**ВРОЦЛАВСЬКО-ЛЬВІВСЬКИЙ ЮРИДИЧНИЙ ЗБІРНИК 10**
**WROCŁAWSKO-LWOWSKIE ZESZYTY PRAWNICZE 10**
Львівський національний університет імені Івана Франка • Львів 2019

**Olena Ryhina**
ORCID: 0000-0002-8366-3365
Ivan Franko National University of Lviv
olena.rygina@lnu.edu.ua

Type of the article: original scientific article

# Some issues of methodology of historical and legal studies of the rights of the child in the United States

**Keywords:** child rights, United States, methodology, methods, paradigm

The problem of methodology, the discovery of the most successful methods when studying the identified object and subject is undoubtedly the key tasks, the error of which inevitably leads to formation of wrong judgments and conclusions, questions the objectivity and completeness of the study. This provision applies, in particular, to legal and historical and legal studies, since the absence of a detailed methodology, and this is actually an axiom, results in loosing legal basis of the comprehensive nature of the study. Therefore, determination of the governing laws of formation and further development of the rights of the child in Ukraine, the United States or any other country cannot be done without a detailed strategy of choosing the most appropriate research methods to solve this issue.

Ukrainian scientists who identified the child, its legal status or legal rights as a kind of «core» of the legal study, naturally paid considerable attention to the

issue of methodology. They include N. M. Krestovska, N. V. Ortynska, O. I. Vinglovska, I. V. Voloshyna, Yu. V. Gubal, N. M. Opolska and others. Undoubtedly, their scientific achievements have been used in determining the strategy of historical and legal study of the rights of the child in the United States.

Context of our study requires clarification of the term «methodology». According to the most acceptable for us position, the «methodology» (Greek «Μέθοδος» – path of study or knowledge, from «μετά-» + «ὁδός» «path» and from Greek «Λόγος» – word, thought, notion) in the most general meaning is defined as a set of general philosophical propositions and principles that determine a certain position of researchers, as well as a scientific substantiation of the methods of study of the investigated phenomena and processes of objective reality. In other words, the methodology is a system of principles, methods, and rules of theoretical and practical construction and organization of activities in the field of science. At the same time, the methodology is also a doctrine of this system[1]. We explain our commitment to this definition by the fact that we tend to understand the term «methodology» as a doctrine of methods and strategy of studies.

English literature contains a somewhat different definition of the term «methodology», since the authors, mainly, tend not to give theoretical definition to this term but to show the main purpose of the methodology. In particular, as noted by K. Vibhute and F. Aynalem, the methodology is a way of systematically solving the problem of the study and science, which studies the methods used in the study, and also justifies the use of certain methods. In other words, the methodology of the study is a set of rules and procedures concerning the method of its conduction. It includes not only the compilation of different research methods but also the rules and justification of their use. K. Vibhute and F. Aynalem agreed with the opinion of R. Kotari, who believes that the methodology includes many measurements and methods of the study, but the methodology is not only the methods but also the logic of their application in the study. In addition, it justifies the use of a specific method or technique of the study and explains the reasons why others should not be applied. The methodology defines the very problem of the study, explains how and why the scientific hypothesis was formulated, indicates the data collected and the specific method used, and the reasons for using the method of data analysis[2].

S. I. Irny and A. A. Rose, referring to V. Robson, H. K. Klein and R. Hirschheim, asserts that the methodology is a «guideline» for solving the problem with certain components (stages, tasks, techniques, methods, and tools). In general, the methodology consists of four elements: providing thoughts about the problem to be solved; determining the methods to be applied and determin-

[1] V. M. Medunetskiy, K. V. Silayeva, *Metodologiya nauchnykh issledovaniy,* uchebnoye posobiye, SPb, Universitet ITMO, 2016, s. 4.

[2] K. Vibhute, F.Aynalem, *Legal Research Methods: Teaching Material*, 2009, p. 119–120.

ing the sequence of application of the methods; advice on the quality of the results of the study; providing tools to facilitate the study process[3].

In our opinion, each of the presented positions on the interpretation of the term of methodology has the right to exist, because their probabilistic ability to be applied in scientific circulation was proved by the authors. The above is also substantiated by domination of pluralism of methodological approaches and methods of scientific knowledge, in particular in the field of historical and legal studies. As V. P. Kiselychnyk said, pluralism of conceptual approaches is based on the foundation of modern legal understanding and understanding of the philosophy of history. They indicate that a number of issues in the methodology of historical and legal science require deep theoretical developments as a result of the development of new conceptual approaches to the methodology of scientific knowledge, as well as concepts and doctrines in individual scientific disciplines: philosophy of law, history, economics, sociology, psychology, methodological achievements of which are used in the science of the history of state and law[4]. Pluralism determines the process of scientific work itself. It is allowed in the absence of single and unified methodological approaches to the knowledge of the phenomena of legal reality[5]. R. B. Norgaard also supported the expediency of existence of scientific pluralism, indicating that the latter together with the «methodological refinement» of the researcher determine the success of the study. At the same time, the author applies such a concept as «conscious methodological pluralism», which covers the selection of a personal methodology of research, awareness of advantages and disadvantages of the methodology used and tolerant application of different methodologies. According to R. B. Norgaard, pluralism prevents «side actions», since the practice of methodological pluralism is the result of giving many answers. This is explained by the fact that application of one method involves giving one answer, which may be misleading since the scientists who see only one way to solve the problem are prone to distortion and may deliberately distort arguments[6].

Forming the concept of the methodology of the historical and legal study of the rights of the child, we were guided primarily by the scientific position

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[3] S. I. Irny, A. A. Rose, *Designing a trategic Information Systems Planning Methodology or Malaysian Institutes of Higher Learning (isp-ipta)*, Issues in Information System, Volume VI, No. 1, 2005, p. 326; W. Robson, *Strategic Management and Information Systems: An Integrated Approach,* London, Pitman Publishing; H. K. Klein, R. Hirschheim, *Choosing Between Competing Design Ideals in Information Systems Development*, Information Systems Frontiers, 3(1), 2001, p. 75.

[4] V. P. Kiselychnyk, *Metodolohiia istoryko-pravovoho doslidzhennia miskoho prava Lvova*, Naukovyi visnyk Lvivskoho derzhavnoho instytutu vnutrishnikh sprav, № 4, 2010, s. 38.

[5] Yu. Korolova, *Formuvannia metodolohichnoi osnovy naukovoho piznannia dzherel prava*, Pidpryiemnytstvo, hospodarstvo i pravo, № 10, 2016, s. 115.

[6] R. B. Norgaard, *The case for methodological pluralism*, Ecological Economics, Vol. 1, 1989, p. 51–52.

supported by D. A. Kerimov, according to whom the methodology should be based on the author's world-view position. The latter consists of three interconnected components: it is a general attitude of the researcher to the objects of knowledge; it is a special attitude of the researcher to objects of knowledge, which is determined by its affiliation with a certain scientific school or direction; these are methods, techniques, and means chosen by the researcher[7].

Traditionally, the term of «method» is understood as «the path to the goal», «the way to cognition,» «the path to knowledge,» «the path to truth.» If we consider the method as a method of action, type of techniques and operations that guide knowledge, it is necessary to consider it reflects the properties of the object and subjective capabilities of the researcher[8]. It worth looking at the arguments of A. O. Falkovskyi, according to which the method is a system of requirements to the cognitive activity of a human being, which orientates the researcher to solve a particular philosophical, scientific or practical problem by applying a certain technique (tool)[9]. Main function of the method is internal organization and regulation of the process of knowledge or practical transformation of one or another object. The method is reduced to a set of defined rules, techniques, methods, norms of knowledge and action, it is a system of instructions, principles, requirements that must orient in the process of solving a specific task, achieving a definite result. It disciplines in finding the truth, allows (if it is correct) to save efforts and time, moving to the goal in the shortest possible way. The method serves as a kind of compass, using which the subject of knowledge and action paves the way and avoids mistakes. F. Beckon compared the method with a lamp that illuminates the road in the dark and believed that one cannot expect the success studying any issue, going the wrong way.

In modern science, all methods of scientific knowledge can be divided into such basic groups. The first group comprises philosophical methods, including dialectical, metaphysical, analytical, intuitive, phenomenological, and others. The second includes general scientific approaches and methods of the study, which serve as an intermediate link of methodology between philosophy and fundamental theoretical and methodological provisions of special sciences. The third are private scientific methods that are used in many sciences that study the movement of matter. The fourth are disciplinary methods that are used in one or other scientific discipline that is part of a particular branch of science or a new branch of knowledge. The fifth are the methods of interdisciplinary research.

[7] D. A. Kerimov, *Metodologiya prava. Predmet, funktsii, problemy filosofii prava,* monografiya, 2-e izd., Avanta, 2001, s. 25–26.

[8] M. B. Averin, P. V. Nikitin, A. A. Fedorchenko, *Istoriya i metodologiya yuridicheskoy nauki*, Kurs lektsiy, M., RPA, 2012, http://distance.rpa-mu.ru/files/mg/imun/thm/tsm11.html

[9] A. O. Falkovskyi, *Aksiolohichnyi pidkhid v metodolohii suchasnoi yurysprudentsii,* avtoreferat dysertatsii na zdobuttia naukovoho stupenia kandydata yurydychnykh nauk, Odesa, 2011, s. 6.

Consequently, the methodology of the study cannot be reduced to one, even a very important method[10].

It is obvious that in the process of determining the methods of the study and their systematization in the methodology, a certain order of their placement is selected, which is grouped into a conceptual hierarchy to determine the regularity of repetition of certain phenomena, and hence the validity (authenticity) of the established regularities, which confirm the working hypothesis[11].

As we noticed, Ukrainian scientists who called the child, its legal status or legal rights as a «core» of the legal study, naturally paid considerable attention to the question of methodology. Thus, in the historical and legal study of formation and development of juvenile law in Ukraine, N. M. Krestovska chose as key a social and evolutionary paradigm in which juvenile law is an artifact which is the result of the long-term development of a triune social reality: attitude of society towards children and childhood, various relationships between children and adults and legal regulations establishing them. The study was conducted from the point of civilization-stage, informational, systematic, existential and humanistic and axiological approaches, involving the achievements of other social sciences, taking into account the interdisciplinary nature of the category of childhood. General scientific and special scientific methods were used: dialectical, descriptive, historical, formal and legal and comparative and legal[12].

Have investigated the legal status of minors in the theoretical aspect, N. V. Ortsynska determined a system of conceptual approaches, general scientific and special scientific methods as methodological basis of the study. The basis of the methodology of legal status of minors was based on the author's concept of interdisciplinary methodology, spatial-temporal approach and method of complementarity. The dialectical method, phenomenological, hermeneutic, systemic, structural, synergetic, abstraction, classification, legal and statistical, legal and dogmatic, comparative, method of legal modeling, legal and linguistic and communicative methods were used[13].

When studying the problem of implementation of international standards of the rights of the child in the national legislation of Ukraine, O. I. Vinglovska used the method of dialectical system analysis of social processes in conjunction with the needs of legal regulation of the rights of the child and the formal and

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[10] H. O. Birta, *Metodolohiia i orhanizatsiia naukovykh doslidzhen*, navchalnyi posibnyk, K., Tsentr uchbovoi literatury, 2014, https://pidruchniki.com/1056112760990/dokumentoznavstvo/metodologiya_metodi_logika_naukovih_doslidzhen

[11] S. A. Kalashnikova, V.I. Luhovyi, O. M. Sliusarenko, Zh. V. Talanova, O. H. Yaroshenko, *Kontseptualno-metodolohichni osnovy proektuvannia metodiv i zasobiv diahnostyky osvitnikh rezultativ u vyshchykh navchalnykh zakladakh*, K., Pedahohichna dumka, 2014, s.139.

[12] N. M. Krestovska, *Yuvenalne pravo Ukrainy: henezys ta suchasnyi stan*, avtoreferat dysertatsii na zdobuttia naukovoho stupenia doktora yurydychnykh nauk, Odesa, 2008, s. 3.

[13] N. V. Ortynska, *Pravovyi status nepovnolitnikh: teoretyko-pravove doslidzhennia*, avtoreferat dysertatsii na zdobuttia naukovoho stupenia doktora yurydychnykh nauk, Lviv, 2017, s. 9–10.

legal method that allowed to analyze the legal content of international standards of the rights of the child. The comparative, logical, historical and other special methods of the study were also used[14].

The main method used in the study of the constitutional and legal status of the child in Ukraine chosen by I. V. Voloshyna is a general scientific dialectic method that allowed to analyze theoretical and practical problems of the constitutional and legal status of the child in Ukraine in its development, dependence from other types of legal statuses, in the process of its influence on other legal statuses, their mutual enrichment, interdependence. She used historical and historical and legal methods of the study, as well as methods of generalization, grouping, analysis, comparative and legal, methods of systemic, formal and legal and structural and functional analysis, formally logical methods (deduction, induction, analysis, synthesis), structural and functional methods, method of interpretation[15].

As methodological basis of the comparative and legal study of the constitutional and legal status of the child in Ukraine and Hungary, Yu. V. Gubal defined a dialectical method that allowed to analyze theoretical and practical problems of the constitutional and legal status of the child in its development, dependence from other types of legal statuses, in the process of its influence on other legal statuses, their mutual enrichment, interdependence. Formal and logical, formal and dogmatic, system and functional, specifically historical method, comparative and legal methods were used[16].

In the general theoretical study of the legal provision of the rights and freedoms of the child in Ukraine, N. M. Opolska applied philosophical and world outlook, general science, concrete scientific and special scientific methods. In particular, the method of general philosophical dialectics allowed to find out the essence of ensuring the rights and freedoms of the child, its constituent elements, taking into account their interaction. She used the formal and logical method, systemic and structural methods, method of ascent from abstract to concrete, historical and legal, comparative and legal, theoretical and legal, special and legal methods of study[17].

Only some examples of the use in legal studies of a whole range of scientific methods presented by us are evidence of existence of methodological pluralism and

[14] O. I. Vinhlovska, *Implementatsiia mizhnarodnykh standartiv prav dytyny v natsionalnomu zakonodavstvi Ukrainy*, avtoreferat dysertatsii na zdobuttia naukovoho stupenia kandydata yurydychnykh nauk, K., 2000, s. 4.

[15] I.V. Voloshyna, *Konstytutsiino-pravovyi status dytyny v Ukraini*, avtoreferat dysertatsii na zdobuttia naukovoho stupenia kandydata yurydychnykh nauk, K., 2016, s. 4.

[16] Iu. V. Hubal, *Konstytutsiino-pravovyi status dytyny v Ukraini ta Uhorshchyni: porivnialno-pravove doslidzhennia*, avtoreferat dysertatsii na zdobuttia naukovoho stupenia kandydata yurydychnykh nauk, Uzhhorod, 2015, s. 4

[17] N. M. Opolska, *Pravove zabezpechennia prav ta svobod dytyny v Ukraini (zahalnoteoretychnyi aspekt)*, avtoreferat dysertatsii na zdobuttia naukovoho stupenia kandydata yurydychnykh nauk, K., 2010, s. 4.

the right of researchers to formulate their own methodology when studying a specific problem. At the same time, choosing one or another method of study, it is advisable to take into account remarks of N. Davis that each of them has its advantages and disadvantages. Therefore, it is important to understand the advantages and disadvantages of each of them in order to achieve maximum approximation. The author underlined that it is possible to deny application of historians to poetry, sociology or astrology since such sources are «subjective», «partial» or not scientific. At the same time, N. Davis gives such an example that with the same success we can deny against X-ray or ultrasound investigation on the grounds that these methods give a bad image of the face[18].

Choosing the method of historical and legal study of the rights of the child, feasibility of using primarily general philosophical methods does not raise concerns, because they can help explain, in particular, the causes of evolutionary processes. Even superficial knowledge of historical modification of the status of the child, not only legal, but also family and social one, allows us to state that the child's position in the twentieth or twenty-first centuries is fundamentally different from the position of the child who lived in the age of the ancient world or during the Middle Ages.

Specificity of the study tends to take into account the fundamental idea of M. Blok that the subject of historical study should be a «human in time», and therefore, the researcher must understand the human being of the past. In order to penetrate into another's mind, you must abandon your own «self» and not to attribute this consciousness your own traits. Only in this case, according to M. Blok, there will be a «meeting of human beings in the ages», that is, the subject and object of the study[19]. Applying the analogy, the corresponding idea directly concerns the child, therefore the formation and development of the rights of the child should be investigated, taking into account the historical period, that is, taking into account such a phenomenon as time.

When looking for definition of the time, it is expedient to take into account the complexity and multiplicity of human experience that led to emergence of this concept in the mind, and disciplinary distinction between interpretation of the time, in particular in philosophy, history, biology, and other sciences. Thus, social time serves as an element of reproduction and construction of social experience. If we consider the relationship of «time and subject», the time will be perceived as somewhat accomplished, and the subject forms its own idea of this accomplished thing, and thus simulates a certain time paradigm[20].

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[18] N. Devis, *Istoriya Evropy*, per. s angl. T. B. Menskoy, M., ACT, Tranzitkniga, 2005, s. 22.

[19] M. Blok, *Apologiya istorii ili Remeslo istorika*, per. E. M. Lysenko, 2-e izd., dop., M., Nauka, 1986, s. 82.

[20] V. V. Kutsenko, *Chas yak filosofska katehoriia: u poshukakh ekzystentsiinoi temporalnosti,* Visnyk Kyivskoho natsionalnoho universytetu imeni Tarasa Shevchenka, Seriia Filosofiia. Politolohiia, Vyp. 110, 2012, s. 9, http://nbuv.gov.ua/UJRN/VKNU_FP_2012_110_4.

Taking into account thoughts of N. M. Krestovska, according to which the paradigm (theoretical and methodological model) of juvenile legal studies is a child, he/she is also the «center» of the study[21]; it is expedient to use this idea in the historical and legal study of the rights of the child in the United States. Since the «center» of the relevant historical and legal study is a child in the United States, we will take into account explanation of the term «paradigm» in the English scientific literature. Thus, T. Hutchinson defines a paradigm as a general outlook within a discipline, which is defined firstly by «themes» that can be presented to study, secondly, by acceptable methods, and thirdly, by criteria that can be used. The paradigm embraces all major philosophies, within the common law they are presented by liberalism and rationalism, with awareness of the value of such rights as the right to private property and the freedom of individual self-determination. There are other aspects of the paradigm, including awareness of the law from the point of view of positivism, as objective and neutral, «such as the law is», but not «as it can be» or «must be». These aspects are also part of the paradigm. These characteristics are inherent in the legal tradition of common law. In addition, the established paradigm in legal studies includes the «legal voice» of the researcher[22].

Use of the doctrinal method of study is typical for the tradition of common law. National scientific literature mostly indicates not this notion but the term «doctrinal interpretation» which is the interpretation by legal academicians (development of legal concepts, doctrines as a result of analysis of the norms of law and their presentation in articles, monographs, scientific and practical comments, oral and written discussions of normative acts)[23].

Emphasizing that the doctrinal legal method of the study is the guiding principle when reforming the law and legal system, V. M. Gavas, however, does not define it. However, the author argues that it plays an important role in the study of all types of court cases, statutes (laws) and rules. Agreeing with refinements of S. N. Jain, V. M. Gawas notes that a scientific analysis of the case law, organization, regulation, and systematization of legal provisions and study of legal institutions on the basis of legal considerations or rational conclusions takes place using the doctrinal method». Making general conclusions V. M. Gawas concludes that achievement of the completeness and objectivity of the study requires a detailed analysis of «the provisions of laws, reports of committees, legal history, scientific considerations, court decisions in the cases»[24].

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[21] N. M. Krestovska, *Metodolohichni zasady doslidzhennia yuvenalnoho prava Ukrainy,* Aktualni problemy derzhavy i prava, Vyp. 45, s. 215–216.

[22] T. Hutchinson, *The Doctrinal Method: Incorporating Interdisciplinary Methods in Reforming the Law*, Erasmus Law Review, Issue 3, 2015, https://www.elevenjournals.com/.../2015/3/ELR-D-15-003_0...

[23] V. V. Halunko, *Profesiino-pravove tlumachennia prava*, Forum prava, № 2, 2011, s. 153, http://nbuv.gov.ua/UJRN/FP_index.htm_2011_2_25

[24] V. M. Gawas, *Doctrinal legal research method a guiding principle in reforming the law and legal system towards the research development,* International Journal of Law, Vol. 3; Iss. 5; September 2017, p. 129–130.

Given that specificity of the historical and legal study of the rights of the child in the United States requires recourse to a number of normative acts which provide for these rights, and to court decisions which can explain the content of these rights, the need to use the doctrinal method in its essence is logical.

T. Hutchinson indicated that throughout history, the doctrinal method was dominant in the world of common law. Since it has interdisciplinary character, it is possible to carry out a critical conceptual analysis of all necessary laws and rules of the precedent law. At the same time, when carrying out the critical conceptual analysis, it is necessary to take into account rules of official interpretation of the judicial precedent, recognized methods of judgment, borrowed from philosophy, logic, first of all, induction and deduction»[25].

Conclusions. Thus, if the methodology of each scientific study organically consists of the level of paradigms, level of approaches, level of methods and principles, the specifics of the object and subject of the study caused the development of the author's position on compiling the achievements of the modern methodology with the purpose of illuminating the problem of formation and development of the rights of the child in the US. In this context, the «paradigm» (theoretical and methodological model) is a child, who is at the same time the «center» of the study.

Comprehension of the entire essence of the subject of the study, that is, in our case, to investigate the rights of the child in the United States in historical and legal aspect, involves taking into account various factors that directly or indirectly relate to the temporal existence of the child, and these are not only factors of legal nature. These factors could have had a greater or lesser effect on significant or less significant changes in the subject of the study, but they determined its present essence or essence for a certain period of time. Thus, such issues as peculiarity of the subject of the study caused by its dynamism, as the need to clarify and explain the factors with which the child coexisted in the United States in different historical periods, and at different stages of his/her life, until his/her legal status transformed from the status of a child to the status of an adult, requires the use of the whole complex of general scientific and special-scientific research methods.

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**Олена Ригіна**
Львівський національний університет імені Івана Франка

## Окремі питання методології історико-правових досліджень прав дитини в США

Анотація

Проблема методології, віднайдення найвдаліших методів у дослідженні визначених об'єкта та предмета безсумнівно є тими ключовими завданнями, допущення помилки в яких неминуче призведе до формування неправильних суджень і висновків, поставить під сумнів об'єктивність і повноту дослідження. Це положення стосується, зокрема, правових та історико-правових досліджень, оскільки без детально розробленої методології, і це фактично аксіома, втрачається юридичне підґрунтя всеосяжності дослідження. Тому з'ясування закономірностей становлення та подальшого розвитку прав дитини в Україні, США чи будь-якій іншій державі не мислиться без детальної стратегії щодо обрання найдоцільніших методів дослідження у розкритті цієї проблеми.

Українські вчені, котрі своєрідним «ядром» правового дослідження визначили дитину, її правовий статус чи юридичні права, закономірно приділили значну увагу питанню методології. Безумовно, їх наукові надбання були використанні у визначенні стратегії історико-правового дослідження прав дитини в США. Крім цього, керуючись результатами досліджень, висвітлених в англомовній літературі, ми прийшли до висновку, що методологію слід розглядати як результат творчості дослідника у вирішенні поставлених завдань, яка базується, передовсім, на його світогляді.

Обираючи метод історико-правового дослідження прав дитини, доцільність використання загально-філософських методів не викликає застережень, оскільки за їх допомогою можливо пояснити причини еволюційних процесів. Навіть лише поверхневі знання про історичне видозмінення статусу дитини (правового, сімейного, суспільного), дозволяє констатувати, що становище дитини в XX чи XXI століттях є кардинально іншим, ніж дитини, яка жила в добу стародавнього світу чи середньовіччя.

Специфіка дослідження схилила до врахування фундаментальної ідеї М.Блока про те, що предметом історичного дослідження повинна бути «людина в часі», а отже, дослідник повинен зрозуміти людину минулого. Застосовуючи аналогію, вважаємо, що відповідна ідея стосується й дитини. Специфіка історико-правового дослідження прав дитини в США вимагає звернення до правового аналізу низки нормативних актів, в яких ці права передбачені, та до судових рішень, в яких зміст цих прав може роз'яснюватися, схилили до використання доктринального методу. Загалом, особливість предмета дослідження, зумовлена його динамічністю, потреба з'ясування та пояснення чинників, з якими «співіснувала» дитина в США у різні історичні епохи та на різних етапах своєї життєдіяльності аж поки не відбулася трансформації її правового статусу від статусу дитини до статусу повнолітньої особи, вимагає застосування всього комплексу загальнонаукових і спеціально-наукових методів дослідження.

**Ключові слова:** права дитини, США, методологія, методи, парадигма

**Olena Ryhina**
Narodowy Uniwersytet im. Iwana Franki we Lwowie

## Odrębne kwestie metodologii badań historycznych i prawnych dotyczących praw dziecka w Stanach Zjednoczonych

Streszczenie

Problem metodologii, stosowania najbardziej skutecznych metod w badaniu określonego obiektu i przedmiotu to są niewątpliwie kluczowe zadania, w których niedopuszczalne jest popełnienie błędu, gdyż prowadzi to do tworzenia nieprawidłowych opinii i wniosków, podważa wiarygodność i kompletność badania. Regulamin ten obowiązuje zwłaszcza w badaniach prawnych i historycznoprawnych, ponieważ bez szczegółowo opracowanej metodologii (i to jest faktycznie aksjomat) podstawa prawna dla kompleksowego badania niewątpliwie zostaje utracona. Dlatego wyjaśnienie prawidłowości kształtowania i dalszego rozwoju zagadnienia praw dziecka na Ukrainie, w Stanach Zjednoczonych lub w każdym innym państwie nie jest możliwe bez szczegółowej strategii wyboru najbardziej odpowiednich metod badawczych w celu rozwiązania tego problemu.

Ukraińscy naukowcy, dla których podstawowymi obiektami badania prawnego są dziecko, jego status prawny i prawa, oczywiście wiele uwagi poświęcili kwestii metodologii.

Niewątpliwie ich osiągnięcia naukowe zostały wykorzystane podczas opracowania strategii badania historycznoprawnego praw dziecka w Stanach Zjednoczonych. Ponadto, na podstawie wyników badań zawartych w literaturze angielskojęzycznej doszliśmy do wniosku, że metodologia powinna być traktowana jako rezultat twórczości badacza w rozwiązywaniu ustalonych zadań, opierającej się głównie na jego światopoglądzie. W metodzie badania historycznoprawnego praw dziecka właściwość stosowania ogólnych metod filozoficznych nie wywołuje zastrzeżeń, ponieważ mogą one pomóc wyjaśnić przyczyny procesów rozwojowych. Nawet pobieżna wiedza na temat historycznego przekształcenia statusu dziecka (prawnego, rodzinnego, społecznego), pozwala stwierdzić, że sytuacja dziecka w XX lub XXI w. zasadniczo różni się od sytuacji dziecka w epoce starożytnego świata lub średniowiecza.

Specyfika badań skłoniła nas do wzięcia pod uwagę fundamentalnej idei M. Bloka, że przedmiotem badań historycznych powinien być «człowiek w czasie», czyli badacz musi zrozumieć człowieka przeszłości. Stosując analogię, uważamy, że ten dotyczy to również dziecka. Specyfika badania historycznoprawnego praw dziecka w Stanach Zjednoczonych wymaga odwołania się do analizy prawnej szeregu aktów normatywnych, w których te prawa są przewidziane, oraz do decyzji sądu, w których można wyjaśnić treść tych praw. Ogólnie rzecz biorąc, specyfika przedmiotu badania wynika z jego dynamizmu, potrzeby wyjaśnienia i objaśnienia czynników, które wpływały na dziecko w Stanach Zjednoczonych w różnych epokach historycznych i na różnych etapach jego życia, aż do zmiany jego statusu prawnego ze statusu dziecka na status osoby pełnoletniej. Wymaga to użycia całego zestawu naukowych metod badawczych zarówno ogólnych, jak i specjalnych.

**Słowa kluczowe:** prawa dziecka, USA, metodologia, metody, paradygmat