

## AN INTERNATIONAL - LEGAL MECHANISM OF PROTECTION OF HUMAN RIGHTS

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**Abstract:** *This work is attempt of the analysis of the rights and freedoms of the person in the context of international law. In work various points of view of scientists are stated, the mechanism of protection of human rights and questions of its effectiveness is considered. Development of the international cooperation in area, human rights creates new problems which should be analyzed. It concerns the content of the principle of respect of human rights as the new branch of international law connected with the international cooperation in human rights. The comparative analysis of activity of the international control bodies created according to agreements on human rights allows proving the concept of the international measures of assistance to implementation of these international agreements.*

**Keywords:** *human rights, mechanism of the protection of human rights, legal nihilism.*

The modern world and society deserve special attention and studying of all facts occurring inside of society. In the world live many people of different nationalities, people adhere to different religions and outlooks. But all the people living in our world possess a life and the right to a life, the right to its protection.

These rights give the person the basic guarantees from which other rights follow. The statement of the right enables the person on its protection. For example, each person has the right to a healthy way of life. From this statement follows, that the person has the right to medical aid, on protection of the health and other rights which have been directed on protection and conservation of health.

The person has the rights from the beginning up to the end of a life. Human rights and protection of human rights are an integral part each other. The newborn person, despite of the small age, possesses practically all necessary rights, as well as the adult person. Certainly, it is still early to speak about possession the right to make large deals. But the rights necessary for a life in a society, at the child are available.

Human rights represent the value belonging all international community. To the person irrespective of citizenship (availability or absence of political-legal communication with the state) its natural rights and freedom, as usual fixed in imperative norms of the constitution are guaranteed. Frequently, measures on realization of protection of the rights and freedom of the person and the citizen are not limited to spatial "barriers". As of today, we can see a possibility is international-legal cooperation in area of the given attitudes. Creation of special branch as international law, as well as appropriating branches international humanitarian, criminal and similar (further – etc.) the rights speaks that about availability of the adjusted system of realization of interstate attitudes.

Certainly, it is impossible to tell, that is international a-legal mechanism of protection of human rights and the citizen is strongly developed. For the time being the college of protection carries not so interstate and more likely national character. In many respects norms of international law on realization of measures of protection of the rights and freedom of the person and the citizen reflect internal character the national legislation and have especially recommendatory character.

The international law in the field of human rights represents set of principles and the norms adjusting the international protection of the rights and fundamental freedoms of individuals and representing the international standards in the field of human rights for the national right.

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The term « the international protection of the rights » in regional documents is used since November, 4th, 1950, from the moment of signing by members of the Council of Europe of the

European convention on protection of human rights and fundamental freedoms (item 26), and in global – since November, 19th, 1966, from the moment of acceptance by General Assembly of the United Nations of the Resolution 2200A (XXI), approved the Covenant on Civil and Political rights (item 2). However in the domestic scientific literature the term 'it is international a-legal protection of the person' it began to be used more recently, from the middle of 1980th when democratization and деидеологизация international relations was outlined, and last 15 years finds wide application [1, with. 103].

So, for example, Movchan wrote, that « the international protection of human rights » has removed to the scientific literature and press from informal conversation as a laconic synonym of activity of the United Nations and the states in area of compliance with human rights. That is under the brief formula « the international protection of human rights », – it considered, – began to understand « the international cooperation of the states, efforts and measures of the United Nations on assistance to general respect and compliance with human rights and fundamental freedoms for all... » (item from item 55 of the Charter of the United Nations) [2, with. 579].

It is difficult to disagree with Azarov which approves, that estimating historical experience of the international regulation of college of protection of human rights, it is necessary to consider, that progress appropriating is international-legal college reflects the processes which are peculiar to national legal systems and a degree of efficiency of the internal mechanism of protection of the rights and freedom [3, with. 48].

In turn Bekjashev K.A. speaks: « ... protection of human rights is understood as set of the rules of law defining and fixing in the contractual order of the right and freedom of the person, the obligation of the states on practical implementation of these rights and freedom, and as the international mechanisms of the control over performance by the states of the international obligations in this branch of the right and direct protection of the trampled rights of the separate person ... » [4, with. 111].

The author gives a full support to opinion of Kartashkin: « ... measures on protection of the rights and freedom of the person and the citizen consist not in unification of the legislation of the various countries of the world by acceptance of the laws creating a similar legal regime of maintenance of these rights, and in fastening basing rights and freedom of the person which are comprehensible to the majority of the states of the world and which should be complied by the states ... » [5, with. 300]

Thus, the concept is international a-legal mechanism of protection of the rights and freedom of the person and the citizen consists in acceptance and establishments of the standard principles in the international arrangement and reflections in the national legislation. In many respects the given college finds the reflection in variations regarding or as a whole of the national legislation and to fastening in constitutions. The states which have accepted norms it is obliged to harmonize the interstate norms, as well as to take appropriating measures on realization of the positions fixed in them. By itself, it is difficult to find a way of legal influence (lever) in international law for infringement of the given norms, in many respects realization of these measures are assigned to shoulders of the state and the device of its compulsion inside of the national right.

The international cooperation of the states in the field of protection of human rights is directed, first of all, on struggle with mass and the gross violations, the aggressions caused by display, fascism, colonialism, slavery, a genocide, racism, etc. Similar acts harm to people and their rights, therefore many of them admit international, including crimes against humanity [5, with. 308].

Therefore, the role of international law in this process more and more increases. One of the most significant achievements in the international regulation of human rights is the establishment and functioning of system of the interstate bodies forming the interstate mechanism of their protection. The international protections of human rights are understood cooperation of the states, as efforts and measures of the international organizations on assistance to general respect and compliance with these rights [6, with. 102].

Kazakhstan, being the young state, it has been recognized by the international community only 1992. The establishment of the mechanism on protection of the rights and freedom of the person and the citizen in Kazakhstan as has found the seat in the Constitution of Republic Kazakhstan (further – RK) from the 20th august 1995 year.

In Republic Kazakhstan the rights and freedom of the person according to the Constitution admit and guaranteed. The rights and freedom of the person belong to everyone from a birth, admit absolute and inalienable, and define a content and application of laws and other normative legal certificates [7].

The constitutional duty of the state to comply and protect the rights and freedom of the person and the citizen consists in creation of conditions for their realization and the mechanism for their

protection. Maintenance of such conditions and protection of the rights and freedom of the person and the citizen are included into functions of all bodies of the government and institutions of local government. Appropriating fastening in organic law PK, is predetermined by a possibility of the international cooperation in the given area and realization of the guaranteed measures on protection of the rights and freedom.

Thus, the state protection of the rights and freedom is the activity of all branches of the government directed on it – legislative, executive, judicial. Each of them, operating independently, should direct at the same time the efforts to that the rights provided to citizens and freedom did not remain only on a paper, and have been protected in practice. Human rights have special nature: they can be declared or affirmed by the state, that is be secured with it in the law in force, but they are not generated and not created by the state. In this sense they are the born rights which the person as those possesses, without dependence from the state and is frequent contrary to it.

As has fairly noted Blishenko, one of the major forms of existence of a legal protection is legal activity. Under it understand mediated by the right administrative, it is state-imperious activity of competent authorities which is directed on creation of laws, realization of justice, a concrete definition of the right and satisfaction of the group and individual rights and interests [8 with. 24].

In creating principles and norms in the field of human rights the defining seat borrows the United Nations its special-purpose establishments. Within the limits of this Organization by the states the major international agreements in the field of human rights have been developed and accepted all. In some cases to acceptance it is international - legal contracts development and approval of declarations and resolutions precedes. The indispensability of such approach in many respects is dictated by complexity of considered problems and a various position of the states.

So Matveeva T. marks: « ... the control over compliance by the states of human rights is carried out as the main things (General Assembly, Security Council, Economic and social advice, the International court, etc.) and subsidiary organs of the United Nations, and specially created bodies for studying specific situations and carrying out of investigation mass and gross violations of human rights. Alongside with activity of the United Nations and the bodies created by her the increasing value for protection of the rights and freedom of the person gets functioning the conventional bodies founded on the basis of some the international agreements ... » [9, with. 72].

And Marochkin S. emphasizes: « ... the charter of the United Nations has proclaimed a principle of respect of the rights and freedom of the person and has declared outlawed application of force in attitudes between the states. It that has fixed the major inalienable law of each person - the right the world, for a safe life of mankind. The ideal of the person, free from fear and need, is maybe carried out only in conditions of the world, instead of war. This necessary condition for realization of all other human rights ... » [10, with. 48].

Thus, in a basis of protection of human rights and the citizen the international bodies, such as lay:

1. The European court under human rights;
2. Committee under human rights of the United Nations;
3. Committee on protection of the rights of all workers-migrants and members of their families;
4. Committee by the economic, social and cultural rights;
5. Committee against tortures;
6. Advice under human rights of the United Nations (earlier the Commission of Human Rights of the United Nations);
7. Management of the Supreme commissioner of the United Nations under human rights;
8. A bureau of democratic colleges and human rights (OSCE);
9. The commissioner of the Council of Europe under human rights;

In view of the above follows, that the international community will consist of the most various states having own history, legal traditions and cultural values. It is necessary to admit that fact, that the attitude to human rights in many respects depends on public values and sights at a number of fundamental philosophical questions, including, in particular, essence of the human person and the attitude between the individual and a society. Sights and official doctrines of various human communities at the given problems are very various.

Emphasizing growing value of human rights for the international and regional world and a security, for prevention of conflicts both international, and internal, for economic and social development of the states.

The author had been undertaken attempt to pay attention on insufficiency of regulation and availability of blanks in realization is international a-legal mechanism of protection of the rights and freedom of the person and the citizen.

Attempt to give own definition of protection of the rights and freedom of the person and the citizen has been undertaken, as well as to systematize sights of different scientific jurists at the given college. To note their merits and demerits and to allocate features of regulation at the international level of the given attitudes.

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