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ANALYSIS OF THE WORK OF THE AMNESTY INTERNATIONAL AND HUMAN RIGHTS WATCH IN THE SPHERE OF ECONOMIC AND SOCIAL RIGHTS

Summary. This article focuses on the analysis of the work of the two major international human rights organizations – Amnesty International and Human Rights Watch. Despite the different approaches to the monitoring of observance of rights in different countries, these organizations pursue a common goal – to influence governments, which allowed a violation of human rights in order to remedy the situation. The implementation of the human rights on the national level, require the specific steps from the legal authorities of the state. All international treaties establish two types of obligations of the states – obligations on the international level towards other states and international community, and obligations towards their own citizens, on national level. Most countries include different aspects of social and economic rights into their legislation. Country being a part to international treaty on ES rights provides its citizens with the possibility to apply the provisions of the treaty into its national courts. Among the weaknesses of the protection system of social and economic rights is that States are failed to implement them into their national legislation and policy.

As far as the list of social and economic rights today is quite significant, as a basis for analysis and comparison was taken practice of AI and HRW in the area of HIV-infected people and AIDS patients.

Key words: economic and social rights, international organizations, human rights, human rights campaigns, methodology of activities.

Introduction. It is generally agreed that Vienna Conference of 1993 marked a significant turning point in global thinking on rights not only because it puts economic, social rights into agenda, but as it also emphasized the indivisibility and interdependence of human rights. Some critics argue that social economic rights that accrue to only some sections of society cannot be universal, and therefore cannot be fundamental. Social and economic rights, it is argued, are not rights; they are merely a desirable state of affairs. International legal cooperation in the sphere of protection of economic and social rights is an integral part of the international legal protection of human rights in general. Attention

of international community to economic and social rights, as values requiring international protection was due to realization of real progress in international protection of civil and political rights. In present research, activities of two main international organizations such as Amnesty International and Human Rights Watch in the sphere of protection of right to health, specifically HIV/AIDS will be analyzed and characterized.

The main purpose of this article is to analyze how the effectiveness of instruments used by Amnesty International and Human Rights Watch in protection of social and economic rights focusing on HIV/AIDS area. According to the purpose of the research, **next objectives** are pointed:

- To identify the differences between approaches, used by World Health Organization, Amnesty International and Human Rights Watch and their impact on the forming of national plans and strategies by the states on examples of problems in HIV/AIDS area;

- To assess the impact made by Amnesty International and Human Rights Watch approaches for the economic and social rights protection system.

General remarks. By their nature, Amnesty International and Human Rights Watch were positioned as the organizations that conduct their activity in the sphere of protection of main civil and political rights. However, after the raised urgency of economic and social rights focusing on the protection of these rights from the violations on the global level, these two organizations included ESR into their mandate and continue to conduct their work with regards to the protection and compliance of economic and social rights.

Amnesty International (hereinafter-AI) is international non-governmental organization, the main aim of which is to promote all human rights, to conduct researches and actions focusing on prevention and ending of violations of the human rights including: violations of physical and mental integrity, freedom of conscience and expression, freedom from discrimination [1].

Organization recognizes that the main «recipients» of its research are the governments of different states. This does not mean that governments are the main violators of human rights, however the purpose of the organization is to change the situation in this area through government agencies. The objectives of Amnesty International include formulation of accurate idea about violation of human rights in different countries. One of the weaknesses of the organization is that it pays a disproportionate amount of attention in its reports to well-developed countries: the lower level of state control in countries with developed democracy provides free public dialogue which has, by its consequence, the acute situations of violence, which in its turn leads to new reports of Amnesty International and appearance of similar organizations such as Human Rights Watch.

Moreover, activity of AI is revealed into its core values:

to form a global community of human rights defenders with the principles of international solidarity, effective action for the individual victim, global coverage, the universality and indivisibility of human rights, impartiality and independence, and democracy and mutual respect [1].

From the moment of creation of AI in 1961, this organization was focused mainly on protection of civil and political rights in different countries. Since 2001 Amnesty International expanded its mandate and focused its activities on economic and social rights, by highlighting violation in the sphere of social rights as: rights to housing (right to land, right to adequate housing, forced evictions, housing demolitions), right to health care (maternal mortality, HIV and AIDs and/or mental health), right to education, right to food; in the sphere of economic rights: rights to work and rights at work (discrimination in employment, abuses against internal migrants, migrant domestic workers and trade unions and/or forced labor). As was mentioned above, AI expresses its work through publishing reports on specific cases and annual reports.

Unlike Amnesty International, **Human Rights Watch** is younger organization which has an equally important influence. Human Rights Watch began its activity from the creation of Helsinki Watch in 1978. As indicated in its official web site.

Helsinki Watch adopted a methodology of publicly «naming and shaming» abusive governments through media coverage and through direct exchanges with policymakers. By shining the international spotlight on human rights violations in the Soviet Union and Eastern Europe, Helsinki Watch contributed to the dramatic democratic transformations of the late 1980s. [2]

In comparison with Amnesty International activities, Human Rights Watch focuses mainly on fighting against acute social problems such as: prevention of discrimination, child labor, the investigation and publication of human rights violations, help homeless children, against torture, conducting proceedings against violators of human rights, anti-trafficking, sale of sexual slavery of women and girls, the LGBT rights, etc. The basis of its recent work is conducting researches and combination of statistic data with satellite photography. Basis for selecting countries for conducting research is urgency for this research and the belief that such activity will make positive influence on the situation in selected country.

Human Rights Watch uses so called «naming and shaming» methodology. Quoting the executive director of Human Rights Watch since 1993, Kenneth Roth [t]he essence of that methodology, as I have suggested, is not the ability to mobilize people in the streets, to engage in litigation, to press for broad national plans, or to provide technical assistance. Rather, the core of the methodology is the ability to investigate, expose and shame [3].

As in case with analyzing of the activities of Amnesty International, activity of Human Rights Watch is revealed in its reports. The structure of the reports allows separating the most vulnerable groups and countries that violate these rights of such groups.

Practical methodologies used by Amnesty International and Human Rights Watch in protection of economic and social rights

Education campaigns.

There is a number of ways in which these organizations attempt to influence the policy of governments with respect to economic and social rights. Among

them, education which can be highlighted first since it is one of the strongest and convincing instruments that can influence people's minds in a long term. As Amnesty International puts it, educational campaigns are «*creating pressure from below*» [4].

Amnesty International Norway has initiated Rights Education Action Program (REAP) which grew from Teaching for Freedom in the 1990s. It is a project which focuses on capacity-building among so called «human rights multipliers», people who due to their position are able to influence larger groups of population, for example governmental officials. Currently it functions in Morocco, Poland, South Africa, Thailand, Israel, Turkey, Slovenia, Moldova, Russia and Malaysia. The issues that Amnesty is covering in its education program concern largely economic and social rights, women's rights, discrimination and xenophobia [5]. The projects are multifaceted depending on the needs of each particular country. For example, In Turkey it was devoted to training religious leaders in women's rights, in Morocco the target group consisted of prison officers, in Moldova special courses have been developed for schools with the assistance of local authorities and in Poland it led to establishment of human rights clubs [6].

As for Human Rights Watch, they regularly organize film festivals in New York covering wide range of topics. Economic and social rights receive increasing attention during those events. For instance, in the course of this year festival there will be 20 documentaries presented among which there are five documentaries covering women's rights such as right to education and forced marriage of Sudanese girls, which can be considered as violation of right to maternal and child health. Accordingly, these efforts also build into the strategy of Human Rights Watch to «name and shame» the violations of particular regimes. However, Human Rights Watch does not engage into education programs among the actual or potential victims of violations of economic and social rights.

Letter campaigns. The next activity which is primarily the characteristic of Amnesty International is organization of letter-writing campaigns. One of the examples is a widespread Write for Rights campaign [7] which aims to have a double effect. First, it is to convince governmental officials to change their policy towards groups of populations whose rights are violated. Second, these letters show support to grass-roots advocates of human rights. The testimonies from different countries indicate that these efforts indeed have impact on the situation in respective countries. For example, Romanian activist from Coastei street community which is engaged into combating forced evictions of 350 people by local authorities has indicated that mayor of Coastei has been receiving letters to stop these activities. Moreover, letter of solidarity have greatly improved working atmosphere in community [7].

In Nigeria local advocates underscore the value of such campaigns in their efforts to prevent Shell Company from polluting territories of Bodo, a small Nigerian town. Two oil-spills have already taken place; however, government has not taken any measures to protect the rights of its citizens to health and clear water. There is already a positive trend initiated by the decision of Economic Com-

munity of West African States which calls for Nigerian government, to penalize oil company for its incomppliance with due diligence requirements. But there is possibility that this decision will not be implemented due to the lack of political will. In such circumstances pressure on the government in the form of letters campaign can be one of the crucial factors [7].

Not always writing campaigns aim to create pressure on members of the government. One of the interesting examples is current campaign concerning right to health in Sierra Leone. After reaching notable success in this country in 2010 when the Free Health Care Initiative was started by the government to provide better healthcare services for pregnant women, AI has continued to document violations in this sphere. Mostly, it was connected with implementation issues such as mismanagement, corruption and lack of legal knowledge among target groups. In this case Amnesty has called for its supporters to write letters to the Minister of Health of Sierra Leone. The goal is not to intimidate politician but rather to show that she is pursuing the right goal and provide her with insights on dealing with rising issues.

Public demonstrations. Both Amnesty International and Human Rights Watch rarely engage into large scale public demonstrations. Sometimes they can be devoted to issues of outrageous violations of the core political human rights such as right to life and freedom from torture. As for the violations of economic and social rights Amnesty International often supports demonstrations organized by other members of civil society in the countries where they operate.

One of such examples is the extensive informational support for the teachers' strikes in Congo where they have been severely underpaid. The main NGO involved into organization of these protests was Congo based Coalition for Improvement of Teachers Profession (CPRE). During the ongoing demonstrations participants have been subjected to arrest on several occasions. In response to this situation Amnesty has issued a call for urgent action to support detainees [8]. As a result of their joint efforts, government of Congo has ceased to harass participants and freed those already detained. On May 10, 2013 CPRE has reached the agreement with government to resume negotiations [9].

Targeted campaigns. This type of actions is closely interlinked with letter-campaigns which pursue the goal of putting pressure on decision makers through massive informational «attacks». The difference is that it also implies use of other means of communication, such as phone calls. One of the most recent success stories in the application of targeted campaigns took place in Serbia and concerned the right to water of Roma families. Because of the government's actions 18 people were forced to leave their houses in Belgrade and settle in another Serbian city of Nis. The conditions of their housing were not adequate for normal living since the closest source of clear water was located 30 minutes away. The targeted campaign organized by Amnesty International has forced local authorities to undertake necessary measures for supplying clear drinking water to area [10].

Human Rights Watch is using somewhat different means of approaching decision makers in the government. They do not attempt to create pressure by

massively assailing governments with critical letters but rather to inform them once about the research conducted in particular countries, its results and recommendations. One of the notable cases of such approach is the change in Ukrainian policy of drug distribution. In May 2011 HRW has published a report which describes how cancer patients in rural parts of Ukraine have no access to essential medications, particularly painkillers. It also concerned the inadequate supply of treatment to cancer patients in cities. The results were presented to Ministry of Health, the National Drug Control Committee, the section for the licit circulation of narcotic drugs of the Ministry of Interior, and the State Expert Center of the Ministry of Health. Two years later the Cabinet of Ministers has adopted new regulation on access to medicines which have effectively addressed the problems underlined by HRW [11].

On several occasions Amnesty International and Human Rights Watch have collaborated in order to reach effectively high level officials as it has happened in Kuwait in 2012. Amir of Kuwait was addressed by both organizations in a joint open letter which concerned the status of 100,000 stateless Biduns living on the territory of Kuwait. Because of this situation they are deprived of certain social benefits such as education, healthcare, and employment. Lately a positive trend was initiated by Kuwait government to resolve this highly complex issue.

Contributions in the area of HIV/AIDS by Amnesty International and Human Rights Watch and their significance for the economic and social rights protection system.

Human Rights Watch in its outline to the Kenya National HIV/AIDS Strategic Plan, 2009-2014 stated that: while the link between HIV/AIDS and human rights violations is now widely acknowledged, HIV/AIDS strategies and implementation programs are still sometimes focused on technical advances or vertical interventions that fail to specifically address human rights abuses and the critical obstacles to prevention and treatment that stem from them [12].

The reports of these two organizations will be used as the basis for this analysis. All violations of the rights of HIV/AIDS persons and the ways of fighting against it in the work of Amnesty International and Human Rights Watch can be divided into following main groups.

Discrimination. The UN Commission on Human Rights has stated that: [d]iscrimination on the basis of AIDS or HIV status, actual or presumed, is prohibited by existing international human rights standards, and that the term «or other status» in non-discrimination provisions in international human rights texts can be interpreted to cover health status, including HIV/AIDS [13].

The discrimination of the HIV infected and AIDS patients can be expressed through the discrimination in the spheres of employment, housing, education, faith, legal services, child care, and provision of health and social care.

Every person has right to privacy and personal life, which cannot be violated in any conditions. The same is related to the persons, which are infected with HIV/AIDS. Such right must include that the information about infection shall be confidential and only the person, his doctor and social workers can be

aware about it. Amnesty International highlighted the information about forced commitment of the pupils of Tanzania schools to identify their infectiousness of HIV by using special red stripes. His obligation directly violate person's rights to personal life and HIV status is an entirely private matter until a person decides to share it with others. Children who are HIV-positive can live healthy and active lives if they are given the right care – stigmatizing them in this manner and leaving them open to abuse is deeply misguided [14].

Another way of discrimination is that the HIV-infected people and AIDS patients have the right to work, and nobody should not be denied from work or dismissed from it. Moreover, employers or their authorized persons shall not conduct testing to identify HIV infection of their current or future employees. According to the UN Guidelines on HIV/AIDS and Human Rights this encompasses the obligation to respect physical privacy, including the obligation to seek informed consent to HIV testing and to respect the confidentiality of all information relating to a person's HIV status. In 2004 Human Rights Watch published the report, describing the cases of people being tested for HIV/AIDS, while applying to job with further refusal to be provided with work in case of positive result.

Human Rights Watch published the Comments to Uganda's Parliamentary Committee on HIV/AIDS and Related Matters about the HIV/AIDS Prevention and Control Bill, in which it characterizes the Bill about its compliance to the international standards in the sphere of HIV testing (confidential, counseling, and consent of the testing), and gives the recommendations about conducting of the HIV-testing. Amnesty International conducted the statement regarding the obligatory HIV-testing of the sex workers in Greece and recommends for Greek authorities to provide all necessary measures for persons infected by HIV and *«to encourage the voluntary counseling and testing of those who are unaware of their HIV status»* [15].

Access to essential medicines. HIV infected persons and AIDS patients require intensive medical attention and the right to receiving the respective treatment. However, this right is violated through discriminations in health centers and clinics, refusing by the states to provide the necessary medicine. Amnesty International in its report *«A Test of Inequality: Discrimination against Women Living with HIV in the Dominican Republic»* states that: *«People living with HIV/AIDS in the Dominican Republic reportedly continue to die because they are unable to access the treatment they require, despite the national universal access to treatment plan and the increase in people accessing treatment [1].»*

The results of interviews conducted by Amnesty International demonstrate that the increasing number of people dying from AIDS, is due to lack of medicines, applying for treatment on late stages of the disease, due to the lack of finances or inability to get into treatment program. Such negative situation occurs mostly in developing countries such as Africa, South America, where there is lack of budget money for purchasing essential medicines for infected persons and where the available medicines' price is too high for ill people.

Access to the information. One of the key elements of a successful policy of the state in the field of prevention of HIV/AIDS is spreading the information among the population about the HIV/AIDS, the ways how it is transmitted, methods of protection against infection. However, some States fail in such policies and as a consequence there is persecution of HIV infected persons, violation of their right to food, water, education and other related rights.

Right to housing. On a par with other people, persons infected with HIV and AIDS patients have the right to housing and they must be provided with housing that meets all necessary needs for physical and mental conditions. However, there are frequent cases in violation of this right. Amnesty International published the news about violation by Cambodia of the right to housing of HIV/AIDS infected persons. In 2009 Phnom Penh authorities evicted 20 HIV/AIDS infected families located in Borei Keila and moved them to the Tuol Sambo, without access to clean water, electricity and without appropriate medical services [16].

For the compensation, families received 50 kilograms of rice, soy sauce, fish sauce, water jars and 250 USD from the Municipality of Phnom Penh and the Ministry of Tourism. Last Friday they were coerced into the move and told that anyone who disagreed would not receive compensation [16].

Human Rights Watch went far beyond from the reports about the violations, and addressed official letters to the states in which they raised the awareness of the existing situation and give recommendations on possible ways to improve the situation. Thus, e.g. in 2006 Human Rights Watch sent the letter to the legal authorities of Ukraine to seek concrete commitments from the Ukrainian government to improve its record on guaranteeing fundamental human rights protections for people living with and at high risk of HIV/AIDS or 2010 letter to the President of Zambia to revisit immediately the criminalization and marginalization of the MSM community and to publicly condemn all statements that adversely affect health-seeking behavior of men who have sex with men and other vulnerable populations.

Conclusions. The conducted research indicates that described examples are not single cases of the activities of Amnesty International and Human Rights Watch in the sphere of awareness, protection and compliance of the right to health in general and rights of HIV/AIDS infected people particularly. Previous chapter describes methods, which these two organizations use in protection of other rights from violations are successfully implemented into the protection of economic and social rights. Using of the letter campaigns, publishing reports are directed to attracting public and international community's attention to the problems of rights of HIV/AIDS infected persons. On the contrast to specialized organization as the World Health Organization, Amnesty International and Human Rights Watch do not have possibility to oblige the states to include specific recommendations into their national strategic plans, as it is provided by the provisions of the ICESCR and its General Comment 14 in the case of WHO.

Література:

1. Amnesty International official website. «How does Amnesty International carry out its work?» [Електронний ресурс]. – Режим доступа : <http://www.amnesty.org/en/who-we-are/faq#how-ai-works>.
2. History of Human Rights Watch official website. Our history [Електронний ресурс]. – Режим доступа : <http://www.hrw.org/node/75134>.
3. Roth K. «Defending Economic, Social and Cultural Rights: Practical issues Faced by International Human Rights Organization» // Roth K. – Human Rights Quarterly. – 2004. Vol. 26. – p. 66.
4. Amnesty International Norway establishes Centre for Human Rights Education, (4 Jan. 2011) [Електронний ресурс]. – Режим доступа : <http://humanrightshouse.org/noop/page.php?p=Articles/15691>.
5. Amnesty International official website. «Rights Education Action Program (REAP)» [Електронний ресурс]. – Режим доступа : <http://www.amnesty.org/en/human-rights-education/projects-initiatives/reap>.
6. «Film Festival: Bringing Human Rights Issues to Life». (14 May 2013) [Електронний ресурс]. – Режим доступа : <http://www.hrw.org/news/2013/05/14/film-festival-bringing-human-rights-issues-life>.
7. Amnesty International official website. «Write for Rights 2012» (13 Dec. 2013) [Електронний ресурс]. – Режим доступа : <http://www.amnesty.ca/events/write-for-rights>.
8. Amnesty International official website. «Urgent Action Teachers Held Without Charge Over Strike». (24 April 2013) [Електронний ресурс]. – Режим доступа : <http://www.amnesty.org/en/library/asset/AFR22/001/2013/en/5d48b812-5717-48d1-8daf-04973eba4e75/afr220012013en.pdf>.
9. Amnesty International official website. «Urgent Action Strike Ends With An Agreement, Strikers Safe» (16 May 2013) [Електронний ресурс]. – Режим доступа : <http://www.amnesty.org/en/library/asset/AFR22/003/2013/en/f073d724-8b5e-45a8-9690-4effaf80577d/afr220032013en.pdf>.
10. Amnesty International official website. «Evicted Roma families in Serbia are finally granted access to water» (20 July 2012) [Електронний ресурс]. – Режим доступа : <http://www.amnestyusa.org/our-work/latest-victories/evicted-roma-families-in-serbia-are-finally-granted-access-to-water>.
11. Human Rights Watch official website. «Ukraine: New Breakthrough for Incurably Ill» (15 May 2013) [Електронний ресурс]. – Режим доступа : <http://www.hrw.org/news/2013/05/15/ukraine-new-breakthrough-incurably-ill>. Last visited on 25 May 2013.
12. Human Rights Watch official website. Human Rights Watch Submission regarding the Kenya National HIV/AIDS Strategic Plan, 2009-2014. (5 Feb. 2009) [Електронний ресурс]. – Режим доступа : <http://www.hrw.org/news/2009/02/05/human-rights-watch-submission-regarding-kenya-national-hiv-aids-strategic-plan-2009-2>.
13. UN Commission on Human Rights Resolution. (1995) [Електронний ресурс]. – Режим доступа : <http://www1.umn.edu/humanrts/UN/Resolutions95.html>.
14. Amnesty International official website. «Tanzania must end HIV 'red ribbon' stigma in schools» (16 March 2012) [Електронний ресурс]. – Режим доступа : <http://www.amnesty.org/en/news/tanzania-must-end-hiv-red-ribbon-stigma-schools-2012-03-16>.
15. Amnesty International condemns 'misguided' HIV testing. (17 May 2013) [Елек-

тронный ресурс]. – Режим доступа : http://www.ekathimerini.com/4dcgi/_w_articles_wsite1_1_17/05/2012_442686.

16. Amnesty International, «Cambodia: Families living with HIV/AIDS evicted» (18 June 2009) [Электронный ресурс]. – Режим доступа : <http://www.amnesty.org/en/library/asset/ASA23/013/2009/en/867826df-4e9a-4d76-ae05-2f7e54849543/asa230132009en.pdf>.

Пташник І. Р. Аналіз роботи Amnesty International та Human Rights Watch в сфері економічних та соціальних прав

Анотація. Стаття присвячена аналізу роботи двох найбільших міжнародних правозахисних організацій – Amnesty International and Human Rights Watch. Незважаючи на різні підходи щодо моніторингу стану дотримання прав в різних країнах, ці організації переслідують спільну ціль – впливати на уряди держав, в яких відбувається порушення прав людини з метою виправлення ситуації. Оскільки перелік соціальних та економічних прав на сьогодні є достатньо значним, за основу для аналізу та порівняння було взято практику діяльності AI та HRW в сфері дотримання прав ВІЛ-інфікованих та хворих на СНІД.

Ключові слова: економічні та соціальні права, міжнародні організації, права людини, правозахисні кампанії, методологія діяльності.

Пташник И. Р. Анализ работы Amnesty International и Human Rights Watch в сфере экономических и социальных прав

Аннотация. Данная статья посвящена анализу работы двух крупнейших международных правозащитных организаций – Amnesty International и Human Rights Watch. Несмотря на различные подходы к мониторингу состояния соблюдения прав в различных странах, данные организации преследуют общую цель – влиять на правительства государств, в которых происходит нарушение прав человека с целью исправления ситуации. Поскольку перечень социальных и экономических прав на сегодня является достаточно значительным, в качестве основы для анализа и сравнения взята практика деятельности AI и HRW в сфере соблюдения прав ВИЧ-инфицированных и больных СПИДом.

Ключевые слова: экономические и социальные права, международные организации, права человека, правозащитные кампании, методология деятельности.