The Realization of the Right of Peoples of the Asia-Pacific Region to Self-Determination: the Constitutional Dimension

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Abstract. The author analyzes the constitutional compatibility of a number of countries in the Asia-Pacific region, namely: the Democratic people's Republic of Korea, the people's Republic of China, the Republic of Korea (South Korea), Japan, and Russia. It is noted that the growth of economic integration between the economies of East Asia does not lead to the elimination of deep strategic mistrust. Russia's geographical, geopolitical and growing economic presence in the Asia-Pacific region is becoming a reality today. The study is based on the recognition of the identity of the development of each APR state, the legal consequence of which is the registration of statehood as a result of the realization of the right of people to self-determination. The analysis of the norms that have been enshrined at the international level and in the main national acts – Constitutions is carried out. The preamble to the Asia-Pacific Declaration is the starting point and has affirmed that all peoples have the fundamental and universally recognized right to self-determination, by virtue of which they freely determine their political status and pursue economic, social and cultural development. It is on the basis of that right that peoples have the right to permanent sovereignty over their natural wealth and resources. Constitutional models and formulas which imperatively fix realization of the right to self-determination by the people of the countries entering the Asia-Pacific region are investigated. The conclusion about the constitutional readiness for dialogue on the platform of the Asia-Pacific region is formulated, which should be included in the Russian integration strategy in the Asia-Pacific region.

1. Introduction
The Asia-Pacific region is now perhaps the most dynamic region in the world. We will agree that "what is happening in the Asia-Pacific region today, the contours of the new world order are unmistakably guessed, the future shape of the system of global governance is seen in the conditions of the formation of a polycentric world." [1]. China, Japan, Korea – traditional active actors in the region in the fight against political and security tensions [2]. Modernity brings to the fore other Asia-Pacific countries, which every year strengthen their role in the region in solving, inter alia, global problems. Relations in East Asia have been characterized for years as" Asian paradox " (the term was introduced in 1993) By R. Menning [3], the meaning of which is that the growth of economic integration between the economies of East Asia does not lead to the elimination of deep strategic mistrust.

China is becoming a more decisive role in solving not only regional but also global problems. Russia, developing the far Eastern borders, strengthens economic and political relations with the States of the Asia-Pacific region. Milani Marco's conclusion about "the presence in the region of countries other than the United States" should be recognized as valid [4].
Geographically and geopolitically, Russia is represented in the APR and increases its economic presence in the region. Example: Eastern economic forum in Vladivostok in 2016, in which about 20 agreements totaling more than 1.3 MLR were signed between Russia and Japan. rubles [5]. The political participation of Russia in the Affairs of the region is becoming urgent. The strengthening of the far Eastern regions leads to a mixing of world-class accents. Russia has a very impressive part for its presence in the APR – far East [2]. We believe that the Russian integration strategy in the Asia-Pacific region should take into account the identity of each state represented here.

Modernity has distinctive features: political and economic risks, which results in a lack of mutual trust between the countries. Moreover, territorial disputes with a nuclear neighbor are one of the dangers of today [6. S. 248-250].

2. Main part
The heterogeneous composition of the Asia-Pacific region participants is based on the fact that each of the countries represented in the Asia-Pacific region has its own, permanent way of development. Making its statehood is the result of the realization of the right of people to self-determination. National constitutional norms are supported in a number of international instruments. The subject of the analysis of the constitutional compatibility of the APR countries in our work are the DPRK, China, Korea (South Korea), Japan, Russia.

In a unanimously adopted the Asian and Pacific Declaration on 15 February 1988 at the 2nd conference of the Asia Pacific lawyers ("Legal questions of peace, development and human rights"), convened by in new Delhi on February 13-15, 1988) [7] based on the principles of the UN Charter [8], the universal Declaration of human rights [9], of the Declaration on the granting of independence to colonial countries and peoples, 1960 [10], the Covenant on human rights, 1966 [11], The Delhi Declaration, 1986 [12].

The preamble to the Asia-Pacific Declaration States: "(a) All peoples have the fundamental and universally recognized right to self-determination. By virtue of that right, they freely determine their political status and freely pursue economic, social and cultural development. B) on the basis of the right to self-determination, they have the right to permanent sovereignty over their natural wealth and resources" [7].

Let us turn to constitutional models, which imperative the realization of the people's right to self-determination.

Democratic People's Republic Of Korea. The current Constitution of the DPRK adopted at the first session of the Supreme people's Assembly of the DPRK of the fifth convocation 27.12.1972, updated at the III session of the Supreme people's Assembly of the DPRK ninth convocation 9.04.1992 [13]. According to the constitutional norms, the DPRK is a sovereign socialist state representing the interests of the entire Korean people (article 1).

The DPRK is a revolutionary power that has inherited the brilliant traditions established in the glorious revolutionary struggle against the imperialist aggressors, for the revival of the Motherland, freedom and happiness of the people (article 2). The DPRK is guided in its activities by the ideas of Juche, the human — centered worldview, and revolutionary ideas aimed at exercising the independence of the masses (article 3). The sovereignty of the DPRK resides in the workers, peasants, working intellectuals and all other working people. The labour people exercise power through their representative bodies, the Supreme People's Assembly and local People's assemblies at all levels (art.4).

The task of reunification of the Motherland is constitutionally defined in article 9: the DPRK, strengthening the people's power in the Northern part of the country and actively deploying three revolutions — ideological, technical and cultural, fights for the achievement of the full victory of socialism, for the implementation of reunification Of the Republic on the basis of the principles of independence, peaceful unification and great national consolidation.
The class character of the state is emphasized in article 12: The state adheres to the class line, strengthens the dictatorship of people's democracy and firmly protects the people's power, the socialist system from Subversion of internal and external hostile elements.

The attitude of the state towards Koreans is significant: according to article 15, the DPRK protects the democratic national rights of Koreans living abroad and their legitimate rights guaranteed by international law. Moreover, the DPRK to ensure the legitimate rights and interests of foreign nationals within its territory (article 16). And article 63 formulates the basic principle of the constitutional and legal status of the individual in the DPRK - the principle of collectivism: "One for all, all for one". Finally, the foreign policy priorities enshrined in article 17 are impressive: Independence, peace and friendship — the core ideals of the DPRK's foreign policy and the principles of its foreign policy.

Republic of China. The Constitution was adopted on 4.12.1982 [14]. The preamble of the Constitution of the PRC States: "having passed the difficult path of long and fierce battles, both with arms in hand and using unarmed methods of struggle, all the peoples inhabiting China under the leadership of the Communist party of China led by its leader Mao Zedong, in 1949 overthrew the power of imperialism, feudalism and bureaucratic capitalism, winning a great victory in the new democratic revolution and creating the People's Republic of China. From that moment the Chinese people took control of the power in the state and became the owner of their country" [14]. In order to achieve the transition from a democratic to a socialist society, China had completed the socialist transformation, destroyed human exploitation and created a socialist system based on the dictatorship of the proletariat. The basic law States that the initial stage of socialism is built, and formulates a program of immediate action — the concentration of efforts aimed at socialist modernization, in order to build socialism with Chinese specifics, "step by step turning China into a strong, prosperous, highly cultural socialist country" [14].

China's foreign policy guidelines are based on five principles: 1) mutual respect for sovereignty and territorial integrity; 2) mutual non-aggression, non-interference in each other's internal Affairs; 3) equality and mutual benefit; 4) peaceful coexistence in the development of diplomatic relations; 5) economic and cultural exchange with other countries. Based on these principles, China has been struggling to consolidate peace in the world, supports the oppressed Nations and the developing countries in their just struggle to win and safeguard national independence, as well as the movement of humanity towards progress.

Republic of Korea. The Constitution of the Republic of Korea (South Korea) was adopted on 17.07.1948 on the basis of a national referendum and was subsequently amended 8 times. Article 1 institutionalizes the form of government: "the Republic of Korea is a democratic Republic". Declaring the duty of the state to protect citizens living outside the Republic of Korea and arguing that the territory of the Republic of Korea includes the Korean Peninsula and its adjacent Islands (article 3), the Republic of Korea seeks unification and formulates and carries out a policy of peaceful unification based on the principles of freedom and democracy (article 4) [15].

Japan. The Constitution came into force 3.05.1947 [16]. The preamble to the Constitution of Japan States that the Japanese people want eternal peace: "We want to take pride of place in the international community, which seeks to preserve peace and forever destroy tyranny and slavery, oppression and intolerance in the world. We firmly believe that all the peoples of the world have the right to a peaceful life free from fear and want" [16]. Further, "we are convinced that no state should be guided solely by its own interests, ignoring the interests of other States, that the principles of political morality are universal and that it is the duty of all States that retain their sovereignty and maintain equal relations with other States." The anti-militaristic nature of the state is imperatively enshrined in the Constitution in Chapter II "Renunciation of war", article 9 of which States: "in Earnest pursuit of an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of armed force as a means of settling international disputes. To achieve this goal will never be created, land, sea and air forces, as well as other war potential. The right to wage war is not recognized by the state."
Russia. The Constitution of the Russian Federation was adopted by referendum on 12.12.1993 and entered into force on 25.12.1993, opening a new era in the development of the country. The legal system of the Russian Federation is based on the generally recognized principles and norms of international law in the field of human rights and freedoms, including those relating to the self-determination of peoples under article 15 of the Russian Constitution. At the same time, paragraph 3 of article 4 establishes the need to ensure the integrity and inviolability of the territory [17].

The Strategy of the state national policy of the Russian Federation for the period up to 2025 was approved in Russia, which determined that the main principles of the Strategy of the state national policy of the Russian Federation, along with others, are: a) state integrity, national security of the Russian Federation, the unity of the system of state power; b) equality and self-determination of the peoples of the Russian Federation [18].

3. Conclusions
The constitutional characterization of the state and the realization of its place in the world is indicated in the form of an imperative in the Constitutions.

International legal instruments have consistently emphasized the inalienable right of a people to self-determination. No one has the right to deprive any people of this right. It is inherent to every nation, regardless of its political or administrative-territorial status, and when and how many times that people have exercised that right. For example, the Republican form of government in Singapore. The Constitution of Singapore was adopted on 16.09.1963. The norms of the Basic law describe in detail the form of government in the country – the Republic, arguing in article 17 that the President of Singapore is the head of state and is elected by the citizens of Singapore. Further, article 23, describing the Executive power in the country, establishes that the Executive power shall be vested in the President. At the same time, the President should appoint a member of Parliament as Prime Minister, who, in his opinion, is likely to gain the trust of the majority of members of Parliament [19].

We recognize that the right to self-determination is immanent for any people. We find a clarification of the essence of this right in subsequent UN documents [20]. An irreconcilable contradiction exists between the right of peoples to self-determination and the principle of territorial integrity, and there is no mechanism to eliminate these contradictions [20].

The right to self-determination of the people is exercised by popular vote and referendum. According to the generally recognized priority of the basic principles of international law over national law, any domestic rule, and even more so a law that denies or violates the principle of equal rights and self-determination of the people or peoples of a given state, is unlawful. However, the modern world was not ready to solve the problems of self-determination of peoples in a peaceful and democratic way. The UN and other international organizations find themselves in a state of legal collapse. We believe that it is necessary to develop specific mechanisms of self-determination of peoples, taking into account the new conditions of world development [20]. It is for this reason that the Asia-Pacific region, with its contrasts and challenges, needs a multidimensional, multi-layered architecture of security and development [21], which is based on the principles of collectivity, equality and transparency [22] and on the generally accepted principles of international law.

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