

**NININS 2020****International Scientific Forum «National Interest, National Identity and National Security»****ROLE OF MUNICIPAL AUTHORITY IN HUMAN RIGHTS MECHANISMS**

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**Abstract**

The article focuses on the characteristics of local self-government, its relationship and interaction with civil society and central government. We consider local self-government as a multifaceted and multifunctional phenomenon combining both State and social principles. According to the author, the main value of local self-government as an institution of civil society is in its social content and focus on the individual. The review of the legal and regulatory documents vesting municipal authorities with competence to promote and protect human rights shows that municipal authorities, being an integral part of the public administration system, are bound not only by specific functions enshrined in the legislation of the Russian Federation but also by constitutional obligations. The article investigates the activity of local self-governments and specialized human rights bodies responsible for the promotion and protection of human rights in municipalities. The article identifies that one of the priorities for municipal human rights bodies is the reconciliation between the interests of the citizens and the interests of municipal authorities for solving important local issues and protecting the rights and freedoms of citizens. Besides, such bodies should aim to create conditions for the implementation of the rights and freedoms of citizens as well as for the prevention of violations in municipalities. Based on the analysis of the legislation of the Russian Federation, the author concludes that the municipal authorities have a significant impact on the formation of a unified national system for ensuring and protecting human rights and freedoms.

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## **1. Introduction**

The activity of public and local authorities, operating within the framework of a unified system of public administration, is aimed at the promotion, protection and implementation of human rights and freedoms. A local self-government is a form of exercising power by citizens and has its specificity and characteristics. The importance of local self-government in the human rights mechanism cannot be overemphasized. Following Article 2 of the 1993 Constitution of the Russian Federation "a man, his rights and freedoms are the main values. The recognition, observance and protection of human rights and freedoms is the responsibility of the State." Thus, the Constitution of the Russian Federation lays the foundations of the public protection of human and civil rights and freedoms. At the same time, Article 12 of the Constitution of the Russian Federation establishes a sort of a border, separating local self-government from the unified system of public administration. However, the organizational separateness of local self-government does not mean that it is autonomous and independent from the central government since independence is a sign of sovereign power, which local government does not have.

## **2. Problem Statement**

Modern Russian legal doctrine tends to consider the promotion and protection of human rights and freedoms and local self-government as independent, disjoint institutions. Features of the legal status of a person at the local level as well as the role of local governments in the promotion and protection of human rights and freedoms have yet to be adequately examined. Also, despite being the level of government closest to the people, local governments do not provide adequate support for citizens. To a certain degree, this can be attributed to the fact that Russian legislation does not explicitly require municipal authorities to implement and protect the rights of citizens.

## **3. Research Questions**

The subject of the study is legal rules that confer human rights responsibilities upon municipal institutions and authorities, as well as formalize and regulate their implementation.

Constitution of the Russian Federation of 12.12.1993

Federal law № 131-FZ of 6.10.2003 "On General principles of local self-government organization in the Russian Federation."

## **4. Purpose of the Study**

The purpose of the study is to explore the place and role of local self-government and its institutions in the human rights mechanism of the Russian Federation.

## **5. Research Methods**

The author uses both general scientific (dialectical, systemic) and specific methods (formal-legal, structural and functional, technically legal, comparative legal). Their application allows analyzing the

topic with many different angles and interconnections, holistically, quite comprehensively and objectively.

## 6. Findings

For an objective assessment of the role of local self-government in this process, first of all, it is necessary to analyze the features of local self-government as well as its relationship and interaction with civil society and central government.

It is a controversial issue today if local self-government is linked closer to the State or the public. Let us explore how this question was considered in scientific sources. Avakyan (2005) suggests that local self-government cannot be transformed into the foundation of civil society, and the provincial community cannot be the basis of either statehood or the political climate in the country.

According to other scientists, local government should be considered both as an institution and a way to build a civil society (Lapin et al., 2006).

It should be mentioned that a relatively large number of researchers recognize local government as a multifaceted and multifunctional phenomenon that combines both State and social principles.

For example, Skripkina (2016) argues that the potential and socio-economic efficiency of local authorities will significantly decrease with the implementation of extreme options for local self-government.

Local self-government, being the lowest tier of public administration in the State, undoubtedly has state principles. This is confirmed by the legal positions of the Constitutional Court of the Russian Federation. However, it cannot be classified as a form of state government since the public administration includes state government and local self-government. The Constitutional Court of the Russian Federation held that the unity of the government and freedom of citizens is the essence of local self-government.

As an institution of civil society, local self-government is a special, relatively independent system of a democratic society. The principal value of local government as an institution of civil society is determined by its social content and focus on the individual.

Thus, local self-government, being an integral element of democracy and acting as the link between the State and society, is enshrined in the Constitution of the Russian Federation as one of the foundations of the constitutional system, as a principle of public authority organization, and is also recognized, guaranteed and implemented throughout the Russian Federation. Genuine democracy, the promotion and protection of human rights, civil society are not possible without local self-government, since one of its tasks, in accordance with Federal Law of October 6, 2003, No. 131-FZ On General Principles of Local Self-Government in the Russian Federation is to ensure the interests of local self-government.

Human and civil rights and freedoms are a necessary element of the legal status of the individual. At the same time, the rights and freedoms of man and citizen are a comprehensive legal institution, which includes the norms of constitutional, administrative, civil, land, labour law and other branches of law, the implementation of which is carried out primarily at the place of residence – in the urban, district, rural municipalities.

Traditionally, state authorities have the primary responsibility for the promotion and protection of human rights. This thesis is confirmed by studies of such scientists as Komkova (2008), Stremoukhov (2007), Vitruk (2008).

However, Bondar (2004) and Markhheim (2004) consider that local self-government and its bodies represent a particular non-state level of a unified system for the promotion and protection of human rights and freedoms in the Russian Federation.

The analysis of Articles 130-133 of Chapter 8 "Local Self-Government" of the Constitution of the Russian Federation shows that human rights duties of local authorities are not explicit. However, in accordance with Article 18 of the Constitution of the Russian Federation, the rights and freedoms of man and citizen are directly applicable. They determine the meaning, content and application of laws, the activities of the legislative and executive authorities and local self-government and they are guaranteed by law. Part 2 of Article 32 of the Constitution of the Russian Federation establishes the right of Russian citizens "to elect and to be elected to bodies ... of local self-government, as well as to participate in a referendum"; in Article 33 – "the right to apply in person, as well as to send individual and collective appeals to ... local authorities", and, consequently, the municipal authorities, is an integral part of public administration, are obliged to be guided not only by specific powers embodied in the legislation of the Russian Federation but first and foremost by constitutional obligations. Accordingly, local government bodies are included among the entities ensuring the protection and defence human rights responsibilities of local governments are also enshrined in the constitutional acts (constitutions and charters) of the constituent entities of the Russian Federation that determine the status of municipalities. For example, the Charter of the Nizhny Novgorod Region dated December 30, 2005, No. 219-Z in Article 7 stipulates that "the promotion and protection of the rights and freedoms of man and citizen, following the Constitution of the Russian Federation, federal laws, the Charter and laws of the region, is the substance of activities of public authorities of the region and local governments"; The Charter of the Vladimir Region of August 14, 2001 No. 62-OZ in Part 2 of Article 4 establishes that "the promotion, observance and protection of human and civil rights and freedoms guaranteed by the Constitution of the Russian Federation is the responsibility of public authorities and local self-government bodies, their officials."

Specialized human rights bodies are established in many municipalities. One of the most common types is a municipal advisory body. Such bodies aim to make human rights implementation more effective at the local level, coordinate the activities of municipal public associations, and also act as a facilitator between local governments and citizens in the public chambers.

Municipal public chambers (councils) play a significant role in the development of local self-government. Antonova rightly mentions: "Public chambers (councils) are forms of public participation in local self-government, embodying the manifestation of civil society" (Antonova, 2016, p. 38).

Public chambers have been established in many municipalities of the Nizhny Novgorod Region, and provisions on these formations have been adopted. The Regulation On the Public Chamber of the City of Nizhny Novgorod was adopted by the decision No. 118 of the City Council of Nizhny Novgorod dated June 19, 2019; The Regulation On the Public Chamber of the Kstovsky municipal district of the Nizhny Novgorod Region was adopted by the decision No. 77 of the Zemstvo assembly of the Kstovsky municipal district of the Nizhny Novgorod region dated September 26, 2017; The Regulation On the

Public Chamber of the City District of Vyksa, Nizhny Novgorod Region was adopted by the decision No 100 of the Council of Deputies of the city district of Vyksa, Nizhny Novgorod Region, dated September 25, 2018.

One of the priority tasks of public chambers (councils) is reconciliation between the interests of the population and municipal authorities to solve important local issues and to protect the rights and freedoms of citizens.

Furthermore, other specialized municipal institutions have been established to carry out human rights duties at the local level. For example, the institution of public assistants of the Ombudsman for Children's Rights has been established in certain municipalities of the Nizhny Novgorod Region. The offices of the assistants of the Ombudsman for Children's Rights opened in Arzamas, Pervomaisk, Sarov, Bor, in the Shargin, Spassky, Tonkinsky, Dalnekonstantinovsky districts of the Nizhny Novgorod region. This has facilitated the interaction of the Office of the Commissioner for Human Rights in the Nizhny Novgorod region and the heads of district administrations.

It should be noted that the activities of specialized human rights bodies are carried out, as a rule, voluntarily. Therefore, in our opinion, local authorities should first and foremost create conditions for the exercise of the rights and freedoms of citizens, as well as prevent their violations in municipalities. We believe other activities should include:

- 1) consultative and educational activities to provide citizens with valuable information on human rights, forms and methods of its implementation and protection;
- 2) financial support to public organizations that exercise the rights of citizens;
- 3) municipal services to the citizens;
- 4) establishment of municipal organizations for ensuring various types of citizens' rights in the municipality.

To ensure and protect certain types of citizens' rights in the municipalities, local governments adopt targeted municipal programs (for example, the municipal program "Consumer Protection in the territory of the municipality "City District "Kozmodemyansk City for 2019–2023"; the municipal public health development program "Public health promotion in the Verkhneuslonsky municipal district for 2020–2024", the municipal environmental program in the Bikin municipal area for 2021–2030").

Let us turn to a set of human and civil rights and freedoms.

International human rights standards are contained in such acts of international law as the Universal Declaration of Human Rights (December 10, 1948), the UN Charter (June 26, 1945), the Statute of the Council of Europe (May 5, 1949), the International Covenant on Civil and Political Rights (December 16, 1966), the International Covenant on Economic, Social and Cultural Rights (December 19, 1966), the European Convention for the Protection of Human Rights and Fundamental Freedoms (November 4, 1950) and other international acts. Following the generally recognized principles of international law, public functions should be exercised by the authorities which are closest to the citizens.

According to the 1985 European Charter of Local Self-Government, local self-government, as an institution of public authority, is obliged to respect human rights and freedoms, create conditions for their full implementation, and also prevent and suppress violations, and in some cases restore violated rights and freedoms in the municipality.

## 7. Conclusion

A study of local issues, as well as the powers of local governments, shows that the promotion and protection of human rights and freedoms at the municipal level cover, not all the rights and freedoms enshrined in the Constitution of the Russian Federation and the international treaties, but only those that can be realized by citizens at the local level. Thus, the promotion and protection of rights and freedoms may be a local issue, as well as the subject of state powers transferred to local governments.

Local self-government is the lowest tier of public administration. Local self-government is its closest level to the citizens. Municipal authorities can take all necessary measures to prevent violations of human and civil rights and to restore violated rights.

Municipal authorities, exercising certain delegated state functions, as well as other functions provided by the Federal Law On General Principles of the Organization of Local Self-Government in the Russian Federation, have a significant impact on the formation of a unified national system for ensuring and protecting human rights and freedoms, which includes international, state, municipal and public levels.

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