WAYS TO IMPROVE LEGAL MECHANISMS’ EFFICIENCY IN PROTECTING HUMAN RIGHTS AND FREEDOM

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ABSTRACT

Objective: The purpose of this article is to investigate the results of the operation of the main legal mechanisms for the provision and protection of human rights and freedoms, and, based on the results obtained, to formulate possible ways to increase the efficiency of these mechanisms.

Theoretical framework: As the main branches of the legal system, human rights and freedom have been troubling the minds of our scientists since ancient times. Famous scholars devoted their works to studying and explaining these issues, for example, S. Montesquieu, T. Jefferson, I. Kant, J. J. Rousseau, Spinoza, G. Grotius, D. Locke, and others. They made a great contribution to researching the issues of human rights in general. In their research, the authors used articles, textbooks and monographs of scientists who previously conducted extensive research on this topic. In particular, the work of such scholars in the field of human rights as S.S. Alekseev, D.D. Nevrik, E.M. Solovyova, G.P. Luparev, E.K. Nurpeisov, E.A. Anufriev, A.G. Berezhnov, L.D. Voevodin, N.V. Vitruk, V.A. Kartashkin, S.A. Komarov, V.A. Kuchinsky, V.M. Kuritsyn, E.A. Lukasheva, A.Ya. Azarov, N.I. Matuzov, G.V. Maltsev, V.S. Nersyants, V.A. Patyulin, V.M. Chikhvadze and B.S. Ebzeev were studied. Kazakh scientists who have covered the aspects of human rights in their research include: Zh. D. Busurmanov, G. K. Iskakova, E. K. Nurpeisov, S. Zhursimbaev, A. S. Ibraeva and V. V. Mamonov.

Method: In this study, special attention is paid, first of all, to the study and analysis of the effectiveness of the main legal mechanisms operating in the world to ensure the protection of human rights and freedoms. Through understanding the performance evaluation of these mechanisms, I tried to achieve the goal of the study. Due to the limited volume, this article focuses only on the main and widely used mechanisms in the field of ensuring and protecting human rights. To achieve this goal and to substantiate the research results, the norms of the general theory of law and special practical methods of cognition used in legal science were applied.

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In the course of the research, the following methods of scientific knowledge were used: dialectical, comparative legal, formal logical, dialectical and the method of systemic structural analysis.

**Results and conclusion:** It can be expected that when determining further prospects for increasing the effectiveness of international institutional and legal mechanisms in the field of human rights protection, directly from the state, the following should be done:

- raising public awareness and transparency in the activities of public authorities;
- reporting of the state under the UPR on the work done, in accordance with the actual quantitative and qualitative indicators;
- creation of systems for monitoring and evaluating the actions of states at the national, regional and international levels;
- close cooperation between the government and human rights organizations;
- ensuring the independence of judges from the authorities;
- observance of budget financing of programs for the realization of human rights, taking into account the obligations assumed before international bodies;
- in the context of the pandemic caused by the COVID-19 virus, the government should adopt such sanitary standards as will be necessary for the most vulnerable members of society.

**Originality and value:** The article examines the existing legal mechanisms of international, regional and national organizations that protect human rights and freedom, and offers recommendations to improve the effectiveness of these mechanisms. This study shows that the main responsibility for the observance and protection of human rights lies with the state itself. A condition for the observance of an individual's human rights and freedoms is the existence of the duties of other citizens and the state, which are established through legislation. The article reveals that it is to strengthen the coordination of activities and interaction between the authorized state bodies, as well as to combine, if necessary, the "special" powers of these bodies in order to increase the responsibility of the state for ensuring the rights and freedom of citizens. At the same time, many legal mechanisms for the implementation of human rights in the modern world are not entirely effective and require special attention from the state and academic research. Examples of these important rights include gender equality between women and men; the human right to personal data in the digital world; the rights of national and non-traditional minority groups; the right to religion in African countries.

**Keywords:** human rights and freedom, international, institutional and legal mechanisms, Kazakhstan.

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**FORMAS DE MELHORAR A EFICIÊNCIA DOS MECANISMOS JURÍDICOS NA PROTEÇÃO DOS DIREITOS HUMANOS E DA LIBERDADE**

**RESUMO**

**Objetivo:** O objetivo deste artigo é investigar os resultados do funcionamento dos principais mecanismos legais de provisão e proteção dos direitos humanos e liberdades e, com base nos resultados obtidos, formular possíveis formas de aumentar a eficiência desses mecanismos.

**Enquadramento teórico:** Sendo os principais ramos do sistema jurídico, os direitos humanos e a liberdade têm perturbado as mentes dos nossos cientistas desde a antiguidade. Estudiosos famosos dedicaram seus trabalhos ao estudo e explicação dessas questões, por exemplo, S. Montesquieu, T. Jefferson, I. Kant, J. J. Rousseau, Spinoza, G. Grotius, D. Locke e outros. Eles deram uma grande contribuição para a pesquisa das questões dos direitos humanos em geral.

Método: Neste estudo, é dada especial atenção, em primeiro lugar, ao estudo e análise da eficácia dos principais mecanismos jurídicos que operam no mundo para garantir a proteção dos direitos humanos e das liberdades. Através da compreensão da avaliação de desempenho desses mecanismos, procurei atingir o objetivo do estudo. Devido ao volume limitado, este artigo centra-se apenas nos principais e amplamente utilizados mecanismos no domínio da garantia e proteção dos direitos humanos. Para atingir este objetivo e fundamentar os resultados da investigação, foram aplicadas as normas da teoria geral do direito e métodos práticos especiais de cognição utilizados na ciência jurídica. No decorrer da pesquisa foram utilizados os seguintes métodos de conhecimento científico: dialético, jurídico comparativo, lógico formal, dialético e o método de análise estrutural sistêmica.

Resultados e conclusão: Pode-se esperar que, ao determinar novas perspectivas para aumentar a eficácia dos mecanismos institucionais e legais internacionais no domínio da proteção dos direitos humanos, directamente do Estado, seja feito o seguinte: • aumentar a sensibilização do público e a transparência nas actividades das autoridades públicas; • relatório do estado no âmbito da RPU sobre o trabalho realizado, de acordo com os indicadores quantitativos e qualitativos reais; • criação de sistemas de monitoramento e avaliação das ações dos estados nos níveis nacional, regional e internacional; • estreita cooperação entre o governo e as organizações de direitos humanos; • garantir a independência dos juízes em relação às autoridades; • observância do financiamento orçamental de programas para a realização dos direitos humanos, sendo que em conta as obrigações assumidas perante os organismos internacionais; • no contexto da pandemia causada pelo vírus COVID-19, o governo deve adoptar as normas sanitárias necessárias para os membros mais vulneráveis da sociedade.

Originalidade e valor: O artigo examina os mecanismos legais existentes de organizações internacionais, regionais e nacionais que protegem os direitos humanos e a liberdade, e oferece recomendações para melhorar a eficácia desses mecanismos. Este estudo mostra que a principal responsabilidade pela observância e proteção dos direitos humanos cabe ao próprio Estado. Uma condição para a observância dos direitos humanos e das liberdades do indivíduo é a existência dos deveres dos demais cidadãos e do Estado, que são estabelecidos por lei. O artigo revela que se trata de fortalecer a coordenação das atividades e da interação entre os órgãos estatais autorizados, bem como combinar, se necessário, os poderes "especiais" desses órgãos, a fim de aumentar a responsabilidade do Estado na garantia dos direitos e liberdade dos cidadãos. Ao mesmo tempo, muitos mecanismos legais para a implementação dos direitos humanos no mundo moderno não são totalmente eficazes e requerem atenção especial do Estado e da investigação académica. Exemplos destes direitos importantes incluem a igualdade de gênero entre mulheres e homens; o direito humano aos dados pessoais no mundo digital; os direitos dos grupos minoritários nacionais e não tradicionais; o direito à religião nos países africanos.

Palavras-chave: direitos humanos e liberdade, mecanismos internacionais, institucionais e legais, Cazaquistão.
1 INTRODUCTION

In modern society, the fact of the birth of a person into the world provides a certain set of inherent rights and freedoms, which are considered natural. These include: the right to life, the right to inviolability of the person, the right to move freely, the right to choose a place of residence, the right to religious freedom etc. Such rights and freedoms cannot be obtained or transferred by another person at the will and consent of a citizen or state. In turn, a person's political rights can be granted and limited by the state. Human rights to life, health (especially in the context of the COVID-19 pandemic), education, social security and other social rights are just as important as civil and political protection (Young, 2020).

Human rights contain the necessary rules for a dignified and equal cohabitation of people in the society, regardless of their social status, nationality or class, skin color, religion, political views, etc. At the same time, the current mechanism for the legal implementation of human rights is the result of the constant development of mankind, understanding of the moral values and dignity of a person in a civilized society.

The Universal Declaration of Human Rights states that every individual and organization in the society, following this Declaration, shall strive by teaching and practicing promote respect for the rights and freedoms of people (Preamble, 10 December 1948). Although a person's desires are unlimited, in order to respect the rights of others, his rights are limited.

The primary basis of human rights and freedoms is the normatively established information in the relevant documents, set out in detail in order to prescribe the ways of their further implementation. Only after the existence of such a base can we talk about the role of lawyers, human rights organizations, state authorities (including courts) and other formal methods in the mechanism for realizing human rights. At the heart of human rights activities in this area should be an inner striving for justice and moral dedication. The general cohesion of the bodies of this jurisdiction in this matter is also indispensable.

Despite the existence of a large number of international and regional legal documents, congresses, conferences and the creation of relevant bodies involved in the protection of human rights and their implementation, half of the world's population lives in poverty. At the same time, the issue of the implementation of fundamental human rights continues to be abused in all countries of the world without exception. In addition, entire
groups of national minorities are often the focus of such abuse (Osmanova and Kerimkulov, 2013).

In connection with the existing contrast and disagreement in understanding the importance of the need to realize human rights and freedoms, attention is constantly paid to the topic of this study.

Many national and international conflicts arise from the inability to protect the rights of a person or minority group, and the consequences caused by non-compliance with legal and moral rules often lead to further violations of human rights and freedoms, which, in turn, can develop into political or armed collisions.

Before ensuring the protection of human rights, there is a problem that lies in the actual and correct implementation of international human rights norms in national laws and regulations. External international protection and promotion of human rights guarantees have only a limited duration, including in the form of legal treaties. Therefore, they need to be constantly given practical meaning (Office of the United Nations High Commissioner for Human Rights, 16 July 2003).

Realization of political human rights is a work that needs to be done, in and of itself, these kinds of rights are not exercised. In addition, sometimes conflicts may arise in the implementation of human rights, or in relation to the same rights, but in relation to different people. If we know which areas of human existence overlap with the norms of human rights laws, and what are the obligations of the government to implement them, we can put pressure on them in one form or another (Council of Europe, 2021). Effective human rights protection measures depend on a number of conditions: the ability to identify clear violations of human rights, as well as perpetrators and victims, individuals or groups. We are required to see people who, in the present and in the future, will live in conditions that will allow them to lead a life independent of others and enjoy it (Düwell & Bos, 2016).

Many governments have responded to COVID-19 with emergency laws that restrict personal rights, including restrictions on freedom of movement through detention and restrictions on privacy through public health surveillance. Governments must enact appropriate and non-discriminatory laws against the most vulnerable members of society (Düwell & Bos, 2016).

The study of the effectiveness of the implementation of legal mechanisms that would ensure the observance of human rights has been and continues to be done by many
human rights organizations and scientists from around the world. Mainly nongovernmental human rights international organizations are involved in the restoration of justice in human rights. In particular: International Federation for Human Rights, Amnesty International, Fund for the Protection of Children, Center for Human Rights, Human rights watch, Human rights without borders, National Association for the Advancement of Colored People, Simon Wiesenthal Center, Office of the United Nations High Commissioner for human rights and many others, as well as similar organizations created at the local, national and regional levels.

Thus, respect for human rights, as well as an understanding and knowledge of the mechanisms that guarantee the dignity of the individual and minority group is relevant in our time. At the same time, having studied the priorities, sequence and significance of processes in the implementation and protection of human rights, it is possible to formulate a list of tools that increase their effectiveness. In addition, the use of quantitative indicators will help optimize reporting, better implement the recommendations and observations of the special procedures of the Human Rights Council (hereinafter referred to as HRC) at the international, regional and national levels, and the effectiveness of the implementation of human rights will increase (Council of Europe, 2021).

2 MATERIALS AND METHODS

The study and substantiation of the main legal mechanisms used in the work was carried out, first of all, using the dialectical method as a general scientific method of cognizing political, social and legal phenomena in the context of their development, changes and contradictions.

Thanks to the formal-logical method and the principles of dialectics, the most complete knowledge of the essence of the operation of each of the main mechanisms to ensure the protection of human rights and freedoms has been obtained.

The systemic and structural analysis made it possible to determine the general structure of mechanisms for ensuring human rights at the international, regional and national levels.

The application of the comparative legal method has led to the study of the experience of countries that have recently introduced mechanisms for the protection of human rights at the regional level, and allowed to draw constructive conclusions that can be applied in various developing legal systems.
3 THEORETICAL FRAMEWORK

Currently, the study of human rights as an inseparable and important element of the legal status of a person and a citizen is considered not only theoretically, but also from a practical point of view. This is because all mutual legal relations between a person and a state are undoubtedly related to the legal status of a person and a citizen. In defining the scope and limits of human rights, freedom and duties, the state's activity is determined by legal, economic and spiritual, political, as well as social and other conditions and factors.

The main legal status of a person and a citizen, their relationship with the state and other subjects in the legal system is one of the main issues in the state and law discipline. Many authors devoted their work to the study of this problem, among such authors are J. Busurmanov and B. S. Ebzeev. Having a great impact on the historical development of society, their work had a fundamental impact on the status of a person in society, human rights, the meaning of law and its functions in legal systems around the world. Moreover, this influence on human rights affected not only the traditional functions of the law but also the new directions of legal regulation, i.e. the emergence of new functions of the law. There is no doubt that the importance and depth of these changes require appropriate scientific and theoretical analysis. This article is intended to offer an in-depth analysis of ways to improve the effectiveness of legal mechanisms for the protection of human rights and freedoms.

The aforementioned authors outlined the goals of restricting constitutional law in terms of increasing the responsibility of the state for ensuring the rights and security of citizens:

- protection of the foundations of the constitutional system (ensuring the territorial integrity and protecting the sovereignty of the Republic of Kazakhstan);
- protection of moral values;
- observance and protection of the rights and freedoms of man and citizen, provided that the rights and freedoms of third parties are not violated;
- protection of health and ensuring a favorable environment;
- ensuring the defense of the country;
- ensuring the security of the state;
- execution of a court decision.
4 RESULTS AND DISCUSSION

Based on the study results, the authors came to conclusion that there is a need to determine an exhaustive list of grounds for restricting constitutional law in terms of increasing the responsibility of the state for ensuring the rights and security of citizens, which are to be implemented only in accordance with the requirements of the law.

The following functional obligations were proposed to supplement the duties of the Authorized Body for the Protection of Human Rights:

- monitoring the compliance of the cross-border transfer of personal data of an indefinite circle of persons, minors and other socially unprotected segments of the population with the requirements of the law;
- implementation of cooperation and regular exchange of information between various state authorities, local governments, legal entities in order to protect the rights of personal data subjects and suppress offenses in the field of personal data;
- participation in events aimed at assessing the state of national legislation on the protection of private life, spreading the culture of personal data protection.

The researchers believe that it is necessary to:

- improve legal regulation in the field of implementation of legislative, informational, analytical and educational activities of the Commissioner for Human Rights in the field of ensuring state protection of the constitutional right to privacy, personal and family secrets;
- legislate the main activities of the Commissioner for Human Rights in terms of developing recommendations for the implementation of agreed activities and a mechanism for implementing joint actions in order to solve practical problems in the field of increasing the responsibility of the state for ensuring the rights and security of citizens”;
- unify issues of an organizational nature related to supplementing the functions of the Commissioner for Human Rights with the right to legislative initiative to improve legislation and enhance cooperation with territorial bodies of other state bodies.

The authors came to the conclusion that the potential of the prosecutor's office in the field of increasing the state's responsibility for ensuring the rights and security of
citizens is not fully used, which is due, in particular, to the lack of setting specific tasks aimed at increasing the state's responsibility for ensuring the rights and security of citizens."

It was also noted the need to enhance the participation of the prosecution authorities in law-making activities in the field of increasing the responsibility of the state for ensuring the rights and security of citizens through:

- repeal or adoption of laws and other normative legal acts regulating issues of increasing the responsibility of the state for ensuring the rights and security of citizens”;
- implementation of prosecutorial supervision over the legality of existing regulatory legal acts that do not comply with the articles of the Constitution of Kazakhstan and the country's legislation in the field of increasing the responsibility of the state for ensuring the rights and security of citizens.

The necessity of strengthening the coordination of activities and cooperation between the authorized state bodies, as well as combining, if necessary, the "special" powers of these bodies in order to increase the responsibility of the state for ensuring the rights and security of citizens, is substantiated. This conclusion is confirmed by the results of the survey.

The necessity of introducing amendments to the legislation in the field of increasing the responsibility of the state for ensuring the rights and security of citizens, aimed at ensuring guarantees for the implementation and protection of the constitutional right of a citizen, is formulated.

Under the concept of "human freedom" is meant as not interference from one side of society or the state in the inner world of a person and, on the other hand, ensuring his protection from other people. The concept of "human right" is a real opportunity for a person to take direct part in the activities of the same society or state. The general system of human rights consists of legal norms of acts of international and national importance, which are aimed at providing a person with guarantees from society and the state, to perform certain actions and receive certain social benefits in return.

Fundamental human rights and freedoms are fixed, as a rule, in the constitution, and the mechanism for ensuring them is concretized by special laws and bylaws of the state. The purpose of their documentary regulation is to condemn and suppress any violations of human rights.
State and interstate bodies and organizations are directly involved in the protection of human rights and freedoms. Moreover, the creation of a functioning mechanism in the field of human rights is a fundamental responsibility of the state, which requires states to constantly self-assess the existing laws (Marco Fasciglione, 2016). The legal protection of a person is also based on the constant activity of international bodies (Ichshanova & Kozhakhmetova, 2016). Where there is mutual supervision by specific bodies and courts for monitoring human rights at the regional and international levels, reliable protection of human rights will be ensured. States parties that fail to provide guarantees for human rights risk that other participating States will decide to retaliate against mutual violations of the norms (Kälin and Künzli, 2019). Difficulties in complying with the requirements of international organizations arise as a result of internal national struggles and external shocks to the state.

The use of quantitative and qualitative indicators in state reports and reports is a mechanism that significantly increases the transparency of national systems and reveals the compliance of real human rights data with generally accepted standards. Such indicative reports are promising for science, policy and monitoring bodies, but despite their international recognition, they are not used systematically.

Human rights can also operate independently of the existence of legislation, for example, as part of human morality or faith (religion). However, a number of customs violate generally accepted international human rights standards, therefore they are called “harmful traditional practices” (For example, female genital mutilation; early marriage, and others). To get rid of many harmful traditional practices, a set of measures is needed: condemnation, education of the population, education and participation of all stakeholders.

In the theory of state and law, the mechanism for ensuring human rights consists of: principles (legality, professionalism, separation of powers, democracy), methods (persuasion and coercion), institutional (system of state and local self-government bodies) and legal framework (state and interstate legal acts) on ensuring human rights and freedoms.

which were first introduced at the international level to address possible general and standard threats to human rights.

The following bodies are involved in ensuring the protection of human rights:

a) international bodies:
- The European Court of Human Rights (hereinafter referred to as the ECHR);
- UN Human Rights Consultations;
- Office of the United Nations High Commissioner for Human Rights;
- Office for Democratic Colleges and Human Rights (OSCE);

b) regional bodies:
- in Africa: African Commission on Human and Peoples' Rights (ACHPR); African Court of Human and Peoples' Rights (AfCHPR); Extraordinary African Chambers (EAC); AU Commission on International Law (AUCIL); Australia's Advisory Council against Corruption (AUABC); African Committee of Experts on the Rights and Welfare of the Child (ACERWC).
- in the Middle East, the Arab Human Rights Committee;
- on the territory of Southeast Asia - the ASEAN Intergovernmental Commission on Human Rights;
- in Europe: the European Court of Human Rights (hereinafter - ECSR), Committees (on human rights of the UN; on the protection of the rights of all migrant workers and members of their families; on economic, social and cultural rights; against torture); The Council of Europe Commissioner for Human Rights (acts as an independent observer in the region);
- in America: Inter-American Commission on Human Rights (hereinafter - IACHR), Inter-American Court of Human Rights (hereinafter - IACHR), Inter-American Commission of Women, Inter-American Program for the Promotion of Women's Human Rights and Gender Equality and Equality, Inter-American Children's Institute.

Regional human rights bodies also monitor and protect human rights in several regions of the world under their jurisdiction. For example, in Africa, America, Europe, the Middle East and Southeast Asia, regional regulatory bodies play an important role in protecting human rights, including by monitoring and determining the scope of responsibility of states for possible violations of human rights.
In Africa, America and Europe, regional human rights protection systems perform the following functions: to support the reporting of States on their implementation of regional human rights treaties; monitoring the observance of human rights through the agents of “rapporteurs” and other special mechanisms; handling complaints of alleged human rights violations by States; a request for emergency protection regarding a person or the object of the complaint who is in immediate danger of causing irreparable harm; holding public hearings, conferences and seminars on topical human rights issues; issuing advisory opinions on the interpretation or application of regional human rights standards.

In turn, at the national level, issues related to violation of human rights can be resolved in the following ways:

- direct application of international standards;
- direct application of similar but independent provisions contained in domestic law (for example, national constitutions or US civil rights laws);
- through national human rights institutions defined by law, with full independence and autonomy from the government to receive and take action on complaints of human rights violations;
- through alternative or transitional justice (e.g. truth and reconciliation commissions) to investigate and document large-scale human rights violations (as in Chile), community dispute resolution (as in Rwanda) or reparations programs (as in Guatemala);
- through relatively unique laws that allow civil claims for human rights violations committed in other states (for example, the US Tort Claims Against Foreigners Act), as well as through universal jurisdiction (criminal prosecution in national courts of persons suspected of committing international crimes such as crimes against humanity and torture).

The African system was created within the African Union countries. Unlike the European and American Conventions, the African Charter includes social, economic, cultural, civil, political and collective rights of the peoples of the African Union (African Union, 2021). Within the limits of their jurisdiction, the bodies of the union assess the compliance of states with human rights standards, consider individual complaints of human rights violations.

The African judiciary has a significant role to play in ensuring that customary law and harmful traditional practices are reformed in accordance with human rights laws and
ensure equality between men and women. However, in Tanzania, there are cases of inappropriate approval of discrimination against women in Tanzania (Msuya, 2019). The functioning of the East African Court of Justice (hereinafter - ARJ) can hardly be called effective in the role of a reliable defender of human rights. The work of ARIA is rated as "average". ARIA spent a lot of time creating its own practice in the field of human rights, not its solutions received mass recognition. WBU is praised as a human rights lobbyist, but WBU's lack of authority has made it impossible to achieve anything significant in its lifetime (Possi, 2018).

To help Africa achieve a sustainable solution to armed conflict, a comprehensive and integrated approach is required: consistency in the country's politics and security, the rule and development of human rights and the laws of the state, promoting economic growth, eradicating poverty, political, religious and cultural tolerance, freedom of expression, democracy and gender equality. Despite the fact that international human rights monitoring bodies, as well as various institutions and organizations want to resolve armed conflicts, humanitarian activities are not related to any political activity, combined with the provision of legal protection is often the only way to avoid victims. In addition, measures taken by the State and the South African Human Rights Commission to regulate religious organizations as a general oversight body constitute an unjustified and unjustified interference with a person's freedom of religion. In terms of principles of fairness, it is best to leave the disputes of restriction of religion to the discretion of the courts, as an independent branch of government.

The Inter-American Human Rights System is responsible for monitoring, promoting and protecting human rights in 35 independent countries in America. IACHR advocates for justice and freedom throughout the Americas to help strengthen laws and institutions that protect human rights. The IACHR and IACHR decide on individual complaints of human rights violations and can take emergency remedies when an individual or the subject of a complaint is in immediate danger of causing irreparable harm.

In Asia, the Intergovernmental Commission on Human Rights (AICHR) operates under the auspices of the Association of Southeast Asian Nations (ASEAN), an intergovernmental organization with ten member states: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam ... The AICHR consists of ten State Representatives, one from each ASEAN Member State. AICHR
holds meetings, seminars and conferences on human rights issues, as well as meetings (including videoconference) within its own mandate (Pfanner, 2009).

The Agency for Fundamental Rights collects information on the observance of fundamental human rights in the countries of the European Union, advises and gives recommendations on how to improve the situation. The agency does not monitor, but works with the relevant agencies to advise them on how best to exercise fundamental rights. The Organization for Security and Cooperation in Europe (hereinafter - OSCE) unites 56 states of Europe, Central Asia and North America. The OSCE solves a wide range of problems: human rights, problems of national minorities and democratization. The Office for Democratic Institutions and Human Rights operates throughout the entire space of the OSCE member states and monitors elections, the development of democratic processes, the observance of human rights, and also deals with problems related to tolerance, the fight against anti-Semitism and Islamophobia.

In the Middle East and North Africa, the Arab Human Rights Committee monitors states' implementation of the Arab Charter of Human Rights. 16 Arab states are parties to the Arab Charter of Human Rights: Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Palestine, Qatar, Saudi Arabia, Sudan, Syria, the United Arab Emirates and Yemen. The Arab Charter of Human Rights does not provide for a complaints mechanism, but sets out a process for receiving and considering government reports and makes recommendations at its own discretion. Society representatives criticized the Committee for not posting information on its procedures and activities on its website, and for refusing to interact with non-governmental organizations. Moreover, human rights defenders and experts have characterized the Charter itself as not meeting universal human rights standards. The Arab Court of Human Rights is a body that has jurisdiction over complaints of human rights violations brought against states by other states, its competence is limited to the interpretation and application of the Arab Charter of Human Rights, respectively (Zykov and Kozhina, 2017).

However, one of the most important international mechanisms for the protection and promotion of human rights is the Committee on Economic, Social and Cultural Rights (CESCR), whose mandate is to specifically monitor the fulfillment by the participating States of their obligations under the International Covenant on Economic, Social and Cultural Rights. Other important mechanisms for the protection of human rights within the UN are: the Office of the United Nations High Commissioner for Human Rights
(hereinafter referred to as OHCHR), the Human Rights Council, and treaty monitoring bodies (for example, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child). OHCHR works with governments to help formulate policies and bodies that promote human rights, and provides advice and technical assistance to achieve these goals.

To implement the mechanism for ensuring human rights at the global level, the Commission on Human Rights has established, and the HRC has adopted special procedures. For this purpose, it is possible to submit complaints from victims of human rights violations or their representatives to any country in the world. In some situations, special procedures are the only mechanism for alerting the international community to certain human rights issues. In addition, the HRC has a number of monitoring mechanisms to examine specific topics or countries in a human rights situation. Human rights monitoring allows the international community, when conducting special procedures, to identify problems and put forward specific recommendations for their solution. Its initial goal is to identify and clarify, in an independent and objective manner, violations of his rights by a particular person, as well as patterns of violations. Monitoring is carried out by independent international human rights experts authorized by the Commission on Human Rights.

In the process of performing special procedures, they carry out: visits to countries; respond to individual cases and more general, structural problems by sending messages to states and other actors bringing alleged violations and abuses to their attention; conduct case studies and convene expert consultations; contribute to the development of international human rights standards; are engaged in outreach work; raise public awareness; and provide advice on technical cooperation matters.

The HRC has two types of mechanisms for the protection of human rights: the Universal Periodic Review (hereinafter referred to as the UPR) and the Complaints Procedure (hereinafter referred to as the GR). The UPR is a review of legal documents on human rights of all UN member states every 4 years. The UPR enables each state to declare what actions they have taken to improve the human rights situation in their countries and which obligations they have fulfilled. Some states are looking into others, which means that the UPR involves politics in the form of pressure from the side. The UPR is considered to be a particularly powerful mechanism for putting peer and public pressure on states (Carraro, 2019).
The GRP is established to address systematic gross, reliably confirmed violations of human rights and freedoms in any part of the world. The WG considers reports from individuals, groups or organizations who claim to be victims of human rights violations or who have direct and credible reports of such violations. In order to expand cooperation with the state, the GR is confidential. Under the GRP, a complaint can be filed against any UN member state, regardless of whether it has ratified a specific international treaty or raised reservations about the relevant legal instrument. It is possible that the complaint will be considered at the highest level of the UN human rights mechanism, i.e. in HRC. The confidentiality of the procedure facilitates close cooperation on the part of the state concerned. However, at any time, the HRO may decide to terminate the study of a particular issue in accordance with a confidential procedure and begin its open examination. A complaint may be lodged provided that domestic remedies have been exhausted, unless there is reason to believe that such remedies may be ineffective or require an unreasonably long time. At the same time, the HRC's methods of work should be transparent and fair, allowing interaction with special procedures and mechanisms.

Ukraine is also a member state of the Council of Europe (CoE) and the UN and has obligations to respect human rights at the regional and universal levels. After the adoption of the European Convention on Human Rights, the jurisdiction of the ECHR extends to Ukraine. The Ombudsman identifies gaps in human rights protection, visits countries, engages in dialogue with states, and prepares thematic reports and recommendations. Ukraine must annually submit reports to the European Committee of Social Rights on the implementation of the provisions of the European Social Charter. Individuals and groups have filed complaints of human rights violations by Ukraine to the ECHR. For example, the court found Ukraine guilty of violating the right to life by the authorities in the case of a woman who died during her pre-trial detention due to lack of medical assistance. At the same time, the reason for not providing a medical worker was the lack of knowledge of the leadership of the department of prisoners of the norms of international documents.

Intensive globalization processes make constitutional human rights more politicized. Therefore, states strive to preserve their social, cultural and spiritual life. Countries have their own way of understanding and implementing human rights. Nevertheless, human rights and freedoms in the modern world cannot be under the rule of non-democratic regimes, they form the basis of only the rule of law. The role of
international organizations in respect of the observance of human rights and freedoms in the modern world can hardly be overestimated, but one should not forget that states are the only holders of sovereignty, which should not be violated either by other countries or as a result of the activities of international judicial bodies. On average, 70% in all surveyed countries supported the UN efforts to promote human rights and freedoms, which are proclaimed by the Universal Declaration. However, despite the public acceptance of human rights ideas, many of these same countries gravitate towards authoritarianism.

It is also necessary to ensure at the legislative level that women receive equitable gender protection. The law must take into account all the bureaucratic and informal difficulties women face in accessing justice and remedies (Groen & Cunha, 2019).

The true rights of minority groups are designed to protect them and solve specific problems. Recognition of minority rights in international treaties and conventions has moved into broader groups of rules that can be applied to other unique minority groups. However, the application of the right to autonomy to an individual minority on this basis remains controversial.

The failure of the health care system to tackle COVID-19's human rights to health concerns is threatening the future of global health. The time has come to rethink the concept of health as a human right based on our collective conscience and responsibility. At the time of the pandemic, the World Health Organization (hereinafter - WHO) defined the International Medical Sanitary Regulations as an instrument with the authority to monitor the compliance of states with human rights obligations. In addition, given the negative impact of corruption in the health sector, it is necessary to interact with human rights organizations (Sekalala, Forman, Habibi, 2020).

In the era of digital technology and big data, human rights violations have a particular trend. In addition to economic damage, unfair treatment and personal injury, there is an increase in the incidence of spiritual harm through access to a person's personal data, which is equivalent to a physical intrusion into a home. Based on the Internet and modern technologies, "cloud" resources, big data improves the governance of society, and at the same time poses an unprecedented threat to human life. The security and confidentiality of personal data is under threat even under the current system of law and morality. As a result, protecting human rights in the big data era is getting harder.
Therefore, it is necessary to create a new operating legal system for reliable and unconditional protection of human rights to personal data in the digital world.

The central task of future deliberations will be to develop criteria and standards that will align the responsibilities of future people with our responsibilities towards our contemporaries. And in any case, these measures alone will not be enough. Inevitably, it will be necessary to limit the freedoms of modern people. For example, developing green cars will have benefits for both current and future people. Another example would be the growth of the world population, one of the greatest challenges for humanity in the future (Düwell & Bos, 2016).

A review of the practice of human rights bodies shows an ever-increasing trend to require states to apply their domestic criminal law in the context of human rights violations. Prosecution and punishment are increasingly seen as essential tools for the promotion and protection of human rights and for preventing future violations (Pinto, 2018).

In addition to international, regional and national bodies, support units and human rights organizations are also practically involved in ensuring the protection of human rights.

Resources between human rights organizations are distributed according to the following parameters: a set of applied practices and methods of response; by thematic and geographic territories in which they operate. For example, as part of the pilot project The Care Coin, an additional cash fund has been created with a human rights-based goal. These funds are needed by people who do not have money in the form of basic income. Money provides social and economic security, which is a human right, improves health, children's school attendance, and expands financial opportunities for men and women.

Discussing the results of the study and comparing them with the previous ones, we can say that in the light of current trends and the instability of the ideology of the world community, the authors have achieved results that define international and institutional and legal mechanisms for ensuring human rights and freedoms as an activity of all types of authorities (legislative, executive and judicial) and human rights organizations (national and international), aimed at the practical protection of present and future human rights and freedoms, in accordance with accepted international legal norms and rules.
The legal mechanism for ensuring human rights and freedoms is the activity of all types of authorities (legislative, executive and judicial) and human rights organizations (national and international), aimed at the practical protection of present and future human rights and freedoms, in accordance with accepted international legal norms and rules.

In their efforts to merge with the European Union, the countries of Europe have come a long way in clarifying, codifying and enforcing human rights norms and laws. An integral essential part of the human rights observance mechanism is the ECHR, as well as its growing law enforcement jurisprudence.

The primary responsibility to respect and protect human rights lies with the state itself. The role of regional and international organizations and courts is secondary, as they come into play when it is established that a state is deliberately and consistently violating human rights. However, the authorities and political candidates pursue a policy of double standards, criticizing others for violations of human rights, while they themselves do not respect them. If all the promises they signed were kept, our life would be peaceful, safe, healthy and comfortable; our legal systems would be fair and provide everyone with the same protection.

In addition, there needs to be a streamlined process involving legislators, the media and other control structures using monitoring information as a tool to more effectively enforce human rights. At the same time, ordinary representatives of the people or independent judicial bodies should be engaged in monitoring the observance of human rights and freedoms. Various associations, non-governmental human rights organizations, charitable and religious societies and ordinary initiative groups of people also play an important role in putting pressure on states. Ordinary people can participate in such groups, defending the rights of others and representing their interests.

Experience shows that regional human rights bodies, the UN, national human rights organizations and initiative groups of people with adequate funding can positively influence the legislation and practice of the state in the field of human rights protection.

According to the study results the following activities should be performed in order to determine prospects for increasing the effectiveness of international institutional and legal mechanisms in the field of human rights protection:

- raising public awareness and transparency in the activities of public authorities;
• creating systems for monitoring and evaluating the actions of states at the national, regional and international levels;
• tightening the close cooperation between the government and human rights organizations;
• ensuring the independence of judges from the authorities;
• budget financing of programs for improving and promoting human rights, taking into account the obligations assumed before international bodies;
• in the context of the pandemic caused by the COVID-19 virus, adopting sanitary standards that are necessary for the most vulnerable members of society.

There are many bodies of control and monitoring over the observance of human rights by states exist and operate in the world: from the UN to courts and human rights organizations of international, regional and national importance. The activities of the existing mechanisms to ensure the protection of human rights and freedoms should be based on a common understanding of natural human rights, regardless of nationality, religion or race.

5 CONCLUSIONS

The most obvious way to faithfully implement human rights is to enshrine them in the norms of national and international law. The basic standards that all countries of the world are guided by in the protection of human rights are set out in special international documents and norms that should be studied and promoted by states.

The main ways to improve the efficiency of legal mechanisms in the field of human rights protection directly from the state will be the following:
• raising public awareness and transparency of government activities;
• reporting by the state the work done on human rights, in accordance with the actual quantitative and qualitative indicators;
• creation of systems for monitoring and evaluating state actions at the national, regional and international levels;
• close cooperation of the government with human rights organizations;
• ensuring the independence of judges from the authorities;
• compliance of budgetary financing of programs for the realization of human rights, taking into account the obligations assumed to international bodies;
in a pandemic caused by the COVID-19 virus, the government must adopt such health standards that will be necessary in relation to the most vulnerable members of society.

For the possibility of observing human rights and freedoms, a person must have not only regulated rights, but also obligations set forth in laws and the constitution in relation to other people and authorities. In this aspect, the state should also have corresponding collective obligations. Despite the existence of broad external control at the international and regional level over the observance of human rights, in this regard, the main and primary role should practically be performed by the state itself. In some situations, the work of human rights and humanitarian organizations will be effective.

Also, justified situations may arise when, in order to protect the rights of some people, it is advisable and necessary to restrict the rights of others. However, no armed conflict in this sense can be justified if it brings human casualties. In addition to legal rules and international norms, there are moral values and religious beliefs that underlie the observance of human rights, but they have a right to exist if they do not have a detrimental effect on individuals and society as a whole. In addition, cultural values and traditions should not be higher than generally accepted human rights.

In Asia, Europe, America, Africa and the Middle East, criminal prosecution is becoming an effective tool to promote and protect human rights and prevent future violations. Through national, regional and international courts, authorities can be held accountable for their actions or omissions in cases of non-compliance or failure to protect human rights.

The modern population should also be entrusted with the responsibility to protect the environment, to ensure a peaceful and successful life for future generations.

Based on the study results, the authors came to conclusion that there is a need to determine an exhaustive list of grounds for restricting constitutional law in terms of increasing the responsibility of the state for ensuring the rights and security of citizens, which are to be implemented only in accordance with the requirements of the law.

The following functional obligations were proposed to supplement the duties of the Authorized Body for the Protection of Human Rights:

- monitoring the compliance of the cross-border transfer of personal data of an indefinite circle of persons, minors and other socially unprotected segments of the population with the requirements of the law;
• implementation of cooperation and regular exchange of information between various state authorities, local governments, legal entities in order to protect the rights of personal data subjects and suppress offenses in the field of personal data;
• participation in events aimed at assessing the state of national legislation on the protection of private life, spreading the culture of personal data protection. The researchers believe that it is necessary to:
• improve legal regulation in the field of implementation of legislative, informational, analytical and educational activities of the Commissioner for Human Rights in the field of ensuring state protection of the constitutional right to privacy, personal and family secrets;
• legislate the main activities of the Commissioner for Human Rights in terms of developing recommendations for the implementation of agreed activities and a mechanism for implementing joint actions in order to solve practical problems in the field of increasing the responsibility of the state for ensuring the rights and security of citizens”;
• unify issues of an organizational nature related to supplementing the functions of the Commissioner for Human Rights with the right to legislative initiative to improve legislation and enhance cooperation with territorial bodies of other state bodies.

The authors came to the conclusion that the potential of the prosecutor's office in the field of increasing the state's responsibility for ensuring the rights and security of citizens is not fully used, which is due, in particular, to the lack of setting specific tasks aimed at increasing the state's responsibility for ensuring the rights and security citizens."

It was also noted the need to enhance the participation of the prosecution authorities in law-making activities in the field of increasing the responsibility of the state for ensuring the rights and security of citizens through:
• -repeal or adoption of laws and other normative legal acts regulating issues of increasing the responsibility of the state for ensuring the rights and security of citizens”;
• implementation of prosecutorial supervision over the legality of existing regulatory legal acts that do not comply with the articles of the Constitution of
Kazakhstan and the country's legislation in the field of increasing the responsibility of the state for ensuring the rights and security of citizens.

The necessity of strengthening the coordination of activities and cooperation between the authorized state bodies, as well as combining, if necessary, the "special" powers of these bodies in order to increase the responsibility of the state for ensuring the rights and security of citizens, is substantiated. This conclusion is confirmed by the results of the survey.

The necessity of introducing amendments to the legislation in the field of increasing the responsibility of the state for ensuring the rights and security of citizens, aimed at ensuring guarantees for the implementation and protection of the constitutional right of a citizen, is formulated.

Under the concept of "human freedom" is meant as not interference from one side of society or the state in the inner world of a person and, on the other hand, ensuring his protection from other people. The concept of "human right" is a real opportunity for a person to take direct part in the activities of the same society or state. The general system of human rights consists of legal norms of acts of international and national importance, which are aimed at providing a person with guarantees from society and the state, to perform certain actions and receive certain social benefits in return.
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