

Human Rights Education for Lawyers: A Case Study into Universality and Its Relativism

The 1993 World Human Rights Conference asserted “the universal nature” of human rights and identified human rights education and training as an essential tool for the promotion of universal respect for, and observance of, all human rights and fundamental freedoms for all, in accordance with the principles of universality, indivisibility and interdependence of human rights.*

Disagreements and even attacks on the universality of human rights, however, are widespread. The strongest argument of opponents against the universality principle is essentially the contestable claim about the universal enforcement/implementation of human rights. These opponents propose to reconcile the universality of human rights by rooting these rights in different cultural and legal traditions.

The diversity of civilizations, religions, cultures and traditions has been accepted by states *via* their legal obligations since they have already been reflected in the universality of human rights and thus contributed to the international normative universality. The global human rights regime has a subsidiary character and relies mainly on national implementation of the universal human rights standards. However, there is a great gap between the “high inspiration of human rights and the sobering realities on the ground”[\[1\]](#). The lack of the proper national implementation has negative consequences: human rights law loses its regulatory functions and people’s trust. As a remedy, human rights education should become a driving force in their national implementation. The national judiciary, including lawyers, has a primary role in protecting human rights and providing means for their enforcement at the national and international level. This is why human rights education for lawyers is of vital importance and may serve as a means for effective conveyance of human rights knowledge, awareness and skills.

Will the process of internalization of the international norms by communities and individuals be more effective if the universal standards are translated into local culture and legal traditions *via* human rights lawyers as agents of change? The present article provides a case study of two educational projects for lawyers (hereafter “the Projects”) and draws conclusions on whether human rights education for lawyers may bring about reconciliation between universality and relativism by strengthening connections of domestic legal systems with international human rights standards and values.

The paper is set out in six sections. The first section presents the outlines and the relevant

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sources for the concepts of “universality” and “relativism”. The second section is devoted to the framework and concept of “human rights education” (HRE), and here I place special emphasis on the HRE for lawyers (HREL). The third section outlines the frameworks of the two educational projects for lawyers (the Projects) - “*Electronic Human Rights Education for Lawyers*” (EHREL) and “*Bring International Standards Home*” (BISH), which are the main subject of the case study. The next three sections explore several specific doctrines, namely, “International Human Rights Standards”, “Implementation” and its *lex specialis* in the human rights law - “*de facto* implementation”, “Human Rights Defender”.

These concepts served as support for the education objectives of the human rights education Projects and have as such been incorporated into the curricula and educational activities of the Projects. These sections provide examples, relevant statistical data and facts on the increased learners’ educational outcomes in terms of knowledge and understanding, attitudes, values and skills in promotion and protection of human rights. The content and the outlines of the last three sections emphasize that international human rights law, when taught to lawyers properly and systematically, provides considerable space for national implementation activities in the various paths of domestic legal and cultural environments, while aiming at the same time to promote and protect universal human rights for all.

I defend the view that the universality of human rights in training for lawyers is a key principle and a tool for legal professionals. The application of the universal human rights standards in *de facto* implementation is effective if the awareness and understanding of the principle of universality is rooted into the national legal context and “owned” by lawyers as “providers” of legal assistance to victims of human rights violations.

Universality and Relativism: Outlines

The article does not aim to provide a broad introduction to all arguments in the adversarial debate on universalism and relativism. However, since these two concepts will often be used in the article, it is important to explain them in more detail.

For the purpose of the paper, “universalism” is defined as universal respect for, observance and protection of all human rights and fundamental freedoms for all in accordance with the

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Charter of the United Nations and other instruments relating to human rights and international law (para 1, the Vienna Declaration and Program of Action, 1993). As a departure point for the universality of human rights, I take the Universal Declaration on Human Rights (1948), Preamble, para 8.

The concept of “relativism” is regarded as a space for national, regional, cultural particularities and other forms of diversity and relativity (J. Donnely, 2007). The intensive study of cultural relativism was conducted under the auspices of the UN Human Rights Council in 2010 and 2012 (A/HRC/16/37 and A/HRC/22/71).

Relativity has different dimensions - cultural, religious, historical, traditional, etc. For the purpose of this paper, I will refer mainly to the legal relativity, meaning particularities of national legal systems, including legislation, practice and legal culture.

The academic research on the principle of universality in light of traditional values has been studied in depth and taken into account in the analysis of the main subject of the current case study.

Human Rights Education

The global normative framework for HRE was finalized with the adoption of the United Nations Declaration on Human Rights Education and Training in 2011.

The Declaration defined the main objectives, principles and responsibilities of States and other stakeholders. Particularly, it specified that HRE aims at *promoting universal respect for and observance of all human rights and fundamental freedoms and thus contributing, inter alia, to the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviours, to empower them to contribute to the building and promotion of a universal culture of human rights.*

Later, the aims were interpreted in the Report of the Office of the UN High Commissioner

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for Human Rights as follows:

Human rights education and training encompass: (a) knowledge and skills - learning about human rights and human rights mechanisms and acquiring skills to apply them in practical ways in daily life; (b) Values, attitudes and behaviour - developing values and reinforcing attitudes and behaviour which uphold human rights; (c) Action - taking action to defend and promote human rights.

HRE was recognized in international law as an individual human right and as a concept much earlier.

Indeed, the Universal Declaration on Human Rights (1948) was the first international document, which shaped the right for education and made an important step in recognizing a “special” right - the right for human rights education and awareness (Preamble and Art. 26 part 2).

The Vienna Declaration and Program of Action (1993) called national States to direct education towards the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms. It called on all States to include “human rights education programmes” as subjects in the curricula of all learning institutions in formal and non-formal settings.

The United Nations Decade for HRE (1995-2004) was the first global program and became a predecessor of the currently on-going World Programme for Human Rights Education.

The findings and lessons learned of the UN First Decade were of interest for those who deal with HRE: “Formal education is traditionally knowledge-based, and this approach alone is not conducive to attitudinal changes which are the objective of the human rights efforts”[\[2\]](#); Lack of synergy between jurists and pedagogues, as well as the lack of coordination between Governments and NGOs; No effective coordination in place at the international level; Lack of human and financial resources to implement human rights education programs; Donors’ inconsistency in supporting programs conducted by civil society organizations; Lack of political will of some authorities and unwillingness to empower

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population with knowledge and awareness on universally recognized normative set of rights which might be claimed by individuals, etc.

Using the experience of the first decade and results of its evaluation, international and regional institutions have developed numerous guidelines and education standards for human rights education for different professional groups and levels of education.

The international framework for human rights education for lawyers (HREL), however, is still limited to the single reference in the Basic Principles of the Role of Lawyers (1990) stating that “governments, professional association of lawyers and education institutions shall ensure that lawyers have appropriate education and training and be made aware of the ideas and ethical duties of the lawyer and human rights and fundamental freedoms recognized by national and international law”.

The Special Rapporteur on independence of judges and lawyers in her report submitted to the UN General Assembly (2016) referred to the duty and responsibility of lawyers to “uphold human rights and fundamental freedoms recognized by national and international law” as it was stated in the UN Basic Principles of the Role of Lawyers (1990). She has also reiterated that legal education and training should also include the study of international human rights at the domestic level, as well as to make use of international mechanisms, including regional mechanisms, for the protection of human rights.

During the last decade, the European initiatives - to ensure the most effective application of the European Convention of Human Rights at national level - resulted in designing and developing the pan-European training platform assisting all the member States in their action for effective integration of the Convention into the domestic legal judicial training. The aims and methodology of the HELP program based on the UN Declaration on the HRE and the World Program for HRE contribute significantly to the current landscape of HREL in many Council of Europe countries.

Bring International Standards Home and Electronic Human Rights Education for Lawyers

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The case study presents the analysis of the results of the two human rights education projects: the first one, “Bring International Standards Home” (BISH, started in 2006 and ongoing), was tailored to lawyers and other professional groups from Belarus, while the second project, “Electronic Human Rights Education for Lawyers” (EHREL, 2009-2016) was designed for legal professionals of several CIS countries. Both projects have been implemented under the “International Law in advocacy” (ILIA) umbrella program of the Human Rights House Network (HRHN), which is well known in the countries participating in the Projects.

The current section describes the frameworks, conditions and features of the Projects, with references to some quantitative results. The qualitative outcomes of the training, with a focus on the universality principle, will be presented later in the sections regarding the specific concepts embedded into the curricula.

The Projects were developed by partners of the international human rights network – the Human Rights House Network – and experts who shared the common understanding of the need to improve the level of implementation of human rights obligations in the region and to provide better protection for civil society organizations, human rights defenders and the population at large. The Projects and their curricula were designed before the UN HRE Declaration was adopted. However, the international commitments and documents in the field of human rights education had been studied. Later on, the cooperation with the CoE HELP Program’s team contributed to strengthening the Projects’ outcomes. Remarkably, the Projects’ education framework implemented principles, which were very much similar to those included in the current UN HRE Declaration.

There is a good explanation for this fact, since the authors of the Projects’ curricula based them on the principles of the Universal Declaration on Human Rights and the relevant human rights treaties, with a view to:

- Raising awareness, understanding and acceptance of universal human rights standards;
- Applying the human rights-based approach and legal standards in daily professional activities;
- Contributing to building an environment where everyone is aware of the rights of others and promoting the conception of the individual as a responsible member of a

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peaceful, pluralistic and inclusive society;

- Pursuing the “*de facto* implementation” of the States’ international obligations, with the knowledge and clear understanding of the opportunities and limits of the national legislation and practice and, nevertheless, drawing inspiration from the diversity of the national legal systems participating in the training;
- Contributing to the prevention of human rights violations *via* the dissemination of knowledge, awareness of and skills in the international human rights standards and instruments *via* professional lawyers’ networks and building bridges between lawyers and human rights organizations.

The diversity of cultural and legal traditions of the selected countries was taken into consideration and enriched the joint training of lawyers from these countries. *Via* a comparative method, the differences between the legal traditions and specific provisions of the domestic legislation and practice were interpreted and measured by the application of the international human rights standards.

The authors of human rights education and post-educational (follow up) activities for lawyers from the above-mentioned countries took into consideration the similarities between the legal systems in the participating countries. As it is commonly known, the CIS countries reappeared as independent states due to the collapse and the dissolution of the former Soviet state. However, they still have common features, including those related to the international human rights law instruments:

- The Constitutions and national legislation of most CIS countries declare the entitlement to invoke the international law directly as a standard for cases when it provides higher protection for human rights;
- The extensive sets of international and regional human rights binding instruments are formally recognized by the governments of the countries;
- Most countries follow the monistic system in respect what regards the interrelation between international law and national law;
- The judiciaries of these countries have rather poor knowledge of and skills in direct application and interpretation of international human rights standards;
- Human rights education programs for lawyers, both in universities and conducted by professional lawyers’ associations have not been sufficiently developed;
- The recent assistance of the CoE HELP Program can not cover all target groups of lawyers; etc.

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- In some countries, like Belarus, participation of lawyers in human rights education programs, unless approved by the Bar Association, might cause disciplinary measures against the lawyers;
- Generally, in all the CIS countries, bar association's lack understanding of the need for continuing human rights education of lawyers;
- The last but not the least important point is that the population and the lawyers show high respect for the international human rights standards and acknowledge the legitimacy of the international and regional human rights judicial and quasi-judicial bodies ensuring justice in cases of human rights violations.

New information and communication technologies have been used to create an online learning platform (<http://ilia.humanrightshouse.org>) available for lawyers from different countries and remote regions.

The training for lawyers have used a combination between the online format of training and offline activities most suited for professional lawyers. The methodology and formats of the training were chosen taking into consideration the specific needs and working conditions of learners and their expectations regarding the improvement of the individual level of knowledge and skills and the widening of their professional network:

- In-person introductory seminars in each of the countries;
- Online distance learning seminars and lectures as the core teaching method;
- Home reading and research;
- Online forum discussions;
- Home assignments and online tests;
- Consultations with experts and evaluations of their home assignments; and
- The final international conference including a moot court.

The Project partners conducted careful planning and fundraising activities to get the necessary resources, and undertakings to follow up on the training activities and support the alumni networking, advocacy and solidarity actions. The cross-border and international activities were designed and conducted in online and offline formats.

An important note: it is very difficult to evaluate the impact of education in general, and it is a very true statement for HREL as well. Some numbers (collected in 2015), however, may

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give an understanding of the quantitative results of the Projects' alumni:

- 4,860 consultations on human rights violations
- 172 strategic litigation cases in the area of human rights
- 325 people participating in the “Human Rights Lawyers as a Group at Risk” online forum run by the alumni
- 394 alumni and experts participating in online discussion fora and knowledge sharing in the ILIA-Club
- 27 reports and documents written or co-written by the alumni and submitted to international organizations
- 90 % of the alumni collaborate with the Human Rights Houses within the Human Rights House Network or with other human rights organizations
- 97 % of the alumni use the knowledge gained in ILIA in their professional activities.

While education in the field of human rights generally has the ultimate goal to increase respect for human rights leading to social changes, the evaluation of the results of HREL might be measured by identifying the changes at different levels:

- Individual: what knowledge, skills, attitudes and behaviours has a participant acquired, reinforced and modified?
- Organizational: have the participants shared their experience with their professional environment and in what way?
- Social: changes, which have occurred to a broader community.

As mentioned above, there are difficulties with tracing the results of the changes that have taken place. At the same time, the focus of the current paper on the principle of universality of human rights and its application in the context of the national implementation allows us to present the most relevant selected data, which reflect the social and attitudinal changes in the learners in this regard.

Common (Universal) Standard(s)

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*Now, therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a **common standard** of achievement for all peoples and all nations for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.*

UNIVERSAL DECLARATION OF HUMAN RIGHTS (1948), Preamble.

The term and the concept of the “Universal Human Rights Standards” or “International Human Rights Standards” (IHRS) are broadly used in political and public life. There is no definition of the term in place and, for the sake of clarity, lawyers need to understand the concept in order to use it in their professional activities. This is the main reason why the term has been presented to and studied by the learners of the two HREL Projects.

The importance of the concept in terms of its adherence to the universality of human rights was also taken into consideration:

- After being proclaimed in the Universal Declaration on Human Rights, the notion has been effectively used in the legal turnover both at the international and national levels.
- By virtue of the principle of universality, the IHRS perform regulatory, control, protective, informative and educative functions regardless of whether the concrete international norms give rise to a legal obligation for a specific country.

The persistent application of the term and the expression in the legal practice has even expanded during the last two decades. International bodies “...have made remarkable progress in standard setting, institution building, and programme implementation”[\[3\]](#). The CIS member states reiterate that “... the observance of international standards in the field of human rights by all Member States of the Commonwealth of Independent States, and the development and fostering of respect for human rights and fundamental freedoms for all, regardless of race, sex, language, political beliefs, religion and social origin, contribute to the deepening of democratic reforms, economic and social growth and the strengthening of law and order”[\[4\]](#).

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The sustainable application of the term “International Human Rights Standards” in the CIS region plays an important role for the process of effective practical acceptance of legal sources of international law.

One should know that Article 38 of the Statute of the ICJ, generally accepted as a list of sources of international law, does not have the same importance in theory and practice of the CIS countries. Scholars and practitioners of these countries tend to apply the IHRS as a generic term for the cases where there is a need to apply a combination of different sources of international law, as well as a “mixture of *hard* and *soft* instruments”.

The challenge to define legally the term “International Human Rights Standards” has been taken by the authors of the curriculum as an opportunity to discuss with the learners some important features related to the term.

Lawyers study the process of standard setting at the international level. They start out trying to understand the principle of legal certainty (inspired by legal positivism) and further on the need for a broader perception of the rights-oriented concept (human rights as a product of “natural law”).

Since the generic term IHRS brings together different types of international instruments (such as those that are recognized sources of international law and the so-called “soft law” and “case law” instruments), the learners are invited to make a comparative study and select the “hard” and “soft” law instruments such that they will be able to combine them in their professional activities, defending victims of human rights violations and interpreting the national legislation applying the IHRS.

Discussions in forums and home assignments help the learners to understand that IHRS is a “live” concept, which combines different universal norms and serves as a tool for identifying human rights violations and applying the standards to actual situations at the domestic level.

As a result of the training, all the alumni look for the “standards” in their professional activities when they need to challenge and/or examine the national legislation and/or practice. They know that the IHRS may assist the national legislators when preparing

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amendments to the national legislation; they use international standards as a scale to analyse the compliance of the national law with the international obligations, they consult not only to provisions of the treaties, but also to the concluding observations and decisions of the human rights mechanisms, such as the treaty bodies and regional human rights courts.

98.2% of the alumni gave a positive response to the question, “Do you refer to the norms of the international human rights law in your professional activities?”. The following quotes illustrate the responses:

“Before my training in the project “Electronic Human Rights Education for Lawyers”, I did not use the human rights approach and international human rights law. Now, I refer to provisions of the international human rights treaties, but also to the customary rules, general principles of law and the soft law instruments. Unfortunately, in our country, the court and judges are not used to applying the international norms. Sometimes, I see a lenient or even a hostile attitude towards references to the international standards. We need to change the situation and I see my role in this as well.” (alumnus from Belarus)

“My current pleads to the courts are based on the international human rights standards. I noticed that the judges and persecutors listen to my pleads with higher attention and interest since the international human rights law is a new topic for them. My clients have trusted me even more since I started referring to the international standards. I have become more confident in my professional activities since I know that if the national courts fail to ensure justice I will be able to restore it using the international human rights regime” (alumnus from Ukraine)

Implementation - *De facto* implementation - Bring standards home

A wide interest to the legal concept of “implementation” and the relevant term arose after the adoption of the “post-communist” constitutions. Most of the constitutions have propositions on the monistic approach towards international law and declare human rights as the aim and the priority of the States.

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However, the narrow definition of the legal concept of *implementation* as organizational activities undertaken by national governments and covering mainly legislative procedures still prevails. There is a need to define the broad meaning of the process of domestication of the international treaties in the national legal systems. The broader understanding of the process of implementation will stimulate manifold activities, planned and conducted by different actors and targeting the full compliance of the national legislation and practice with the international human rights standards.

Thus, the direct application of the international human rights norms in the defence of people's rights by a wide range of actors is called by the author *de facto implementation* and is considered as a *lex specialis* of the general concept of *implementation*.

The first human rights training curricula of the Projects for lawyers were designed in 2005 under the long title "De facto implementation of international obligations of the Republic of Belarus in the field of civil rights and freedoms". Although the title clearly reflected the main idea of the human rights training for lawyers, it had a disadvantage - it was too long. The current brief name "Bring International Standards Home" suits the Project even better since it conveys the major message - the aim to train lawyers in the application of IHRS in the national practice.

Lawyers were invited to study the problem of the national implementation in depth and to discuss possibilities regard the national implementation of the universal model.

In reality, the international human rights law has designed an algorithm, which may influence the national implementation process. Lawyers have to know it. An attempt to lay out a model for the national implementation approach was made in Article 2 of the ICCPR.

1. *Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*
2. *Where not already provided for by existing legislative or other measures, each State*

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Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

The Article, together with the interpretation provided by the UN HR Committee, constitutes a model of the national implementation process. The wording “giving effects to the rights” expresses the true meaning of the process of national implementation. Learners are provided with the knowledge of and skills in how to interpret the provisions and strengthen a claim through direct application of international human rights provisions. The authors of the BISH curriculum for training of the Belarusian lawyers included the following topics:

- National mechanism of the implementation of international obligations, including constitutional and ordinary law provisions and safeguards for primacy of human rights and international obligations in case of their non-compliance with national legislation,
- Interpretations of provisions of international treaties as legitimate tools and applying international provisions directly in national litigation and practice.

Later, the EHREL project also included the above-mentioned topics in the curriculum and additionally issued a comparative analysis of the national legislation regarding the implementation mechanisms in several countries prepared by national experts. The entire distance education EHREL cycle included nine separate courses; the first stage of the cycle focused on human rights doctrine, law, standards and mechanisms, while the second stage focused on the implementation of human rights at both the international and national levels.

The term and the concept of “implementation” were studied in depth. In addition to the previous clarifications, several other reasons for that should be mentioned. First of all, in the international law, there is no unified definition of the “implementation” concept. Moreover, the term overlaps with some other legal notions, such as *enforcement*, *application*, *compliance*, etc. The term “implementation” is furthermore avoided in the official Russian translations of the UN documents, since they would rather use the word “*osuschestvlyat*” that is not a legal notion and has a broad meaning closed to the word “realisation”. As a result, the CIS national legal systems, which use the Russian language in legal transactions, have difficulties with the practical and doctrinal application of the term

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and the concept "implementation".

Since the legal mechanisms and specific legal acts on domestication of the international law often contradict each other and show signs of dualism, it is crucially important for practising lawyers to be aware of the superior role and power of the international human rights provisions in their national legal orders.

Finally, since the traditional "implementation" concept of the international public law has been significantly changed in the realm of the international human rights law, lawyers need to understand this new framework.

The application of a broad concept of implementation of the international human rights law supports the principle of universality and makes it alive. Indeed, in cases where the national legislation and/or practice fail to comply with the IHRS, lawyers may invoke the universal propositions directly on human rights and provide higher protection to a victim.

Several different methods and training activities have been used for training on the subject:

1. The learners were invited to study the national legislation, as well the relevant reports to the international bodies, in a search for the term "implementation" and its sense of "giving effect to the rights".
2. The learners from all five countries had a joint discussion on the monist and dualistic approaches towards international human rights law in conjunction with the provisions of the Universal Declaration on Human Rights, as well as the Preamble and Article 2, part 3 of the International Covenant on Civil and Political Rights. The aim of the exercise was to show the learners that the principle of universality, embedded into the above-mentioned provisions, provides a monistic approach for the direct application of international human rights law.
3. Finally, lawyers had a home assignment to prepare a plan of activities with aiming at implementing the recommendations given to a country within the Universal Periodic Review procedure. The task required from lawyers a good understanding of implementation as a concept and as a set of activities. It is assumed that the "de facto" implementation embraces not only legislative measures, but also a broader spectrum of activities including strategic litigation, public campaigns and dialogue with the authorities and the civil society organizations.

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In the course of the training, consequently, the term “implementation” was applied in the broad meaning, i.e. it includes manifold activities which aim at “giving effect to the rights” and are to be conducted by national governments, but motivated by other actors as well, including lawyers and individuals.

One should take into account that in the previous periods a number of publications were prepared within the Projects framework. These publications address the scope of practical aspects in the implementation concept, including those connected with the institute of individual complaints. The authors of the publications have disseminated knowledge on the interrelation between the international law and domestic law provisions and clarified the issues related to the legal force of the views of the UN treaty bodies and admissibility of individual complaints to the UN Human Rights Committee and other treaty-bodies. These publications have been distributed among and were highly popular among the Project alumni, legal professionals, human rights NGOs, students, etc.

The concept of “implementation” has become familiar and practical. Lawyers do use it with the awareness of the fact that once a national legislation was adopted as a result of the international treaty domestication process, it does not stop being scrutinized regarding its compliance with the universal human rights standards. The implementation process continues and lawyers have to play an active role in it.

According to the survey statistics, the alumni use the knowledge and skills in their professional activities: when preparing legal documents, for argumentation in pleadings, in teaching/sharing knowledge, in consultations, analytical work, to enlighten the authorities, in law making, reporting, etc.

Everyone, Individual, Human Rights Defender, Human Rights Lawyer

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

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Declaration on human rights defenders (1998), Article 1.

The human rights law has changed several doctrines of the “classical” public international law. One of the important changes is the recognition and institutionalization of the status and role of individuals in the process of standard setting, monitoring and other activities related to the implementation of the states’ obligations in the field of human rights obligations.

In his review of the international human rights system, Thomas Burgenthal (Judge of the International Court of Justice from 2000 to 2010) writes that while previously the activities in the field of international law were related only to the activities of the states, now an individual or a group of individuals may replace or supplement the role of the states in the international legal regulation. *“New technologies and growing complexity of solving global problems have increased the level of uncertainty in decision-making, contributed to the ‘blurring’ of authority in decision-making at the international level”, “technology destroyed the state monopoly on the collection and dissemination of information”* [\[5\]](#)— all these factors have contributed even more to the process when the new actors take on some of the operational functions in contemporary international law.

The legal doctrine and university curricula of the CIS countries, for many reasons, fail to highlight these changes. As a result, lawyers, graduating from the state universities, have a limited or vague understanding of the current composition of actors and subjects in international law and still rely on the tenets and practices of the classical public law where only states are recognized as full-fledged subjects of international law.

Neither have they professional confidence in pursuing legal claims and processing claims for social changes at the national and international levels. In reality, to work on cases on alleged human rights violations, lawyers need to understand that their status, immunities and protection guarantees will be expanded to their new role as representatives of victims of human rights violations at the international level.

Among the Projects’ educational goals are those enabling lawyers to influence the standard setting process, to improve the level of the national implementation of the international standards and to raise the awareness of the civil society and professional community regarding the role of lawyers and the guaranties and immunities surrounding their work on

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human rights promotion and protection.

Since the training is conducted within the international network of non-governmental entities sharing the common mission - to support human rights organizations and human rights defenders - the participants are motivated to learn more about the legal mechanisms eligible to support and provide better protection for human rights work.

From the very beginning of the training, the learners are made familiar with the concept of "Human Rights Defenders". They study the legal framework for human right defenders' work, starting with the "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms", often referred to as the "Declaration on Human Rights Defenders" (1998).

The issue of the role of individual and the legal representation of victims of human rights was studied during all the thematic courses included in the curriculum. Particularly, the training made the learners familiar with the procedural instruments for individual complaints in the framework of the international (UN) and the regional (CoE) mechanisms within the courses "Human rights protection system established by the UN" and "Human rights protection system established by the European Convention on Human Rights". The training also developed lawyers' practical skills in preparing legal claims for submission to the international bodies. It made them understand that individual communications fill the gap, which is a result of the failure by the states to take action as parties to the human right treaties.

"The ILIA programme encouraged me to think in new ways. In Ukraine, the European Court of Human Rights is used quite frequently, but not the UN mechanisms. Sometimes they can be the right remedy. For instance, I learned about the Working Group on Arbitrary Detention - and that is an important tool in my current work with refugees. Submissions to the Working Group are quite effective for prompt advocacy". - Lawyer, Ukraine

However, the increasing numbers of individual communications to the international bodies, prepared by the Projects alumni, are not the most important indicator in the Projects' evaluation framework. Indeed, HREL aims mostly to raise awareness of lawyers in terms of

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promoting and protecting the conditions in which the activities of individuals might be more efficient.

The awareness of the alumni of their human rights work as well as their knowledge and skills in advocacy, including the solidarity and promotion of human rights standards for legal professionals have also been developed during the training and follow-up activities.

Let me briefly describe an example of the alumni's joint work on a case concerning protection, monitoring and standards setting. Lawyers studied and discussed the international set of principles and guaranties for lawyers (UN Basic Principles on the role of lawyers) during the online training. Later, at the conference "Lawyers: human rights protection and guaranties for professional activities", the alumni discussed the problems of the status of and guaranties for lawyers in the CIS region and decided to conduct monitoring activities.

Soon after the conference, the conference moderator, Intigam Aliev - the best-known lawyer in Azerbaijan, who embodies justice in the country, and the EHREL Project expert and partner - was arrested. In 2015, he was sentenced for his work to seven and a half years in prison. In his plead to the court he said:

"My activities related to the European Court, in particular, the cases on violations of electoral rights, have played a big role in my arrest. That work irritated the authorities badly, and I was repeatedly informed about the possible unwanted consequences of that work for me and for our organization" (A quotation from the final speech of the prominent human rights lawyer Intigam Aliyev in court, Baku, Azerbaijan, April 2015).

Immediately after the arrest, the alumni and experts launched online solidarity actions and sent communications to the national authorities reminding them about the international human rights guarantees and lawyers' immunity.

In September-November 2014, lawyers, mainly the Projects' alumni, organized an online analytical group to monitor the situation in the CIS region and to conduct an online survey (more than 100 lawyers answered questions).

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In 2015, the alumni participated in the legal consultations, in the preparation of an amicus curia letter to the European Court on Human Rights. They contributed to the formulation of the legal position of attorneys defending Intigam Aliyev and other human rights defenders arrested and persecuted in Azerbaijan. The position was based on the findings of the analytical group and highlighted the special status of human rights defenders including human rights lawyers. Later their findings were reflected in the ECHR case law.

Lawyers from all five countries continue to participate in solidarity actions against repression in Azerbaijan. The report “Human Rights Lawyers at Risk” was finalized and dedicated to Intigam Aliev.

This specific example illustrates several important competences, which have been acquired by the lawyers during the training and owing to the professional cross-border networking activities:

- Ability to critically analyse the national legislation;
- Ability to conduct comparative analyses of practice between five countries with respect to professional standards and the implementation of international professional standards in these countries including Azerbaijan;
- Vision and knowledge of international mechanisms on human rights defenders and readiness to contribute to the standard setting and development of the existing standards on lawyers’ professional guaranties;
- Appreciation and readiness to start a national implementation by applying both international standards and the findings of the Report with a view to enforcing the standards at the national level;
- Understanding the importance of joint solidarity campaign and legal assistance for special cases protecting human rights defenders and human rights lawyers
- Rendering legal aid with the application of the international standards developed for human rights work;
- Issuing a report, which revealed problems and indicated that lawyers who work on human rights are less able to enjoy the professional immunities and guarantees, which should protect them. The main finding of the report is as follows:

Human rights lawyers are both lawyers and human rights defenders. Guarantees and

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immunities for lawyers enshrined in national and international law must be implemented and respected, while human rights guarantees must extend to all who work within human rights, including human rights lawyers.

After the Report was presented at the OSCE Conference and in the CoE in 2015, the authors of the report were invited to the regional consultations with the UN Special Rapporteur on the Independence of Judges and Lawyers. In August 2016, the Report of the Special Rapporteur on the Independence of Judges and Lawyers was submitted to the UN General Assembly.

Among the trends and challenges highlighted by the Special Rapporteur, there are several issues, which may become newly updated universal standards - and which have been extracted from the report "Human Rights Lawyers at Risk" and the recommendations prepared by the participants of the consultations:

The right of access to clients imprisoned, even if lawyers are not members of bars that is when they represent clients before international and regional human rights courts (p. 52 of the UN SR Report); Lawyers engaging in representation of clients before international and regional courts should be awarded the same guarantees and protection as lawyers litigating in local tribunals regardless of whether they are or are not members of their national bar associations (p. 53 of the Report UN SR); Lawyers shall be regarded as human rights defenders if the work of the lawyers is closely related to the promotion and protection of human rights; Guaranties for human rights defenders shall embrace lawyers if they conduct human rights work (part 4 of the "Lawyers as human rights defenders" Report UN SR).

Conclusions

1.

Normative articulation of human rights with emphasis on their universality is a great achievement of the international community, which was crowned by the adoption of the Universal Declaration on Human Rights. The further development of the international human rights regime, however, was and will be challenged by practitioners, politicians and academics who point to the unsatisfactory level of national implementation of international commitments and look for ways to root common standards into local contexts.

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2.

Human rights education has a fundamental importance in contributing to promotion, protection and realization of all human rights. The international framework includes different educational and training activities, which might be tailored to specific groups. Human Rights education for lawyers is essential. International law, however, leaves it mainly to national governments and bar associations to "ensure that lawyers receive appropriate education and training" and are "aware of the ideals and ethical duties of the lawyer and human rights and fundamental freedoms recognized by national and international law" (UN Principles on the Rule of Lawyers). In the last decade, the CoE has started to disseminate programs and online courses for pan-European countries in order to improve levels of human rights education and decrease a flow of individual claims to the ECHR.

3.

The case study of the two educational Projects conducted by the Human Rights House Network shows that a systematic training for lawyers might have a great potential in terms of bringing the universal human rights standards home. Evaluation of results of educational Projects on human rights for lawyers of five countries of the CIS region (Azerbaijan, Belarus, Moldova, Ukraine and Russia) reveal changes at the individual level in knowledge, skills and attitudes gained during the training. Quotes of participants' replies included into the main part of the paper demonstrate that the changes also concern the learners' increasing awareness and respect for human rights and observance of the universal standards at the national level.

4.

Evaluation of results also show that changes at the individual level pushed lawyers to disseminate their knowledge through professional and social activities.

The following brief overview reminds us about the impact:

97% of alumni use the knowledge gained in the Projects in their professional practice.

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90% of alumni collaborate with Human Rights Houses in their countries or/and with other civil society organizations.

Most of them report that they changed their professional methods and start to apply international human rights standards in litigations, but also in other activities aiming at the transformation of their national systems: *"I see the prospect in the implementation of international standards to amend national law... We have to explain to people what we need to change in our national legislation that it will be good and useful for us, and then, after these changes are made, our law will match the international standards. The way to change should come from people and their understanding, not from international bodies."* - Alumni Belarus

394 alumni and experts have regularly communicated *via* online channels to exchange knowledge and take part in solidarity actions. Alumni provided almost 5000 legal consultations (in 2015) to victims of human rights violations and conducted 172 strategic court cases to address acute problems with national implementation of international obligations in the field of human rights. 325 alumni have contributed to developing international standards for guaranties and immunities of human rights lawyers.

5.

To prepare lawyers for the practical application of the principle of universality, the human rights education program shall include topics, which form lawyers' understanding of international and national legal regimes in their interdependency. The gained experience shows that lawyers of the CIS region often lack the knowledge on peculiarities of international human rights law which makes it different from "classical" public law. Concepts such as "International Human Rights Standards", "Implementation and de facto implementation" as well as "Status and Role of Individual/Human Rights Defender" shall be delivered to learners to ensure their understanding of the direct applicability of international human rights norms and about the eligibility of individuals in promoting and protecting human rights at the national and international levels.

6.

After lawyers have "appropriated" the doctrinal and practical issues on international human rights law and have restudied the national provisions with respect to the effective

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implementation of international standards, the lawyers will become effective actors of the two-way process facilitating “a cross-fertilization” between national law and international human rights standards.

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Acknowledgements

This research is results of analysing and introducing generally available data at:

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The Projects and the ILIA Program have been supported by the Norwegian Ministry of Foreign Affairs; Matra/KAP Small Embassy Projects Programme, the Netherlands Embassy in Warsaw, The National Endowment for Democracy; the USA The German Marshall Fund of the United States, The Nordic Council of Minister's Support Programme for NGOs in the Baltic Sea Region Council of Europe; Fritt Ord Foundation, Norway International Renaissance Foundation; Ukraine Irish Aid Konrad Adenauer Foundation Germany; ODIHR/OSCE/European Commission; Open Society Institute; France Civil Rights Defenders Department of Foreign Affairs; Trade and Development (DFATD) Canada; The Swedish International Development Cooperation Agency (SIDA); US Agency for International Development (USAID); German Embassy in Ukrain Khariv; Human Rights Protection Group U.S. Embassy in Ukraine; American Bar Association (ABA, Justice Defenders Program); OSCE Mission to Moldova; UN Development Programme (UNDP Moldova); Norwegian Mission of Rule of Law Advisers to Moldova (NORLAM); Stefan Batory Foundation; Poland Polish Ministry of Foreign Affairs via Polish Aid Programme; Forum Syd.

Comments

* The author of the paper is a co-author and an acting expert of both the Projects curricula and several courses of the Projects. Since 2006 until now, I manage the "International Law in advocacy" Program, the Human Rights House Foundation, Oslo, Norway. All examples and data used in the Report are available in open sources. Only in some cases, I used my own archives and former publications.

** In this paper, I used the terms "post-communist" countries and "CIS countries" (the Commonwealth of Independent States) as synonyms for the countries of the former Soviet Republics, reappeared during and after the breakup of the Soviet Union.

*** It is worth referring to the main sources of inspiration for this paper and specifically:

1. on the principle of universality in light of traditional values:

Jack Donnelly "The Relative Universality of Human Rights" (2007), Anja Seibert-Fohr "Domestic Implementation of the International Covenant on Civil and Political Rights Pursuant to Its Article 2 Para 2" (2001), Tom Zwart "Using Local Culture to Further the Implementation of International Human Rights: The Receptor Approach" (2012), Report: "Human Rights Standards: Learning from Experience" issued by the International Commission of Jurists & the International Service for Human Rights ICHRP, International Council on Human Rights Policy (2006), Vladimir Kartashkin "Preliminary Study on Promoting Human Rights and Fundamental Freedoms Through a Better Understanding of Traditional Values of Humankind" (2011), Sally Engle Merry "Human Right and Gender Violence: Translating International Law into Local Justice" (2006), Abduhlahi Ahmed An-Naím, "Towards a Cross-Cultural Approach to Defining International Standards of Human Rights" (1992), Study on Promoting Human Rights and Fundamental Freedoms Through a Better Understanding of Traditional Values of Humankind, UN Human Rights Council Advisory Committee, 2012,A/HRC/22/71;

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