

THE MECHANISM FOR ENSURING HUMAN RIGHTS UNDER CONTEMPORARY STATE-BUILDING CONDITIONS

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Abstract

This article is devoted to a comprehensive analysis of the mechanism for ensuring human rights in the context of contemporary state-building processes. The main theoretical and legal approaches to understanding the content and purpose of this mechanism are examined, and the key challenges faced by the state in the course of establishing democratic principles and developing effective legal institutions are identified. It is substantiated that the mechanism for ensuring human and civil rights and freedoms constitutes a multicomponent system that integrates legal, organizational, economic, and institutional means aimed at the effective realization, protection, and restoration of violated rights. The article argues that the right to protection is implemented through a system of diverse mechanisms that ensure not only the formal enshrinement of rights but also their practical realization, safeguarding, and defense. Within the structure of this mechanism, a distinction is proposed between a static component, which encompasses normative legal guarantees, the range of subjects involved, and forms of legal liability, and a dynamic component, which reflects the procedural aspect of the realization, safeguarding, and protection of rights through the activities of authorized institutions. Special attention is paid to the impact of transformational processes within the state on the effectiveness of the human rights protection mechanism, and the necessity of its modernization in line with international and European standards is substantiated. The specific features of the realization of rights and freedoms under martial law, demographic changes, economic instability, and global social challenges are analyzed. It is emphasized that the protection of human rights under such conditions requires an integrated approach combining legal, administrative, and socio-economic instruments. The multidimensional nature of the state-building process is highlighted, encompassing legal, political, economic, ideological, security, financial, and cultural-value factors. The research findings have practical significance and may be used to further improve the mechanism for ensuring human rights in the context of contemporary state-building.

Keywords: human rights; state-building; mechanism for ensuring rights; rule of law; martial law; civil society.

1. Introduction

In a modern rule-of-law state, the human being is the central element of the entire system of public authority, while their rights and freedoms serve as the primary benchmark of state policy. Ukraine's constitutional model is based on a human-centered approach, according to which the state is called upon to serve the interests of the individual, create conditions for their free development, and ensure effective protection of their rights. Article 3 of the Constitution of Ukraine enshrines the principle

that the human being, their life and health, honor and dignity, inviolability, and security are recognized as the highest social value, while the establishment and protection of human rights and freedoms constitute the main duty of the state. This provision reflects a fundamental idea of modern constitutionalism - the priority of human rights over the interests of the state and public authorities.

The implementation of these constitutional principles is complex and goes beyond purely legal dimensions. It directly affects socio-political stability, the legitimacy of state institutions, citizens' trust in authority, as well as the quality and effectiveness of state-building processes. Therefore, the level of protection of human rights and freedoms is considered one of the key indicators of the state's effectiveness and its compliance with democratic standards and the rule of law.

At the same time, the current stage of Ukraine's development is characterized by extraordinary challenges that significantly complicate the practical realization and guarantee of human and civil rights. Armed aggression against Ukraine, the introduction of a legal regime of martial law, mass population displacement, the destruction of civilian infrastructure, and deepening socio-economic instability have created a situation in which traditional mechanisms for ensuring human rights are seriously tested. Armed conflict leads to systemic violations of fundamental rights, including the right to life, personal security, freedom of movement, access to justice, education, and healthcare.

In wartime conditions, the state is forced to impose temporary restrictions on certain rights and freedoms, which is permitted under both national legislation and international law. At the same time, such restrictions must comply with the principles of legality, necessity, proportionality, and non-discrimination. This necessitates the search for a balance between national security needs and the state's obligation to ensure an adequate level of human rights protection even in emergency situations. Under such circumstances, the effectiveness of the human rights protection mechanism and its ability to adapt to crisis conditions becomes particularly relevant.

In contemporary legal doctrine, the mechanism for ensuring human rights is viewed as a complex, multi-level system encompassing a set of legal norms, institutional structures, procedures, and instruments aimed at the realization, protection, and safeguarding of rights and freedoms. Its effectiveness is determined not only by the presence of an extensive normative-legal framework but also by the ability of state institutions to ensure the practical implementation of legal provisions, respond to rights violations, and restore the legal status of affected individuals. In this context, the human rights protection mechanism becomes a key instrument of state-building, as it embodies the state's constitutional responsibility toward individuals.

The level of human rights protection in the process of contemporary state-building also serves as an indicator of public administration quality and the coherence of state institutions' activities. Despite the enshrinement of a wide range of rights and freedoms in the Constitution of Ukraine and international treaties, practice often demonstrates systemic problems. These include the declarative nature of certain legal guarantees, insufficient effectiveness of law enforcement, fragmented institutional support, and limited resources for realizing social and economic rights. Under martial law, these problems are exacerbated, as state institutions operate under increased pressure, and standard procedures for implementing human rights require adaptation to new realities.

Another factor highlighting the relevance of studying the human rights protection mechanism is the profound transformational processes taking place in Ukraine due to political, socio-economic, and security changes. The reform of public administration, judicial system reforms, decentralization, the development of civil society institutions, and the country's European integration path necessitate the harmonization of national legislation with international and European human rights standards. In this context, the human rights protection mechanism requires not only theoretical reconsideration but also practical modernization to meet contemporary challenges.

The issue of human rights occupies a leading place in the research of both Ukrainian and foreign scholars. Domestic studies have addressed various aspects of state policy in the human rights sphere, including the humanitarian foundations of state activity (Tan'ko, 2023), the relationship between human rights and national security (Chyzhov, 2023), and the role of state-building processes in forming effective legal mechanisms (Hryshko, 2025). Nevertheless, despite extensive scholarly work, the mechanism for ensuring human rights as an integrated legal phenomenon under contemporary state-building and martial law remains insufficiently systematized within state and legal theory.

This necessitates further comprehensive research into the human rights protection mechanism to clarify its conceptual and categorical content, identify its structural and functional elements, and determine the peculiarities of its functioning amid the transformation of state and legal institutions. Particular attention should be paid to analyzing how martial law affects the correlation between legal guarantees and the actual capacity for their implementation, as well as to identifying institutional and legal tools that can enhance the effectiveness of human rights protection under crisis conditions.

The purpose of this article is to conduct a comprehensive analysis of the mechanism for ensuring human rights in the context of contemporary state-building, to define its content, structure, and significance for the establishment of human rights and freedoms as a fundamental value of a rule-of-law state. To achieve this goal, the study seeks to: examine the main theoretical and legal approaches to understanding the mechanism for ensuring human rights; highlight its key structural and functional elements; analyze the impact of martial law and transformational processes on its effectiveness; and formulate scientifically grounded recommendations for improving the human rights protection mechanism in contemporary state-building conditions.

Thus, the research aims to substantiate the role of the human rights protection mechanism as an integral component of state-building processes and one of the main instruments for forming a legal, democratic, and socially oriented state capable of effectively responding to modern internal and external challenges.

2. Materials and Methods

This study adopted a normative juridical method, complemented by a political-legalThe methodological foundation of this study consists of a set of scientific methods and techniques that ensure a systematic and comprehensive examination of the mechanism for ensuring human rights in the context of contemporary state-building and martial law. The primary method within this system is the worldview-based dialectical method, which allows for the consideration of issues in the unity of their social content and legal form, enables a systematic analysis of the role of public authorities in ensuring human and civil rights and freedoms, and facilitates an assessment of the effectiveness of the rights protection mechanism in a democratic society.

The structural-logical method was employed to determine the role and position of state authorities as subjects responsible for protecting human and civil rights, acting as guarantors of the realization of these rights amid the socio-political and economic transformation of Ukrainian society. This method made it possible to systematize the tasks and functions of the relevant authorities, outline priorities in ensuring human rights and freedoms, and identify directions for improving mechanisms for their protection.

A comprehensive approach combining the dialectical and structural-logical methods allowed for an in-depth analysis of the role of state authorities in ensuring human and civil rights. This approach enabled an assessment of the effectiveness of existing rights protection mechanisms, taking into account contemporary political, socio-economic, and security challenges, particularly those arising during martial law. The use of such an approach facilitated the formulation of scientifically grounded proposals

for improving the human rights protection mechanism in Ukraine and enhancing its adaptability to crisis conditions. The theoretical basis of the article includes normative legal acts and the works of domestic scholars.

3. Result and Discussion

In contemporary democratic states, human rights are understood not merely as a set of legally guaranteed individual entitlements but as a fundamental value that shapes state policy, the nature of public authority, and the quality of social relations. For Ukraine, which is undergoing a complex process of state-building complicated by full-scale armed aggression and a prolonged legal regime of martial law, ensuring and protecting human rights and freedoms is of particular importance. It is precisely under crises and extraordinary circumstances that the state's ability to uphold its declared constitutional values and fulfill its primary duty to the individual is tested.

The Constitution of Ukraine (1996) establishes the fundamental principle according to which the human being, their life and health, honor and dignity, inviolability, and security are recognized as the highest social value (Verkhovna Rada of Ukraine, 1996). This provision is not merely declarative but normative-guiding, as it determines the orientation of the entire system of state power and public administration. The enshrinement of the priority of human rights in Article 3 of the Constitution aligns with international standards articulated in the Universal Declaration of Human Rights (1948), the European Convention on Human Rights and Fundamental Freedoms (1950), as well as numerous universal and regional human rights treaties.

Analysis of international legal instruments indicates that the modern understanding of the mechanism for ensuring human rights is shaped by the integration of national and international legal standards. Key documents include the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights (1966), the Convention on the Rights of the Child, the UN Convention on the Elimination of All Forms of Discrimination against Women, the European Social Charter, and "soft law" instruments of the Council of Europe and the UN relating to human rights protection in emergencies and armed conflicts. Their incorporation into Ukrainian national legislation provides a legal foundation for comprehensive state policy in the field of human rights even under martial law.

The study found that strategic documents play a key role in shaping state policy in the field of human rights, defining long-term priorities and institutional guidelines for public authorities. One such document is the National Human Rights Strategy (President of Ukraine, 2021). The Strategy establishes the priority of human rights as a defining principle of state policy and aims to address systemic issues identified in the practice of the European Court of Human Rights. It envisions the improvement of legal, institutional, and organizational mechanisms for protecting human rights, enhancing access to justice, and strengthening the role of civil society institutions.

However, analysis of the practical implementation of the Strategy indicates that, under conditions of full-scale war, its provisions face significant objective constraints. A substantial portion of the state's financial, human, and administrative resources is allocated to ensuring defense capabilities, which inevitably affects the implementation of social programs and human rights initiatives. Additionally, martial law necessitates temporary restrictions on certain rights and freedoms, requiring constant adherence to the principles of proportionality and non-abuse by public authorities.

Similar challenges are observed in the implementation of Ukraine's Demographic Development Strategy until 2040 (Cabinet of Ministers of Ukraine, 2024). Armed conflict has caused significant demographic losses, mass internal and external migration, and reduced access to medical and social services. Under such circumstances, the human rights mechanism must address the needs of internally displaced persons, families with children, persons with disabilities, war veterans, and other vulnerable groups,

necessitating adjustments to state policy in line with actual socio-economic and security conditions.

Special attention is given to the analysis of Ukraine's Sustainable Development Goals until 2030 (President of Ukraine, 2019). Despite covering a broad spectrum of social, economic, and environmental objectives, their implementation is complicated by war-related destruction of infrastructure, limited resources, and ongoing security threats. Nonetheless, achieving the Sustainable Development Goals remains an important tool for ensuring human rights, particularly the right to an adequate standard of living, health care, education, and a safe environment. In contemporary conditions, alternative implementation mechanisms, including international cooperation, digitalization of public services, and active civil society engagement, are of particular relevance.

Despite the adoption of strategic documents, their effectiveness largely depends on practical implementation and the ability of state institutions to adapt to extraordinary conditions, including martial law. Analysis of the National Human Rights Strategy indicates that the document contains clear provisions on legal, institutional, and social mechanisms for protecting citizens' rights. However, under armed aggression, implementation is constrained by limited resources, as a significant portion of state finances and administrative capacity is directed toward defense, potentially reducing funding for social protection and human rights programs.

The Demographic Development Strategy until 2040 also requires adjustment due to the war. It is critically important to ensure support for internally displaced persons, restore social and medical services in affected regions, and create conditions for the return of families and workers to rehabilitated territories. Regarding the Sustainable Development Goals until 2030, security challenges compel the state to seek alternative mechanisms, such as ensuring food security through international cooperation, using digital platforms for education and health services, and actively engaging civil society and international organizations.

Thus, the effectiveness of state policy in the field of human rights under martial law depends not only on the presence of a normative framework and strategies but also on the capacity of state institutions for adaptation, flexible crisis response, and balancing citizens' rights with national security needs. The principle of humanism and the priority of human rights remain a fundamental guiding standard even under extraordinary conditions.

Contemporary Ukrainian state-building involves processes of European integration, decentralization of public authority, restoration of territorial integrity, and addressing the consequences of aggression. In this context, state human rights policy must simultaneously ensure national security and protect fundamental rights and freedoms. The principle of proportionality in limiting rights and freedoms under martial law is of particular importance.

Human rights policy is a complex and multidimensional phenomenon, encompassing a system of legal, institutional, and organizational measures aimed at guaranteeing, realizing, and protecting human rights and freedoms. It is an integral part of overall state policy and is based on the principles of the rule of law, legality, the priority of human rights and freedoms, and international human rights standards.

Harmonization of national legislation with Ukraine's international legal obligations, including UN and Council of Europe instruments, is an important tool for ensuring human rights. This involves not only normative codification of rights but also the creation of effective institutional and procedural mechanisms for their implementation, protection, and restoration.

The study substantiates that the human rights protection mechanism has a complex internal structure, within which it is appropriate to distinguish static and dynamic components. The static component encompasses the system of national and international legal norms defining the list of rights and freedoms, guarantees for

their realization, subjects responsible for enforcement, and forms of legal liability for violations. The dynamic component reflects the practical functioning of the mechanism, associated with the activities of authorized bodies and officials in the implementation, protection, and enforcement of human rights.

The dynamic component can be viewed as a combination of institutional and functional systems. The institutional system includes state authorities, local self-government bodies, courts, law enforcement agencies, the Verkhovna Rada Commissioner for Human Rights (Ombudsman), civil society institutions, and international organizations. The functional system comprises procedures, tools, and forms of activity aimed at preventing human rights violations, restoring violated rights, and holding offenders legally accountable (Chorna, 2020).

Public authorities play a key role in implementing state policy, ensuring equal access to justice, effective legal protection, and restoration of violated rights. The effectiveness of this policy largely depends on the interaction of legislative, executive, and judicial branches, as well as the level of legal culture and public legal awareness.

The Verkhovna Rada of Ukraine, as the sole legislative body (Art. 75, Constitution), plays a special role in ensuring human rights. Through legislative, constitutive, and oversight functions, Parliament establishes the legal foundation for human rights realization and supervises executive bodies, particularly during martial law. During wartime, parliamentary oversight gains increased significance, enabling prompt response to rights violations, assessment of state measures, and balancing national security with citizens' rights. Laws adapting legal regulation to wartime conditions must comply with constitutional principles and international human rights standards.

Coordinated execution of these functions ensures human rights protection even under challenging conditions, facilitates the implementation of international standards, and strengthens democratic institutions in Ukraine.

Equally important is the role of the Verkhovna Rada Commissioner for Human Rights, a key institution in the legal system for protecting human rights and freedoms. By virtue of its special powers, the Ombudsman significantly strengthens guarantees for human rights protection, providing individuals with the ability to safeguard their violated rights (Tkachuk, 2019). During martial law, the Ombudsman's role becomes critical, ensuring rapid response to violations, coordination with international human rights organizations, and informing the public about the state of human rights.

The executive branch implements state human rights policy through the Cabinet of Ministers, central executive bodies, and local self-government authorities. During wartime, the executive is particularly responsible for ensuring basic socio-economic rights, organizing humanitarian assistance, protecting the rights of internally displaced persons, and restoring critical infrastructure.

The judiciary remains a key guarantor of human rights protection and the restoration of violated rights. Judicial protection is the highest form of safeguarding rights, providing maximum procedural guarantees. Thus, the right to judicial protection ensures the lawful opportunity to seek justice and defend one's rights, freedoms, and legitimate interests (Chorna, 2020). Independent and impartial adjudication guarantees access to a fair trial even under martial law, ensuring legality of rights restrictions and balancing national security with individual rights.

The study demonstrates that the effectiveness of the human rights protection mechanism under contemporary state-building depends not only on normative frameworks and strategic documents but also on the adaptability, coordination, and adherence to the principle of prioritizing human rights by state institutions, even in extraordinary conditions. The real "human dimension" of the state is manifested in its ability to guarantee dignity, security, and freedom for every individual, which is a decisive factor in developing a lawful and democratic Ukraine.

Contemporary state-building challenges, including socio-economic

transformations, decentralization processes, and rising security threats, necessitate a rethinking of approaches to human rights policy formation and implementation. It is crucial to ensure a balance between state interests and individual rights, avoid narrowing the scope of constitutional rights, and implement effective parliamentary, judicial, and public oversight mechanisms.

The real “human dimension” of the state is determined by the level of protection of human rights and freedoms. As V. S. Smorodynskyi notes, a contemporary understanding of the state is impossible without perceiving state-building goals through the lens of the individual, who should be the objective rather than the means of state activity (2012).

Analysis of scholarly sources shows that ensuring human rights is generally considered in the context of the rule-of-law state concept and a set of fundamental requirements essential for its functioning. These include democratic governance, overcoming alienation of the individual from society, moral justification of state policy based on equality and justice, limiting arbitrary state intervention, legal recognition of socio-economic and cultural rights, and prioritization of human rights over state interests (Tanko, 2023).

The issue of citizen security is particularly relevant, encompassing crime prevention, public order protection, and defining the overall trajectory of state-building in light of contemporary problems and threats (Chyzhov, 2023).

Key challenges in the development of a state-organized society relate to finding an effective global security balance, preventing wars and internal conflicts, ensuring economic and environmental security, and advancing international cooperation in human rights protection. Special attention is given to climate change, infectious disease spread, and migration processes (Hryshko, 2025).

Thus, state-building processes have both internal and external dimensions. As a subject of international relations, the state cannot ignore global challenges, while each country faces specific domestic issues, primarily related to ensuring and protecting human rights and freedoms.

4. Conclusions

Thus, contemporary state-building in Ukraine objectively requires a systematic and comprehensive approach to ensuring human rights and freedoms, based on constitutional principles, the rule of law, and universally recognized international human rights standards. Analysis of legal and regulatory acts, national strategic documents - including the National Human Rights Strategy, Ukraine’s Sustainable Development Goals until 2030, and the Demographic Development Strategy until 2040 - as well as international legal instruments such as the UN Universal Declaration of Human Rights, the European Convention on Human Rights and Fundamental Freedoms, and other relevant documents, demonstrates the presence of a clear normative and legal framework aimed at guaranteeing and protecting citizens’ rights. At the same time, the effectiveness of this framework largely depends on the actual mechanisms of its implementation and practical application.

The mechanism for ensuring human rights in the context of modern state-building encompasses a set of legal, institutional, organizational, and procedural elements aimed at the realization, protection, and safeguarding of individual rights and freedoms. Its effectiveness is determined by the coherence of actions among state authorities, local self-government bodies, the judiciary, law enforcement agencies, as well as civil society institutions. Special importance in this mechanism is assigned to parliamentary oversight, independent justice, the activities of the Verkhovna Rada Commissioner for Human Rights, and constitutional control mechanisms.

At the same time, the challenges of martial law, deep socio-economic transformations, and increasing global security threats significantly complicate the practical realization of declared rights and freedoms. In conditions of armed aggression,

the state is compelled to impose temporary restrictions on certain rights; however, such restrictions must comply with the principles of legality, necessity, proportionality, and non-discrimination. Accordingly, preserving the balance between national security interests and the state's obligation to ensure fundamental human rights even under extraordinary circumstances becomes particularly relevant.

Under these conditions, the state must demonstrate heightened flexibility and adaptability, ensuring coordinated interaction among the legislative, executive, and judicial branches of power, as well as involving civil society in monitoring and assessing the state of human rights observance. An important factor in the effectiveness of the human rights protection mechanism is also active international cooperation, particularly with Council of Europe institutions, the UN, and other international human rights organizations, which facilitates the implementation of European standards and best practices into the national legal system.

In this context, a key priority of state policy must remain its humanization, affirming the individual, their life, dignity, and security as the highest social value. Ensuring the real primacy of human rights and freedoms over narrowly institutional state interests is a necessary precondition for the formation of a democratic, lawful, and socially oriented society. Such an approach not only enables effective response to contemporary internal and external challenges but also lays the foundation for sustainable development, post-war recovery of Ukraine, and its further integration into the European legal space based on respect for human dignity and the rule of law.

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