

THEORETICAL FOUNDATIONS OF IMPLEMENTING INTERNATIONAL HUMAN RIGHTS STANDARDS INTO NATIONAL LEGISLATION

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Abstract

This article examines the theoretical foundations of implementing international human rights standards into national legislation. It analyzes the interrelation between international and national law, focusing on incorporation, transformation, and reference models. Special attention is given to the experience of the Republic of Uzbekistan in applying international human rights standards. The main objective of the study is to explore the theoretical concept of implementation and analyze the mechanisms through which international norms operate within the national legal system.

Keywords

human rights, international law, national legislation, implementation, transformation, incorporation, reference model.

Annotatsiya

Ushbu maqolada xalqaro inson huquqlari standartlarini milliy qonunchilikka implementatsiya qilish jarayonining nazariy asoslari, xalqaro va milliy huquq o'rtasidagi o'zaro bog'liqlik, inkorporatsiya, transformatsiya va referentsiya modellari tahlil qilinadi. Shuningdek, O'zbekiston Respublikasining inson huquqlarini ta'minlash bo'yicha xalqaro standartlarni amalga oshirishdagi tajribasi o'rganiladi. Maqolaning asosiy maqsadi — implementatsiya tushunchasining nazariy asoslarini ochib berish hamda xalqaro huquq me'yorlarining milliy tizimda amal qilish mexanizmlarini tahlil qilishdan iborat.

Kalit so'zlar

inson huquqlari, xalqaro huquq, milliy qonunchilik, implementatsiya, transformatsiya, inkorporatsiya, referentsiya modeli.

Аннотация

В данной статье рассматриваются теоретические основы имплементации международных стандартов прав человека в национальное законодательство, а также взаимосвязь между международным и национальным правом. Анализируются модели инкорпорации, трансформации и референции. Особое внимание уделено опыту Республики Узбекистан в сфере реализации международных стандартов защиты прав человека. Цель статьи — выявить теоретические основы понятия имплементации и изучить механизмы действия международных норм в национальной правовой системе.

Ключевые слова

права человека, международное право, национальное законодательство, имплементация, трансформация, инкорпорация, референция.

INTRODUCTION

Ensuring human rights and freedoms is one of the most important constitutional duties of any democratic state. Internationally recognized human rights standards have become an integral part not only of international law but also of national legal systems. Therefore, the issue of implementing these standards into national legislation is currently of great relevance not only in theoretical but also in practical terms. After gaining independence, the Republic of Uzbekistan recognized the fundamental principles and norms of international law and has been gradually incorporating them into its national legal system. In this regard, the implementation of



international standards in the field of human rights protection represents one of the key directions of Uzbekistan's democratic development. The relationship between international and national law is one of the oldest and most controversial theoretical issues in legal science. Two main theories explain this relationship: monism and dualism. Supporters of monism argue that international law prevails over national law, and that international legal instruments have direct effect within a state. Dualism, on the other hand, views international and national law as two independent systems; accordingly, international treaties acquire legal force only through their incorporation into national legislation. Article 17 of the Constitution of the Republic of Uzbekistan stipulates that "the Republic of Uzbekistan recognizes the universally recognized principles and norms of international law." This provision signifies that national legislation develops in harmony with international law. The process of introducing into national legislation a law, standard, principle, or system existing in international law is called implementation. The term "implementation" derives from the Latin word *implementare*, meaning "to carry out" or "to put into effect." From a legal perspective, implementation refers to the fulfillment by a state, at the national level, of the obligations established in international treaties, that is, the incorporation of international norms into the domestic legal system. This process is not limited solely to the adoption of laws; it also includes mechanisms of enforcement, supervision, and monitoring.

To fully understand the process of implementing international human rights standards into national legislation, it is прежде important to identify the main international sources from which these standards originate. This is because the obligations that must be fulfilled are enshrined precisely in these sources, and incorporating them into the national legal system constitutes the central task of implementation. The sources of international human rights standards are divided into several main categories: universal international instruments, regional legal acts, international customary law, the practice of international judicial bodies, and the normative recommendations of international organizations. Each source possesses a certain degree of binding force for subjects of international law and is applied in real life through implementation by states. The main international instruments include the following:

- The Universal Declaration of Human Rights (1948)
- The International Covenant on Civil and Political Rights (1966)
- The International Covenant on Economic, Social and Cultural Rights (1966)
- The Convention on the Rights of the Child (1989)
- The Convention on the Elimination of All Forms of Discrimination against Women (1979)

These instruments constitute the core of the international human rights system, and their implementation into national law is one of the primary obligations of states. In the process of incorporating international norms into national law, three main models are applied: The incorporation model – international instruments directly become part of the national legal system. The transformation model – international instruments are adapted and reformulated in accordance with national legislation. The reference model – implementation is carried out through references to international instruments in national laws. In the legal practice of Uzbekistan, the transformation model prevails, whereby international treaties are ratified and subsequently given legal force through national legislation. After gaining independence, ensuring human rights became one of the main directions of state policy in Uzbekistan. During this period, the country ratified more than 80 international human rights instruments, which created a solid foundation for the gradual implementation of international standards into the national legal system. From the 1990s to the present, Uzbekistan has acceded to the principal UN human rights conventions. These conventions required the renewal of national legislation, the establishment of protection institutions, and the pursuit of policies in conformity with international standards. As a result, new national institutions were formed. In particular, the Ombudsman (1995) — the Authorized Representative of the Oliy Majlis for Human Rights — examines citizens' complaints, exercises parliamentary oversight over state bodies, and



implements the national preventive mechanism for the prevention of torture. The National Human Rights Centre (1996) monitors the implementation of international treaties, prepares reports for UN committees, and conducts expert reviews of draft laws from a human rights perspective. The Human Social Centre, established in recent years to strengthen the social dimension of human rights, identifies socially vulnerable groups, manages assistance through the “social register,” and enhances the social protection of persons with disabilities, children, and the elderly.

On the basis of international instruments, a number of new laws have been adopted in recent years:

the Law “On Guarantees of the Rights of the Child”;

the Law “On the Rights of Persons with Disabilities”;

the Law “On Gender Equality.

In addition, the principles of fairness of justice, transparency, and the protection of human dignity have been strengthened within the judicial and legal system. In the new edition of the Constitution adopted in 2023, more than 60 new provisions related to human rights were enshrined. These include: the recognition of human dignity and honor as the highest value; the inviolability of private life and freedom of expression; additional guarantees for persons with disabilities, children, women, and the elderly; and a broad articulation of the principle of the social state. These changes are fully harmonized with Uzbekistan’s international legal obligations. In recent years, a number of reforms have been implemented in this very direction: nationwide campaigns to increase legal awareness have been organized, social monitoring has been carried out by non-governmental organizations, and systems for the gender expertise of draft laws and legal impact assessment with the participation of experts have been established.

Another important direction in the implementation of international legal standards is regular participation in international monitoring mechanisms. In recent years, Uzbekistan has established the practice of submitting its national reports in a timely manner to various UN treaty bodies. Within the framework of the Universal Periodic Review (UPR) of the UN Human Rights Council, Uzbekistan actively participated in the 2018 and 2023 cycles and is currently implementing the recommendations provided by international experts on the basis of national policy action plans. This has made it possible to ensure international evaluation of the implementation process, to identify existing shortcomings, and to develop concrete measures for their elimination. The process of aligning the judicial and legal system with international standards in the field of human rights is also of great importance. Ensuring the independence of the judiciary, strengthening the guarantees of fair trial, enhancing the institution of advocacy, and introducing alternatives to detention constitute the direct implementation of international standards. The introduction of the National Preventive Mechanism (NPM) for the prevention of torture is also a significant reform carried out in accordance with Uzbekistan’s international obligations. This mechanism serves to protect the rights of prisoners, juveniles, and persons with disabilities. Furthermore, the strengthening of the principle of the social state plays a special role in the implementation process. As a result of the constitutional закрепление of Uzbekistan as a social state in the new Constitution, the obligations of the state to ensure human rights—especially economic, social, and cultural rights—have been expanded. This, in turn, requires that the norms enshrined in international covenants be fully reflected in national legislation and in practice. It should also be emphasized that the implementation of international norms is not only a state obligation, but also has a direct impact on the country’s international reputation, foreign policy image, and international economic integration. Reforms in the field of human rights contribute to improving the investment climate and strengthening reliable relations with foreign partners. Therefore, the high-quality and systematic implementation of international standards is regarded as an integral part of the overall modernization process of the state.



Despite the efforts described above to ensure guarantees of human rights, a number of problems can still be observed in the implementation process. These include: the incomplete conformity of international instruments with national legislation; the insufficient application of international norms in judicial practice; and the weakness of the system for training human rights professionals. In the future, it is necessary to expand the application of international legal standards within the judicial system, strengthen cooperation with international experts, and increase the participation of civil society. The implementation of international human rights standards into national legislation is not only a means of fulfilling the state's international obligations, but also a guarantee of the practical protection of human rights. Uzbekistan has achieved significant progress in this direction. In order to further improve the implementation process in the future, it is necessary to intensify the analysis of international instruments, enhance legal culture, and strengthen monitoring mechanisms. This direction will serve to further consolidate Uzbekistan as a democratic state that ensures human rights.

In conclusion, the implementation of international human rights standards into national legislation constitutes the foundation of Uzbekistan's democratic development strategy. Since independence, the country has not only recognized the norms of international law, but has also carried out serious institutional, normative, and administrative reforms to put them into practice. The establishment of the Ombudsman institution, the National Human Rights Centre, reforms in the judicial and legal system, the adoption of new socially oriented laws, and the expansion of democratic principles in the Constitution are all tangible results of the implementation process. At the same time, it should not be overlooked that implementation is a continuously evolving process. There remain a number of issues awaiting further resolution in harmonizing international norms with national legislation, including increasing the use of international standards in courts, strengthening the professional capacity of personnel, expanding the participation of civil society, and improving transparent monitoring mechanisms. If systematic efforts in these areas are continued in the future, Uzbekistan's achievements in the field of human rights will be further reinforced and consolidated.

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