis, Institutional Borrowing, Decentralization.

Problem statement

The relevance of the topic is due to qualitative changes in the content and mechanism of implementation of state and legal policy in the field of public health in the context of reform processes in Ukraine, as well as the urgent need to modernize key institutions of social and legal policy of the state in the context of ensuring national security and stability in the context of military aggression and post-war reconstruction.

Against the background of the need for material well-being, as well as unlimited resources of power and corruption risks in the transition period,

institutional and legal distortions were observed, which led to social stratification and provoked an increase in conflict-generating tension in the internal politics of the state.

That is why today the problems of legal regulation and protection of socio-economic interests of citizens, the search for ways to overcome the negative consequences of political and legal modernization (which were expressed, in particular, in the demographic crisis, labor migration, as well as the increase in morbidity and disability as a result of hostilities), are priorities for state building and reconstruction.

The well-being of the population is a decisive factor in the sustainable development and restoration of the state and society. This requires a change in the vector of state reforms towards "resuscitation" and fundamental strengthening of the social sphere of public life.

In this regard, the implementation of comprehensive national and state programs (such as recovery programs) has become a turning point in the modernization process, since they can be considered as a necessary step on the path to a social and legal state. If previously liberal market ideals often dominated as a development priority, now "people's preservation", physical and mental recovery are the main direction in the government's strategy.

The decline in the standard of living of a significant part of the population, the destruction and degradation of the medical infrastructure (especially in front-line and de-occupied regions), as well as the absence of new effective institutional and legal forms and approaches to organizing social policy in the first years of independence and in conditions of aggression, indicate that reformers and managers did not always foresee the consequences of reforms and their negative aspects. Serious institutional distortions in the most important sectors of human "reproduction" and maintenance of physical and mental health have led to the emergence of trends dangerous to the national security of

Ukraine.

For example, among the factors threatening the national security of Ukraine, according to the National Security Strategy, the crisis of the health care and social protection systems of the population, exacerbated by military actions and their consequences (including the growth of mental disorders and disabilities), stands out.

Political and legal institutionalization of health care is necessary to counteract catastrophic depopulation (reduction in population size caused by migration, war, and demographic losses) and to ensure the health of the nation. It is a stable socio-demographic situation that serves as the most important indicator of the sustainable development of national statehood, is an indicator of the effectiveness of social and legal policy, and acts as a guarantor of the country's national security.

The Institute of Public Health is one of the priority areas of state policy, which necessitates a systematic review of the content and forms of implementation of modern legal policy in the field of health care.

Analysis of recent research and publications

The topic chosen for the study is quite multifaceted and has already been reflected and developed to some extent in the political and legal literature. Modern approaches to studying the state of the Ukrainian health care system are limited to theoretical and practical issues related to the specifics of the implementation of the constitutional right to health care and medical care and its guarantees. Numerous studies are devoted to the legal nature of the right to health care in the context of its classification as third-generation rights.

These issues were analyzed in the works of such well-known domestic jurists as: Yu. S. Shemshuchenko, V. B. Averyanov, M. P. Orzikh, V. F. Pohorilko, O. D. Svyatotsky, N. M. Parkhomenko, O. V. Zaychuk, V. V. Kopeychykov, O. F. Skakun, P. M. Rabinovych, O. I. Oliynyk, V. G. Pylypenko, M. A. Prymush, O. F.

Andriyko, O. V. Kutafin and other well-known specialists in Ukrainian law.

At the same time, it is especially important that the time requires further detailed development of this scientific and practical problem not only within the framework of Ukrainian constitutional law, but also on the basis of a whole group of other branches and areas of law, for example: civil, administrative, labor, criminal, family, international, public law, etc. Of interest are studies of the health care institute as a political and legal phenomenon using such branches of science as medical law, political science, conflictology and sociology.

Among domestic scientists, the first substantive publications on health care issues, including consideration of the legal aspects of this problem, appeared at the beginning of the 20th century. The most notable among them are the works of F. P. Kurkin (1912) and A. M. Vynokurov (1913).

In modern conditions, the following are actively engaged in the issues of organizing the health care system, as well as its legal support: A. M. Serdyuk, V. F. Moskalenko, I. Ya. Senyuta, N. B. Bolotina, V. M. Lekhan, V. V. Gorovyi, S. B. Buletsa, L. V. Antonova, A. O. Merezhko, Yu. V. Babyak, O. V. Stepanenko and others.

Separate issues related to the reform of the health care institution in the light of the modern social policy of the Ukrainian state are devoted to the works of many scientists who analyze the progress of the reform, in particular, of the National Health Service of Ukraine (NHSU) and the introduction of insurance medicine. Among them: O. A. Dudina, V. G. Perederiy, Yu. V. Voronenko, N. G. Goyda, Z. M. Nefyodova, etc.

General theoretical aspects of the legal policy of the modern state are considered in the fundamental works of: O. V. Malka, M. I. Matuzov, M. V. Marchenko, V. M. Syrykh, etc.

However, the listed studies, of course, do not cover the variety of modern health care problems that occur in the domestic state-legal and socio-economic

spaces, especially exacerbated as a result of military actions and reconstruction.

Purpose of the Article

Identifying the content and specifics of the transformation of institutions and forms of implementation of state and legal policy in the field of health care of citizens in conditions of social instability.

Presentation of the main material of the study

Of course, the content of the concept of "human health" is not a static, extra-historical, supranational phenomenon, but, naturally, undergoes significant changes in the course of cultural and civilizational evolution. If the ideas of ancient Greek philosophers were limited to considering exclusively physical health, then with the advent of Christianity, the ideas about the health of a person and society expanded, since the mental (psychic) state of a person also came into the field of view of thinkers, which now became one of the most important criteria for assessing the qualitative state of society, and accordingly, the effectiveness of the legal policy of a particular state in this area.

Over time, the concepts of "human health", "health of the nation" were supplemented with new characteristics ("state of protection", "absence of diseases", etc.), which allows us to talk about different approaches to their definitions, including within the framework of legal knowledge.

If it is impossible to penetrate the content of a phenomenon, that is, to comprehend its essence, to identify its attributes, then one should strive to comprehend the logic of its development, to identify important structural elements both in theoretical and practical terms. It is from these positions in modern Ukrainian legal science that it is important to formulate the definition of state and legal policy in the health care system, to identify its priority areas, structural elements and methods of optimization in the conditions of contradictions inherent in a transitional state, a liberal-reformist mode, a period of globalization and military aggression [1].

Moreover, the primary (in methodological terms) task is to move from a fragmentary view of the problem of strengthening the nation's health to a systematic, multifaceted study of this issue, which includes:

Determination of the internal structural regularities of state and legal policy aimed at minimizing threats to the physical and mental health of Ukrainians.

Identification of factors that negatively affect these indicators of the quality of life of society (in particular, the impact of war, internal migration, financing, personnel problems).

Creation of political and legal technologies to counteract these destructive phenomena in the context of national, regional and global economic and financial crises.

Multidimensional study of domestic state and legal policy in the health care system should begin with consideration of the specifics of the evolution of its institutions, with the allocation of the main stages of their development, basic values. In solving this problem, we analyze the main models of legal policy in the specified area, which differ in the originality of institutional subjects, forms and achieved results [2].

Only after the 2000s (and especially with the beginning of the 2017 reform and in conditions of war) does the process of restoring the basic structures of state and legal policy in the health care of humans and society begin. Currently, it should be considered as an activity to optimize legal and administrative resources, a set of measures to create and support a highly effective and socially oriented health care system, the formation of a system of social rehabilitation (in particular, veterans and persons with disabilities, previously largely lost), as well as the organization of preventive measures aimed at children, youth and other population groups. In addition, the state and legal policy in the field of health care of the nation is designed to: create a basis for the systematic modernization of the domestic health care system; determine and legislatively formalize long-

term guidelines for the development of the latter; declare the prospects for restructuring the institutional profile of Ukrainian health care, focusing on the dialectics of the relationship between public, corporate and personal interests in a modern democratic state, on the ratio of traditions and innovations associated with both domestic and foreign experience, and taking into account the modernization risks of the beginning of the 21st century. and the challenges of war.

In highlighting various approaches to defining the essence and vector of state and legal policy in the field of public health, the applicant also notes the role of the World Health Organization (WHO), which systematized and formalized the main approaches to understanding what the right to health is, what is the role and degree of responsibility of the modern state in eliminating or minimizing modernization risks that destroy a "healthy society", lead to a demographic contraction dangerous for any country, etc.

An analysis of the development of modern international relations clearly indicates that intrastate relations in the field of human rights to health care during the period of globalization and military conflicts have become a direct object of international legal regulation.

For the first time, the obligation of states to cooperate in the development of the health care system was recorded in a number of fundamental UN documents. However, the content of their formulations was so general that for a long time it was not reflected in the constitutional and legal institutions of sovereign states.

Having analyzed the main international acts regulating the right to health protection of the individual and society, the dissertation author points out the absence of a generally recognized international standard containing the rights to health protection, as well as providing a unified semantic meaning to various categories ("right to health", "right to the highest attainable standard of physical

and mental health", "right to medical care"). This confirms the complexity of the conceptual apparatus of the health care institution.

According to the applicant, the most important document that enshrined the right to health protection is the European Social Charter (Turin, October 18, 1961 - Strasbourg, May 3, 1996), which was ratified by Ukraine (September 14, 2006 - partially, and later expanded). For the first time at the international level, it was in the text of the European Charter that the term "right to health" was replaced by the term "right to health protection".

The study of international documents and the review of some constitutions (Germany, France, the USA, Mexico, etc.) allowed us to identify the fundamental principle that these states follow when defining the human right to health care - the principle of personal responsibility of the individual for his or her health, which is immanent in the liberal legal paradigm.

In contrast to the concept of "personal responsibility of a person for his or her health", an alternative version of the implementation of the right to health care is presented: traditionally, in Ukraine and other sociocentric (statist-collectivist) states, legal policy in the field of citizens' health care is based to one degree or another on the paternalistic model. This model places responsibility for health care precisely on the state, which is obliged to use all necessary resources in this most important area of public relations, and public authorities (including municipal structures) are legally responsible to civil society for the effectiveness of the implementation of the social function.

Within the framework of the doctrinal aspect of the problem, the work analyzes the concepts of the "corporation-state" (in another interpretation - "oligarchic state"), which have emerged in recent years in both domestic and foreign political and legal traditions.

In particular, the applicant critically assesses the positions of a number of researchers [3], who believe that currently the "erosion" of the social and legal

state is taking place and a transition to a different social and legal quality of liberal states is taking place. This consists primarily in the fact that the state considers national interests through the prism of group (corporate) interests, which are given unconditional priority in the implementation of any policy, including in the field of health care.

This kind of specificity of the functioning of sovereign states in a globalized space, in the opinion of the dissertationist, is built exclusively on an economic-centric basis and seeks to minimize any social and anthropological investments, while deepening the already dangerous gaps between public, corporate and private interests, civil society and public authorities in a transitional state, which is characterized by a high level of conflict.

In contrast to existing approaches, there is a tendency for gradual "socialization" of liberal legal policy in both Ukraine and a number of foreign states, which is especially relevant in the context of serious and systemic contradictions generated by the global financial crisis and military challenges.

I emphasize that the fundamental economic transformations and the profound changes they caused in the social sphere of post-Soviet Ukraine directly affected the nature of the legal regulation of these relations in the field of healthcare. In particular, an unjustified attempt was made to transition to a person-centric project for the development of the national health care system (the introduction of market mechanisms), which ultimately created the basis for the growth of conflict in society.

This led to a sharp decline in the quality of medical services provided to the majority of the population (especially in the first years of reforms), against the background of an increase in the volume of paid health care, designed for a fairly small layer of financially secure citizens. In general, institutional borrowings became dangerous in terms of forming an effective mechanism for ensuring national security, turned out to be the costs of the process of "galloping"

westernization of domestic social and legal policy and inevitable manifestations of globalization trends.

It should be noted that modern legal science lacks a deep general theoretical study of the serious problems of regionalism in its relationship with the unitary system of Ukraine and decentralization, as well as issues of implementing various types and forms of legal policy in regions and united territorial communities (UTCs). Therefore, the work focuses on considering the category of "regional legal policy". Based on current legislation, the applicant identifies its main areas that characterize the specifics of the functioning of public authorities at both the regional and local government levels. In methodological terms, the applicant compares the heuristic and practical values of several approaches to understanding the content of social legal policy in Ukrainian regions (structural-functional, activity-based and relational).

In terms of the nature of institutional subjects and the specifics of their interests, the dissertation author agrees with those modern researchers who propose to study two interrelated, but at the same time distinct aspects of social policy in the regional legal space: exogenous and endogenous.

The exogenous aspect assumes that the institutions of the central state power (Ministry, National Health Service, etc.) carry out various measures in the field of health care, education, housing, etc. in the interests of the population of the regions.

The endogenous aspect is a variant of their own regional policy, which is carried out by the power vertical of the regions (Regional military/state administrations, Regional councils) and municipal bodies (UTCs) in accordance with the strategies they have developed and under their responsibility (in particular, financing of municipal health care institutions).

It is further emphasized that, as a result of the action of many factors, two political and legal centers have historically formed in Ukraine - "capital -

province" (Kyiv - Regions), in connection with which several important points are highlighted that negatively affect the effectiveness of the implementation of legal policy in the field of public health in modern Ukrainian regions:

The lack of the necessary material and resource base against the background of the concentration in the capital and large regional centers of huge material, scientific and intellectual, personnel and other opportunities (in particular, the flight of qualified medical personnel to large cities).

A noticeable imbalance in the level of well-being of residents of the capital and regions, which makes the latter more vulnerable to the costs of post-Soviet reform in general and the healthcare system in particular (especially with regard to the use of paid medical services and the purchase of the necessary medical minimum).

The ability of civil society institutions (regional branches of political parties, trade unions, etc.) to influence local public authorities is weak (compared to metropolitan structures), and there is also a "corporate-peasant" solidarity of their leaders and local power elites.

The "blurring" of regional legislation and local acts in the social sphere is well known, which either duplicates similar national laws (although the ATC or region does not have the capabilities for their further implementation), or follows the path of "special ingenuity" in formulating regulatory provisions, which also calls into question their further use and destroys the single domestic legal space.

Conclusions

A number of priority problems should be formulated, the solution of which is necessary for the effective implementation of state and legal policy in the field of health care of citizens in Ukrainian regions.

A clear demarcation of the subjects of responsibility and powers between central authorities (Cabinet of Ministers, Ministry of Health, National Health Insurance Fund) and local self-government bodies (LTGs) in the field of health

care is needed, which will be systematically reflected in national and regional/local legislation. The system of financing municipal health care institutions needs to be revised, since municipal entities (LTGs) currently often do not have the necessary material and organizational resources to ensure the normal functioning of the local health care system (especially at the stage of restoration and covering the deficit not provided by the National Health Insurance Fund).

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