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Theoretical and Practical Issues of the Implementation of International Norms on Human Rights to the National Legislation (the Example of the Republic of Azerbaijan)

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ABSTRACT

The purpose of the study is to analyze the features of the implementation of international norms on human rights to the national law system of the Republic of Azerbaijan. Using the method of the critical analysis of national legislative framework on human rights, the authors argue that there are some certain problems connected with the application and execution of the European Court resolutions in our Republic, with the improving the legislation according to the modern legal conditions and social challenges and the extension of enlightenment in the proper sphere in law enforcement authorities. The practical value is that the submissions can be used by lawmakers as a basis not only for facilitating the practical realization of the treaties on human rights, but also for development the supplemental legal guarantees for the maintenance of the conformity to natural laws of this activity.

KEYWORDS
The Republic of Azerbaijan, international norms on human rights, protection of human rights, the international treaty, judicial authorities.

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Introduction

Activity in international arena and the participation in the solution of certain international problems involve the states to enter into political and other relations with each other and to sign international agreements (Brownlie, 1990). In such relations the states not only take into account their own national interests, but also follow the norms and principles of the international law (Delbez, 1964; Von Glahn & Taulbee, 2015).

The effective activity of domestic legal system of proper state depends on the mutual relation between international and domestic law (Jinks, Maogoto & Solomon, 2014). The domestic mechanism of the implementation is the totality of state bodies that are competent for the realization of national remedies and international obligations of the state used for the implementation of the norms of international law (Omarkadieva, 2007).

Can note domestic mechanism exists in every state. But this mechanism has general and specific features. These features depend on the peculiarity of legal systems of specific states (Litvinova & Glushkova, 2016).

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The process of increasing influence of norms of international law in the field of human rights and freedoms to Azerbaijan legislation has objective character (Khalilov, 2008). The objectivity of mentioned process, first of all, is related to the globalization. In scientific literature the globalization is explained as unification of most of humanity in unique system of financial-economic, social-political and cultural relations on the basis of the latest means of telecommunication and information technologies (Brysk, 2013).

Therefore, the solution of some global problems in present situation, including the increasing the efficiency of struggle against terrorism, is possible with support of international cooperation, and this creates necessity for increasing of the management level by international system (Tihomirov, 2002; Solis, 2016).

Literature review

The term "implementation" is widely used in international legal practice (Current international law, 2007). This term can be met in the resolutions of the UN General Assembly and its other bodies, and in the resolutions of other international organizations. In dictionaries implementation in the broad sense is fulfillment of the norms of international and domestic law on the execution of the norms of international law; it is also creating conditions for such fulfillment at international and domestic standards (Webster's Encyclopedic Unabridged Dictionary of the English Language, 1996). But there is no common opinion among the authors about the term implementation, its stages and mechanism in legal literature.

The scholars observe that the beginning of the process of implementation of international norms on human rights depends on objective and subjective reasons. Objective reasons are: a) the historical development of the society and the state (Martin et al., 2006), b) improvement of the domestic legislation (Gordan, 2011). In contrast, subjective reasons contain the activity of subjects of political authority, their connection with one or other ideals (Shelton, 2015).

Moreover, A. Robertson & G. Merrills (1992) determine the main elements of the domestic mechanism of the implementation of international norms that any state has: national remedies used for the realization of international law; the system of state bodies that are competent for the realization of obligations occurring from international law.

It is pertinent to point out that national remedies used for the realization of international law contain: the normative statements of general character regulating the relation between international and domestic law, and the conclusion, execution and denunciation of international treaties, and also, determining the competency of state bodies in the field of the implementation of international law; national legal statements adopted in order to ensure the realization of the international obligation occurring from certain international treaties(implementation legal statements); legal guaranteeing activity of state bodies related to the implementation of the instructions defined in the norms of international law in domestic level; national law application experience (Shelton, 2015).

A. Kiss (1988) wrote that the principle of respect to human rights, approved in modern international relations and international law, requires enlarging the activity of every state in this field and intensification of effective measures on human rights protection. In this case, while elaborating international documents on human rights, the states preferred, at first, to include the special "block of norms" of implementation in those documents (Smith, 2016). The purpose of those norms was the unification of various realization measures existing in different states. Using such legal remedies of the implementation by states was based on achieving common conception of the maintenance and essence of documents on human rights and their implementation at domestic level (Jinks, Maogoto & Solomon, 2014).

G. Von Glahn & J. Taulbee (2015) point out that at present in the sphere of human rights protection almost all international treaties implement the norms regulating the obligations of the states on appropriate relations.

The main importance of the Universal Declaration of Human Rights is that, being the first international document, declaring human rights, this document also defines the international concept to the human rights for the first time (Donnelly, 2013). The Universal Declaration of Human Rights was adopted thoughtfully as the form of the resolution of the General Assembly, not as an international treaty officially ratified. Therefore, the Declaration does not have mandatory force.

But the discussions among authors on the mandatory force of the document are still continuing in law literature. Some authors consider that the Declaration has already become the norm of custom and therefore it is compulsory (Gordan, 2011). But the M. Dixon (1993), the opponent of this idea, has pointed out that that, the States need general, homogenous and consistent practice to create the international customary law, which make *opinio juris* (assurance of the States to the mandatory character of such practice).

Scholars also argue that, the States never gave a negative feedback against the Declaration in their own declarations or constitution or laws, vice versa, they use the provisions of the Declaration (Kiss, 1988). This fact creates convenient conditions to become the international customary law of the Declaration of 1948.

In our opinion, the Declaration has already been adopted by World Community and States still use the provisions of this document.

Aim of the study

This paper aims at the analysis of the theoretical and practical issues of the implementation of international norms on human rights to the national legislation of the Republic of Azerbaijan.

Research questions

Research questions were as follows:

What are the laws governing the protection of human rights in Azerbaijan? What are the features of the implementation of international norms on human rights to the national law system of the country?

Methods

The research methodology was based on the theoretical methods, especially the historical and legal critical analysis of legislative framework of the Republic of Azerbaijan and international legislation on human rights.

Data, Analyses, and Results

In the law system of the Republic of Kyrgyzstan the terms "human rights and freedoms" and "human rights and fundamental freedoms" are considered as the same: as natural, inseparable rights and freedoms that every person has, not depending on his citizenship.

"The standards in the field of human rights and freedoms protection" contain the regulations concretizing and developing the principle of respect to human rights, and regulating the relations between the state and person. Actually, they are the domestic norms the implemented international legal responsibility of the states in the sphere of protection of human rights and freedoms.

Human rights are intended both in international and national law. Main documents in the field of human rights protection in international law: the UN Charter of 1945, the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966, the International Covenant on Economic, Social and Cultural Rights of 1966. Our Republic follows the provisions defined in these documents.

All international treaties in the sphere of human rights define the provisions on execution of obligations of the states which signed those documents. Those provisions are identified in different articles of appropriate treaties.

In article 2.2 of the International Covenant on Civil and Political Rights it is mentioned that, where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant (Martin et al., 2006).

In the conventions on struggle against discrimination in the field of education, on the abolition of all forms of racial discrimination, on the abolition of all forms of discrimination of women, the provisions connected not only with adoption of necessary legislative or other measures by each State Party for the realization of those convention norms, but also with its obligation of abolishing national normative statements contradicting the appropriate conventions are identified (Gordan, 2011).

In article 4 of the Convention on the Rights of the Child (ratified in 1992), that Azerbaijan has also joined, it is mentioned that, governments have a responsibility to take all available legislative, administrative and other measures to the realization of the rights pointed out in the Convention. Governments are obliged to take such measures on economic, social and cultural

rights in the maximum standards of the reserves they have, and if it is necessary, in the standards of international cooperation.

As it is seemed, governments have wide powers in the research of forms and methods and also in the case of appointment the time of the realization of rights and freedoms in the mentioned situation. Uncertainty in the identification of the implementation norms of the mentioned treaties is connected with the variety of the opportunities (different standards of economic and political development) for the execution of the provisions of these statements by each State Party within its own territory.

Including into international treaties on human rights the provisions on their implementation is constantly developing. In our opinion, domestic authorities, defined mechanisms and their procedures must have great importance for the practical execution of the international documents. Governments, forming the implementation norms, should not only facilitate the practical realization of agreements on human rights for themselves, but also, they should make supplemental legal guarantee for the maintenance of the objective laws governing this activity. The existence of appropriate implementation norms in the treaties and other documents decreases the interval between the adoption of the resolutions and their execution. Thus, the identification in the legislation of the provisions that are in the legal documents can be more efficient than minimal standards defined by international law.

Nowadays, Azerbaijan ratified a number of international treaties in the sphere of human rights protection. But the influence of international treaties to the national legislation of the Republic of Azerbaijan is increasing. The process of joining the international treaties should be forcefully accompanied by norm creative activities within the government, therefore, helping this process should be the duty of legislative and executive administration, but leading role belongs only to national courts.

In Azerbaijan general jurisdictional courts fulfill European Court resolutions (individual and general enactments) in the following forms: a) The application of juridical position of the European Court; concretely, the Supreme Court take a decisive step in the formation of common judicial practice; b) The courts of all three instance can base on the juridical position of the European Court while making final decisions; c) legislative initiative activity- preparing legislative drafts corresponded to the European human rights standards and presenting them to Milli Majlis (the legislative authority); d) the execution of the requirements of the European Court resolutions by the certain judge in the cases of considering into the trial again. The enactment, mentioned last, has individual character, but the previous ones belong to the enactments of general character.

Human rights and freedoms protection presented in the European Convention and in the protocols supplemented to it forms the aim of the European Court activity. This aim coincides the total aim and duties of the Court of Justice of Azerbaijan. Coincidence of the aim and duties is not

accidental, because the social-legal values protected by the European Court and the Azerbaijan Court conform to each other.

Thus, international law can have positive influence on national law and State system, on condition that this influence should be fulfilled by national law. The government should identify them in domestic legislation in order to fulfill international law obligations, to guaranty to follow human rights and freedoms. In that case, in legal state, the law should be above the government, and the rights above the policy. Otherwise, not only the guarantee of human rights and freedoms, but also, the normal development of the society and economy is impossible.

After World War II States have accepted as their responsibility the problem of protection of human rights, thereof this problem has become significant part of international law and order. Although some declarations, resolutions and treaties have set the protection of human rights, it could not be possible to adopt the unique document that would be accepted as overall, universal and obligatory impact. Adoption of such a document would be an effective mechanism on realization of the norms of international law on human rights.

Notwithstanding, in international law and order significant changes happened on application of human rights in the XXI century (Khalilov, 2008). In present, in the result of terrorism, climate change, domestic revolutions, armed conflicts, increasing number of refugees and forced migrants, infringement of healthy lifestyle have become the factors of human rights violations (Brysk, 2013).

In the context of aforementioned problems the primary universal documents on the realization of human rights are the UN Charter, The Universal Declaration of Human Rights, the 1966 International Covenants and other treaties of universal character.

First, let's have a look at the UN Charter. The founders of the document, dated to June 26, 1946, affirmed the faith to the main human rights, worth and dignity of human person, the legal equality of men and women and of nations large and small (Goodrich & Hambro, 1949). The UN Charter was a significant step on the way of globalization of human rights and maintenance of stability in the world. In general, the seven separate norms of the Charter (the third paragraph of the preamble; article 1.3; articles 55 and 56; article 76.c; article 13.1.b; article 62 and article 68) have the aim at human rights protection.

The United Nations included respect to human rights into the main principles of the Organization. According to the Charter, the purpose of the Organization is to achieve the international cooperation on promoting and encouraging of the main rights and freedoms of all people without distinction as to the religion, language, sex and race (article 1.3). More specific provisions aimed at realization of the mentioned purpose are implemented in the next three groups of norms of the Charter: 1) in the norms related to international, economic and social cooperation (articles 55 and 56); 2) in the norms on international trusteeship (article 76 (paragraph c)); 3) in the norms on functions

and jurisdiction of the UN bodies in proper sphere (articles 13.1 and article 62.2 and 3; article 68).

The first group of provisions, that includes the norms on international economic and social cooperation, have great importance. According to article 55 of the Charter, with a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion (article 55.c) (Delbez, 1964).

Directly improving these problems, article 56 of the Charter mentions that all Members of the Organization take responsibility to act in cooperation with the Organization and independently to achieve the purposes set forth in article 55.

According to the second group of norms of the Charter, related to human rights, the main objective of international trusteeship system is to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world (article 76.c).

The third group of provisions establishes the purpose of the Charter, its role in human rights protection and functions and authority of some bodies of the UN. For instance, the General Assembly shall initiate studies and make recommendations for the purpose of promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion (article 13.b).

Generally, one of important points is that the UN Charter is considered as the first comprehensive and imperative document that identifies protection of human rights universally. Its predecessor, the League of Nations had not dealt with the problem of human rights.

The UN Charter, taking protection of human rights as the permanent objective of the Organization, could force all Member States to follow this objective. Articles 13.1, 55, 56 and 68 of the Charter mainly contain the normative bases of this objective. The activity of specific organizational and normative mechanisms has been generalized precisely in these articles. Thus, the duties of the General Assembly, such as initiation of studies and making recommendations (article 13.1), acting in respect of international cooperation (articles 55 and 56), establishing the Human Rights Committee (article 68), could be mentioned.

The UN Charter also made some novelties in the field of human rights. The main point is that the Charter firstly defined the conception of respect and protection of human rights as the main factor on providing international peace and safety, friendship and well-being, economic and social cooperation (Bentwich & Martin, 1950). Therefore, the UN Charter reviews human rights in the general context of political, economic and social problems.

It is important to emphasize some legal shortcomings in the articles related to human rights. Although, expression "human rights and fundamental freedoms" exists in the whole text of the Charter, there is no concept or explanation of them; it is not shown the mechanisms of following and realization of those rights and fundamental freedoms, as well. The relevant problems solved in the Universal Declaration of Human Rights, the 1966 International Covenants and other universal and regional documents, adopted after the Charter.

In the UN Charter such general terms and concepts, as "protection", "maintenance", "guarantee", are used more in order to avoid wrongfulness and shortcomings in the matters of human rights protection. In this case article 2.7 of the Charter has great importance, so that, the expression "intervention to the cases in domestic jurisdiction of the States", mentioned in relevant article, means the use of force and threatening by use of force, i.e. it does not mean making and requiring investigation, research or recommendations, dealt with human rights.

So, in spite of general and inaccurate expressions in the text, provisions of the Charter, related to protection of human rights, are the obligations of international character that all Members of the international union shall follow.

The Universal Declaration of Human Rights has a particular role among the international mechanisms on realization of the norms of international law in the field of human rights. The adoption of this document was the main target of the UN in the limit of Program on preparation of the Bill of human rights. The Declaration has been International Law Commission under the guidance of Eleanor Roosevelt prepared and introduced it to the General Assembly by ECOSOC and this was adopted on December, 10, 1948. During the discussions and voting, the States such as USSR, Poland, South Africa, Saudi Arabia, Yugoslavia and Czechoslovakia remained neutral (Brownlie, 1990).

The Preamble, consisted of 30 articles, in terms of structure has a particular importance for many reasons. Declaring such fundamental beginnings as dignity, equality and inseparability, which are specific for a human being, respect and following human rights and fundamental freedoms, jointly creates suitable conditions for future development of human rights.

The other important element of the Preamble is that respecting and following human rights and fundamental freedoms jointly was defined as the obligation of the UN Member States.

In the first article of the Declaration it is mentioned that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. This norm contains philosophical spirit of the Declaration.

A number of important principles were implemented in the field of protection of human rights in the Declaration. The following principles should be emphasized:

- Equality and non-discrimination (article 2);

- The right to a social and international order (article 28);

- Duty of a person before the community (article 29.1);

- Limitation of the realization of human rights (article 29.2);

- Not to be engaged in any activity aimed at the destruction of human rights and freedoms (article 30).

The text of the Declaration contains natural rights and freedoms of person. Fundamental civil rights and freedoms, also economic, social and cultural rights were defined in articles 3-27 of the Declaration. Articles 3-21 contain almost all civil and political rights of person.

Among the international treaty mechanisms of realization the norms of the international law in the field of human rights the 1966 International Covenants hold the significant place. After long discussions within the UN General Assembly, on December 16, 1966, the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights were adopted by 106 States. On the same date the Optional Protocol, that contains individual complaints to the International Covenant on Civil and Political rights, was adopted. On December 15, 1989, the Second Optional Protocol, aiming at the abolition of the death penalty, was adopted.

Entering into force on March 23, 1976, the International Covenant on Civil and Political Rights was signed by 167 States. First three parts (articles 1-27) of the Covenant, consisting of Preamble and six chapters, reflect all the natural rights and some general problems (abolition of discrimination and violence, equality of the sexes and etc.). Parts IV-VI (articles 28-53) consist of international control, interpretation and final clauses. The First Optional Protocol that consists of 14 articles regulates the problems of presenting individual complaints. 11 articles of the Second Optional Protocol reflects, in fact, the amendment of article 6 related to the right to life of the Covenant.

Except the collective right of the self-determination of the peoples, the Covenant guarantees the rights intended in the III part. In the III part of the Covenant the whole complex of civil and political rights were identified.

Unlike the 1948 Declaration there is no any provision on the right to property, citizenship and asylum, and unlike the European Convention on Human Rights there is not intended the right to education, prohibition of the mass expulsion of foreigners in the Covenant. Generally, almost all the rights, reflected the Covenant, were defined in general, but there are some certain concreteness, thus, certain specific moments can be found out possibly in the problems, such as the minimum rights of a person accused in criminal procedure (article 14), the rights of people deprived of the liberty (article 9-10), limitation of application of the death penalty (article 6).

According to the article 14 of the Covenant, everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law. No one shall be tried or punished again for an offence for which he has already been convicted or acquitted in accordance with the law and penal procedure of each country.

In the article 9 of the Covenant it is pointed out that, everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. Anyone who is arrested shall be informed, at the time of arrest, of the reasons of his arrest and shall be promptly informed of any charges against him.

Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody; but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceeding and, should occasion arise, for execution of the judgment.

Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that, that court may decide without delay on the lawfulness of his detention and order his release. Anyone who has been the victim of unlawful arrest or detention shall have enforceable right to compensation.

According to the article 6 of the Covenant, every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court (Brownlie, 1990).

When deprivation of life constitutes the crime of genocide, it is understood that, nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

The Republic of Azerbaijan joined to the Second Optional Protocol of the International Covenant on Civil and Political Rights of December 15, 1989, aiming at the Abolition of the Death Penalty by taking the following proviso:

“The Republic of Azerbaijan applying the Second Optional Protocol of the International Covenant on Civil and Political Rights of December 15, 1989, aiming at the Abolition of the Death Penalty in the period of war or when war threat exists in exceptional circumstances with adopting special law can admit the application of the death penalty for serious crimes ("The Law of the Republic of Azerbaijan № 582", 1992).

The rights, identified in the International Covenant on Civil and Political Rights, as a universal international treaty on protection of human rights can be applied to every person. Article 2.1 of the Covenant prohibits any kind of discrimination during the realization of those rights.

The main example of domestic implementation of human rights is the Constitution of the Azerbaijan Republic. The norms regulating the sphere of human rights and freedoms also take a special place in the Constitution of the Azerbaijan Republic. When comparing the Constitution of the Azerbaijan Republic and other normative legal statements with the most important universal international law documents on human rights and freedoms, it can be found out that the similarity of most provisions.

One of the main principles declared in the Preamble of the Constitution is to remain faithful to universal human values, to live in friendship, peace and freedom with all the nations of the world and co-operate with them for this purpose. This provision involves that our nation has a decent place among the nations of the world, that they are peace-loving people, also that Azerbaijan government is a full member and constituent part of the world states system as an independent subject of international law. It is no accident that, the Republic of Azerbaijan establishes relations with other states on the basis of principles intended in international law norms adopted jointly (Khalilov, 2008).

The Constitution of the Azerbaijan Republic has the highest and direct legal force. The Constitution is the base of Azerbaijan legislative system. In the hierarchy of the legislative system the Constitution takes the primary place. It is directly mentioned in the Constitution that the laws shall not be contrary to the Constitution, also the Constitution is applied in case there is contrariety between the Constitution the interstate treaties that the Azerbaijan Republic seconds.

It is expedient, to take notice of one important instant. Thus, there is not a norm in the Constitution of the Azerbaijan Republic connected with international law principles' being included in the legislative system. At the same time, the correlation of those principles to the Constitution and the laws is not defined. Only the following provisions related to commonly recognized principles of the international law are identified: the Azerbaijan Republic establishes relations with other states on the basis of principles intended in international law norms adopted jointly.

Being guided by the UN Charter, the Declaration on Principles of the International Law of 1970, the Helsinki Final Act of OSCE of 1975 (Current international law, 2007) we can say that the principles of the international law has an imperative character and all the states are obliged to follow them not depending on being a member of the UN and ratifying the UN Charter. Besides this, according to the Declaration of 1970, the international commitments occurred from the international treaties are defined by commonly recognized principles and norms of international law. In the problem of the correlation of commonly recognized principles to national legislative statements the principle

pacta sunt servanda is assumed as a basis. This principle forms the basis of implementation mechanisms of any state.

The Republic of Azerbaijan shall follow the international treaties of the Republic of Azerbaijan persistently, in accordance with the international law norms. According to the principle of fulfillment the international treaties honestly, Azerbaijan makes efforts for other State Parties' fulfillment the commitments occurred from the bilateral and multilateral international agreements that Azerbaijan participates in. Proper executive bodies and institutions belonging to the government ensure the fulfillment the commitments that Azerbaijan undertakes on the problems adjusted by the international treaties of Azerbaijan and related to their competence.

In this context the Constitution Law of the Azerbaijan Republic on the Regulation of the Implementation of Human Rights and Freedoms adopted on December, 24, 2002 has great importance. This law was created with the purpose of accommodating the implementation of human rights and freedoms in Azerbaijan with the European Convention on of human rights and freedoms protection.

In this law it is mentioned about restriction of human rights and freedoms that, the human rights and freedoms intended in the Constitution of the Azerbaijan Republic and in the international treaties that the Constitution of the Azerbaijan Republic seconds can be restricted only by law. Restriction of human rights and freedoms shall not change the essence of those rights and freedoms. Restriction of human rights and freedoms shall be aimed at legal purpose intended in the Constitution of the Azerbaijan Republic and in this Constitution Law, and shall be commensurate with that purpose.

Beside the grounds demonstrated in the III part of article 71 of the Constitution of the Azerbaijan Republic (war, martial law, extraordinary situation, and mobilization), human rights and freedoms can be restricted in order to guarantee the fulfillment of the rights and freedoms of other people and to protect them. In the field of human rights on the problem of the implementation of international law norms to Azerbaijan legislation courts play an important role. Let's have a look at the judicial practice in the proper sphere.

In the Republic the main international treaty used in judicial practice in the field of human rights and freedoms protection is the European Convention on human rights and freedoms protection. Concrete interpretation of the rights declared in the Convention is given in the resolutions of European Court. Generally, the norms of the European Convention are important subsidiary legal methods guarantied the realization of the main obligation of the states on human rights and freedoms protection by each State Party (Tomuschat, 2014).

The resolution revoked on the concrete case that Azerbaijan participates in has obligatory juridical force entirely for our republic, the resolutions revoked on the cases that Azerbaijan does not participate in have obligatory juridical importance for our republic only in the Convention, the interpretation of its Protocols and in the part where juridical position is represented.

Discussion and Conclusion

It is widely documented that the Universal Declaration of Human Rights as the first international document that defines human rights complex has been adopted by the UN General Assembly and plays the main role in the interpretation of provisions on human rights, which are included in the UN Charter. L. P. Gordan (2011) observes that all this facts do not mean that the 1948 Declaration has legal force, but some provisions of the Declaration (for instance, abolition of slavery) can be considered as an international custom.

Adopting the Universal Declaration of Human Rights, the UN Member States undertake the political responsibility for the realization of the rights, shown in the document (Brownlie, 1990). Even the constitutions of some States (Spain, Romania) have direct reference to this paper. The constitutions and the legislative system in the field of protection of human rights of most countries, including Azerbaijan, were formed by taking the provisions of this Declaration. Moreover, the 1948 Declaration was the significant criteria of making precedent practice by national courts in the sphere of human rights.

It is also pertinent to point out that in Azerbaijan not only Constitutional and Supreme Court, but also first instance courts shall use the practice of European Court in their activity and shall make use of the appropriate practice rationally in preventing from future law disorders. There is not a proper norm connected with first instance courts' referring to the European Convention and Court practice in the Azerbaijan Republic Civil-proceeding and Criminal legislations, in spite of that, this problem is touched upon in the Azerbaijan Republic Civil-proceeding Code and Criminal Code, and also in the resolution of 2006 of the Azerbaijan Republic Supreme Court (Khalilov, 2008).

Can add that I. Litvinova & S. Glushkova (2016) examine that difficulties with the implementation of international norms on human rights to the law system are similar for the majority of the post-Soviet countries. Thus, scholars emphasize that there is a problem in the creation of effective (not bureaucratic) state mechanisms for human rights protection.

Summarizing all aforementioned opinions and legal statements about theoretical and practical features of the implementation of norms of international law on human rights to the legislation of the Republic of Azerbaijan, it is possible to conclude that, in Azerbaijan the application of norms of international law during the implementation of the international norms in the field of human rights protection, and also, the execution of justice judgment by courts depends on improving the legislation, extension of enlightenment in the proper sphere in law enforcement authorities. Summarizing aforementioned problems, it could be concluded that, the international treaty mechanisms on human rights protection have significant importance in realization of human rights, thus, most of the organizational mechanisms on the realization of human rights were created on the basis of these treaties and their activity are regulated by such treaties and documents.

We can come to a conclusion that the Republic of Azerbaijan implements its international law obligations on human rights at domestic law creative activity stage properly.

As we already mentioned, the mechanisms such as incorporation, transformation of the implementation are used. The incorporation mechanism of implementation is used in Azerbaijan. During incorporation international law norms are included domestic law system directly after their recognition by the states in accordance with established procedure (ratification) without any other additional domestic statement.

There are some certain problems connected with the application and execution of the European Court resolutions in our Republic. The European Court resolutions are not printed officially in Azerbaijan – this problem deprives national courts of the opportunity of being aware of the European Court resolutions regularly. In the explanation of the Ministers Committee of the European Council, it is mentioned that, the main problem on the execution of the European Court resolutions in State Parties to the Convention is connected with structural problems in appropriate states.

In summary, legal basis of the implementation of international law norms, especially international norms in the sphere of human rights protection to the domestic legislation are represented in the Constitution of Azerbaijan Republic. In other laws and codes, besides the Constitution, the implementation provisions intended in the Constitution are concretized. The objects related to the implementation of international law norms in the field of human rights are reflected in many articles of the Constitution of the Azerbaijan Republic.

Implications and Recommendations

Obviously, state authorities and organizations, mechanisms and procedures initially have importance for fulfillment of international standards on human rights. But the important role of the implementation mechanisms of norms of international law in this case should also be estimated. The states, while forming implementation norms, not only facilitate practical realization of the treaties on human rights, but also give supplemental legal guarantees for the maintenance of the conformity to natural laws of this activity. The existence of appropriate norms in international treaties reduces the interval between adoption of the resolutions and their execution.

In our opinion, in order to reveal the problems and impediments related to the execution of the European Court resolutions in our Republic, it is necessary to take notice of the subject of the appeals to the European Court and long-time conflicts in the local court practice, unresolved court resolutions, conflicts in all instances and finding new ways of abolishing the reasons founded those conflicts.

Moreover, the UN Charter and reviewed documents mainly were adopted in 1945-1990, i.e. these treaties and documents were prepared in accordance with the realities of the period they were adopted. At present the problems in the field of human rights protection have been developed in different direction,

therefore, we consider expedient to make amendments to these treaties and documents in accordance with the necessities of the time.

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