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## **LEGAL MECHANISM FOR ENSURING HUMAN RIGHTS IN UKRAINE: CONCEPT, ELEMENTS, STATUS, AND AREAS FOR IMPROVEMENT**

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### **Yarmol L.V., Oliinyk Ya.S. Legal mechanism for ensuring human rights in Ukraine: concept, elements, status, and areas for improvement.**

The article presents a general theoretical description of the legal mechanism for ensuring human rights in Ukraine, as well as proposals for its improvement.

It is stated that rights are the most important value given to humans by God. Enshrining human rights in legal sources is an important but insufficient step in ensuring them. Human rights also require organizational, procedural, and educational guarantees. Legal protection of rights is the primary duty of every state. However, only the joint efforts of individuals, the state, and other actors in society will allow for the most effective results in the realization, protection, and defense of human rights.

It is emphasized that the legal mechanism for ensuring human rights is a structural element of the social mechanism. The structure of the social mechanism for ensuring human rights includes: religious, moral (ethical), and legal norms; international legal principles and norms; activities of various entities to ensure human rights, etc. The social mechanism for ensuring human rights includes the following mechanisms: 1) the international mechanism for ensuring human rights; 2) the legal mechanism for ensuring human rights (domestic); 3) the mechanism for ensuring human rights through other social means (moral, religious, etc.).

The concept of the legal mechanism for ensuring human rights is formulated as a system of effective legal guarantees for the implementation, protection, and defense of human rights enshrined in normative legal acts and other sources of state law, as well as the means by which human legal consciousness is formed. The elements of the legal mechanism for ensuring human rights are highlighted.

The report highlights massive human rights violations committed by the Russian Federation as a result of its full-scale military invasion of Ukraine. The Russian Federation has caused significant violations of both natural human rights and subjective legal rights enshrined in Ukrainian legislation and is committing genocide against the Ukrainian people.

The main directions for improving the mechanism for legal protection of human rights in Ukraine were proposed. Among them, one of the most important is to stop the full-scale military invasion of the Russian Federation into the territory of Ukraine and bring those responsible to justice.

**Key words:** human rights, legal mechanism for ensuring human rights, war in Ukraine, state, human rights violations, improvement.

**Ярмол Л.В., Олійник Я.С. Юридичний механізм забезпечення прав людини в Україні: поняття, елементи, стан і напрями вдосконалення.**

У статті представлено загальнотеоретичну характеристику юридичного механізму забезпечення прав людини в Україні, а також сформульовано пропозиції щодо його удосконалення.

Стверджено, що права – це найважливіша цінність людини подарована їй Богом. Закріплення прав людини у джерелах правах – важливий, але не достатній крок у їх забезпеченні. Права людини потребують ще й організаційного, процедурного, виховного гарантування. Юридичне забезпечення прав є основним обов'язком кожної держави. Однак, лише спільні зусилля людини, держави та інших суб'єктів суспільства дозволять досягнути найефективніших результатів щодо реалізації, охорони та захисту прав людини.

Наголошено, що юридичний механізм забезпечення прав людини є структурним елементом соціального механізму. У структурі соціального механізму забезпечення прав людини є: релігійні, моральні (етичні), юридичні норми; міжнародно-правові принципи та норми; діяльність різноманітних суб'єктів щодо забезпечення прав людини тощо. Соціальний механізм забезпечення прав людини охоплює такі механізми: 1) міжнародний механізм забезпечення прав людини; 2) юридичний механізм забезпечення прав людини (внутрішньодержавний); 3) механізм забезпечення прав людини за допомогою інших соціальних засобів (моральних, релігійних тощо).

Сформульовано поняття юридичного механізму забезпечення прав людини як система ефективних юридичних гарантій реалізації, охорони та захисту прав людини, закріплених у нормативно-правових актах та в інших джерелах права держави, а також засобів, за допомогою яких формується правосвідомість людини. Виокремлено елементи юридичного механізму забезпечення прав людини.

Наголошено на масових порушеннях прав людини Російською Федерацією в результаті її повномасштабного воєнного вторгнення на територію України. Російська Федерація спричинила значні порушення як природних прав людини, так і суб'єктивних юридичних прав, закріплених законодавством України та здійснює геноцид проти Українського народу.

Запропоновано основні напрями вдосконалення механізму юридичного забезпечення прав людини в Україні. Серед них один із найважливіших – це припинення повномасштабного воєнного вторгнення Російської Федерації на територію України, притягнення винних до юридичної відповідальності.

**Ключові слова:** права людини, юридичний механізм забезпечення прав людини, війна в Україні, держава, порушення прав людини, удосконалення.

**Statement of the problem.** Rights are the most important value given to humans by God. Enshrining human rights in legal sources is an important but insufficient step in ensuring them. Human rights also require organizational, procedural, educational, and other guarantees. Legal protection of rights is the primary responsibility of every state. It is the state that has effective, specific means to guarantee human opportunities. However, it should be emphasized that only the joint efforts of individuals, the state, and other actors in society will achieve the most effective results in the realization, protection, and defense of human rights.

In the current period of full-scale military invasion of Ukraine by the Russian Federation (hereinafter referred to as the RF), this terrorist state is massively violating fundamental human rights and committing genocide against the Ukrainian people. Therefore, effective legal protection of human rights is particularly important in Ukraine in the context of war.

**The purpose of the study** is to analyze the concept, elements, and state of the legal mechanism for ensuring human rights in Ukraine, and to formulate proposals for its improvement.

**Status of research on the issue.** Certain international, theoretical, legal, and sectoral issues, including constitutional issues, concerning the concept, elements, and legal mechanisms for ensuring human rights, as well as problems related to guaranteeing human rights in Ukraine during wartime, have been studied in the works of Ukrainian scholars: D. Barsuk, Y. Holodnyk, P. Davydenko, O. Dovhal, O. Ivanchenko, Y. Kyrychenko, A. Misyats, I. Shcherbatyuk, and others. However, there is a lack of in-depth research on this issue in domestic legal science.

**Presentation of the main material.** One of the most important guarantees of human rights is legal protection provided by the state. It is the state that is the subject of society that has the most effective means of ensuring human rights. At the same time, it should be remembered that such means in the

hands of the state can be both a blessing for society - when the state is a legal entity - and an instrument of violence – when the state is totalitarian.

Y. Kyrychenko rightly points out that the constitutional rights and freedoms of individuals and citizens must be matched by the state's obligation to ensure them in the form of special state legal activity [9, p. 34].

In addition to the state, other institutions of society - religious and public organizations, in particular human rights organizations, the media, and specific individuals - also carry out important activities to ensure human rights. We agree with O. Ivanchenko that effective interaction between society, each individual, and the state will make it possible to solve many important problems [8, p. 27].

According to I. Shcherbatyuk, an important element of human rights policy is regular government reports and alternative reports by non-governmental organizations on the state of human rights in Ukraine [14, p. 271].

P. Davydenko emphasizes that the mechanism for protecting human and civil rights is not limited to the activities of the state, as there are international means of protection and assistance from non-governmental (civil society) organizations, as well as individuals' independent protection of their rights and freedoms [4, pp. 73-74].

A. Misyats asserts that nearly 20 human rights organizations operating in Ukraine contribute significantly to the state's observance of the rights and freedoms of citizens and individuals: the Center for Civil Liberties, the Ukrainian-American Bureau for Human Rights, the Ukrainian Center for Human Rights, the Ukrainian Helsinki Human Rights Union, and others. The activities of these organizations are extremely important for guaranteeing human rights: they provide legal education, study current Ukrainian legislation in accordance with international human rights standards, and prepare educational programs on human rights for various special and professional groups [10, p. 214].

Thus, scientific literature examines not only the legal mechanism for ensuring human rights, but also related mechanisms - social and socio-legal.

In our opinion, it is appropriate to talk about the social mechanism for ensuring human rights, which includes: religious, moral (ethical), and legal norms; international legal principles and norms; the activities of various actors to ensure human rights, etc. In view of this, the social mechanism for ensuring human rights includes the following mechanisms:

- 1) the international mechanism for ensuring human rights;
- 2) the legal mechanism for ensuring human rights (domestic);
- 3) the mechanism for ensuring human rights through other social means (moral, religious, etc.).

Thus, the legal mechanism for ensuring human rights is a structural element of such a social mechanism. It is given particular attention in legal literature.

The legal mechanism for ensuring human rights is based on legal guarantees (means) for the realization, protection, and defense of rights. However, it is worth emphasizing the special significance of the mechanism for forming human legal consciousness in the mechanism under consideration. It is the level and state of legal consciousness of various subjects that determines how human rights will be realized, protected, or defended.

Thus, the legal mechanism for ensuring human rights is a system of effective legal means (guarantees) for the implementation, protection, and defense of human rights enshrined in normative legal acts and other sources of state law, as well as means by which human legal consciousness is formed.

The mechanism for the legal enforcement of human rights consists of the following elements:

- national legislation (including ratified international treaties as part of it), which proclaims human rights;
- the mechanism for shaping human legal consciousness;
- the legal mechanism for the implementation of human rights;
- the legal mechanism for the protection of human rights;
- the legal mechanism for the defense of human rights.

The mechanism for forming a person's legal consciousness includes means by which the consciousness of the individual is «filled» with a system of concepts, views, ideas, emotions, and feelings regarding natural law and current, past, or desired legal law.

The legal mechanism for the realization of human rights includes legal means aimed at implementing human rights in practical life.

A legal mechanism for the protection of human rights exists when human rights have not yet been violated and all measures are aimed at preventing human rights violations. A legal mechanism for the protection of human rights encompasses a set of legal guarantees that are used to stop human rights violations, remove obstacles to their implementation, and restore, recognize, or confirm human capabilities.

Domestic scholars have researched various types and elements of the legal mechanism for ensuring human rights in their scientific works (international mechanism, legal mechanism for ensuring the protection of the rights, freedoms, and legitimate interests of citizens by state bodies, mechanism for ensuring judicial protection of human and civil rights, etc.).

Thus, D. Barsuk emphasized that the international mechanism for ensuring human rights is a set of international institutions, norms, principles, and procedures that ensure the observance, implementation, and protection of human rights at the international level [1, p. 142].

Y. Golodnik defined the concept of a legal mechanism for ensuring the protection of the rights, freedoms, and legitimate interests of citizens by state bodies as follows: «This is a system of guarantees defined and guaranteed by the state, through which the protection and defense of the rights, freedoms, and legitimate interests of citizens are ensured and implemented in specific forms and procedures» [3, p. 36].

O. Dovgal analyzed the mechanism for ensuring judicial protection of human and civil rights and formulated the following concept: «It is a system of normative legal acts and courts defined and guaranteed by the state, through which the protection and defense of the rights, freedoms, and legitimate interests of citizens are ensured and implemented in specific forms and procedures [5, p. 17].

#### *Key issues in the legal protection of human rights in Ukraine*

The proclamation of Ukraine as a sovereign, independent, democratic, social, and legal state (Article 1 of the Constitution of Ukraine) obliges our state to guarantee human rights and the rights of other entities in a real and maximum way. Unfortunately, despite this, there are a number of issues in the legal protection of human rights in our country.

The main problem in the current situation is the massive violation of human rights by the Russian Federation as a result of its full-scale military invasion of Ukraine. The Russian Federation has caused significant violations of both natural human rights and subjective legal rights enshrined in Ukrainian legislation.

As a terrorist state, the Russian Federation has violated all the natural rights of people in Ukraine, granted to them by God, as well as the natural rights of people in other states. The unrest and anxiety of many people around the world create problems in the realization of their rights. The Russian Federation's war is also causing a food crisis in the world. The aggressor's threats to use nuclear weapons and the pollution of the environment as a result of military actions pose a danger not only to the citizens of Ukraine, but also to other countries of the world. The world has been shaken by the Russian Federation's military aggression.

The Russian Federation is committing genocide against the Ukrainian people. On April 14, 2022, the Verkhovna Rada of Ukraine adopted a resolution «On the Statement of the Verkhovna Rada of Ukraine «On the Commission of Genocide in Ukraine by the Russian Federation» [13]. In this document, the Ukrainian parliament recognizes as genocide against the Ukrainian people the actions committed by the armed forces of the Russian Federation and its political and military leadership during the latest phase of the Russian Federation's armed aggression against Ukraine, which began on February 24, 2022. The Ukrainian legislature also appealed to international organizations and parliaments of foreign states to recognize the actions of the Russian Federation as genocide against the Ukrainian people, as well as crimes against humanity and war crimes on the territory of Ukraine.

The explanatory note to the Resolution of the Verkhovna Rada of Ukraine «On the Statement of the Verkhovna Rada of Ukraine «On the Commission of Genocide in Ukraine by the Russian Federation» dated April 14, 2022 outlines the forms of genocide against the Ukrainian people:

- numerous acts of atrocities committed by the armed forces of the Russian Federation in the temporarily occupied territories (in particular, in the cities of Bucha, Irpin, Mariupol, the urban-type settlements of Borodianka, Gostomel, and many other settlements on the territory of Ukraine), which manifested themselves in mass killings, abductions, deprivation of liberty, their torture, rape, desecration of the bodies of those killed and tortured, shootings of individuals and entire families, including children, who were trying to evacuate from the occupied territories;

- blockade of settlements, destruction of civilian infrastructure in such settlements, combined with obstruction of access to humanitarian supplies and evacuation of the civilian population;
- numerous cases of forced displacement of thousands of people, including children, from Ukraine to the territory of the Russian Federation or to the territories of Ukraine temporarily occupied by the Russian Federation;
- numerous cases of physical and psychological violence against representatives of Ukrainian state authorities and local self-government bodies, representatives of public organizations and other local activists, journalists, clergy, as well as other influential figures in Ukrainian society. Such actions are aimed at suppressing and destroying the elite of the Ukrainian people;
- a series of actions by the Russian Federation aimed at creating conditions for the gradual destruction of the Ukrainian people by undermining economic potential and security, manifested in the destruction of economic infrastructure. Such actions are aimed at creating the preconditions for the gradual impoverishment of the Ukrainian people through a lack of food and other resources necessary for survival;
- targeted actions by the Russian Federation to destroy the cultural values of the Ukrainian people (museums, historical monuments, religious buildings, books, prohibition of the Ukrainian language in territories controlled by the occupiers, etc. [12].

The Russian Federation has violated the natural rights of all categories of the Ukrainian population. As a result of the Russian Federation's military actions, as of July 23, 2025, 639 children have been killed and 2,066 wounded in Ukraine. A total of 177,745 crimes of aggression and war crimes have been recorded, as well as 22,631 crimes against the national security of Ukraine. These are the data of the Office of the Prosecutor General [7].

We are observing significant violations of freedom of religion in connection with the full-scale military invasion of Ukraine by the Russian Federation. Such violations occur in both occupied and unoccupied territories of Ukraine.

At least 500 religious buildings in Ukraine have suffered varying degrees of damage between February 24, 2022, and September 24, 2023, as a result of the full-scale invasion by the Russian Federation. Of these, more than 100 religious sites have been either completely destroyed or severely damaged and can no longer be used for religious services. At least 283 Orthodox religious buildings and more than 155 Protestant buildings have been damaged. At least 15 Jewish buildings, 12 Catholic buildings, and 7 Muslim buildings have also been destroyed. At least 7 religious educational institutions have been shelled [2].

In his speech at the International Religious Freedom Summit on «Violations of Religious Freedom in War and Conflict Zones» (Washington, D.C.), Ukrainian Parliament Commissioner for Human Rights D. Lubinets emphasized that «what the Russian Federation is doing on our land is a war against values, including freedom of religion» [11].

During his speech, the parliamentary ombudsman also highlighted the figures recorded since the beginning of the full-scale invasion of Ukraine by the Russian Federation:

- at least 76 acts of religious persecution in Ukraine;
- at least 29 clergymen or religious leaders of various denominations have been killed or taken prisoner by Russian soldiers;
- about 600 religious sites have been damaged or destroyed [11].

Another problem in the area of freedom of religion is the spread of the «Russian world» in Ukraine. In our opinion, this ideology poses a threat to Ukraine's state sovereignty and national security.

#### *Main directions for improving the mechanism of legal protection of human rights in Ukraine*

We believe that eliminating problems in the field of legal protection of human rights in Ukraine is possible primarily when the activities of entities in this field are clearly based on the principles of legality, justice, humanity, and democracy.

We propose the following main directions for improving the mechanism for legally ensuring human rights in Ukraine:

- ending the full-scale military invasion of Ukraine by the Russian Federation, bringing the Russian Federation to international justice as a terrorist state, and holding representatives of this state and other states accountable for war crimes, genocide against the Ukrainian people, and other offenses committed during the war in Ukraine;
- enshrining in the Constitution of Ukraine special sections devoted to 1) guarantees of fundamental human and civil rights and freedoms; 2) children's rights and legal guarantees for their protection;

- bringing the provisions of Ukrainian laws on human rights into line with international human rights standards;
- adopting Ukrainian laws that will fill the gaps in the regulatory framework for the implementation of certain human rights (e.g., the right to peaceful assembly). This requirement stems directly from the Constitution of Ukraine (Part 2 of Article 39);
- improving Ukrainian laws on human rights, and ultimately all Ukrainian laws, so that they express the will of the majority or the entire population;
- restricting human rights only in cases specified by law, taking into account the necessity and expediency for society;
- increasing the level of mutual responsibility between the individual and the state;
- improving procedural and legal mechanisms for ensuring human rights, which would contribute to the real, rather than declarative, guarantee of human rights;
- overcoming corruption in Ukraine;
- strengthening the role of Ukraine's judicial bodies as the most reliable and effective legal guarantee for the protection of human rights;
- more effective application by Ukrainian courts of the Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe, 1950) and the practice of the European Court of Human Rights as sources of law when considering cases;
- raising the level of legal awareness, in particular legal culture, among officials and other participants in public and state life;
- more effective legal protection of the rights of categories of people who particularly need it in the current circumstances: children; military personnel; women; socially vulnerable persons (pensioners, persons with disabilities, low-income persons, etc.); persons residing in the temporarily occupied territory of Ukraine; hostages who have been captured and/or are being held in the occupied territory or in the territory of the Russian Federation; internally displaced persons, etc.;
- more effective legal protection of vital human rights: the right to life, the right to social protection; the right to an adequate standard of living for oneself and one's family, including adequate food, clothing, and housing; the right to health care and medical assistance; the right to an environment that is safe for life and health, the right to safety, etc.

It should be emphasized that despite the trials, the Ukrainian people are courageously resisting the enemy, turning to God in prayer for help. The defenders of Ukraine ask people to pray for them personally, for victory, and for an end to the war. We also see how people in other countries around the world are turning to God en masse with prayers, asking for an end to the war and for just punishment for the criminals. We also hear appeals to God for an end to the war from Ukrainian officials.

Representatives of religious denominations in Ukraine and around the world are also praying to God for an end to the war and for peace in Ukraine. For example, the head of the Ukrainian Greek Catholic Church, His Beatitude Sviatoslav, rightly emphasized that, «in his opinion, thanks to the fact that the Ukrainian people believe in God, we are strong and invincible. Thanks to the fact that we are strong with God's power, we have the ability to defeat the enemy and stand firm in our struggle» [6].

**Conclusions.** Thus, the legal mechanism for ensuring human rights is a structural element of the social mechanism. The concept of a legal mechanism for ensuring human rights is defined as a system of effective legal means (guarantees) for the implementation, protection, and defense of human rights enshrined in normative legal acts and other sources of state law, as well as means by which a person's legal consciousness is formed.

The mechanism for the legal enforcement of human rights consists of the following elements: national legislation (including ratified international treaties as part of it), which proclaims human rights; the mechanism for the formation of human legal consciousness; the legal mechanism for the implementation of human rights; the legal mechanism for the protection of human rights; and the legal mechanism for the defense of human rights.

The article highlights the massive violations of human rights by the Russian Federation as a result of its full-scale military invasion of Ukraine. The Russian Federation has caused significant violations of both natural human rights and subjective legal rights enshrined in Ukrainian legislation and is committing genocide against the Ukrainian people.

The main directions for improving the mechanism of legal protection of human rights in Ukraine are proposed.

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