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Abstract: The paper presents a review of human rights in the past with the aim of pointing out common misconceptions and prejudices. The author tries to prove with arguments that: 1) it is not true that human rights did not exist in the past; 2) human rights have not developed constantly and uniformly; 3) human rights did not appear and develop only in Western Europe, in order to spread from there to the whole world; 4) the homeland of human rights is everywhere; 5) developed countries i.e. political, economic and other powers have never really been real champions of human rights. His conclusion is that the acquis of human rights has always existed more or less developed, and that human rights will always exist, in one form or another, while at the same time there has also always been and will be their denial and violation. The question of the degree of their development, protection and respect is always a problem in itself and can be answered only on the occasion of a specific case, after a thorough study of not only legal regulations but also the practice of the respective society.

Keywords: Human Rights, International Law, Human Rights Law, History, Serbian Legal Tradition

JEL classification: K12, K21.

1. INTRODUCTION

This paper presents a review of human rights in the past with the aim of pointing out several major misconceptions that we believe are more or less widespread. Although they appear primarily among lay people, some of them are sometimes found or implied in professional and scientific literature, and even more so among politicians, social activists, journalists, etc. We have already dealt with various aspects of these issues in three papers, one of which aimed to show that, in a sense, the first human rights and their legal guarantee can be discussed in the distant past, the other to provide evidence of certain forms of recognition and protection of special rights of members of religious and ethnic minorities in ancient and feudal societies, while the third tried to point out that the position of women was not always and everywhere as bad as it is generally considered, and that sometimes it was not significantly worse than the status of men. In other words, the mentioned articles were in the function of proving that the state of human rights in general and the human rights of the mentioned categories of people in certain societies were better than it is usually

In this regard, this text is in a sense, an extension of these researches and analyzes, but from different positions. In an effort to see the problems raised as comprehensively and accurately as possible, the goal is to dispel, as far as possible, certain fairly common misconceptions and prejudices. In that sense, we will try to prove that: 1) it is not true that human rights did not exist in the past; 2) human rights have not developed constantly and uniformly; 3) human rights did not appear and develop only in Western Europe, in order to spread from there to the whole world; 4) the homeland of human rights is everywhere; 5) developed countries or the economic, political and other forces have never really been champions of human rights. On that basis, we will try to defend the thesis that human rights are a universal heritage in various ways.

2. THE HISTORY OF HUMAN RIGHTS IS LONG AND COMPLEX

2.1. The Emergence of Human Rights

Human rights are commonly thought to be a modern phenomenon, that we can talk about them from the end of the XVIII century, but that they really developed only after the Second World War. Admittedly, this is not far from the truth. By far the largest part of history is characterized by legalized inequality as a basic principle of social and legal order. Not only were societies divided into classes with different legal positions, but inequality also existed within these categories, as exemplified by the unequal position of men and women or different ethnic groups within the same class.

Relying in large part on such reasoning, many are of the opinion that in previous periods of history, especially in the epochs of slavery and feudalism, there is nothing that comes close to human rights.

Indeed, although there have always been philosophical and literal works on the equality of people, their brotherhood and the like, in the past there was no such awareness among the wider social strata (Krivokapić, 2012, 215-228). People were born and died with a certain ideology that more or less precisely defined their place in society, and on the other hand, the place of their ethnic, religious and other community in the whole world. In class societies, based on the legally formed stratification and exploitation of subordinate masses (slaves, serfs, etc.) but also other parts of society (e.g. women), the idea of all belonging to equal human rights could not come to life. After all, the first step towards adopting any concept of human rights is the rule of equality of all people and the prohibition of discrimination. And the mentioned societies are an example of the complete opposite.

Therefore, even when certain basic rights are legally and in practice protected, it was generally limited in three ways, in terms of: 1) the subjects to whom those rights were recognized (their beneficiaries), 2) the range of recognized rights, and 3) the reasons due to which the rights were recognized.

In short, in its full capacity (whatever it was in a given society), human rights were recognized only to domestic citizens - free people, and sometimes only to a part of them. In many societies, a certain circle of rights belonged also to some other categories of people, but those rights were much narrower and conditioned and constrained in various ways.

Of particular interest are the reasons why the respective rights were recognized. Even when the right to life, the right to property, etc. were legally recognized and in practice protected also with respect to social strata that are not in power, this was most often not to ensure the freedom and integrity of each individual from unjustified state interventions (as seen today), but primarily to ensure public order and peace, i.e. conditions for the normal course of life, and thus the maintenance of the power and privileges of those who govern society. This is self-evident, and if any argument is needed to confirm this, then it is enough to remind us that although it is praised as a shining example of citizens’ decision-making on the
most important issues, the famous Athenian democracy was limited at least in three directions: 1) it was not completely democratic at all, because only free male adult citizens had the right to vote, 2) participation in the assembly was not considered as a right, but as a duty; and 3) this decision-making was not perceived as a manifestation of human (in today's terminology: political) rights but as a form of protection from possible dictatorship and tyranny (Paunović et al., 2021).

Nevertheless, it is true that certain more or less developed human rights can be traced throughout history, at least in Egypt, ancient India, some Greek polis (city-states), Rome, and other developed slave-owning societies (Shelton, 2007; Ishay, 2008, 15-62; Singh, 2016, 145-182; Deretić, 2011, 469-496; Lauren, 2013, 165-193; Krivokapić, The Position of People in the Slave Owning and Feudal Societies – the First Human Rights?, Megatrend Review, No. 2, 2014, 3-34; Madan, 2017, 1-6). Somewhere they were part of a tradition that dates back to time immemorial, and somewhere they spontaneously emerged in the face of everyday challenges.

Since we have dealt with the problem of human rights in the distant and somewhat recent past in sufficient detail in the three articles already mentioned, there is no need to repeat. However, a very brief reminder of some of the most interesting moments is inevitable, but it will be given in a slightly different way, based on some subsequent knowledge and with the use of new arguments. The reason for this brief review is that it is needed for easier and more complete understanding of further presentation, because it allows it to be viewed in the light of historical knowledge.

2.2. Reasons for formulating and recognizing human rights

Some rights have always been recognized for certain groups and individuals. This fact is somewhat understandable in itself, and it is, after all, confirmed by historical material. This does not mean personal inviolability and privileges and immunities, such as, for example, enjoyed by foreign diplomatic representatives, or high-ranking domestic state and religious officials, which were strictly tied to the function of the person concerned, but to the rights given to people and groups as such. This was usually done for practical reasons. Free people, later nobles, and other privileged classes were given certain rights in order to strengthen their position, to be with the government, to help it manage society. When certain rights were given to the oppressed strata, it was in order to calm them down, not to rise up in revolt and the like.

An example is a non-violent struggle, a kind of blackmail, by which the Roman plebeians managed to improve their position, and then achieve equality in rights with the patricians. Namely, when, after the overthrow of the last Roman king (Lucius Tarquinius Superbus) in 509 BC, the patricians seized power, secured great privileges and increasingly abused it, such a situation caused a natural effort of the plebeians to improve their social position. For that purpose, they used secession as the strongest weapon, that is, leaving the city en masse, leaving it not only without the vast majority of service providers but also essentially without defense against external enemies. Three such secessions are known, each of which was successful. After the first, in 494 BC, the patricians freed the plebeians of debts and allowed them to elect their representatives, the people’s tribunes. The second, also in 494 BC, forced the patricians to agree to the codification of customary legal rules and the regulation of basic relations in society, which led to the emergence of the Laws of the Twelve Tables. However, full equality of patricians and plebeians was achieved only in 287 BC, after the third secession, which resulted in the adoption of the Lex Hortensia, which equated the legal force of decisions of the Senate and tribute assemblies (lat. comitia tributa), abolished debt bondage, and allowed plebeians to occupy state positions, be elected to priestly colleges, and marry patricians.

In recent history, examples are employment rights (e.g. restrictions on working days and working hours) that came as the result of workers’ struggle during the XIX century; the rights of women that women on a wider scale won
only in the XX century; the rights of ethnic minorities and indigenous peoples, which are the result of their justified demands; etc.

The opposite is also true - some revolutionary breakthroughs in this matter occurred as a result of an armed uprising or revolution and the victory of those who fought for new relations in society. History is full of examples that the oppressed masses were at one time so indignant that they took up arms against their oppressors. If they did not succeed in that, they would be severely punished, for which the Spartacist uprising of slaves in 73-71 BC is illustrative for - after barely quelling the uprising, the Romans crucified 6,000 prisoners along the Appian Way from Capua to Rome.

Sometimes the oppressed manage to gain freedom, drive out the invaders, take power, change the regime, and the like. An example is the French Bourgeois Revolution (1789), with its ideas of national sovereignty and, in particular, of freedom, equality, and fraternity. It abolished feudal relations, and its Declaration of the Rights of Man and of the Citizen (1789) represents a historical turning point in the development of human rights not only in France, but also in the world in general.

The development of certain rights was influenced by other moments. Thus, throughout history, many countries have given special privileges to foreigners, sometimes including greater or lesser exemption from the jurisdiction of local authorities, the right to regulate mutual relations under their own (national) law, the right to resolve mutual relations by their own chosen court. resp. consul) etc. This seemed to ensure reciprocity (such rights of one's own citizens in a foreign country) or, more often, to encourage foreign merchants to come and develop trade, which, of course, was in the interest of the territorial state.

2.3. The First Concrete Human Rights

Evidence of certain human rights can be found already in the Vedas, the Bible, the Koran, and other ancient cultural and historical monuments.

The rights in question were varied. They differed from each other in what relations they were concerned with, to whom they belonged, to what extent they were protected, who was their guarantor, etc.

An important point is the fact that these rights were recognized by the applicable legal norms. Without that, we could not talk about human rights. A closer look, they received confirmation not only in customary law, but also in a number of written legal sources - laws and international treaties that guaranteed legality, independence of the judiciary, the rights of the accused, the rights of religious minorities, etc.

Many consider the oldest legal act on human rights to be the clay Cyrus roller, which was created in 539 BC, after Cyrus' conquest of Babylon. It contains a cuneiform text proclaiming the freedom of religion and, most interestingly, the abolition of slavery! Although there are opinions that it was not a matter of recognizing human rights, but propaganda with the aim of winning over the inhabitants of conquered Babylon, this cannot be accepted in light of the fact that some other steps have been mentioned, such as the return and care of refugees, which other historical sources confirm. After all, although it was the age of the slave-owning social order, all the palaces of the Persian emperors were built by hired workers, not slaves.

Taking a closer look, we find provisions on or in connection with human rights in a number of other Old Age codes, such as in the Sumerian Code of Ur-Nammu (c. 2100 BC), the Code of Lipit-ishtar (c. 1870 BC), the Laws of Eshunna (c. 1720 BC), the Code of Hammurabi (c. 1770 BC), the Assyrian Code (c. 1075 BC), Roman Law of the Twelve tables (451-449 BC), Indian Laws of Manu (IV-II century BC), etc. and later in important medieval codes, such as: Theodosian Code (438), Code of Justinian (529-534), Russian Justice (XI century), Vinodol Statute (1288), Dušan's Code (1349-1354), etc.

Although dealing primarily with civil or criminal law, they also contain provisions that can be understood as a guarantee of certain human rights - that no one can be punished
without reason and without trial; that the defendant has the right to defense and other rights in court proceedings, etc. Here are just a few examples, some of which indirectly indicate respect for the rule of law and at least basic human rights, while others are relatively precise in guaranteeing specific rights.

After emphasizing in its introduction the legislator’s determination to cleanse the country of kidnappers, deceivers, and bribe-takers, to ensure justice and prevent the poor from falling victim to the rich, the Code of Ur Nammu provides for property sanctions in case God’s court finds the accusations of witchcraft and adultery (Articles 1 and 14).

The Code of Hammurabi, which was valid in the whole of Mesopotamia even after the collapse of Hammurabi’s empire, contains norms that at least indirectly deal with the matter of certain human rights. After all, its introduction says that the gods sent Hammurabi to earth to establish law and order.

Although known as a source of Roman private law, the Laws of the Twelve Tablets also states that if sickness or age is an impediment he who summons the defendant to court shall grant him a vehicle (Table I / 3); that there shall be the same right of bond and of conveyance with the Roman people for a steadfast person and for a person restored to allegiance (Table I / 5); that if both parties are present sunset shall be the time limit of the proceedings (Table I / 9); that the trial will not take place on the day when the judge or defendant is seriously ill (Table II / 2); that the one who keeps the debtor chained and the debtor does not live at his own expense, must give him at least a measure (327 g) of bread every day (Table III / 4); that if a father thrice surrenders a son for sale the son shall be free from the father (Table IV / 2b); that the right to bequeath by will is recognized (Table V / 3); that laws concerning capital punishment of a citizen shall not be passed except by the Greatest Assembly (Table IX / 2); that no one can be killed without a verdict (“For anyone whomsoever to be put to death without a trial and unconvicted... is forbidden”, Table IX / 6); that a dead person’s bones shall not be collected that one may make a second funeral (Table X / 5a), etc.

Although essentially dealing with private law, the Code of Justinian insists on justice, law and equality. Among other matters, it contains the following ideas and legal rules: “By the law of nature, all men from the beginning were born free” (Institutes, I, Tit. 2/2); “Is it a statement worthy of the majesty of a reigning prince for him to profess to be subject to the laws; for Our authority is dependent upon that of the law” (Code, I, Tit. 14/4); that every individual’s house is a safe haven and shelter for him (Digesta, II, 4/18), etc.

The Vinodol Statute, one of the oldest preserved monuments of Slavic customary law, established the rights and obligations of serfs and feudal lords, but also women, who were in principle equal before the law with men. Most of the provisions refer to criminal law, with the death penalty provided for in only two cases - for witchcraft and for those caught again in arson.

Some of the mentioned codes emphasize the principles of legality and independence of the judiciary, which we are inclined to believe are the heritage of modern society.

Thus, Serbian Dušan’s Code, passed almost 7 centuries ago, in Art. 171. insists on legality even when the ruler is inclined to punish or reward someone outside the law: “If the Tsar writes a writ, either from anger or from love or by grace for someone and that writ transgresses the Code, and be not according the right and the law as written in the Code, the judges shall not obey the writ but shall adjudge according to justice.” Even clearer is Art. 172: “Every judge shall judge according to the Code, justly, as written in the Code, and shall not judge by fear of me, the Tsar.”

Speaking of legality and courts, in many countries courts were also available to the unfree or semi-free population, which is a very important right, and which, in addition, is a prerequisite for protecting a number of other rights.

Thus, e.g. although in medieval Serbia, like in all feudal societies, serfs were forcibly tied to the land, Dušan’s Code in Art. 139 guarantees
them the right to, if something illegal is done to them, sue in court with their master, lords, and even the emperor and the church, provided that if they win the dispute, the verdict must be executed and no harm may be inflicted on them.

According to the words of Dušan’s Code, this rule reads: „No master may do to a serf within the territories of my Empire aught that is contrary to the law, save only what I have written in the Code. That shall they do and give. And if he do aught to him against the law I enact, every serf is free to lay plaint against his master, be it I the Tsar, or the Lady Tsarina, or the Church, or my lords or any man. No man is free to withhold a serf from my imperial Court, only the judges shall judge him according to rights. And if the serf win against his master, let my judge give warranty that his master pay all to the villein at the appointed time, and that his master will do no evil to the villein after the sentence.“

These and other documents guarantee certain individual human rights. At least conditionally, this can be said in all those cases in which there was a legal rule that stipulates that no one can be punished without reason and, especially, without trial, that the defendant has certain rights in court proceedings and the like. And such solutions can be traced throughout history. After all, even the infamous Inquisition recognized the defendant’s right to defense.

No matter how caricatured they may look today, certain forms of rights of defense, can also be found in God’s court, i.e. try by ordeal - a legal institute spread among many nations. It was about the right of the accused to prove his innocence by undergoing certain actions dangerous to life and body, provided that if he survives or his wounds heal within the prescribed period, it is proof that he is not guilty. One of the ways was the right of the accused to prove his innocence in a duel with the one who accused him. Although it is clear that only a miracle, luck, good doctor, skill and experience (in case of a duel) and similar moments that have nothing to do with truth and justice could help the accused, it should not be disputed that this was a recognition of the defendant’s rights on defense. The fact that the proof of his innocence was sought in barbaric and even unreasonable tests by modern standards, was a consequence of the then religious fanaticism, the belief that, if he is innocent, the accused are under the protection of God, who will help him stay unharmed and thus make justice triumph.

From ancient times, we can talk about the first political rights, especially in those communities where citizens directly and on the basis of equal voting rights decided on the election of the most important officials and other important issues.

In ancient city-states, in a kind of national assembly on the main square (Greeks called it and the place where it was held agora, while the Romans used the word forum), citizens gathered to discuss important issues and make decisions - elect government officials, pass laws, decide on war and peace, conclusion of international agreements, punishing individuals, etc.

However, for the sake of the truth, it should be reminded that the famous Athenian democracy (around 594 to 321 BC) had a different face in different periods, and especially that equality and the right to vote belonged only to male adult Athenian citizens, and that they were deprived of all others - underage men, women, foreigners (citizens of other Greek polises), slaves and barbarians (those who did not belong to the Greek world). It is estimated that out of some 325,000 inhabitants of Athens in the V century BC only 30,000-60,000 (10-17%) of them had the right to vote, but in practice only about 6,000 of them really participated in the work of the assembly, meaning just 10-20% of voters or 1.8% of all residents.

Speaking about political rights, those that come down to participation in the management of society, it should be mentioned that the oldest and still existing parliament in the world is the Icelandic Althing, which held its first session in 930, almost 1,100 years ago! But it is not the only one like that! The Parliament of the Isle of Man, called Tynwald, has been around for almost as long - since 979!
Historical documents testify that there was an asylum institution in ancient societies as well. Although it was primarily about the right of various refugees to receive protection in temples, there was also an asylum in the modern sense of the institute, which in some cases was provided by international agreements and was reflected in providing refuge to foreigners (Krivokapic, 2006, 24-25).

In a similar way, other individual rights can be identified in different societies. Among other things, from the first days of the law and the state, the right to property of at least free citizens, i.e. the ruling class, has been recognized and protected.

One of the widespread beliefs is that women have been completely disenfranchised in the past. Although in many cases, such a conclusion is not far from the truth, it would be wrong to assume that the position of women has always been bad everywhere.

We know for sure that women were valued in Egypt, where they were engaged in trade and other professions. Also, although they do not provide them with full equality, even the very first codes, recognized certain special rights and legal protection for women.

Thus, the Code of Hammurabi (c. 1770 BC) under certain conditions allows a married woman to not be considered married (Art. 128), to return home (Art. 131, 134, 136, 142, 149), provides for compensation for a wife expelled by her husband. (Articles 138-140), specifies that if he brings a concubine into the house (because the wife did not give birth to children), the husband cannot equate the concubine with his wife (Art. 145), prescribes that if the wife falls ill and the husband takes another, he must not drive away a sick woman - she stays in the house and the husband is obliged to support her until her death (Art. 148), etc.

It is especially interesting to note that women had equality and, in general, a very good position among the Vikings, butchers, rapists and robbers from whom the whole of Europe was afraid. We find a similar picture in some other communities.

Thus, e.g. although the Vinodol Statute (1288) does not equate women in everything with men, in several places it defines the same solution for men and women - the same amounts of compensation in case of violation, the same rules regarding testimony, the same punishment for witchcraft, etc. (Articles 18, 28, 56, 59).

After all, throughout history, female rulers have appeared, in different epochs, in different cultures, whereby in some societies there were series of female rulers who replaced each other on the throne.

Some of the famous queens from the distant past are (in parentheses are the years of rule): Egyptian women-pharaohs Hatshepsup (1479-1458 BC) and Cleopatra (51-30 BC); the Jewish empresses Athaliah (842-837 BC) and Salome Alexandra (76-67 BC); Illyrian Queen Teuta (231-227 BC).

Regarding the I-XIX century, in the already mentioned paper we have listed an extensive list of more than 50 female rulers, with their titles, states they ruled, and periods of rule (Krivokapic 2017, 108-109). Therefore, it is sufficient here to summarize the countries ruled by women, with an indication in parentheses of the number of rulers, when there were several. In chronological order, women ruled: British tribes; the Korean kingdom of Sheila (3 queens); Mercy; Leon and Castile; Jerusalem (5 queens); Aragon; Aquitaine; Georgia (2 empresses); Sicily; Brittany; a number of Indian states (at least 3 rulers); Navarre (3 queens); Denmark, Norway, and Sweden; Poland; Luxembourg; Naples; Cyprus; Scotland; English and Ireland (2 queens); England, Ireland and Scotland (2 queens); Sweden; Madagascar (4 queens); Brazil; Hawaii, etc. There were also women who ruled some of the largest and most powerful states of their time: the Palmyra Empire; China (2 empresses); Byzantium (2 empresses); Spain; Portugal (2 queens); Austro-Hungary; Great Britain (2 queens); Russia (2 empresses), etc.

Therefore, the problem of the legal and real position of women i.e. their rights and roles in society should be approached with caution, taking into account the specifics of a particular
community and historical circumstances and not only negative but also positive moments (Robins, 1993; Fanthaim, 1994; Evans, 2002; Johnson, 2002; Pomeroy, 2002; Graves-Brown, 2010; O’Pry, 2012, 7-14; Watterson, 2013; Khalil, 2916; Rout, 2016, 42-47; Kapur, 2019; Pal, 2019, 180-184).

Although the attitude towards various ethnic and religious minorities was often unfavorable, history records many bright examples, where these collectives and their members were guaranteed and provided with special rights and, above all, the right to survival and non-discrimination, with public expression and preservation of their religious, cultural, and other peculiarities. Thus, for example, Alexander the Great showed great tolerance towards the peoples he ruled, so, among other things, he allowed the Jews to live according to their own laws (Krivokapić, 2006, 13-31).

Although foreigners have often been disenfranchised and despised and even exposed to open persecution, we know of many examples where they have been guaranteed not only protection but also special rights. Evidence of this can be found in ancient countries - in Egypt, among the Jews, in Greece, Rome, and elsewhere.

One of the examples is the solution from Art. 153 of the Dušan’s Code, according to which: „Juries for foreigners and merchants shall be made half of Serbas and half of their fellow-countrymen“.

Certain human rights have always continued to apply in war, with the addition of the outbreak of armed conflict implying the application of the norms of war and humanitarian law, i.e. activating special rules for the protection of certain categories of people - priests, pilgrims, women, children, the elderly, peasants, travelers, merchants, etc (Krivokapić, 2017¹, 540-544, 863-869). They meant an obligation not to touch these people and their property; that those who surrender or pray for mercy must be spared; that the wounded must not be killed; that prisoners must be treated humanely; etc.

Thus, for example, more than 2,000 years ago, the Indian Manu Code prescribed that arrows with serrated tips or poison arrows and fire projectiles should not be used (this speaks of an effort to prevent imminent death and unnecessary suffering); that farmers, those who beg for mercy and opponents who are wounded, exhausted, asleep or surrendered must be spared; etc. It was not just about legal norms, but also about such a practice - the ancient Greeks left testimonies that the wars in India concerned only warrior castes, that farmers in the immediate vicinity of the battle peacefully cultivated the land, that Hindus saved inhabitants in war, did not destroy cities, use dishonorable weapons, and the like (Стояновъ, 1875, 41-43; Manoj, 2005, 291-293).

Of course, there were countless cases of horrible cruelty and atrocities, turning the war into a slaughterhouse without any restrictions or mercy for anyone. However, it is also a fact that in most cases the mentioned rules were mostly respected. If it were not so, it would have disappeared a long time ago, and the opposite happened - not only have they been preserved, but they have been constantly developed, and more recently codified by a series of multilateral international agreements. Therefore, since ancient times there has been an awareness of the necessity, but also the duty of a certain protection of the persons concerned, which, seen from another angle, implies the recognition and respect of their most important rights.

After all, although a huge number of criminals escaped punishment for various reasons, history has also noted cases in which national courts of states tried individuals for what we now call war crimes or crimes against humanity, and even such jurisdiction was exercised by certain ad hoc international criminal courts.

The trial before one of the first ad hoc international criminal courts is especially well known. In 1474, a court of 28 judges from Alsace, Germany and Switzerland tried Peter von Hagenbach, governor of the occupied city of Breisach, for violating “God’s and human laws” - murder, rape, abuse, perjury, illegal confiscations of private property and other...
atrocities committed on his orders by persons under his command at a time when there was no hostility. He was found guilty, deprived of nobility, sentenced to death and beheaded (Schwarzenberger, 1968, 462-466; Gordon 2013, 13-49). Although the trial was relatively fair at the time (the accused was tried by a jury and the trial was public, the accused had a lawyer and could examine witnesses), it should be noted that Hagenbach was terribly tortured for days before the trial. He did not have time to talk to a lawyer before appearing before the judges, the procedure was held on the market, in a circus atmosphere and was completed in just a few hours, etc (Gordon 2013, 47-48). The case is an example of proceedings before the international criminal court for acts that essentially amounted to grave human rights violations, while, on the other hand, it is proof that, even if it was far from perfect, certain defense rights were respected.

According to the above, although human rights are something that is characteristic of the time in which we live, they did not appear all at once, out of nothing. Even in the distant past, evidence can be found that at least basic human rights have been recognized and protected, some of them even by oppressed social strata (Krivokapić, 2014, 3-34). In other words, the fallacy is that human rights are something that suddenly emerged in the modern world, especially after World War II.

This, of course, does not mean that human rights in those ancient times existed as a firmly formed and sufficiently rounded concept, that they belonged to everyone in full capacity, implied really effective legal protection mechanisms, etc. The fact that some rights have been recognized somewhere does not mean that it has been the case elsewhere, and in particular, we cannot talk about any generally accepted or international legal standards in this matter. However, it is also undeniable that there have practically always been solutions and practices that we can identify as guaranteeing and respecting human rights.

Viewed from a purely legal point of view, the development of human rights protection can be monitored both domestically (nationally) and internationally. States have always guaranteed certain rights, among other things, to their own codes.

When it comes to the international plan, the proclamation and protection of human rights have long been found in the relevant norms of customary war and humanitarian law, and then in various international agreements, especially those on the protection of religious minorities (XV-XVIII centuries), guaranteeing workers’ rights (XIX - beginning of XX century), etc. and only after that in modern international treaties concluded after the Second World War.

3. HUMAN RIGHTS ARE NOT DEVELOPED CONSTANTLY AND UNIFORMLY

Often things are simplified so that, at least unconsciously, the image of a gradual, sometimes faster, sometimes slower, but therefore continuous development of human rights is created. About the fact that after centuries of no human rights, they came into being at one point, and have been on the rise ever since. In other words, that, along with economic, scientific-technological, cultural, educational, informational and other development, people are increasingly enlightened and tolerant, which results in the constant improvement of the legal and real position of individuals and groups. leads to better and more advanced solutions and practices. That seems nice, and even logical, and in part it is true, but it does not correspond to the truth.

First of all, it must always be borne in mind that the history of the human race abounds in examples of every kind. Each phenomenon, in addition to time (state of things at a certain moment or period), has a spatial (state of things at the same time, but in different parts of the world) as well as a subjective dimension (influence of certain individuals or groups on social relations).

Even today, human rights are not equally recognized and developed in all countries. Somewhere they are guaranteed by a number
of international treaties that bind the country concerned and by fairly good domestic laws and are mostly implemented in practice; elsewhere it is all at a much lower level. In addition, in some societies more developed are some rights (e.g. civil and political) and in other countries - another rights (e.g. economic, social and cultural). Also, whether, to what extent and in what way human rights are recognized and respected, is influenced by the human factor - who is in power in a given state, rights of which social groups or categories are in question, etc.

The subjective moment was especially pronounced in the distant past, when the enlightenment, reason, the kindness or cruelty of the ruler, or even only his current mood, depended on not only how and but whether at all would live not only individuals but also the entire masses of the population.

Thus, for example, it depended on who was in power whether a certain ethnic, religious or other minority would live relatively normally, with its uniqueness and tradition, or it would persecuted, assimilated or simply wiped out. For example, after the victory in the war between Wei and Jie, led in 350-351 in northern China, Ran Min, the emperor of the state of Ran Wei, ordered the killing of all members of the Jie people (they looked different from the rest of the population and were not difficult to identify). Some believe this was one of the first documented genocides.

This was especially present when a country was occupied by invaders. Although there are many equally horrific examples, suffice it to cite just a few, implying that they are only illustrations intended to remind us of such events.

Coming in front of a foreign city, the Assyrian emperor Ashurnasirpal II (IX century BC) used to call it to open its gates without a fight. Then his soldiers would kill the mayor, cut off the legs of military commanders, and enslave the rest of the population. If the city did not surrender, the soldiers would gather the inhabitants after its conquest, cut off their fists and feet and throw them on a pile in the center of the city to bleed to death there (Cooper, 2009, 128). After the conquest of certain cities, this cruel ruler ordered the skin of the enemy leaders to be skinned alive, and the other prisoners to be burned; to take adults into slavery and burn children; that hundreds of prisoners be impaled on stakes in front of city gates or around city walls; to cut off the prisoners’ nose, ears, lips and fingers, i.e. dig out the eyes; to make pyramids from the heads of slain people at the entrance to the conquered city; etc.

Although in the minds of many they are a kind of synonym for the ancient enlightened democrats, as opposed to the rigid, militaristic Spartans, the Athenians often did not show any mercy. Thus, when in 416 BC conquered Milos, they killed all the men and sold women and children into slavery (Cooper, 2009, 128-130).

In that respect, Alexander the Great was not very much better either. When in 332 BC, after a seven-month siege, he managed to conquer city of Tire, he destroyed it, killed about 2,000 men, and sold the rest of the population, about 30,000, into slavery.

One of the greatest conquerors of all time - Genghis Khan, was especially remembered for his evil. Since during the conquest of Nishapur in 1221, an arrow from the walls killed his son-in-law, on his orders, all the inhabitants were slaughtered, including women and children, and their heads were folded into pyramids. As many as 1.7 million people were reportedly killed at the time (Cooper, 2009, 133; Rummel, 2009, 46-47). That year, other Persian, Afghani and Indian cities with all their inhabitants were destroyed as well: about a million people were killed in Merv, about 1.5 million in Herat and 1.6 million in Ravi. After the conquest of Urgench, 1.2 million people were slaughtered - each of the 50,000 soldiers was given the order of killing 24 inhabitants.

However, there were the opposite examples. One of them is Ashoka the Great, the Emperor of the Maurya Dynasty, who ruled almost all of the Indian subcontinent.

In 261 BC, with 400,000 troops Ashoka attacked the much weaker state of Kalinga, defeated and annexed it to his empire. However, after facing bitter resistance, he did so at the
cost of terrible bloodshed - allegedly, more than 150,000 warriors and civilians were killed on the Kalinga side, with 70,000 casualties in the ranks of the attackers. Seeing many corpses of people and animals, helpless wounded and orphans, the terrible destruction and suffering he caused; Ashoka experienced a sincere remorse. He began to propagate peace, help the poor and do other good deeds and for the rest of his life, the next 30 years, he never again wage a war of conquest.

After all, even in our XXI century, different communities have different understandings of what constitutes basic human rights, which are special human rights, how to ensure the realization of guaranteed human rights, and so on. Everything becomes clearer if we take into account a few concrete examples.

For decades, the world trend has been the abolition of the death penalty. However, there are still states that, adhering to their traditional rules, impose the death penalty for what in the rest of the world not only does not represent a serious crime, but is not a crime at all, such as the case of adultery. Moreover, executions are carried out publicly and in ways that are prohibited in other countries as being too inhumane - stoning, beheading, and the like.

Even in such a developed country, long turned to Western values and way of life, such as South Korea, adultery stopped being a crime only in 2015. Only then did the constitutional court of that country repeal the law from 1953, according to which adultery could be punished by imprisonment for up to 2 years (Park, 2015).

In some cultures, same-sex relationships are tolerated and, to some extent, propagated, same-sex marriages are recognized, and sometimes such spouses are even allowed to adopt children. And this is perceived as important human rights. On the contrary, in other countries, homosexuality is understood as a disease, as a type of social pathology, and in some countries, it is a crime punishable by imprisonment, sometimes even by the death penalty.

In most countries, bigamy is banned and is a crime for which one goes to prison. However, in some cultures, a man traditionally has the legal right to several women - somewhere to 4 at most, and somewhere even more. Thus, polygamy is perceived as one of the important human rights.

The fact is that in many modern countries it is forbidden to carry a firearm, and in some it is forbidden or very limited to own it. However, in the USA, the right to have and bear arms is not only guaranteed by the constitution (Second Amendment to the Constitution, adopted in 1791), but is still understood as one of the important civil rights.

Although we deal with human rights from the past, here we have, exceptionally, cited several examples from modern life. This was done because these and similar examples are closer and therefore more understandable to our contemporaries. Another, no less important reason is the intention to point out with reference to concrete facts that even in our time, when, conditionally speaking, human rights are flourishing, not everything is resolved in a unique, non-contradictory and generally accepted way, with differences becoming even greater if taken into account. consideration practice.

It is self-evident that the differences between the rights and practices of different societies have been even greater in the past. This was a natural consequence of the fact that laws, beliefs, customs, etc. differed more than today. various wider or narrower communities; that religion was a great influence everywhere, and it was different and often hostile to other religions and beliefs; that there was no connection and interdependence of the various parts of the world we are witnessing today; that international law was not sufficiently developed, and in particular there was no universal or regional human rights law, relevant international institutions, etc.

In addition, in each particular society, things do not always go only forward, to the better. Occasionally, there are periods of stagnation, and even the introduction of worse solutions and worse practices, in terms of non-recognition and trampling of rights that were enjoyed in the earlier period. The reasons for that can
be different: coming to power of an undemocratic (totalitarian) regime, falling under the rule of another state, state of war, etc.

This phenomenon can be monitored not only in specific countries but also on a wider scale. Thus e.g. to the change of religious tolerance, which was quite widespread in the ancient world (even foreign conquerors mostly avoided imposing their faith on conquered peoples), the Middle Ages were marked by many religious wars.

Examples are the Crusades, which in a broader sense refer to all religiously justified conflicts between Christian states and those of other faiths: the Byzantine wars with its non-Christian neighbors, the German wars against the Eastern Slavs, the Albigensian (1209-1229) and other wars of Catholics against heretics, etc. In a narrower sense, it is the name of eight (according to some opinions, more) military campaigns that took place in the XI-XIII centuries, initiated by popes and European rulers to take over the Holy Land from the Muslims.

The most terrible religious war was the Thirty Years' War (1618-1648) between a large number of Western European countries. Led mostly due to religious intolerance between Catholics and Protestants, it took about 10 million lives, and it was. The war took place mainly in the territory of today's Germany and the Czech Republic, with between one-third and one-half of the inhabitants of those areas being killed.

We should also remind ourselves of the many horrible crimes committed in the name of faith in peace - burning at the stake “heretics” and “witches”, forcible baptism of entire nations, torture and murder (especially the practice of the Inquisition), etc.

In Europe alone, in the XVI-XVIII centuries, about 60,000 unfortunates accused of being witches were killed (mostly burned at the stake, and partly hanged). About 40% of them were executed on the territory of today's Germany.

Regarding the crimes that affected entire nations, suffice it to recall the violent baptism of Russian lands in the X century, the violent baptism of Jews and Muslims in Spain and Portugal in the XV century, the cruel practice of Spanish invaders in Latin America, where part of the indigenous population was killed. and some forcibly converted to Catholicism; etc.

Racial intolerance also prevailed in various societies, leading not only to racial discrimination and segregation but also to violence that was sometimes planned and massive. The most impressive example in recent history is Germany, which under Hitler's rule in 1935 introduced the so-called “Racial laws”, which deprived Jews of German citizenship, forbade them to participate in social life and forbade marriage between them and Germans, and then moved on to the persecution and extermination of the so-called non-Aryans. This culminated in the Holocaust, in which 5 to 6 million Jews and a large number of Slavs and Roma were systematically killed in concentration camps and in other ways.

After all, it was so in all fields of social life. Suffice it to recall that after the ancient world, which gave many examples of unexpectedly great enlightenment, the rise of science and art, came the Dark Middle Ages with its dullness, closedness, and religious exclusivity.

One example is the fact that throughout history there have been many attempts to abolish the disgusting and shameful practice of slavery, but these attempts have often been doomed to a short life.

The Persian emperor Cyrus the Great still in the VI century BC forbade slavery, but such a solution did not last long; the already mentioned Indian ruler Ashoka in the III century before our era, forbade the slave trade (though not slavery itself) and demanded good treatment of slaves, but after him this was abandoned; the rulers of the Chinese Qin dynasty in the III century BC banned slavery, but later dynasties lifted the ban; Wang Mang, the founder of the Chinese Xin dynasty in the XVII century abolished slavery, but it was returned after his murder, etc.

After all, if we move closer to us in time and space, France in 1791 proclaimed liberation in the colonies of the second generation of slaves,
and then in 1794 the abolition of slavery in all French territories and estates, but in 1802 Napoleon reintroduced slavery in the colonies which grow sugar cane.

So, human rights are indeed constantly evolving, but they are always in danger of being ignored, violated, and even in some societies and times, abolished or at least illegally suspended.

4. THE HOMELAND OF HUMAN RIGHTS IS EVERYWHERE

It is often pointed out that the roots of human rights are in Western culture, that the first legal act to guarantee human rights was the English Great Charter of Freedoms (Magna Carta Libertatum, 1215), that the American Declaration of Independence (1776) and the French Declaration of the Rights of Man and of the Citizen (1789) were crucial for the development of human rights. The practice of these countries as leaders of the “free world” who developed human rights and extended them to others is also pointed out. Still, it’s not quite like that.

An example is the Great Charter of Freedoms (1215). It has been changed and supplemented several times so that today it means the text from 1297. Although it is glorified as the first legal act that guaranteed the most important human rights, things are different. First of all, this was not the first such document. In confirmation of that, it is enough to remind that the first document on human rights is considered to be the already mentioned Cyrus roller from 539 BC, which is older than the Charter by more than 1750 years. In addition, while Cyrus passed his act at free will, the Charter was signed by King John of England (aka John Lackland) only because he was forced to do so by the threat of weapons by the barons. Although it recognized some of the most basic rights of free people (to trial and justice), the Charter is in fact only a constitutional pact between the ruler and the high nobility, which limits the king’s arbitrariness and guarantees certain rights of the nobility, but, strictly speaking, does not guarantee equality, nor the right to life, while, on the other hand, discrimination, torture, corporal punishment, etc. were not prohibited.

Things are not simple even if we take into account the other two mentioned famous acts - the American Declaration of 1776 and the French Declaration of 1789. Their significance is great, but sometimes it is forgotten that they also have important limitations. These are not comprehensive concepts of human rights, nor did they, originally, apply to all men, not to mention that they did not apply to women at all.

Since the Declaration of the Rights of Man and of the Citizen did not solve the issue of women’s rights, the French writer and revolutionary Olympe de Gouges changed the document, replacing the words man and citizen with the words woman and female citizen, and published it in 1791 as the Declaration of the Rights of Woman and of the Female Citizen. Although her endeavors resonated beyond the borders of France, she ended up on the guillotine in 1793, among other things, because of the fight for women’s rights.

When it comes to women’s rights, compared to being respected and enjoying equality with men in some states, women were at the same time disenfranchised in other societies. In particular, in addition to the multitude of powerful female rulers it is the fact that in most countries, even the most developed ones, women gained the right to vote only in the twentieth century. Also regarding women’s rights, especially their right to vote, two other problems can be noticed.

The first is that this right is recognized in some societies within certain frameworks (on certain islands, in certain provinces etc.) but not in the whole country. An example is the British Isle of Man, which was granted self-governments in 1866. In 1881, it recognized women’s right to vote in local elections, provided they were 21 years old and owned property of established value. Then the conditions were changed (in one period it was requested that it was an unmarried woman) until in 1918 the general suffrage of men and women under the same conditions was recognized.
The first countries in which women permanently acquired the right to vote were New Zealand, which at the time of the recognition of that right (1893) was only a colony of Great Britain with a certain dose of self-government, and Finland, which when recognized that right (1906) was only the Grand Duchy of Russia.

Although in the entire United States women gained the right to vote only in 1920, in some federal states or territories, as some of them were once called, women were given this right much earlier - in Wyoming in 1869, Colorado in 1893, Idaho in 1896, Utah in 1896, Washington in 1910, California in 1911, Arizona in 1912, Kansas in 1912, Oregon in 1912, etc.

A case from the recent past is Switzerland, which many point to as an orderly and exemplary society. In it, women won the right to vote in federal elections only in 1971, but gained the right to vote at the cantonal level (depending on the canton) between 1959 and 1991, which means that in some cantons they started enjoying it much after its recognition at the national level. The last to equal men and women in terms of the right to vote was the canton of Appenzell Ineroden, which did so only on February 7, 1991.

The second problem is the fact that there have been many cases where women have been granted the right to vote, at least to some extent, but it was soon abolished and re-recognized only after several decades. Thus, e.g. to all or at least certain categories of women (sufficiently wealthy, educated, unmarried, etc.) this right was recognized, but then abolished for various reasons in Sweden (1718-1771), Corsica (1755-1769), New Jersey (1776-1807), Utah (1870-1887), France (1871), Franceville (1889) etc.

Although women in Germany gained the right to vote in 1918, when Hitler came to power, it was taken away from them in 1933 and returned only after WW II - in West Germany in 1948 and East Germany in 1949.

A similar thing happened in Spain. Women were given the right to vote in 1931, but during the Francoist dictatorship (1939-1975) it was very limited (recognized only to women considered the head of the family) and was not restored in full until 1976.

In some even more drastic cases, women in the XX century gained principled equality with men and important rights in their respective communities and enjoyed them in practice, but later social changes led to the reintroduction of the previous order based on old religious and customary canons, which in some cases meant returning women to the status they had in the Middle Ages. This, among other things, manifested itself in the return of family law from the jurisdiction of secular courts to the jurisdiction of religious elders; denying women the right to higher education, freedom of movement, freedom of choice of work, freedom of dress (women’s obligation to be veiled in public or at least to wear headscarves), etc.

Iran can serve as an example. We take the practice of this country only as an illustration, without the intention of subjecting that state, its social order, religion, and people to any judgment, disparagement or stigmatization. This, after all, applies to all other examples mentioned in this paper.

Reza Shah Pahlavi (reigned 1925-1941) took steps to bring the position of Iranian women closer to that of women in the developed countries of the West. Among other things, in the 1930s, he forbade women to cover their faces and ordered police to remove their headscarves. For all its flaws, the regime of his son and successor, Mohammad Reza Pahlavi (reigned 1941-1979), continued in the same direction, so that Iranian women gained the right to vote in 1963, which means before women in e.g. Switzerland (1971). Just before the fall of that government, there were 22 female deputies in the Iranian parliament, a third of the students were women, and so on.

After the Islamic Revolution that overthrew the pro-Western government of Pahlavi in 1979, women were left without many of their former rights or faced various limitations. They have lost a large part of their business ability, freedom of movement, right to divorce, etc. The age limit for marriage has been lowered from 18 to 9 years (in 2002 this limit
was increased to 13 years); the punishment of stoning a woman guilty of adultery was introduced; many old solutions have been returned, including that a man may have 4 wives, but a wife only one husband, that marrying a woman requires the consent of a male guardian (father or paternal grandfather), that a woman cannot travel abroad without a male escort and with husband's consent, that the wife inherits only one-eighth of the husband's property while he inherits all the wife's property, that the son inherits twice as much as the daughter, that women have limited access to higher education, that women are discriminated in terms of access to employment (husband has the right to refuse wife to work if he considers that it is contrary to the interests of the family or the dignity of the woman), etc. In addition, in 1983, the Criminal Code stipulated that a woman who refused to wear the hijab (veil or headscarf) was punished with a beating of up to 74 blows, which in in the mid-1990s was changed to a prison sentence of 10 to 60 days or a fine (Fedrows, 1983, 283-298; Kousha, 1992, 25-37; Derayeh, 2006; Mohammadi, 2007, 1-21; Janghorban, 2014, 226-235; Justice for Iran, 2015; Alikarami, 2018, 138-155; Sukic, 2019).

The given examples related to women's rights and, in particular, their right to vote are given only as an illustration. Similar problems can be identified in relation to other rights or special rights of other categories of people e.g. ethnic minorities.

In short, the following can be concluded:
- Like everything else, human rights have not developed evenly in all parts of the world, which is actually logical in itself;
- The fact that certain rights are recognized in some societies does not mean that they are recognized in those societies as a whole, i.e. they happened to be valid in some parts of the country, but not in others. In addition to the already given examples of women's suffrage in Switzerland and elsewhere, suffice it to say that before the American Civil War (1861-1865) slavery was abolished in some US states, but not in others and that even today the situation in various states of the USA is different on many issues, so in some of them the death penalty has been abolished, and in others, it has not;
- The development of human rights did not go only up. Once the rather high level was reached, it was sometimes abandoned in favor of returning to the worse, less humane solutions.

All that has been said means that even today it is possible that for some reasons in some societies, and even on a wider scale, there is relativization, cessation of protection, and even denial, i.e. the abolition of certain recognized human rights. That would not be good, but it is possible in principle. And unfortunately, sometimes, it does happen.

5. DEVELOPED COUNTRIES HAVE NEVER REALLY BEEN CHAMPIONS OF HUMAN RIGHTS

If we start from the attitude that human rights originated in Western Europe and the USA, it is easy to come to the conclusion that in these countries they have the greatest tradition, the most established and most efficient institutes and practices, i.e. that in this countries they are legally and really the most developed and best protected. And that it has always been so.

At first glance, such an approach is logical. These societies have the most developed institutions, financial resources, and other preconditions for ensuring consistent respect for human rights.

However, practice shows that things are not as they seem. This is easy to prove by referring to the reality of the most developed countries, both in the past and in our time. Since we are dealing with the distant and somewhat recent past here, we will stick to it, but we will give a brief overview of some important moments from the time after the World War II, in order to better understand some issues.

In the last few centuries, Great Britain is undoubtedly one of the most developed countries in the world in terms of economy, military, politics etc. It is therefore no wonder
that the legal and philosophical traditions of that country, whose representatives were exceptional minds and humanists of the XVI-XIX centuries, such as Thomas More, Thomas Hobbes, John Milton, John Locke and John Stuart Mill rightly cite as something we owe today’s current development of human rights.

When it comes to the contribution of the English legal tradition to the development of the concept of human rights, its legal monuments, such as the Great Charter of Freedoms (1215), the Habeas Corps Act (1679) and the Rights Act (1689) are especially important.

The Habeas Corpus Act of 1679, is considered part of the uncodified British Constitution, and has influenced the rights of other states. It guaranteed protection from arbitrary deprivation of liberty by placing the executive under the control of the judiciary in that regard, and gave the citizens the right to demand that control. In addition to proclaiming the basic principle of habeas corpus, which refers to the legal requirement that a person deprived of liberty be immediately brought before a court to decide whether detention is lawful, it forbade illegal arrest without a court order, long-term detention without valid evidence of guilt, harassment in the investigation and extortion of evidence, and specified some other rights of the defendant.

The Bill of Rights (1689), also known as the English Charter of Rights, set out certain restrictions on the rulers’ powers and specified the rights of subjects - freedom to have weapons for personal protection, freedom to petition the king, freedom from fines and confiscation of property without a court decision, freedom from harsh and unusual punishments and excessive fines, freedom of speech and debate in parliament, and freedom of election to parliament without interference by the king.

These documents and their advanced solutions are all the more important because they have influenced other countries and peoples. This, after all, should not be surprising, because, on the one hand, these were really advanced principles that must be embraced by any society that claims to be free and democratic, and on the other hand, behind them stood a state that was the world’s leader at the time, or at least one of the most developed and powerful countries in the world.

However, in the same country one could follow some legal frameworks and practices that have little in common with the idea of human rights. Here are just a few examples.

Many do not know that Great Britain was the last European country to abolish corporal punishment - it happened only in 1948. For comparison, little Serbia, then still only a semi-sovereign country (gained sovereignty only in 1876), abolished corporal punishment by law back in 1873 (Dragićević et.al., 2011).

Even worse, in England in 1810, there were as many as 222 crimes punishable by death! One could end up on the gallows for forgery, pickpocketing, deforestation, homosexuality (sodomy), wandering, and even - for stealing bread! Thus, in England and Wales, in just 70 years (1760-1830), about 35,000 people were sentenced to death. Although most of them were commuted to prison, about 7,000 (including 14-year-olds) were publicly hanged, which means, about 100 a year or one every 3 days. Since the executions were prepared sloppily (without calculating the weight of the convict’s body), the agony of the hanged man lasted up to 20 minutes, to the delight of the gathered crowd (Sherwin, 1946, 169-199; Hay, 1980, 45-84; McLynn, 1989; King & Ward, 2015, 159-205; White, 2009).

It is interesting to make a comparison here. The fact that at the beginning of the XIX century, in England, the death penalty was threatened for 222 crimes, seems even more horrible compared to the fact that e.g. the Vinodol Statute (1288), which was in force 6 centuries before, in the “Dark Middle Ages” provided for the death penalty for only 2 acts!

One should compare not only the legislation but also the practice. During the 37 years of rule (1547–1584) of the Russian Tsar Ivan IV („Ivan the Terrible“), a total of about 4,000 people were executed, which means an average of 108 a year. At the same time, under the English King Henry VIII, who ruled at about
the same time and for the same length of time, in just a little over 37 years (1509-1547), between 57,000 and 72,000 people were executed i.e. about 1,540-1,946 per year!

Can we then claim that English human rights law and practice were much more advanced than in other countries? And on that basis, should we draw the conclusion that those other countries should have emulated them? At the same time, with all due respect to the undoubted contribution of England in developing the concept of human rights, the right to life is a basic, most important human right, without which all others lose their significance.

After all, if we leave aside the practice of only one country, even if it was the then England or today’s Great Britain, and focus our attention on concrete solutions and institutes, we can notice that the most developed countries have not always been the leaders when it comes to human rights.

It is so interesting to note that the infamous Inquisition, a kind of criminal court of the church that existed in the Catholic countries of Europe since the XII century, and which had the right to investigate, interrogate, prosecute, establish guilt and punish, and which used horrible methods (torture, burning at the stake, etc.) was finally abolished in in so many way developed Spain only in 1834! At a time that is for many reasons often perceived as the age of the modern world.

The first inquisitorial commissions were established to interrogate and punish heretics. Later, their jurisdiction was expanded to include all forms of magic, sacrilege, and immoral life (concubinage, usury) and the persecution of all those who were not to the liking of the Catholic Church or secular authorities. Many religious reformers and scholars were burned or otherwise executed for disagreement with certain elements of the papal interpretation of Christianity or the world, including the Englishmen William Sawtrey (1401), John Cobham (1417), John Fritt (1533) and William Tyndale (1536); Czech Jan Hus (1415); the Italians Girolamo Savonarola (1498) and Giordano Bruno (1600) and many others.

At the Congress of Vienna in 1815, under the strong influence of the then leading states, the slave trade (blacks) was condemned and then banned. Since it flowed by sea, it has since been viewed in the same way as piracy, which means that the commander and crew of a ship transporting slaves had to reckon that if they were caught by a warship, they would end up on the gallows. However, that did not forbid the institution of slavery itself, which means that where they existed, slaves were not freed from that. On the contrary, they remained in that position, and their children became slaves by birth.

In that respect, the best example is the then USA. Although in the second half of the XIX century it was in many ways one of the most advanced states in the world, that country still knew the institution and practice of slavery.

The first slaves were imported by English colonists from Africa to Virginia as early as 1619. There were about 460,000 in the territory of today’s USA in 1776, and already in 1865, meaning only 90 years later, more than 4 million slaves. There is the opinion that slavery was the key driver of the American economy and wealth. Although the import of slaves from abroad was banned in 1808, and although slavery was gradually abolished, it existed in 1860 in 15 American states, in which 4 million of the 19 million inhabitants were slaves. Slavery was finally abolished in the entire United States only after the Civil War, with the XIII Amendment to the US Constitution (1865).

However, at the same time as it existed in the USA, slavery was long ago abolished in many countries, even those small and underdeveloped. Somewhere, it has not existed as such for a long time when it comes to domestic citizens, but it has been legally abolished, in order to clarify that slavery of foreigners over foreigners is not tolerated on the territory of the respective country. In that sense, it is interesting to note that slavery was abolished in Serbia in 1805-1813, during the First Serbian Uprising. Additionally, Serbia, then still a vassal of Turkey, officially abolished slavery three decades earlier then the USA. This was done by the Constitution of the Principality of Serbia
(1835), which in Art. 118 prescribed that every slave who entered Serbian soil be permanently freed from slavery.

After all, it is not just about Serbia. Many years before the USA, slavery was abolished by other countries in various parts of the world: the Philippine state of Tondo (900), Venice (960), France (1315), Poland (1347), Dubrovnik (1416), the Philippines (1574), Lithuania (1588), Japan (1590), etc. Only in the XIX century, in addition to Serbia, slavery was abolished before the USA in: Haiti (1804), Chile (1823), Central America (1824), Uruguay (1830), Bolivia (1831), Greece (1832), Trinidad and Tobago (1838), Jamaica (1838), Barbados (1838), Argentina (1853), Venezuela (1854), Moldova (1855), Wallachia (1856), etc.

In order not to think that the USA was the only great Western power late in abolishing slavery, it is enough to note that Great Britain did it in 1838, many years after a whole series of small, incomparably less developed countries.

By the way, slavery is one example of human rights not developing in a straight line, with a constant rise. Although there is no classical slavery today, it is estimated that there are about 40.3 million modern slaves in the world, of whom 24.9 million are in forced labor and 15.4 million are in forced marriage. About 71% of them are women, and a significant number of them are children. It is claimed that the value of goods produced in developed countries reaches several hundred billion US dollars a year - in 2018, the five most important products that were the result of slave or quasi-European labor, and imported into the G20, reached 354 billion dollars, including laptops, computers and mobile phones - 200.1 billion, clothing - 127.7 billion, fish - 12.9 billion, cocoa - 3.6 billion and sugar cane - 2.1 billion dollars. In this regard: 1) the above data refer only to goods imported into the 20 largest economies in the world, which means that, if other countries are taken into account, the situation is even worse; 2) slave labor produces also other goods such as sports equipment, fishing nets, etc.; 3) from 2018 until today, the situation could only get worse; 4) there are other estimates, among them those that indicate that every year a huge income of over 100 billion dollars falls on services that are reduced to forced sexual exploitation. It is claimed that in the USA alone in 2018, there were 403,000 people in modern slavery or 13 for every 1,000 inhabitants, which is 2.4 times more than the world average (United States, 2018; Global estimates of modern slavery: Forced labour and forced marriage, 2017, 5).

It is also interesting to note that, contrary to what might be expected, women have found it harder to win equality in developed countries than in some other countries. A good example is the right to vote, which is one of the indicators of the general attitude of those who govern society towards those to whom that right is recognized, while, on the other hand, it includes many other rights, such as equality and non-discrimination, personal freedom, freedom of thought, freedom of expression, freedom to participate in the management of the community, etc.

Women did not gain the right to vote first in the richest and most developed countries, and only then in other parts of the world. On the contrary. This right was first granted in New Zealand (1893) and then in Australia (1902), Finland (1906), Norway (1913), Denmark (1915), Russia (1917), Austria (1918), Poland (1918), the Netherlands (1919), Sweden (1919), etc. and only after them in the USA (1920), Great Britain (1929), France (1944), Italy (1946), Belgium (1948), etc.

Another fact that may surprise many: many developed Western countries, have recognized women’s right to vote only relatively recently - Monaco in 1962, Switzerland in 1971, Portugal in 1974, Spain in 1976, Liechtenstein in 1984, etc.

Truth be told, it can be noticed that some other rich and economically advanced countries from other areas of the world, which, accordingly, have all the prerequisites to develop human rights more than others, have given women the right to vote only recently – i.e. Qatar in 1999 and Saudi Arabia only in 2015.
It should also be remembered that the most developed countries of the XIX and XX centuries owed their prosperity mostly to colonial conquests, which meant oppression, exploitation and ruthless plunder of other peoples. Therefore, when assessing the human rights situation in the respective countries at that time, one should take into account also what was happening in their colonies, where indigenous peoples were considered “savages”, “semi-animals”, “lower beings” and the like and therefore were deprived of liberty, self-government and often basic rights, they were even held in chains, forced to work, tortured and killed.

In 1900, out of a total of 132.8 million km², which was the area of the known world, the colonies occupied 79.2 million km² or as much as 59.4%. The United Kingdom had the largest holdings - 32.7 million km², France - 11.0 million km², Germany - 2.6 million km², Belgium - 2.4 million km², etc. As early as 1923, the colonies of the UK were 9.2 times larger than their metropolis in terms of population, and 176 times larger in area! Immediately before the World War II, various colonial estates made up 1/3 of the planet, with about 1/4 of the world’s population, and in 1945, 675 million people lived in the colonies. It is not just about numbers, it is about relationships, which have been characterized by racial and other discrimination, cruel exploitation, unpunished violence, etc.

In order to get an approximate picture, it is enough to recall that in the period 1885-1908. Congo, a country 76 times larger than Belgium, was a private colony of King Leopold II of Belgium. Determined to get rich as soon as possible, he introduced a colonial administration that was nothing but a terrible terror and exploitation, accompanied by terrible crimes, such as mutilation, torture, beating, kidnapping, etc. About 10 million people died from slave labor, violence and diseases caused by terrible living conditions.

Although this was not classical colonialism, it is well known that at a time when the USA has already drawn attention to itself as a free-spirited, progressive part of humanity, one in which everyone supposedly has the same rights and opportunities, the indigenous Indian population was persecuted, killed, forcibly relocated and largely exterminated in various ways. It is estimated that about 15 million North American Indians died in the United States as a result of their killing and various forms of persecution.

Other world leading powers took similar steps against the natives at the turn of the XIX and XX centuries. Thus, in 1804-1907. in Southwest Africa Germans tried to exterminate the peoples of Herero and Nama by deserting and using methods of starvation and poisoning of wells, as a result of which 65,000 Herero (80% of that people) and 10,000 Nama (50% of their total number) perished.

Similar steps were taken by some other countries, such as the genocide of Turks against Armenians and Greeks in 1915-1923, when more than 1.5 million Armenians and about 300,000 Greeks were killed to create an ethnically pure state. However, that does not justify anyone at all, not even the Western countries, especially since we are wondering here whether they have the moral right to pass on human rights violations to others, when they themselves did or even today sometimes do the same or worse.

After all, until relatively recently, some of the most developed countries in the West were characterized by institutionalized forms of racism, that did not occur in other countries or at least were not observed in them in approximately the same form and intensity. Thus, in the USA in the 1960s, the principle of racial dichotomy prevailed so that “purity of race would not interfere”. Among other things, the Pentagon, the headquarters of the US Department of Defense, which was completed in 1943, was built with twice as many toilets as needed because the Racial Segregation Act was in force at the time, requiring separate toilets for whites and blacks. It was not until 1964 that the Civil Rights Act was passed, which put an end to racial segregation and discrimination in the United States.

The years before and during WW II offered plenty of examples of drastic human
rights violations in the most developed countries. The first thing that came to mind was the persecution of the so-called non-Aryans in Hitler’s pre-war Germany, and then the German genocide of Jews, Slavs, and Roma; grave atrocities against civilians and prisoners of war during the war; or the horrific crimes of the Japanese in China and other occupied territories. However, humanitarian law and human rights were massively violated by all, including the Italians, Soviets, etc., but also the British, Americans, and French, who before and after World War II largely managed to impose themselves as all-around world leaders. Here are just two examples.

Immediately after entering World War II, the United States, a country that at the time was seen as a champion of democracy, under Presidential Executive Order 9066 (February 19, 1942) sent 120,000 of its Japanese-born population to concentration camps. In most cases, they were given only 48 hours to pack the most necessary things and leave their homes. Although the reason was the fear that these people were spying for Japan, the fact remains that 2/3 of them were US citizens (domestic citizens) and that about half of them were children! At the same time, none of them showed any sign of disloyalty towards the USA - during the entire war, only 10 people were convicted of espionage in favor of Japan, and none of them was of Japanese origin. Still, entire families were sent to the camps. It was not until 1945 that they were allowed to return home.

Before and after the end of World War II, the Americans placed 3.5-5.2 million German prisoners in about 20 camps. In order to avoid obligations under the Prisoner of War Convention (1929), US forces denied POW status to imprisoned Germans and treated them as “disarmed enemy forces”, a category that does not exist in international law. With such coverage, these people were exposed to ill-treatment, which has meant a serious violation of the basic rights of prisoners of war, established by the Convention. They were kept in the open (not even tents were set up), densely packed in sectors separated by barbed wire, without toilets, exposed to the sun, rain, wind, and cold, and forced to sleep in holes dug in the ground with their bare hands, they were deliberately starving, etc. According to one Canadian author, between 800,000 and more than 1 million German prisoners died in American camps because of hunger, thirst, dysentery, pneumonia, tuberculosis, and other diseases caused by poor living and sanitary conditions. Referring to historical documents, statistics and testimonies, he claims that, contrary to the norms of international humanitarian law, journalists, charities, and even the Red Cross were not allowed to visit these camps; that any form of assistance to prisoners was prevented; that food aid sent by the Red Cross was returned on the grounds that supplies were sufficient or simply not distributed; that it was explained to American officers that the goal was to exterminate as many German prisoners as possible; etc. He also printed a facsimile of the order of May 9, 1945, stating that the local population was strictly forbidden to give food to prisoners under threat of execution (Bacque, 1989, 30, 52-53, 61, 69, 76, 109, 166; Bacque., 1997, 42-44, 59, 61). Regardless of the evidence offered, these allegations might be understood as an exaggeration. However, there are the affirmative prefaces to author’s two books, claiming that everything in them is true, and these prefaces were written by eminent personalities whose expertise and objectivity should not be disputed. The preface for the first book was the work of Ernest F. Fischer, a retired U.S. colonel who was involved in internal U.S. investigations in 1945 in regard to U.S. military crimes in Germany and later became a prominent expert at the U.S. Army Center for Military History in Washington. The foreword to the second book was written by Alfred-Maurice de Zayas, doctor of history, professor of International Law, distinguished human rights expert, and former UN senior officer.

Considering that there is no need to recall many well-known events from the World War II, such as the dropping of atomic bombs on Hiroshima and Nagasaki (according to many, the most serious crimes against humanity in history), the unnecessary and indiscriminate
bombardment of Hamburg and Dresden, etc., we will mention just another type of war crime, which also means violations of relevant human rights, which fall on the soul of the Western Allies.

The British, French, Norwegians, and Danes used German prisoners of war to clear minefields. When the Germans invoked Art. 32 of the Convention on the Treatment of Prisoners of War (1929), which prohibits the use of prisoners in hazardous and unhealthy work, they were told that the Convention did not apply to them, as they were not prisoners of war but “members of unarmed forces who surrendered unconditionally.” In other words, in order to avoid recognizing the prisoners’ rights under international law, the British resorted to the same trick as the Americans, only they came up with a different term.

The British, under the command of General E. Thorne, forced more than 5,000 captured Germans in Norway to pass through minefields holding hands, with the idea of encountering a landmine and activating it. Thus, by the end of August 1945, 275 German prisoners of war had been killed and 392 maimed. A similar thing happened in Denmark. This tactic was mostly used by the French. They sought and obtained from the USA and Britain about 50,000 German prisoners and then used them to clear mines, with at least 1,800 of them killed by September 1945, and at least as many more maimed. It should not be explained that all these cases were war crimes. However, no one was declared responsible for that.

After all, if we leave aside what is related to the war and the post-war period, the fact is that many human rights have been violated or denied in peace, even in the most developed Western countries.

Good examples are employment rights or labor rights. They are still being violated in some places today, but they are guaranteed, of course. It is the result of a long struggle and the contribution of the International Labor Organization, founded in 1919. Only in the second half of the XIX century were there many large-scale strikes and protests by workers (in the UK - 9, in the US - 28, etc.) demanding recognition of basic rights, such as an eight-hour day, the right to rest, etc. Many of them were suffocated by brutal violence, often in blood, the most famous example of which was the events that took place in Chicago in early May 1886.

The American labor unions demanded the adoption of a law that would introduce an eight-hour working day (instead of 12-15 hours a day, as was the practice at the time). When that regulation was not, as promised, adopted, on May 1, 1886, about 350,000 workers took to the streets of American cities and protested peacefully. In Chicago, where there were about 40,000 of them, the demonstrations were initially peaceful, but clashes with police broke out on May 3 and 4, with a dozen dead and about 200 injured on both sides. The development of events led to the adoption of the eight-hour working day, and May 1, in memory of what happened in Chicago, is celebrated as International Labor Day.

We will remind you once again that the examples given on the previous pages are given only as an illustration, in order to point out that the countries that have had the main say in international relations, the economy, culture, education, science, etc. in fact, have never been immune to denial or human rights violations. In other words, neither human rights in these countries have always been the most developed in everything, nor the situation in other countries has always been worse in every respect.

It is important to note another point that does not concern practice, but legal regulations. When the internal acts of the leading countries of the West were imposed and accepted as role models for others, it was not always because of the real, essential quality of those documents. Often, it was just a matter of the world power behind them. Substantially better regulations of small and medium-sized states were not taken as an example, and sometimes external pressures were exerted to withdraw these regulations, precisely because of their open-mindedness and progress.

A sufficient example is the Constitution of the Principality of Serbia (1835), which
declared that every slave who enters the territory of Serbia becomes free. It also had other important solutions, many of which mean guaranteeing basic human rights, such as equality of citizens and equality before the law, the independence of the judiciary, the right to a lawful trial and the prohibition of retroactive effect of the law. Besides, it also contained rules according to which: detention can last a maximum of 3 days, after which an indictment must be filed or detainees must be released; no one can be prosecuted or punished except by law and by the judgment of the competent court; retrial for the same act is prohibited; and many other rights and freedoms are guaranteed - freedom of movement and residence, inviolability of the apartment, right to choose an occupation, freedom to dispose of land, etc. Thus, Serbia became the second European country (the first was France), to abolish feudalism with the highest legal act and embrace advanced ideas and principles.

However, the consequence was that Russia and Austria, two great feudal powers, stated that this was an act that was too liberal and as such endangered their interests, and with the support of Turkey, they exerted strong pressure to withdraw the Constitution. As a result, the Constitution, undoubtedly very good and progressive, lasted only 55 days - adopted on February 15 and suspended on April 11, 1835.

6. CONCLUSION

Human rights are a universal heritage in two basic ways.

On the one hand, they are a civilization achievement, a common good, a common moral, legal, and other value of the entire human race, of all peoples and states. In other words, they are a system of rules and principles that, as a product of the human spirit, are available to all people and all communities to embrace, respect, and further promote them.

On the other hand, human rights are (and this is sometimes forgotten) the result of centuries of action in the respective directions of all human communities, some of which in certain periods had more or less influence than others, but in fact altogether, throughout history slowly but certainly led to the notion that certain human rights exist, that they must be recognized, respected and protected.

Everything that was discussed in this paper should be sufficient proof that human rights have been denied but also recognized at different times, in different areas, and that in the history of every state and every nation can be found evidence of consistent respect and promotion of these rights, and examples of their denial and gross violation.

On that basis, it must be assessed as a simplified and one-sided image of the fact that human rights are the product of the spiritual, moral, cultural and other superiority of the West in relation to other parts of the world.

It is largely a consequence of the fact that the history we know was written by European and American authorities, who knew and glorified the experiences and practices of their countries, i.e. the religions and cultures to which they belonged. That history, whether one likes it or not, is Eurocentric, with its recognition of the special role of the USA. This is part of the approach that stands on the view that everything valuable in recent history originated in Western Europe and the United States.

Among other things, it is still believed that Columbus discovered America in 1492, although there is growing evidence to suggest that this was done long before him by the Vikings, and before them at least by the Phoenicians and Chinese.

In the same way, some theorists still hold the view that international law itself originated in Europe, at the time of the transition from feudalism to capitalism, although there is much evidence of this, important norms and principles of international law have emerged throughout history. We find them in antiquity and in Mesopotamia, Egypt, China, India and others (Krivokapić, 20172, 46-57).

The truth is different, much more complex and richer than is sometimes thought. People all over the planet are essentially the same; they have the same or similar basic needs, the same
interests, and the same things that make them happy or sad. It is enough to remind us that although there are different cuisines (ways of preparing food), all people like to eat healthy, fragrant and tasty food. On different continents, people came up with the same weapons on their own - spears, arrows, swords, etc., learnt to build buildings, developed means of transport, medicine, letters, states, etc.

It is the same with other phenomena, among them the law, and human rights, as a part of it. To a certain extent, throughout history, they have legally and really existed in various societies all over the planet.

Indeed, it is difficult to deny that in various communities, even those we consider primitive, there were certain rules that meant recognizing equality, guaranteeing freedom of religion, respecting the elderly, women, non-combatants, etc. This approach was very different from what we have today, but it cannot be denied. Human rights have always been and always will be, just as they have been and will always be more or less challenged and violated.

It is not disputed that Western countries have made a special contribution to the development and protection of human rights in the last few centuries. The rest of humanity should not question that, as it should be sincerely grateful to those individuals from Western countries who contributed to that and to those authorities of those countries who, by adopting advanced regulations, at the same time lit the way for others.

However, those same countries have also left testimonies of the gravest violations of human rights, a practice that cannot be honored. That has already been discussed.

Within this framework, one will not be mistaken if it is noticed that the excessive raising of the importance of legal documents of the Western world which guarantee the respective human rights is not justified. Neither of these documents were flawless, nor were the guaranteed rights valid for all.

The idea that human rights have spread from leading Western countries should also be objectively valued. Those who see the educational mission in the footsteps of those countries start from the fact that other societies were underdeveloped. In other words (although no one will say it out loud today) - uncultured, savage, primitive. But - not so!

Certain human rights have existed both legally and factually in various parts of the world, even in the distant past. In addition, even when new knowledge and technologies were really spread, as well as advanced ideas (including human rights), Western countries did not do it to improve the lives of people around the planet, but as an incidental phenomenon in colonial and other conquests and thus connected by imposing on others their system of values and way of life. It is enough to remember how the indigenous peoples of America and other continents were forcibly baptized.

Finally, we must be aware that when we talk about human rights in our time, we often have in mind the highest standards achieved, sometimes forgetting that even today there is the death penalty in many countries, that even today parts of the state apparatus sometimes resort to torture. slavery and practices and institutions similar to slavery, that even today women in many societies are disenfranchised and discriminated against, etc.

All this in addition to numerous international and national legal documents that regulate human rights. In this regard, we must be honest and ask ourselves whether it is more important that human rights are guaranteed by international and domestic regulations, and in practice they are denied or disrespected, or better when they are based on customary law or underdeveloped regulations, but are realized. It would be ideal to have a perfect legal regulation and its perfect application in practice, but since that is not possible, what would we opt for if we were forced to make the mentioned choice?

In short: human rights have always been and always will be, just as there have always been and will always be their disputes, denials, and violations. The question of the degree of their development, protection and respect is a
problem in itself and can be answered only on the occasion of a specific case, after a thorough study of not only legal regulations but also the practice of each concrete society and the international community as a whole.

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