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INTERNATIONAL PROTECTION OF HUMAN RIGHTS IN ARMED CONFLICTS: ESTABLISHMENT HISTORY AND PRESENT CHALLENGES

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The article examines issues of international protection of human and civil rights during armed conflicts and traces the history of global efforts to ensure human rights in various military confrontations. The article also discusses new international policies aimed at protecting human rights in the context of the ongoing Russian-Ukrainian war. The study analyses foreign experience in the legal regulation of human rights protection during armed conflicts, with an emphasis on international humanitarian law. It highlights the development of international norms for the protection of human rights specifically in the context of armed conflict scenarios.

Given the critical role of international mechanisms in protecting human rights during armed conflicts, their effectiveness is important for implementation in affected countries. Regardless of whether an armed conflict is international or non-international in nature, it poses significant threats to the realisation of fundamental rights and freedoms, in particular the most inalienable and vital human right – the right to life.

It is noted that it is very important that both courts and international bodies responsible for the implementation and enforcement of these norms reaffirm the need to protect human rights in conflict situations. The condemnation of war crimes, genocide and violations of international humanitarian law demonstrates that the international community recognises the importance of protecting fundamental rights in times of war.

Particular attention is paid to sanctions, which play a key role in strengthening international security in Europe, especially given the ongoing conflict between Russia and Ukraine. Strategies that can increase the effectiveness of sanctions policy: a) multilateral sanctions; b)

targeting individuals, including government officials and business elites, and organisations directly linked to the conflict or the aggressor; c) the introduction of economic sanctions, such as trade bans, investment restrictions and the suspension of financial transactions, etc., which could seriously affect the aggressor's economy; d) sanctions on military goods and dual-use technologies.

Keywords: human rights, armed conflict, international protection of human rights, international legislation.

Formulation of the problem. Modern armed conflicts are intricate and multifaceted phenomena that profoundly impact human lives, often undermining the fundamental principles of humanitarian law. In this context, the international protection of human rights becomes particularly critical, as vulnerable populations face heightened risks of physical harm, economic deprivation, and social marginalization.

While international law establishes a robust framework of norms and standards designed to safeguard human rights during armed conflicts, their practical implementation often reveals persistent violations and a troubling mismatch between legal provisions and the realities on the ground.

Analysis of the study of the problem. The study of international norms concerning the legislative framework for the protection of human rights during armed conflicts, as well as accountability for violations of human rights, fundamental freedoms, and the laws and customs of war, particularly in relation to Article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms (1950), has been the focus of prominent researchers such as R. V. Alyamkin, M. M. Hnatovskiy, O. S. Razumovskiy, O. V. Senatorov, M. G. Shcherbina, I. A. Kotlyarov, F. A. Kozhevnikov, V. A. Lisovskiy, G. M. Melkov, and V. V. Mytsik.

The purpose of the article. This work aims to examine the international protection of human rights within the framework of historical challenges and contemporary armed conflicts. The study seeks to identify key issues, explore critical aspects, and propose potential improvements to existing legislation and practices. To provide a comprehensive perspective, specific cases will be analyzed, shedding light on the dynamics of human rights protection during armed conflicts and the pivotal role played by international organizations in this process.

Presenting main material. Over the past decade, the world has witnessed devastating military conflicts that have claimed the lives of millions of civilians. These conflicts have been marked by grave violations of international humanitarian law and the international protection of human rights.

In recent years, such violations have been tragically evident during the full-scale invasion of Ukraine by the Russian Federation, which began on February 24, 2022. Despite the existence of numerous international agreements designed to protect civilians and combatants during both peacetime and wartime, the current circumstances reveal significant gaps in their effectiveness. These norms often fail to provide adequate protection for civilian populations and military personnel during armed conflicts, nor are they sufficient to prevent the oppressive actions of authoritarian regimes. Violations of these standards can amount to genocide, war crimes, and crimes against humanity [1, p. 8].

The historical evolution of international legal norms for the protection of human rights during armed conflicts is also of critical importance. A pivotal milestone was the adoption of the Hague Convention on the Laws and Customs of War on Land at the First Peace Conference in 1899. This convention introduced groundbreaking provisions, such as the mandatory involvement of governmental organizations in documenting the status of individuals in captivity and the establishment of public organizations to assist prisoners of war during their detention by the opposing party [2].

These measures laid the foundation for ensuring accountability and humane treatment of prisoners. The Annex to the Hague Convention of 1907, addressing the Laws and Customs of War on Land, further developed these principles. Chapter II of the Annex provided detailed regulations on the treatment of prisoners of war, granting them legal status and protection from state-imposed humiliation.

During World War I (1914–1918), the International Committee of the Red Cross (ICRC) significantly expanded its efforts to safeguard the rights of prisoners of war. Its delegates conducted on-site inspections to report on detention conditions, advocated for improved treatment, and systematically collected personal data on prisoners to ensure their well-being and accountability. These activities marked a major step forward in the international protection of human rights during armed conflicts.

Despite its efforts, the organization faced numerous challenges from warring states, necessitating the adoption of international legal norms to protect human rights during armed conflicts, collectively known as "Geneva law" [3, p. 147]. The development of this framework occurred in three key stages:

Stage I began with the adoption of the Geneva Conventions of 1929, which established norms to improve the treatment of the wounded and sick in active armies and regulate the regime for prisoners of war. These conventions laid the foundation of humanitarian law, introducing principles binding on belligerent states regardless of ratification. The provisions primarily focused on safeguarding the rights of the wounded, sick, and prisoners of war.

Stage II marked a significant evolution with the adoption of four Geneva Conventions on the Protection of War Victims in 1949, which extended protections beyond military personnel to include civilians. These conventions include:

- The Convention on the Protection of the Civilian Population in Time of War (1949) [4];
- The Convention on the Treatment of Prisoners of War (1949) [5];
- The Convention on the Improvement of the Fate of the Wounded and Sick in Active Armies (1949) [6];
- The Convention for the Amelioration of the Fate of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea (1949) [7].

Stage III expanded protections to all persons affected by armed conflicts following the adoption of the Additional Protocols to the Geneva Conventions in 1977, which strengthened the rights of victims of both international and non-international armed conflicts:

- The First Additional Protocol (1977) focused on protecting victims of international armed conflicts [8].
- The Second Additional Protocol (1977) addressed the protection of victims of non-international armed conflicts [9].

The Geneva Conventions of 1949 and their 1977 Additional Protocols unequivocally obligate parties to armed conflicts to safeguard civilians and civilian objects from attack. They also require participants in hostilities to adhere to these protections during military operations [5; 8].

The number of international agreements, protocols, and regional treaties addressing specific human rights issues continues to grow, reflecting an evolving commitment to protecting fundamental freedoms. Resolutions by the General Assembly, the Security Council, and the Human Rights Council, along with treaty body decisions, reports from special procedures, declarations, and principles of "soft law," further refine and promote key principles. While these instruments may not be legally binding, unless they crystallize into customary international law, they significantly contribute to the development and establishment of legal standards [10].

The civilian population requires protection under international humanitarian law in two primary situations:

1. During the active phase of an armed conflict, where civilians face the risk of being targeted or suffering the consequences of military actions against enemy forces and military objectives.
2. Under enemy control, particularly when civilians are on the territory of an opposing state or in occupied areas.

In the first case, the principles of distinction and proportionality play a crucial role, ensuring that civilians are not intentionally targeted and that the harm caused by military operations is not excessive in relation to the anticipated military advantage. In the second case, the Geneva Convention (IV) on the Protection of Civilian Persons in Time of War (1949) serves as the cornerstone of international humanitarian law. This convention safeguards individuals who, at any time and under any circumstances, find themselves under the control of a party to the conflict or an occupying power, regardless of their nationality [5].

An illustrative example of broader international challenges can be seen in the cooperation between Germany, Japan, and the United Nations (UN). The UN Charter, drafted in 1945, includes Articles 53 and 107, which refer to the so-called "former enemy states" from World War II. Since joining the UN (on September 18, 1973, as the 133rd and 134th member states), Germany has repeatedly sought the removal of these outdated provisions. Despite enjoying full rights as a UN member state, the complexity of amending the Charter and the ongoing reform of the UN system have led many member states to favor postponing changes to these articles.

The application of human rights instruments in contentious situations, including armed conflicts, has been a key focus of the European Court of Human Rights (ECtHR). In cases such as *McCann and Others v. the United Kingdom* (1995), the Court addressed the necessity and proportionality of state actions involving lethal force. In *Agdas v. Turkey* (2004), Judge Bratza's dissenting opinion emphasized that the Court must ensure that "the use of force was absolutely necessary."

States are therefore required to exercise exceptional caution when employing lethal force, while the Court must uphold the principle that the deprivation of life must meet the threshold of necessity. This heightened level of scrutiny contrasts with international humanitarian law, where combatants may be lawfully targeted unless rendered hors de combat. Civilians, however, are protected from direct attacks except when they actively participate in hostilities, as articulated in Article 51(3) of Additional Protocol I [11].

In Europe, the Russian-Ukrainian war, which began in 2014, tested the resilience of international security policies, causing severe disruptions to stability and security across the continent. This conflict necessitated a reassessment of strategies and approaches to European security. Prior to the war, Europe's international security policy focused on fostering peace, stability, and cooperation among states. The conflict, however, underscored the fragility of these frameworks and the need for more robust and adaptive security measures.

The Russian-Ukrainian war has introduced significant challenges and threats to European security. Russia's annexation of Crimea, its support for separatist movements in eastern Ukraine, and the large-scale military aggression launched in February 2022 have escalated tensions between Russia and Western nations. From the outset of the conflict, the international community recognized the urgent need to reassess its security strategies in Europe. Various states and organizations have actively developed new policies aimed at deterring aggression, maintaining stability, and protecting human rights across the continent.

By mid-2022, the UN Human Rights Mission had documented thousands of violations of international humanitarian law during Russia's invasion of Ukraine. The UN commission reported numerous war crimes, including acts of sexual and gender-based violence committed by Russian soldiers against victims aged between 4 and 82. Investigations, focusing on the initial phase of the invasion (February–March 2022), revealed widespread violence against civilians in Kyiv, Chernihiv, Kharkiv, and Sumy regions. Evidence collected from liberated areas, such as Bucha, Irpin, Hostomel, and Izium, highlighted systematic and brutal violations of human rights. These actions by the Russian Federation represent blatant breaches of international law [12].

Even during wartime, the principles of international human rights law remain vital, emphasizing the protection of fundamental rights. Armed conflicts, however, present unique challenges, as certain rights—such as the right to life—are particularly vulnerable. When violations occur, it becomes essential to determine which human rights or provisions of international humanitarian law have been breached. While international humanitarian law primarily regulates the conduct of armed conflicts, it often overlaps with human rights law through shared principles of humanity and dignity [13][14].

Core Legal Principles Protecting Human Rights During Armed Conflicts

1. The Geneva Conventions: These four cornerstone treaties regulate armed conflict, providing legal protections for civilians, prisoners of war, and the sick and wounded. They mandate humane treatment for those not actively participating in hostilities [5][8].

2. The International Criminal Court (ICC): This permanent judicial body prosecutes individuals for war crimes, genocide, and crimes against humanity, serving as a mechanism for justice and deterrence.

3. The Universal Declaration of Human Rights (UDHR): Based on principles of dignity and equality, the UDHR lays the foundation for human rights protections during conflicts [15].

4. The International Committee of the Red Cross (ICRC): As an independent humanitarian organization, the ICRC plays a key role in assisting and protecting victims of armed conflicts.

5. The Responsibility to Protect (R2P): States have a duty to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. If a state fails in this obligation, the international community is mandated to intervene.

The Geneva Convention (IV) specifically addresses the protection of civilians during armed conflicts, including in occupied territories. It establishes general rules for humane treatment and outlines the obligations of conflict parties toward "protected persons" under Article 4 [1]. Additionally, it prohibits actions that endanger civilians, such as constructing military installations in populated areas or using civilians as human shields.

International legal frameworks remain indispensable for addressing human rights abuses, even in internal armed conflicts. Instruments such as Common Article 3 of the Geneva Conventions harmonize humanitarian law with broader human rights obligations. Mechanisms like the European Court of Human Rights (ECHR) play a critical role in securing justice for victims. However, practical obstacles persist:

1. Exhaustion of Domestic Remedies: Victims must first seek recourse through national mechanisms before approaching the ECHR, adhering to a strict four-month submission deadline from the moment the violation becomes known.

2. Russian Denial of Crimes: Despite overwhelming evidence—including video recordings and witness testimonies—Russia consistently denies responsibility for atrocities such as those in Bucha. Russian officials have even accused Ukraine of fabricating events, citing delays in publishing victim identities.

These ongoing challenges underscore the necessity of robust international enforcement mechanisms and the consistent application of both humanitarian and human rights law to ensure accountability and deter future violations.

Thirdly, the situation is further complicated by the fact that both Russia and Ukraine are signatories to the European Convention on Human Rights (ECHR). However, Russia has actively sought to avoid implementing the Convention, even going so far as to pass domestic legislation allowing it to disregard ECtHR rulings, thereby violating fundamental principles of international law.

At the same time, the ECtHR refrains from classifying the situation in Ukraine as an armed conflict—a critical concept for the application of international humanitarian law. Instead, the Court limits its analysis to determining whether a state has violated the European Convention on Human Rights. In other words, the Court applies only international human rights law, specifically the provisions of the Convention, and does not assess compliance with the Geneva Conventions or their Additional Protocols. As a result, the Court routinely declines to invoke international humanitarian law, even when explicitly cited by the parties involved [5][8].

This highlights the complex relationship between international human rights law and international humanitarian law, both of which are essential during armed conflicts. While international humanitarian law governs the conduct of parties in conflict through generally accepted norms and specific provisions, human rights law establishes the legal framework for relations between the state and individuals, even in times of war.

For example, Article 4 of the International Covenant on Civil and Political Rights allows states to temporarily derogate from certain obligations during officially declared public emergencies, provided that such measures do not conflict with other international legal obligations or result in discrimination based on race, gender, language, religion, or social status [17]. Similarly, Article 15 of the European Convention states: *"In time of war or other public emergency threatening the life of the nation, any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law"* [18].

Armed conflicts—both international and non-international—are undoubtedly situations that may endanger the life of a nation, and the Convention explicitly acknowledges such circumstances as valid grounds for temporary derogations. However, these derogations are permissible only under strict conditions and must adhere to international law.

Challenges in UN and Regional Governance

Discussions about reforming international mechanisms, such as the United Nations Security Council (UNSC), have highlighted persistent disagreements. For example, the concept of a "double veto" system—requiring simultaneous vetoes by at least two permanent members—has been debated for years. However, no proposed reform satisfies all stakeholders. Issues such as permanent representation and the allocation of regional quotas (e.g., for Latin America) remain contentious.

There are also concerns about the effectiveness of Security Council members dealing with internal conflicts, particularly in cases involving civil wars in their own territories, such as in African nations. Some Latin American countries have suggested transferring responsibility for resolving certain international conflicts from the UNSC to regional organizations [19, p. 78].

The Role of International Human Rights During Armed Conflicts

Despite these challenges, the ECtHR maintains that derogation from Convention norms is permissible only in exceptional crises that impact the entire society and threaten the state's organized functioning. However, even in emergencies, international agreements on human rights remain binding.

The International Court of Justice (ICJ) reinforced this principle in its advisory opinion on the legality of the threat or use of nuclear weapons. It emphasized that the protections guaranteed by the International Covenant on Civil and Political Rights remain in effect during hostilities, except in specific situations outlined in Article 4 of the Covenant [17].

In conclusion, international human rights agreements retain their validity and applicability even during military conflicts. While emergency situations may necessitate temporary deviations to address existential threats, international human rights law remains an essential safeguard for the dignity and rights of individuals. This underscores the enduring relevance of these legal frameworks in protecting human rights during times of war.

All experts agree that the Russian-Ukrainian war, which began in 2014, has had profound consequences for European security and international relations as a whole. Russia's aggression against Ukraine has raised serious concerns about international security, violating fundamental principles of international law, such as state sovereignty and the non-interference in internal affairs. In light of this, there are several key directions for improving international security policy in Europe that political actors should consider.

Here are some potential strategies to strengthen collective security in Europe following the Russian-Ukrainian war:

1. **Enhancing Military Defense Capabilities:** European countries should significantly increase their defense spending and invest heavily in modern military technology and infrastructure. Strengthening military capabilities will enable Europe to better prepare for and deter potential threats and adversaries.
2. **Expanding Cooperation within NATO:** NATO's role in ensuring collective security in Europe is crucial. Member states need to fulfill their defense obligations more effectively, ensuring that mutual support and solidarity remain core components of the alliance's collective defense strategy.
3. **Strengthening International Organizations:** The European Union and the Organization for Security and Cooperation in Europe (OSCE) should play more active roles in maintaining peace and stability in the region. Enhancing their tools—such as international law, dialogue, monitoring, and mediation—will help resolve conflicts and prevent further security threats [16].
4. **Expanding the Sanctions Regime:** The imposition of strong economic and political sanctions on countries that breach international norms and threaten security in Europe will be essential for influencing their behavior. Expanding and reinforcing the sanctions regime will help mitigate threats and maintain stability. Close cooperation with third countries is necessary to ensure that sanctions are not circumvented.
5. **Strengthening Cybersecurity:** Developing and implementing preventative measures to defend against cyber-attacks is critical for ensuring security in Europe. Collaborative efforts between countries, information exchange, the establishment of cyber defense structures, and improvements in technological preparedness will reduce cybersecurity risks.
6. **Supporting Sovereignty and Territorial Integrity:** A firm commitment to upholding the inviolable right of nations to sovereignty and territorial integrity is essential for regional security.

7. Immediate and Forceful Military and Sanction Responses: A prompt and decisive military and sanction response to military aggression will help deter future violations and uphold international law.

Developing Effective Sanctions Mechanisms

The role of sanctions is pivotal in enhancing international security in Europe, especially in light of the ongoing Russia-Ukraine conflict. The following strategies can improve the effectiveness of sanctions policies:

1. Multilateral Sanctions: An effective sanctions policy requires a coordinated approach from multiple countries or international organizations, enhancing efficiency and creating a broader international impact in pressuring the aggressor.

2. Targeting Individuals and Organizations: Sanctions should be specifically directed at individuals, including government officials and business elites with direct ties to the conflict or the aggressor. This approach ensures that sanctions target the key figures enabling or supporting the aggression.

3. Economic Sanctions: Implementing economic measures such as trade bans, restrictions on investment, and halting financial transactions can severely impact the aggressor's economy. This includes blocking international loans, limiting access to debt instruments, and restricting short-term borrowing from foreign financial markets. Close cooperation between countries and international organizations is essential to successfully enforce these sanctions and prevent evasion through alternative channels.

4. Sanctions on Military and Dual-Purpose Goods: Limiting the supply of weapons, military equipment, and dual-use technologies (goods with both civilian and military applications) is crucial in undermining the aggressor's military capabilities and their ability to sustain conflict.

5. Sanctions on Natural Resources: Introducing sanctions on the acquisition of critical resources such as oil, gas, natural resources, diamonds, gold, wood, and other high-value goods will impact the aggressor's ability to finance and sustain the conflict. These resources form a significant portion of the aggressor's exports and are key to their economic stability [20, p. 48].

In conclusion, a multifaceted approach to strengthening international security, including enhanced defense capabilities, expanded cooperation within NATO, and an effective sanctions policy, is essential to ensuring stability and preventing further escalation in the wake of the Russian-Ukrainian war.

Conclusion. Based on the points outlined above, it can be concluded that international norms and treaties designed to protect human rights remain relevant and effective, even in the most challenging circumstances, such as armed conflicts. International human rights law, particularly as enshrined in specific legal instruments, provides a crucial framework for safeguarding the fundamental rights and dignity of individuals during times of hostilities.

It is essential that both the courts and international bodies responsible for the implementation and enforcement of these norms affirm the necessity of human rights protection in conflict situations. The condemnation of war crimes, genocide, and violations of international humanitarian law demonstrates that the international community acknowledges the importance of safeguarding fundamental rights during wartime.

Moreover, it is vital to recognize that even in exceptional circumstances, when states are compelled to temporarily suspend certain obligations due to national security threats, the protection of human rights remains a central priority for the international community. Ongoing efforts to enhance the mechanisms and instruments of international law aimed at ensuring effective human rights protection during wartime are crucial for fostering stability, justice, and humanitarian security worldwide.

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МІЖНАРОДНИЙ ЗАХИСТ ПРАВ ЛЮДИНИ ПІД ЧАС ЗБРОЙНИХ КОНФЛІКТІВ: ІСТОРІЯ СТАНОВЛЕННЯ ТА СУЧАСНІ ВИКЛИКИ

У статті досліджуються проблеми міжнародного захисту прав людини і громадянина під час збройних конфліктів, простежується історія глобальних зусиль із забезпечення прав людини в умовах різних військових протистоянь. У статті також розглядаються нові міжнародні політики, спрямовані на захист прав людини в контексті триваючої російсько-української війни. У дослідженні проаналізовано зарубіжний досвід правового регулювання захисту прав людини під час збройних конфліктів з акцентом на міжнародне гуманітарне право. Висвітлено розвиток міжнародних норм щодо захисту прав людини саме в контексті сценаріїв збройних конфліктів.

Враховуючи критичну роль міжнародних механізмів у захисті прав людини під час збройних конфліктів, їхня ефективність має важливе значення для імплементації в постраждалих країнах. Незалежно від того, чи має збройний конфлікт міжнародний або неміжнародний характер, він створює значні загрози для реалізації основоположних прав і свобод, зокрема, найбільш невід'ємного і життєво важливого права людини - права на життя.

Зазначається, що дуже важливо є, щоб як суди, так і міжнародні органи, відповідальні за впровадження та дотримання цих норм, підтверджували необхідність захисту прав людини в конфліктних ситуаціях. Засудження військових злочинів, геноциду та порушень міжнародного гуманітарного права свідчить про те, що міжнародне співтовариство визнає важливість захисту основних прав у воєнний час.

Особлива увага звертається на санкції, які відіграють ключову роль у зміцненні міжнародної безпеки в Європі, особливо з огляду на триваючий конфлікт між Росією та Україною. Стратегії, які можуть підвищити ефективність санкційної політики: а) багатосторонність санкцій; б) націленість на окремих осіб, включаючи урядовців та бізнес-еліту, та організації, які мають прямий зв'язок з конфліктом або агресором; в) впровадження економічних санкцій, таких як торговельні заборони, обмеження інвестицій та припинення фінансових операцій тощо, що може серйозно вплинути на економіку агресора; г) санкції щодо військових товарів та технологій подвійного призначення.

Ключові слова: права людини, збройний конфлікт, міжнародний захист прав людини, міжнародне законодавство.