

ОСОБЛИВОСТІ РЕАЛІЗАЦІЇ РЕГІОНАЛЬНИХ МЕХАНІЗМІВ ЗАХИСТУ ПРАВ ЛЮДИНИ

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Анотація. Статтю присвячено дослідженню особливостей реалізації регіональних механізмів захисту прав людини в сучасній системі міжнародного права прав людини. Особливу увагу приділено співвідношенню універсальної та регіональних систем захисту прав людини, а також впливу політичних, культурних, релігійних і правових факторів на функціонування регіональних механізмів.

У статті проаналізовано основні регіональні системи захисту прав людини, а саме у європейську, американську, африканську, ісламську та азійську. Досліджено Конвенцію про захист прав людини і основоположних свобод, Американську конвенцію з прав людини, Африканську хартію прав людини і народів, Каїрську декларацію прав людини в ісламі, Арабську хартію прав людини, Декларацію АСЕАН з прав людини та інші регіональні нормативно-правові акти у сфері захисту прав людини. Особливу увагу приділено правовій природі регіональних стандартів прав людини та механізмам їх імплементації у національні правові системи.

У роботі також досліджено інституційні механізми реалізації регіональних стандартів прав людини, включаючи діяльність регіональних судів, комісій, моніторингових органів, звітних процедур, судової практики та механізмів конституційного закріплення міжнародних зобов'язань у національному законодавстві. Проаналізовано діяльність регіональних організацій у сфері захисту прав людини та роль регіональних інституцій у забезпеченні виконання міжнародних зобов'язань у сфері прав людини. Особливу увагу приділено захисту прав жінок у межах регіональних систем захисту прав людини. У статті проаналізовано регіональні правові механізми, спрямовані на протидію дискримінації щодо жінок, захист жінок від насильства та забезпечення гендерної рівності у різних регіональних системах. Незважаючи на суттєві відмінності між регіональними системами, сучасні тенденції свідчать про поступове посилення регіонального співробітництва у сфері захисту прав людини та зростання взаємодії між універсальними і регіональними стандартами прав людини.

Ключові слова: права людини, міжнародне право прав людини, регіональні механізми захисту прав людини, права жінок, міжнародні організації, міжнародні норми у сфері прав людини, регіональні норми у сфері прав людини, правові норми, ісламське право, міжнародне співробітництво, джерела міжнародного права.

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FEATURES OF THE IMPLEMENTATION OF REGIONAL HUMAN RIGHTS PROTECTION MECHANISMS

Annotation. The article is devoted to the study of the features of the implementation of regional human rights protection mechanisms within the contemporary system of international human rights law. Particular attention is devoted to the relationship between universal and regional human rights protection systems, as well as to the influence of political, cultural, religious, and legal factors on the functioning of regional mechanisms.

The article analyzes the principal regional human rights protection systems operating in EU, the USA, Africa, Islamic states, and Asia. The study analyzes the European Convention on Human Rights, the American Convention on Human Rights, the African Charter on Human and Peoples' Rights, the Cairo Declaration on Human Rights in Islam, the Arab Charter on Human Rights, the ASEAN Human Rights Declaration, and other regional legal instruments in the field of human rights protection. Special attention is paid to the legal nature of regional human rights standards and the mechanisms for their implementation within domestic legal systems.

The paper also examines the institutional mechanisms of implementation of regional human rights standards, including regional courts, commissions, monitoring bodies, reporting procedures, judicial practice, and constitutional incorporation of international obligations into national legislation. The activities of regional organizations in the field of human rights protection and the role of regional institutions in ensuring compliance with international human rights obligations are analyzed. Particular attention is paid to the protection of women's rights within regional human rights systems. The article analyzes regional legal mechanisms aimed at combating discrimination against women, protecting women from violence, and promoting gender equality within different regional systems. Despite substantial differences between regional systems, contemporary developments demonstrate a gradual strengthening of regional cooperation in the field of human rights protection and an increasing interaction between universal and regional human rights standards.

Key words: human rights, international human rights law, regional human rights protection mechanisms, women's rights, international organizations, international norms on human rights, regional norms on human rights, legal norms, Islamic law, international cooperation, sources of international law.

Human rights protection has become one of the central directions of contemporary international law. Alongside the universal system of human rights protection established within the framework of the United Nations, regional human rights protection mechanisms play an increasingly significant role in ensuring the effective implementation of international human rights standards. Currently regional human rights protection systems operate in EU, the USA, Africa, in the Islamic states, and partially within the Asian region, each demonstrating different approaches to the implementation and enforcement of human rights standards [1].

The relevance of this topic is determined by the increasing influence of regional organizations and regional legal mechanisms on the implementation of international human rights standards. Despite the existence of universal international legal instruments, the effectiveness of human rights protection largely depends on regional implementation mechanisms, judicial institutions, and domestic legal systems [2]. Particular attention should also be paid to the protection of women's rights within regional systems, as approaches toward gender equality and non-discrimination differ substantially depending on regional legal traditions and political frameworks.

The aim of the article is to analyze the features of the implementation of regional human rights protection mechanisms within different regional systems. The article also aims

to identify the main legal and institutional mechanisms of implementation of regional human rights standards and examine factors affecting their effectiveness.

Research on international human rights law, including regional human rights protection mechanisms, the relationship between universal and regional human rights standards, and the implementation of international legal norms, has been conducted by such scholars as M. Antonovych, A. A. An-Na'im, H. Behruz, M. Badran R. David, V. Dronov, J. Esposito, C. Heyns, W. Hallaq, F. Kidanemariam, K. Kittichaisaree, M. Kamali, V. Vladyshevskaya, A. Voitsikhovskiy, N. Zhdanov, A. Masse, M. Marchenko, A. Mayer, Z. Mir-Hosseini, Y. Mamedov, N. Onishchenko, D. Padilla, M. Rabinovych, A. Saidov, C. Shaw, K. Sliusar, L. Syukiyainen, K. Stepanenko, I. Shumilo, T. Shekhovtseva, and L. Zwaak, among others. Nevertheless, despite the considerable number of scientific works devoted to international human rights law, comprehensive studies concerning the features of the implementation of regional human rights protection mechanisms, their institutional foundations, and practical implementation mechanisms remain insufficiently developed within contemporary legal scholarship.

Regional human rights mechanisms present certain advantages that other protection mechanisms cannot offer. The likelihood of similarity in cultural, political, and economic peculiarities among states that are in a region makes it easier to reach agreement on the text of a common convention. States tend to show more inclination to conform to regional initiatives than international ones and thus this adds to the advantage of better enforceability to decisions of regional mechanisms over their international counterparts. Regional organizations are located closer than other international human rights organizations; they offer a more accessible forum in which individuals can pursue their cases. The political, cultural, and economic similarity further enables regional systems to offer better enforcement potential than their international contemporaries. States tend to show stronger political will to conform to decisions of regional bodies. Regional sanctions can be more effective than other international sanctions [3, p. 6].

Regional human rights protection mechanisms may be defined as institutional and legal systems established within particular geographic or political regions for the promotion, implementation, monitoring, and protection of human rights. Such mechanisms are generally created through regional international treaties and operate alongside the universal human rights system developed within the framework of the United Nations. The main sources of regional international human rights law include regional conventions, charters, declarations, protocols, judicial decisions, and the practice of regional organizations and courts. Among the most influential regional legal instruments are the European Convention on Human Rights of 1950, the American Convention on Human Rights of 1969, the African Charter on Human and Peoples' Rights of 1981, the Arab Charter on Human Rights of 2004, and the ASEAN Human Rights Declaration of 2012. Although regional mechanisms are based on universal human rights principles established in instruments such as the Universal Declaration of Human Rights and the International Covenants of 1966, regional systems often adapt the interpretation and implementation of human rights standards to regional political, cultural, religious, and legal realities [4, 11-25]. The implementation of international human rights standards at the regional level is carried out through regional courts, commissions, monitoring bodies, reporting procedures, and incorporation of regional obligations into domestic legislation and judicial practice.

One of the most effective regional human rights protection systems is the European human rights system, which operates as a coherent system of principles, legal norms, and institutional mechanisms aimed at the protection of human rights and fundamental freedoms. The European system of human rights protection was formed and continues to function within the framework of several international intergovernmental organizations, primarily the Council of Europe, the European Union, and the Organization for Security and Co-operation in Europe. The Council of Europe occupies a central position within this system and serves as the

principal regional organization responsible for the development of conventions, resolutions, recommendations, and institutional mechanisms in the field of human rights protection. The legal foundation of the European human rights system is primarily based on the European Convention on Human Rights of 1950, which established binding regional standards for the protection of civil and political rights and created an effective international judicial mechanism for their enforcement [5, p. 30-34].

The European human rights protection system includes several interconnected elements: the norms of European human rights conventions, the obligation of member states of the Council of Europe to effectively implement these standards within domestic legal systems, and the activities of regional supervisory institutions responsible for monitoring compliance with European human rights obligations [6]. A particularly significant role belongs to the European Court of Human Rights, whose case law has become one of the most influential sources for the interpretation and practical implementation of human rights standards in Europe. Through its judgments, the Court not only resolves individual complaints but also establishes legal precedents requiring states to amend legislation, administrative practices, and judicial procedures in accordance with the Convention standards [7, p. 74-82]. The implementation mechanism of the European system is therefore characterized by a comparatively high level of institutionalization, compulsory jurisdiction, and legal enforceability compared to other regional human rights systems.

An important feature of the European human rights system is its progressive development of women's rights and gender equality standards. In addition to the general prohibition of discrimination under the European Convention on Human Rights, the Council of Europe adopted a number of specialized instruments aimed at strengthening the protection of women's rights, including the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) of 2011. The European Court of Human Rights has also played a substantial role in developing legal standards concerning gender-based violence, discrimination against women, equal treatment, reproductive rights, and protection from domestic violence. Cases such as *Opuz v. Turkey* significantly influenced the interpretation of states' positive obligations regarding the protection of women from gender-based violence under international human rights law [8].

The Inter-American human rights system was established within the framework of the Organization of American States, whose Charter was adopted in Bogota in 1948. Currently, the Organization unites 35 member states and constitutes one of the principal regional systems of human rights protection in the world [9]. The foundation of the Inter-American system includes the American Declaration of the Rights and Duties of Man of 1948, which is considered the first international instrument to comprehensively proclaim civil, political, economic, social, and cultural rights, even preceding the Universal Declaration of Human Rights by several months. The Declaration is notable not only for enumerating individual rights but also for establishing duties of individuals toward society and the state, including obligations related to voting, compliance with laws, work, and participation in public life. Another key legal instrument is the American Convention on Human Rights of 1969, which entered into force in 1978 and established binding regional obligations concerning the protection of civil and political rights as well as institutional enforcement mechanisms.

The institutional structure of the Inter-American system is primarily based on two bodies: the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. The Commission, operating since 1959, examines individual and interstate petitions concerning violations of rights protected by the American Declaration and the American Convention [10, p. 35-37]. It also conducts country visits, prepares reports on the human rights situation within the region, issues recommendations to states, and may refer cases to the Inter-American Court. The Court, located in San Jose, Costa Rica, exercises contentious and advisory jurisdiction and has become one of the most influential regional

judicial institutions in the field of international human rights law. However, only states that ratified the American Convention and formally recognized the Court's jurisdiction are legally bound by its judgments [11].

An important aspect of the Inter-American system is the progressive development of regional standards concerning women's rights and protection against gender-based violence. In particular, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women of 1994 (Convention of Belém do Pará) became one of the first binding international treaties specifically devoted to combating violence against women [12]. The Convention recognizes women's right to live free from violence and obliges states to adopt legislative, judicial, and administrative measures aimed at preventing and punishing gender-based violence. The Inter-American Court has further developed regional standards concerning discrimination against women, reproductive rights, and state responsibility for failing to protect women from violence, significantly influencing domestic legal reforms throughout the Americas.

The African human rights system functions within the framework of the African Union and represents one of the principal regional systems of human rights protection in contemporary international law. Its legal foundation is the African Charter on Human and Peoples' Rights of 1981, which entered into force in 1986 and established regional standards for the protection of civil, political, economic, social, and cultural rights. Unlike other regional systems, the African Charter places particular emphasis not only on individual rights but also on collective peoples' rights, including the right to development, self-determination, and permanent sovereignty over natural resources. Another distinctive feature of the African system is the inclusion of duties of individuals toward society, family, and the state. Institutional implementation and supervision of the Charter are carried out by the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights, established under the 1998 Protocol to the Charter. The Court exercises both contentious and advisory jurisdiction, although its effectiveness depends significantly on state recognition of its jurisdiction and willingness to comply with its judgments [13].

The African human rights system is also characterized by the adoption of specialized regional instruments aimed at addressing regional human rights challenges, including discrimination, armed conflicts, poverty, and gender inequality. One of the most significant supplementary instruments is the Maputo Protocol of 2003, which strengthened regional legal guarantees concerning women's rights, including protection against violence, harmful traditional practices, discrimination, and unequal access to education and political participation [14].

The Islamic regional human rights system developed within the framework of the Organization of Islamic Cooperation and reflects the interaction between international human rights law and Islamic legal traditions. Unlike the European, Inter-American, and African systems, the Islamic regional mechanism does not currently possess a fully developed supranational judicial institution with compulsory jurisdiction over member states [15]. Instead, the system primarily functions through regional declarations, charters, political cooperation, and monitoring mechanisms. Among the principal regional instruments are the Cairo Declaration on Human Rights in Islam of 1990, the OIC Declaration on Human Rights of 2020, the Arab Charter on Human Rights of 2004, and several other regional legal and political documents adopted within the Islamic and Arab regional framework [16, p. 30-32]. These instruments recognize a broad catalogue of rights, including the right to life, dignity, education, work, social security, fair trial, and protection from torture. However, many provisions are interpreted within the framework of Sharia, which significantly influences the scope and implementation of particular rights and freedoms.

One of the central features of the Islamic regional human rights system is the attempt to reconcile universal international human rights standards with Islamic religious and legal

principles. As a result, the implementation of human rights norms often varies considerably among Islamic states depending on constitutional structures, domestic legislation, interpretations of Sharia, and political conditions. Certain rights, particularly freedom of religion, gender equality, and family rights, remain subjects of legal and doctrinal debate. Nevertheless, recent decades demonstrate a gradual development of regional standards concerning women's rights, including increased legal protection against violence, expansion of women's access to education and employment, and broader participation of women in political and public institutions in a number of Islamic states [17, p. 648-650].

The Asian human rights protection system reflects regional characteristics, particularly a focus on community involvement and non-interference. Given the advisory and consultative nature of the findings of all bodies that form the core of the human rights protection mechanism, their impact on human rights is limited to affirming recognition and developing models for states to follow [5, p. 39-40]. The principal regional documents forming the basis of the Asian human rights framework include the Asia-Pacific Declaration of Human Rights of Peoples adopted in 1988 and the ASEAN Human Rights Declaration adopted by the member states of the Association of Southeast Asian Nations in 2012. However, unlike other regional systems, these instruments do not possess strong legally binding enforcement mechanisms because Asia still lacks a regional human rights court or chamber authorized to issue binding judgments concerning human rights violations. A distinctive feature of the ASEAN Human Rights Declaration is its emphasis on regional and national contexts of human rights protection as well as the relationship between rights and corresponding duties of individuals toward society and the state. The implementation of regional human rights standards in Asia is therefore strongly influenced by the principle of non-interference in the internal affairs of states, which remains one of the core principles of ASEAN cooperation [18]. As a result, the practical realization of human rights standards largely depends on domestic legislation, political systems, and national implementation mechanisms of individual Asian states rather than on supranational regional enforcement institutions.

The implementation of regional human rights standards is carried out through constitutional incorporation of international obligations, adoption of domestic legislation, judicial practice, and administrative mechanisms. In many states, regional human rights treaties influence constitutional interpretation, legislative reforms, and court decisions, while regional courts and commissions supervise compliance through reporting procedures, individual complaints, and monitoring activities. At the same time, the effectiveness of regional human rights mechanisms depends on political stability, institutional capacity, regional cooperation, and the willingness of states to comply with regional obligations. In certain regions, particularly within the Islamic and Asian systems, the implementation of regional standards is additionally influenced by the principle of state sovereignty, religious and legal traditions, and limited supranational enforcement mechanisms.

In conclusion, regional human rights protection mechanisms constitute an important component of the contemporary system of international human rights law and complement the universal human rights framework established within the United Nations system. The European, Inter-American, African, Islamic, and Asian regional systems demonstrate different legal and institutional approaches to the implementation and protection of human rights depending on historical, political, cultural, and religious factors. At the same time, the effectiveness of regional mechanisms largely depends on the existence of binding legal instruments, effective regional institutions, judicial enforcement procedures, and the willingness of states to comply with regional human rights obligations. Despite significant differences between regional systems, contemporary developments demonstrate a gradual strengthening of regional cooperation in the field of human rights protection and an increasing interaction between universal and regional human rights standards within international law.

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