

TOPICAL ISSUES OF REGULATION OF THE LEGAL FRAMEWORK FOR ENSURING HUMAN RIGHTS AND FREEDOMS AT THE INTERNATIONAL LEVEL

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Abstract: The article investigates the legal basis for ensuring international security in the context of the protection of peace and humanity in globalized domestic legal systems. In the context of globalization, a wave of new nationalist ideas and moods is rising and there is a tendency for states to redistribute the spheres of economic and political influence. The principle of justice is not always dominant in making certain key decisions in interstate interaction. New directions of state development in the context of globalization make it necessary to improve the system of

ensuring security of the world and humanity taking into account international legal principles. Modern public policy should be aimed at preserving the right of humankind to peace and secure coexistence on a friendly basis among cooperating states. In national legal systems, a mechanism for ensuring the security of peace and humanity that takes into account regional features is becoming a priority. Attention is focused on the state of security declared by national and international law guaranteed by the international community. The development and

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implementation by the international community of legal principles that should form the basis for legal regulation of the state of security is of fundamental importance. The article analyzes international legal acts aimed at strategic directions of ensuring security of peace and humanity in national legal systems. The article notes that one of the directions to ensure security of the world and humanity is to bring the norms of national law into conformity with the norms, principles and provisions of international normative legal acts of regional and universal character. The research is based on private and general scientific methods of cognition. Special attention is paid to the use of comparative legal and formal-legal methods of examining objective reality. Sociological, logical and statistical methods and means of comprehending social realities have significance. The result of the analysis was the identification of factors that determine the crime development against peace and security of humanity. Conclusions were formulated concerning the trends in the implementation of the state policy which predetermines new directions of the criminal-legal policy in the field of minimizing the process of criminalizing

257
public relations to ensure security of the world and humanity. The priority directions of social evolutionism in the field of protecting the inviolability of the interests of the world and humanity are subject to designation. Actual questions of legislative and organizational-practical character in the field of counteraction to encroachments on peace and security of mankind are considered.

Keywords: international law, state legal policy, security of the world and humanity, crimes against security of the world and humanity, genocide, ecocide, mercenarism, international terrorism, counteraction of military threat

Introduction

The modern development of international relations in the context of globalization predetermines the need to guide international legal standards in the formation of norms in national legal systems. Proceeding from the regionalization and universalization of international legal regulation principles, the norms of national legislation are unified (Avdeev, Avdeeva, 2014a).

The observed regulation of international standards in the sphere of

human rights protection, state and public interests is characterized by the complexity of political and legal processes due to the different levels of national systems that translate the plurality of religious, legal and cultural values.

In this regard, the harmonization of norms at the interstate level is becoming more and more relevant facilitating the regulation of legal and the unification of organizational and practical means to ensure security for peace and humanity (Afanasyeva, 2006). As a result, it becomes expedient to analyse the correlation between international and national principles to ensure security of the world and humanity in the context of national legal systems globalization.

The intensification of political-legal and socio-economic interstate development predetermines the necessity to solve the problem of legal policy unification of states at the transnational level (Avdeev, 2013a). One of the pressing problems is the harmonization of interstate legal policy to counter encroachments on the security of the world and humanity.

Among the determinants of the mentioned negative phenomena in the

investigated sphere the consequences of the international life globalization deserve attention (Goldfrank, Walter, 2000). The change in the level of countries welfare in the context of the ongoing internal crisis, the exacerbation of the global demographic situation, increase in the rate of illegal migration essentially become determinants of new threats and risks to peace and security of mankind.

Research Methodology

The subject of the study is crime, taking into account its condition, structure and dynamics. Particular attention is paid to the implementation of criminal law policy in the field of combating crime of mercenary-violent orientation, taking into account the requirements of international law.

The purpose of the study is a modern analysis of the understanding of crime, the content and types of crimes of this orientation. Attention is focused on the criminological analysis of crime, prevention and prevention in the context of improving measures of criminal law, criminological and organizational and practical counteraction.

The methodological basis for the study of measures to combat crime is

formed by a set of general scientific and private scientific methods that have led to an integrated approach to the study of legal policy to counteract crime, taking into account the ongoing socio-economic and political-legal transformations.

The main results of the study reveal the process of counteracting crime in the context of globalization, measures to increase the effectiveness of the implementation of the mechanism of criminal law regulation of public relations related to countering crimes.

The novelty of the research topic is the formulation of the problem associated with the disclosure of the causes and conditions of crime as a socially negative phenomenon in modern conditions; the definition of key areas of legal policy in the field of combating crimes, determined by socio-economic and political transformations. In order to achieve the stated goal of the study, special legal methods of cognition were used that facilitate the analysis of the legal regulation of legal responsibility for crimes.

Results

Formation of The Legal Framework For Ensuring Human Security

The UN Charter signed in San Francisco (USA) on 26.06.1945 focuses on the development of friendly relations between nations based on the principles of self-determination and equality of peoples. One of the purposes of the United Nations is to support international security and peace (Kartashkin, 2002).

The principles of activity of the United Nations are: a) sovereign equality of all members of the international organizations; b) conscientious fulfillment of the undertaken obligations; c) peaceful settlement of international disputes excluding threat to security, justice and international peace; d) abstention from the use of force in international relations; e) provision of all possible assistance to the United Nations excluding assistance to states against which the said international organization takes actions of coercive or preventive plan (Article 2).

Effective collective measures must be taken to eliminate and prevent threats to the peace and suppress acts of aggression. It is prescribed that international situations or disputes which might lead to a breach of the peace will

be settled and settled by peaceful means in conformity with the principles of international law and justice. The need to develop friendly inter-ethnic relations and to take other appropriate measures to strengthen universal peace is noted (Article 1). Special attention is paid to the peaceful settlement of disputes. The parties to a dispute that threatens peace and security should seek a solution through negotiation, conciliation, arbitration, enquiry, mediation, judicial proceedings including any other peaceful means.

The UN Security Council is mandated to investigate a situation or dispute that may pose a threat to international security. In this case, the Security Council deals with issues of its settlement (Articles 33-38). The Security Council is vested with the competence to make recommendations or decide on measures necessary which do not involve the use of armed forces to neutralize the threat of a deteriorating situation. If the measures taken prove insufficient, the Security Council is vested with the authority to use land, sea and air forces to restore or maintain international peace and security. The Security Council together with the Military Staff Committee may establish

260
plans for the use of armed forces if necessary (articles 39-51). It is worth mentioning that the Charter did not provide for jury participation in the trial and excluded the right to appeal from the convicts. The precepts of the Statute were the basis of international criminal justice and predetermined the adoption of new international conventions.

The UN Security Council Resolution № 1 adopted on 25.01.1946 was devoted to the opening of the first meeting of the Military Staff Committee in London on 01.02.1946. The Great Britain, the Republic of China, the USSR and the USA and France were recognized as permanent members of the Security Council. Australia, Brazil, Egypt, Mexico, Netherlands, Poland were non-permanent members of the Security Council. Discussions of the Security Council were subject to optimal means for conclusion of special agreements including the issues of armed forces provision and related facilities that needed to be solved.

United Nations General Assembly Resolution 3 (I) "Extradition and punishment of war criminals" which was adopted on 13.02.1946 recommends that necessary measures be taken by members of the United Nations and by

countries outside the international organization to arrest and expel to states where war crimes have been committed for trial and punishment.

After the end of the world wars the state of veiled form of confrontation of states is not excluded. The international community is intensifying its efforts to ensure international security. The documents developed are aimed at ensuring international security taking into account the experience of world wars. The International covenant on civil and political rights, the International covenant on economic, social and cultural rights, the Vienna declaration and Programme of action which were adopted by the World conference on human rights, the Declaration on strengthening the effectiveness of the principle to refrain from the threat or use of force in international relations, the Definition of aggression, the Declaration on strengthening international security and others deserve attention.

The UN General Assembly Resolution 95 (I) "On the progressive development of international law and its codification" which was adopted on 11.12.1946 establishes a Committee consisting of 17 UN members with the

261
task to study the methods of: 1) progressive development of international law and its subsequent codification; 2) achieving cooperation between the UN bodies in order to solve the tasks in view; 3) involving international and state institutions that contribute to the achievement of the established goal. The international law Commission is designed to promote the progressive development of international law and its codification which is composed of 34 members of the United Nations. The Commission mainly deals with public international law issues (Article 1).

The UN General Assembly Resolution № 170 (II) on "Extradition of war criminals and traitors" which was adopted on 31.10.1947 recommends that the UN Member States continue with unceasing vigour to carry out the duties of extradition and trial of war criminals.

In 1947 the United Nations General Assembly tasked the international law Commission with drafting a Code of crimes against the peace and security of mankind.

Resolution 260 A (III) was adopted by the UN General Assembly on 09.12.1948, the Convention on the prevention and punishment of the crime of genocide entered into force on

12.01.1961. Genocide is recognized as a violation of international law, a crime contrary to the purposes of the United Nations which brought considerable losses to humanity. In this regard, it is noted that international cooperation is needed to exclude this scourge. The commission of genocide in wartime or peacetime is considered to be a violation of international law against which states parties undertake to take preventive and punitive measures (Sergevnin, 2015).

Genocide is the following acts aimed at the destruction of a racial, national, ethnic or religious group: 1) murder of members of the group; 2) causing mental disorder or bodily harm to members of the group; 3) intentional creation of such living conditions for the group that will lead to its partial or complete physical destruction; 4) measures designed to eliminate the possibility of childbirth in the group; 5) forced transfer of children from one group to another.

Such acts as genocide, conspiracy to commit genocide, public and direct incitement to genocide, attempt to commit genocide, complicity in genocide are punishable. Responsibility is incurred regardless of the status and position of the perpetrator.

262
The implementation of the provisions of the Convention presupposes the obligations fulfillment of the contracting parties to establish effective penalties for genocide and other related crimes in national legislation.

Persons accused of genocide are subject to prosecution by the court of the state where the crime was committed or by an international criminal court. Genocide and related crimes are not assessed as political crimes. As a result, the parties undertake to extradite those responsible for genocide and related crimes in accordance with national legislation and existing treaties. Parties to this Convention are entitled to request the United Nations to take the necessary measures to prevent and suppress acts of genocide and related crimes. Disputes concerning the application and interpretation of the Convention provisions will be referred to the International criminal court (Articles I-IX) including the responsibility of the state for genocide or a related crime.

The Universal declaration of human rights which was proclaimed on 10.12.1948 by the UN General Assembly resolution 217A (III) guarantees everyone the right to

international and social order (Article 28).

Discussion

Modernization of The Legal Framework for Ensuring Human Rights And Freedoms In The Context of Globalization

The international community has been working to establish the International criminal court since the 1950s. Despite the efforts made, there were factors that impeded its establishment at that time. The main reasons for the interruption of this activity were mainly political motivations (Avdeev, Avdeeva, 2014b).

The International covenant on civil and political rights which was adopted on 16.12.1966 by the resolution of the UN General Assembly regulates the right of every people to self-determination, free establishment of political status, ensuring social, economic and cultural development, management of natural resources and wealth without prejudice to international cooperation. The right to life is recognized as an inalienable right of every person protected by law. States that have abolished the death penalty, it

263
may be imposed for the most serious crimes, provided there is no contradiction with the Covenant and the Convention on the prevention and punishment of genocide crime. Slavery, torture and ill-treatment of persons are excluded. The personal inviolability and freedoms of every person are proclaimed (Articles 1, 6-9). Particular attention should be paid to article 20 of the Covenant pointing out the need to prohibit by law all propaganda for war. Incitement to violence, hostility or discrimination accompanied by advocacy of racial, national or religious hatred is prohibited by law.

The International covenant on economic, social and cultural rights focusing on the recognition of the dignity of every human being, notes the need to eliminate want and fear through the full enjoyment by everyone of social, economic and cultural rights, along with political and civil rights (Avdeev, 2013b). The right of every people to self-determination was subject to the free determination of political status and the free pursuit of social, economic and cultural development. Every people is entitled to freely dispose of its natural resources and wealth without prejudice to international economic cooperation

taking into account international law and the mutual benefit of the parties involved. The deprivation of people's means of subsistence will be excluded. Provision will be made for the equal right of persons of different sexes to the enjoyment of social, economic and cultural resources. The right of everyone to a decent standard of living and to the continuous improvement of living conditions will be recognized. The states parties recognize the right of everyone to be protected from hunger by taking measures, individually and through international cooperation, which aim at:

- a) the use of scientific and technical knowledge for the improvement of production methods, storage, distribution of foodstuffs and the most efficient utilization of natural resources;
- b) the equitable distribution of world food stocks (Articles 1-3, 11).

The Declaration on the right of peoples to peace which was adopted on 12.11.1984 by the UN General Assembly resolution 39/11 notes that the main goal of the UN is the maintenance of security and international peace. The Declaration aims to exclude war and prevent a world nuclear catastrophe, given that the establishment of lasting peace, considered as a sacred duty of

264

each state, is a key condition for the preservation of the existence of human civilization.

In this regard, it proclaims the sacred right of peoples to peace, the preservation of which is ensured by the fulfillment by each state of its obligations. States' policies become benchmarks: 1) elimination of the war threat including nuclear war; 2) exclusion of using the force in interstate relations; 3) settlement of international disputes by peaceful means. International organizations and states are called upon to ensure this right by strengthening appropriate measures at the international and national levels (Articles 1-4).

Conclusion

In conclusion, it should be noted that improving the effectiveness of states in ensuring human rights and freedoms primarily dictates that the security of the world and humanity be ensured by the norms of international law.

Normative legal acts of a universal and regional nature form the necessary legal basis for improving national legal systems to ensure the protection of these interests (Avdeev,

2016). The inconsistency of the norms and provisions of international legal and regulatory instruments creates the conditions for violating the fair balance between the requirements for the protection of domestic and inter-state interests. As a result, the task to bring the norms of international and national law into line while implementing a unified approach at the law enforcement level in addressing the issue to ensure the security of peace and humanity is becoming more relevant.

Counteracting encroachments on the interests of peace and humanity is also ensured by the creation of a scientifically grounded domestic program which accumulates a complex of interrelated and interdependent measures of legislative, practice-oriented and law enforcement nature (Avdeev, 2013b).

This programme which is consistent with state legal policy to prevent and combat encroachments on the interests of peace and humanity must combine international legal and national means to exclude or minimize the determinants of such acts.

Targeted impacts should be made on processes and phenomena, facial features and environmental

265
features that are directly related and interact with each other. It is necessary to intensify the prevention of anti-state behavior of certain individuals' categories in order to intensify the preventive function of the state legal policy.

In developing measures of general prevention it is necessary to take into account the determinants of modern criminal behavior which violates the security of the world and humanity. Among the determinants of the general nature it is necessary to note: formation of new nationalistic ideas and sentiments; striving of the most developed economic states to redistribute the spheres of economic and political influence; demonstration of power determining the arms race, passing the stages of local wars and color revolutions, coexistence on a friendly basis of cooperating states.

New trends in state and legal development in the context of globalization make it necessary to improve the national system for ensuring security of the world and humanity taking into account international legal principles. Attention is focused on the state of security of these goods which is declared by international and national

law guaranteed by the international community. International normative and legal instruments aimed at strategic directions to ensure security of the world and humanity should be actively used. The development and implementation by the international community of legal postulates that can form the basis for legal regulation of security of the world and humanity in national legal systems is of fundamental importance.

The intensification of political-legal and socio-economic interstate development determines the need to solve the problem of unification of the state legal policy at the transnational level. Harmonization of interstate legal policy in the field of countering encroachments on the security of the world and humanity should be recognized as one of the promising directions.

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266
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