

PROTECTION OF RIGHTS OF CHILDREN UNDER INTERNATIONAL AND RUSSIAN LEGISLATION**Galina G. Mikhaleva***Perm State Humanitarian -Pedagogical University, Russia, 24 Siberian Street, Perm, 614990, Russia***Tatiana N. Matyusheva***Northern Caucasian branch of the «Russian state University of justice», 187/1 Levanevskogo Street, Krasnodar, 350002, Russia***Alevtina E. Novikova***Belgorod State University, 85 Pobedy Street, Belgorod, the Belgorod region, 308015, Russia***Vyacheslav L. Rasskazov***Federal State-funded Educational Institution of Higher Professional Education «Kuban State Agrarian University», 13, Kalinina Street, Krasnodar, 350044, Russia***Evgeniy E. Tonkov***Belgorod State University, 85 Pobedy Street, Belgorod, the Belgorod region, 308015, Russia**E-mail: galina_perm@mail.ru*

Abstract. This study was aimed at discussing the main aspects regarding the protection of rights of children under international and Russian law. An analysis of the norms regarding the protection of the rights, freedoms and legitimate interests of children from the point of view of international and Russian legislation was presented. The main directions of the state policy on the protection of the rights and legitimate interests of children were also covered.

Keywords: Children's Rights, Protection of Children's Rights, Constitutional Law of Protection, Minor, International Regulations, International Law, Adolescent, Legitimate Interests of Children, International Documents, Constitution of Russian Federation.

1 Introduction

Before proceeding with analysis of the norms of international and Russian legislation on the protection of children's rights, an account with respect to the sources of formation rights is provided. Throughout the entire history of mankind, attitudes towards children, their rights and obligations, have undergone significant changes. Considering the historical section, attitude towards children in primitive society was not particularly different from attitude demonstrated by the animals. With development of history, children were continued to be viewed as powerless beings, since it was primarily believed that all power belonged to clans of the community. In medieval Europe, children were treated like babies, and only after reaching 6-7 years of age they had a certain kind of right; in fact, the child was considered as a shortened copy of the physical and mental development of an adult. In contrast to Russia, in which foreign thought had previously led to the realization of the importance of problem for securing and protecting the children's rights. International law began attempts to secure the special rights of children as a poorly protected group of population.

After Second World War, the League of Nations adopted the Geneva Declaration of the Rights of the Child in 1924 [1]. At this historical moment, this normative act on protection of rights of children was sent to consider the measures that had to be taken in relation to slave labor of minors, sale of children and child prostitution.

In 1959, the UN adopted Declaration of the Rights of the Child, which proclaimed social and legal principles related to protection and well-being of children's rights.

After elapse of time from 1979 to 1989, in order to consolidate the laws about the protection of children's rights, the UN Commission on Human Rights prepared a text for the Convention on the Rights of the Child [2], in which children's rights were not just declared, but they were fixed based on the right for legal norms. It is considered as an important historical document at the international level defining children's rights and ways of protection of their rights. In this regard, there is a need to analyze international and Russian legislation on the protection of the rights of children, which is regarded as the main purpose of functioning of any state.

2 Research Method

The present research was carried out based on the application of various general scientific methods of knowledge (analysis, synthesis, deduction, induction, system-structural, formal-logical approaches), as well as particular scientific methods including historical-legal, formal-legal, comparative -legal and interpretative.

3 Results and Discussion

In order to discuss specifics of international and Russian legislation on the protection of children's rights, firstly an explanation was provided about the special importance of developing institutions responsible for applying legal restrictions and minimizing the risks threatening the human rights within framework of the stated perspective [3; 4; 5; 6; 7]. The norms introduced by the Convention on the Rights of the Children are regarded as one of the main documents with respect to the topic under investigation, which is of a very great importance, since its norms reflect the rights of children, as well as measures for protection of children in difficult life situations. According to the Convention on the

Rights of the Child, “a child who is deprived of a family environment or unable to remain in such environment has the right to receive special protection and assistance by the state”.

Compared to the Declaration on the Rights of the Children, consisted of 10 short provisions, the Convention on the Rights of the Child consists 54 articles that take into account almost all aspects related to life and position of the child in society. It develops and specifies provisions of the Declaration on the Rights of the Child, assigning to the states that have ratified its legal responsibility for actions against children. Upon which the countries that ratified the Convention on the Rights of the Child are obliged to review their national legislation and bring it into conformity with international law.

On December 3, 1986, the UN General Assembly adopted the Declaration on Social and Legal Principles Relating to Protection and Welfare of Children, especially while considering the issues of upbringing and adoption of children at the national and international levels [8]. This international act establishes “... that the child must grow in the care and under the responsibility of his parents, and in any case, in an atmosphere of love, with moral and material security”. The large number of children abandoned by their parents or have become orphans as a result of violence, internal unrest, armed conflict, natural disasters, economic crises, or social problems arises a matter of concern. Although, that there are socially various useful alternative institutions in the main legal systems of the world "[9] and these alternative institutions are formed with the aim of protecting welfare of the family and child.

Based on the above-mentioned legal acts aimed at protecting the rights, freedoms and legitimate interests of children, it is possible to determine main directions of the international policy aimed at protecting the rights of children:

- Implementation of the rights of children stipulated by the Constitutions of countries that have ratified an international treaty
- Formation of legal bases, and guaranteeing of children's rights
- Promoting physical, spiritual, and moral education of children in the public interest
- Compliance with international standards for the protection of children's rights
- Providing the legislative support for the rights of children;
- Providing support by the State for the families, in order to ensure the complete education of children
- Presence of democratic character, humanity, publicity in the activities of bodies that protect the rights of children
- Emphasizing on the responsibility of officials and citizens for violating the rights of children and causing them harm.

The Convention on the Rights of the Child in 1990 was ratified in USSR, came into force on September 15, 1990, with the purpose of making a change in national legislation in the field of protection of children's rights.

Since 1990, Russia has been participated as a party to the Convention on the Rights of the Child, in which the child is considered as an individual endowed with certain rights and duties and able to independently implement them for his/her protection.

Thus, the legal framework designed for children in terms of the protection of their rights and legitimate interests in Russian Federation (hereinafter referred to as Russian Federation text) began to undergo significant changes in response to meeting the standards of international treaties ratified in the territory of Russian Federation.

The specificity of legal relations under consideration is concerned with the wide range of subjects, but “person” is considered to be an initial legal concept in these legal relations, which fixing it in Constitution of Russian Federation would result in the consistency with the main international legal acts on the protection of human and civil rights and freedoms. Such international acts include: Universal Declaration of Human Rights and Freedoms, (1948) [9], and UN International Covenants on Human Rights and Freedoms (1966), which are independent from the principle stating a person only belongs to a specific state .

Thus, since 1993, the Russian Federation has adopted more than 200 regulatory acts in relation to the interests of children and families, establishing measures for their social protection by the state. Thus, it is assumed that the state is responsible for taking measures related to the protection and respecting the rights of children within the country.

According to Article 15 of the Constitution of Russian Federation [10] the general principles and norms of international law and international treaties have been enshrined in the Russian Federation, which are an integral part of its legal system. So that, if an international agreement provides for other rules than those provided by law, then rules of that international agreement shall be applied. ”

Thus, based on the provisions of the Constitution of Russian Federation, international documents ratified in territory of Russian Federation determine the provisions of the state policy in the field of protection of children's rights. These provisions of the Constitution are implemented in sectoral legislation for protection of rights of freedoms and legitimate interests of children.

According to paragraph 2 of Article 3 of the Convention on the Rights of the Child, it is determined that “states parties undertake to provide the child with such protection and care that are necessary for his well-being” [8].

In this case, the participating states, including the Russian Federation also, undertake to provide guarantees for protection of rights, freedoms and legitimate interests of children, which in turn is aimed at realizing the real rights of minors not declared in law. It should be noted that the number of children who need government support and help does not become less.

It is noteworthy that Russian Federation is harmonizing national legislation with the norms of international law. For example, according to the UN Standard Minimum Rules (Beijing Rules), there is a ban on publication of any kind of information indicating the identity of a juvenile offender [11]. A similar rule is included in Part 3 of Article 41 of the Constitution of Russian Federation "On Mass Media" [12], upon which a ban has been imposed on dissemination of reports about minors who have committed illegal acts.

However, in the modern legal system, child is addressed to as a subject of law. At the same time, in spite of progress made in this area, children still play the role of a victim of economic, social reforms, imperfect legislation, and even in case of declaring norms aimed at protecting the rights, freedoms and legitimate interests of children. At present, children are considered as special subjects of law, who cannot independently protect their interests, due to their age, and mental characteristics, and as a result, they need more protection on behalf of the state.

Undoubtedly, the attitude towards children including respect for and protection of their rights and legitimate interests is taken into account as one of the criteria for maturity and capacity of the government. This constitutes the foundation of a legal state based on considering the protection of rights and freedoms of a person and citizen, the kind of observance which begins with the observance of the rights of children.

The UN Committee on the Rights of the Child announced that the implementation of the norms of "the Convention on the Rights of the Child" in the territory of Russian Federation was found to imperfect, since the recommendations on reforming the national legislation in line with the principles and provisions of the Convention in the field of protection of children's rights were not fully adopted.

The Committee recommended the Russian Federation to fully implement the norms of the Convention on the Rights of the Child, and to take all measures aimed at speeding up the process of reforming national legislation. At the same time, emphasis was placed on protecting rights and legitimate interests of children in administration of justice, protecting rights of children with disabilities, and protecting rights of children to protect them from such negative phenomena as alcoholism, drug addiction and substance abuse. Measures aimed at protecting rights of children in family and introduction of all types of childcare facilities were also influenced [13].

Presidential Decree adopted in June 1, 1992, No. 543 on "Priority Measures for Implementing the World Declaration on Survival, Protection and Development of Children in 90s" [14] is one of the first regulatory documents regulating activities of Russian Federation in the field of state policy in relation to children. According to this document, it was envisaged to establish state policy in relation to children, to finance targeted programs aimed at protecting their rights, freedoms and legal interests of minors.

The Constitution of Russian Federation provides state support for family, motherhood, fatherhood and childhood, gives basic and fundamental guarantees provided by the state in order to protect the above-mentioned institutions. More detailed guarantees regarding the rights of the children in Russian Federation are considered in Law No. 124 adopted in July 24, 1998 on "Basic Guarantees of the Rights of the Child in Russian Federation" [15]. This law considers rights of freedom and legitimate interests of children, as stipulated by the Constitution of Russian Federation, with the aim of creating legal and socio-economic conditions for realization of rights and legitimate interests of children.

The above-mentioned documents have established major objectives for the state policy related to the interests of children, which are as follows:

- Formation of a legal basis for guarantees of the rights of the child;
 - Implementation of the rights of the children, as considered in the Constitution of the Russian Federation
 - Emphasizing on the right of children to non-discrimination
 - Strengthening the basic guarantees of the rights of children
 - Restoration of children's rights in cases of violation
 - Promoting physical, mental, intellectual, spiritual and moral development of children
 - Fostering a sense of patriotism and civic responsibility in children
 - Implementation of children's right in accordance with public interest and traditions of the peoples living in territory of Russian Federation, not incompatible with the Constitution of Russian Federation and federal legislation, and achievement of Russian and world culture
- Protecting children from factors negatively influencing their physical, intellectual, mental and moral development

4 Findings

Based on the results of investigation on laws related to the protection of children's rights under international and Russian legislation, the following conclusions were drawn.

It has been several years since Russia ratified international documents on the protection of children's rights; over these years a lot of attempts have been made to develop laws aimed at protecting rights, freedoms and legitimate interests of children. At the same time, some adopted norms are declarative in nature, highlighting the importance of further improving legislative regulation regarding the legal status of minors and strengthening legal protection of children in Russian Federation.

The main priority areas in Russian Federation include care for minors, and protection of their rights and freedoms. Minors are among those who are significantly exposed to negative effects on the part of the society, and as a

result, they need special protection provided by the state. Considering certain characteristics related to the age of adolescents, children are not able to protect their rights on their own. Since, special legal means have been created in Russian Federation to protect rights of children.

The constitutional provisions and provisions of international legal acts must be considered in conjunction with federal laws. Legal protection is aimed at regulating legal relations with respect to all spheres of vital activity for minors, therefore, the rights and legitimate interests of minors should be protected. Development of special norms governing legal relations of special subjects such as minors is considered as a characteristic of a legal democratic state. The state adopts various legal norms aimed at protecting rights and legal interests of minors in various fields such as education, medicine, social security, etc.

References

1. Declaration of the rights of the child // <https://www.humanium.org/en/declaration-rights-child-2/> (accessed 18 December 2018)
2. Declaration on social and legal principles relating to the protection and well-being of children, especially when transferring children for upbringing and adoption at the national and international levels // <http://cidh.org/Ninez/pdf%20files/Declaration%20on%20Social%20and%20Legal%20Principles%20relating%20to%20the%20Protection%20and%20Welfare%20of%20Children.pdf> (accessed 18 December 2018)
3. Belyaeva G.S., Makogon B.V., Bezugly S.N., Prokhorova M.L., Szpoper D. (2017). Basic Ideas of State Power Limitation in Political and Legal Doctrine. *J. Pol. & L.*, 10, 197.
4. D'yachenko O.V., Kuksin, I.N., Makogon, B.V., Spektor L.A., Vladimirova O.V. (2018). Restrictive-regulatory potential of procedural standard. *Revista Publicando*, 5(14), 830-836.
5. Kuksin I. N., Markhgeym M. V., Novikova A. E., Tonkov E. E. (2016). Justice as Principle: Aspects of Genesis in Social and Regulatory Systems. *The Social Sciences*, 11(10), 2367-2370.
6. Makogon B.V., Markhgeym M.V., Novikova A.E., Nikonova L.I., Stus N.V. (2018). Constitutional Justice in Circumstances of Public Authority Limits. *Journal of History Culture and Art Research*, 7(2), 722-728.
7. Butko L.V., Markhgeym M.V., Novikova A.E., Pozharova L.A., Tonkov E.E. (2017). Personal Dignity in the European Legal Culture. *Journal of History Culture and Art Research*, 6(4), 296-303.
8. Convention on the Rights of the Child. Date Views // <https://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1007&context=child> (accessed 18 December 2018)
9. Universal Declaration of Human Rights // http://www.verklaringwarenatuur.org/Downloads_files/Universal%20Declaration%20of%20Human%20Rights.pdf (accessed 18 December 2018)
10. Konstituciya Rossijskoj Federacii (prinyata vsenarodnym golosovaniem 12 dekabrya 1993 g.) // SZ RF. 2014. № 31. St. 4398.
11. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) // <http://epimelitesanilikon.gr/pdf/BeijingRules1985.pdf> (accessed 18 December 2018)
12. O sredstvah massovoj informacii: Zakon Rossijskoj Federacii ot 27 dekabrya 1991 g. № 2124-1 (red. ot 29.07.2017) // Rossijskaya gazeta. 1992, 8 fevralya. Luchin V.O. Konstitucionnye normy i pravootnosheniya. M.: YUrajt. 2016. (In Russian)
13. O pervoocherednyh merah po realizacii vsemirnoj Deklaracii ob obespechenii vyzhivaniya, zashchity i razvitiya detej v 90-e gody: Ukaz Prezidenta RF ot 01 iyunya 1992 g. № 543 // SZ RF. 1992. № 23. St. 4.
14. Ob osnovnyh garantiyah prav rebenka: Federal'nyj zakon ot 27 iyulya 1998 g. № 124-FZ // SZ RF. 1998. № 31. St. 25.