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MECHANISMS FOR PROTECTING SOCIAL AND HUMANITARIAN HUMAN RIGHTS DURING THE RUSSIAN-UKRAINIAN WAR

The article conducts a comprehensive analysis of mechanisms for safeguarding social and humanitarian human rights during the Russo-Ukrainian war. It establishes that the legal regime of martial law permits restrictions on certain constitutional rights, including: freedom of movement through curfew implementation; free choice of residence through mandatory evacuations; freedom to leave Ukraine's territory for specific demographic groups; along with rights to work and education. The study reveals that effective humanitarian policy directly depends on identifying critical threats: to national identity, ethno-political tensions, historical memory manipulation, and instrumentalization of religious institutions for social destabilization.

Consequently, the formation of a unified civic identity constitutes a fundamental objective of state humanitarian policy. The threat to Ukrainian national identity has emerged from societal ambivalence, characterized by the competition between pan-Russian imperial and European Ukrainian identities within Ukraine, alongside the resonance of "Russian world" ideology among certain population segments. Drawing on the Council of Europe's Needs Assessment Report "Social Rights in Ukraine during War," this study highlights the critical importance of safeguarding civil, political, economic, social, and cultural rights during periods of armed conflict. The mass displacement of populations coupled with the systematic destruction of social infrastructure during warfare severely compromises people's ability to access education, employment opportunities, healthcare services, and other vital resources necessary for sustaining proper living conditions and means of subsistence.

Keywords: implementation mechanisms, social and humanitarian human rights, Constitution of Ukraine, Cabinet of Ministers of Ukraine, humanitarian policy, Armed Forces of Ukraine, Council of Europe.

МЕХАНІЗМИ ЗАБЕЗПЕЧЕННЯ ЗАХИСТУ СОЦІАЛЬНИХ І ГУМАНІТАРНИХ ПРАВ ЛЮДИНИ В УМОВАХ РОСІЙСЬКО-УКРАЇНСЬКОЇ ВІЙНИ

У статті проведено комплексний механізмів забезпечення захисту соціальних і гуманітарних прав людини в умовах російсько-української війни. Зазначено, що правовий

режим воєнного стану передбачає можливість обмеження низки прав і свободи людини і громадянина, гарантованих Конституцією України, а саме: права на свободу пересування (запровадження комендантської години, коли заборонено перебувати у певний період доби на вулицях та в інших громадських місцях без спеціально виданих перепусток і посвідчень), вільного вибору місця проживання (проведення обов'язкової евакуації населення Донецької області, Куп'янського району Харківської області та інших регіонів на безпечні території відповідно до розпоряджень Кабінету Міністрів України), права вільно залишати територію України (обмеження виїзду за межі України для чоловіків віком від 18 до 60 років, які є громадянами України, а також для жінок-військовозобов'язаних), права на працю, права на освіту та ін. Окреслено, що ефективність державної політики в сфері гуманітарного розвитку напряму залежить від ідентифікації наявних загроз, а саме: «загрози національній ідентичності, загострення суперечностей у сфері етнополітики, маніпуляції з історичною пам'яттю, використання Московського патріархату для суспільної дестабілізації в Україні». Тобто формування спільної громадянської ідентичності є одним із ключових завдань гуманітарної політики держави. Загроза національній ідентичності українців виросла з проявів амбівалентності українського суспільства, «конкуренції на теренах України панросійської імперської та європейської української ідентичностей», близькості ідей «руського міра» частині мешканців України. Проаналізовано підготовлений експертами Ради Європи Звіт про оцінку потреб «Соціальні права в Україні під час війни», у якому йдеться: «Під час надзвичайних ситуацій, таких як збройні конфлікти, захист громадянських, політичних, економічних, соціальних і культурних прав має вирішальне значення. Переміщення населення та руйнування соціальної інфраструктури, викликані збройними конфліктами, часто істотно підривають можливості доступу до освіти, роботи, охорони здоров'я або інших послуг, необхідних для підтримки гідного рівня життя та отримання засобів до існування».

Ключові слова: механізми забезпечення, соціальні і гуманітарні права людини, Конституція України, Кабінет Міністрів України, гуманітарна політика, Збройні Сили України, Рада Європи.

Problem Statement. The protection and fulfillment of social and humanitarian rights in Ukraine, already challenged by pre-existing political and socio-economic difficulties, have been severely exacerbated by Russian armed aggression. A critical challenge confronting the state is safeguarding the social and humanitarian rights of internally displaced persons (IDPs). Pressing issues include establishing access to social services in host communities, providing essential services like healthcare, fulfilling educational needs – especially for children – and securing housing, living conditions, and livelihoods for IDPs and their families. Furthermore, developing programs for their effective reintegration, including employment and entrepreneurship opportunities, and establishing a system of psychological and psychosocial support for those traumatized by conflict are paramount. A crucial prerequisite for resolving these issues is the creation of effective mechanisms for restitution and compensation of lost property to address the claims of IDPs.

The effective realization of social rights is contingent upon several fundamental conditions. These include the state's active role in establishing the legal, economic, organizational, and informational frameworks for their fulfillment, while simultaneously participating as a subject in social relations. Furthermore, the scope and enjoyment of these rights are intrinsically dependent on the nation's level of economic development. As an integral component of an individual's legal status, social rights are embedded within both international law and national legal systems. Crucially, they function as guarantees for other rights and freedoms; for instance, the right to healthcare safeguards the right to life, just as the right to a safe environment underpins the right to health.

Analysis of Recent Research and Publications. This research is grounded in the extensive scholarly work dedicated to human rights protection, with significant contributions from O. Barna, S. Holovaty, O. Preshkina, P. Rabinovych, O. Rudnieva, and T. Slinko, who have deeply investigated its theoretical underpinnings. The domains of public administration for social development and the integration of international standards have been thoroughly analyzed by researchers including K. Borychenko, A. Klymenko, V. Kostrov, A. Riaboshapchenko, Ye. Chorna, and S. Koshova. In response to contemporary challenges, foundational research on guaranteeing human rights and freedoms under martial law has been advanced by V. Bohatyr, Yu. Dobosh, R. Shyshka, O. Slavna, I. Tolkachova, and S. Matveiev. The critical intersection and interplay between international humanitarian law and human rights law have been authoritatively examined by scholars such as E. David, M. Sassòli, A. Bouvier, and V. Rusynova. The collective theoretical and conceptual frameworks established by these academics provide the essential foundation upon which this study is constructed.

This research aims to systematically examine and evaluate the operational frameworks and institutional arrangements established to guarantee and uphold social and humanitarian human rights protections throughout the duration of the ongoing Russo-Ukrainian conflict.

Main Content. The constitutional framework of Ukraine establishes a clearly defined, multi-tiered structure of governmental bodies and public officials vested with the specific mandate to ensure and safeguard social and humanitarian rights. This comprehensive institutional architecture, empowered with distinct human rights enforcement and protective mandates, encompasses the President of Ukraine, the Verkhovna Rada, regional state administrations, the judiciary comprising courts of general and specialized jurisdiction, the Constitutional Court of Ukraine, the Parliamentary Commissioner for Human Rights, the prosecutorial system, the legal profession (advokatura), and other relevant law enforcement institutions.

Under the legal provisions of martial law, first declared by presidential decree on February 24, 2022, and progressively extended in response to continuing hostilities, Ukraine's governing institutions – including state authorities, military command structures, and local administrations – retain statutory powers to curtail certain constitutional guarantees of human and civil liberties. These prerogatives extend to implementing measured constraints affecting specific aspects of social and humanitarian rights.

Ukraine's martial law legislation creates a juridical basis for temporarily curtailing certain constitutional guarantees outlined in Articles 30-34, 38, 39, 41-44, and 53 of the nation's fundamental law [1]. Among the affected liberties are core freedoms including, though not restricted to, personal mobility, unrestricted choice of domicile, ability to depart the country, employment rights, and educational access.

On March 8, 2022, Ukraine formally notified the UN Secretary-General, in accordance with Article 15 of the European Convention on Human Rights, of its derogation from certain obligations under the Convention for the duration of the martial law regime, specifying the affected rights [2]. This notification further detailed that, pursuant to martial law, military command and administrations are authorized to implement specific measures. These include: introducing labor conscription for able-bodied individuals not employed in the defense or critical civilian sectors to perform defense-related work, address emergency situations, or engage in socially useful work for the Armed Forces and critical infrastructure,

typically without requiring specialized training; utilizing the capacities and labor resources of all enterprises for defense needs, including altering their operational modes and working conditions; evacuating material and cultural property under threat; and, if necessary, introducing a rationing system for essential goods, among other stipulated measures [2].

As legal experts have noted, this framework was subsequently amended in August 2022, introducing a degree of legal ambiguity. This was achieved by supplementing the previously exhaustive list of measures with the open-ended authority for military command and administrations "to implement other measures provided for by the norms of international humanitarian law" [3, p. 10].

In its Needs Assessment Report "Social Rights in Ukraine during the War," experts from the Council of Europe emphasize that "the protection of civil, political, economic, social, and cultural rights is crucial during emergencies, such as armed conflicts." The report further states that "the displacement of populations and the destruction of social infrastructure caused by armed conflicts often severely undermines access to education, work, healthcare, and other services necessary to maintain a decent standard of living and secure a means of subsistence" [4].

Thus, it can be affirmed that the core social and humanitarian rights enshrined in the Constitution of Ukraine – namely, the right to social protection (Article 46), housing (Article 47), an adequate standard of living (Article 48), healthcare and medical insurance (Article 49), and education (Article 50) – have not been formally suspended. However, their practical realization has been significantly obstructed by the war, necessitating an effective and targeted response from the state to ensure their substantive fulfillment [5, p. 78].

The consequences of armed aggression have created severe disruptions in Ukraine's employment sector, violating the right to work, particularly the entitlement of all workers to fair labor conditions, including reasonable working hours, paid annual leave, and weekly rest. To address critical workforce shortages, the Verkhovna Rada of Ukraine adopted the Law "On the Organization of Labor Relations under Martial Law" on March 15, 2022. This legislation grants employers

the authority to: conclude fixed-term employment contracts for the duration of martial law; transfer employees to roles not stipulated in their original contracts, subject to medical fitness; and, with their consent, employ women in heavy, hazardous, and underground work. The threat of armed aggression was recognized as grounds for temporary remote or home-based work. The law also suspends mandatory days off on public holidays and permits an extension of the working week for critical infrastructure employees to up to 60 hours [6].

Therefore, it is established that the framework for ensuring labor rights, first and foremost the right to work itself, has undergone significant modifications and clarifications under martial law in Ukraine. The legal adjustments reflect a necessary adaptation to wartime exigencies, fundamentally altering standard labor protections to meet defense needs and maintain critical infrastructure.

The Law of Ukraine "On the Principles of Domestic and Foreign Policy" establishes the fundamental tenets of state policy in the humanitarian sphere, defining its application across several key domains:

Language Policy: Ensuring the comprehensive development and functioning of the Ukrainian language in all spheres of public life throughout the territory of Ukraine.

Educational Policy: Creating conditions for enhancing Ukraine's educational potential, guaranteeing citizens equal access to quality education regardless of their place of residence, financial status, or material capabilities, and developing inclusive education. It also commits to improving the education system to ensure quality provision at all levels.

Cultural Policy: Promoting the cultural development of citizens, reviving the spiritual values of the Ukrainian people, protecting and enriching its cultural heritage, and supporting the development of culture and arts.

Policy in the Sphere of Spiritual Development: Creating conditions for societal consolidation based on a national system of spiritual values centered on the individual, their development, rights, and freedoms [7].

The efficacy of state policy in the sphere of humanitarian development is directly contingent upon the precise identification of existing threats. As early as 2018, analysts from Ukraine's National Institute for Strategic Studies delineated specific humanitarian threats, which included "threats to national identity, the exacerbation of contradictions within the realm of ethnopolitics, the manipulation of historical memory, and the instrumental use of the Moscow Patriarchate for the purpose of social destabilization in Ukraine" [8, p. 25].

Western analysts characterize the ongoing Russian-Ukrainian war as "an epic of Ukraine's defense of its national identity, territorial integrity, and sovereignty." They observe that the persistent denial of a distinct Ukrainian identity has provoked a powerful backlash – a struggle for existence separate from Russia. This dynamic compels Ukrainians to actively dismantle Russian cultural and linguistic influence within their country [9].

The Ukrainian language constitutes a pivotal element of national identity formation. Recent legislative measures have proven effective in promoting linguistic sovereignty. The 2019 legislation "On Ensuring the Functioning of the Ukrainian Language as the State Language" definitively established Ukrainian's constitutional primacy, requiring its mastery and application throughout government institutions and public discourse. Concurrently, the statute safeguards linguistic diversity by ensuring national minorities' access to mother tongue education and cultural preservation, thereby implementing international frameworks such as the 1996 Hague Recommendations on educational rights for minority communities [10].

The introduction of martial law in Ukraine did not impose formal restrictions on the right for healthcare, including medical assistance. However, hostilities have had a severe negative impact on the practical realization of this right for Ukraine's population. This deterioration stems from the destruction of healthcare infrastructure, a shortage of qualified medical personnel, and the partial or complete unavailability of medicinal products [11].

A central objective in the Ministry of Health's current agenda involves rehabilitating healthcare services for the general populace, with special attention to

internally displaced persons, while simultaneously reintegrating medical personnel into the workforce. To guarantee universal access to adequate medical services across Ukraine, the ministry is advancing its structural reform program, which prioritizes establishing a resilient and functionally effective healthcare institutional network.

In response to martial law conditions, Ukraine's educational legislation underwent revisions to preserve the constitutional right to schooling. The amended Law "On Education" ensures academic continuity through remote or alternative safe learning formats, maintains employment and income for educational staff, continues financial support for students, and provides necessary housing and nutritional support where applicable [12].

Access to public information serves as a critical tool for mitigating threats to life and health under martial law. Such information can convey vital warnings about imminent attacks, occupation risks, and the prevention of crimes against humanity and genocide [13]. The right to access public information is guaranteed by both Ukraine's national legislation and international norms, notably the Council of Europe Convention on Access to Official Documents.

The Verkhovna Rada Commissioner for Human Rights (Ombudsman) represents a contemporary extrajudicial mechanism for protecting social and humanitarian rights. Scholars characterize this institution as informal, depoliticized, and subsidiary in nature [14, p. 20].

The restoration of violated human rights falls within the mandate of judicial authorities, whose primary function is administering justice. Article 55 of the Constitution of Ukraine establishes that human rights and freedoms are protected by the court [15]. In this context, courts serve as the final authority in implementing and interpreting international standards.

The Institute of the Constitutional Court of Ukraine holds the authority to interpret the provisions of Ukrainian laws concerning their compliance with international standards. In substantiating its ruling on the case regarding appeals by persons declared legally incompetent, the Constitutional Court of Ukraine referenced the UN General Assembly Resolution "Principles for the Protection of Persons with

Mental Illness and the Improvement of Mental Health Care" (46/119 of February 18, 1992). The Court highlighted that the Resolution stipulates all persons with mental illness shall be treated humanely and with respect for their inherent dignity (Principle 1.2), and that every such person has the right to exercise all civil, political, economic, social, and cultural rights as recognized in the Universal Declaration of Human Rights (1948), the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights (1966), and other relevant instruments [16].

To address human rights violations during the Russia-Ukraine war, the utilization of international mechanisms is essential. On March 4, 2022, pursuant to Human Rights Council resolution 49/1, the UN Independent International Commission of Inquiry on Ukraine was established to investigate all alleged human rights abuses and violations of international humanitarian law. In a report presented in March 2023, the Commission documented that "the Russian authorities have committed numerous violations of international human rights and humanitarian law, including war crimes. These include indiscriminate attacks, unlawful confinement, torture, sexual and gender-based violence, and transfers and deportations of children" [17].

The report of the Independent International Commission of Inquiry confirms undeniable violations of social and humanitarian rights, specifically the rights to health, education, and social protection. It states that "the conflict has affected the rights of people to health, education, adequate housing, food, and water," with vulnerable groups such as the elderly, children, persons with disabilities, and other minorities being disproportionately impacted. Furthermore, "the systematic targeting of energy infrastructure has periodically deprived a significant portion of the civilian population of electricity, water, sanitation, heating, and telecommunications, while simultaneously impeding access to healthcare and education" [17].

The Memorandum by the Council of Europe Commissioner for Human Rights, D. Mijatović, on the consequences of the war in Ukraine for human rights protection documents the finding of compelling evidence of systematic violations of the right to life, including arbitrary killings and enforced disappearances. It further notes that the

armed attack by the Russian Federation on Ukraine has caused serious and mass-scale violations of human rights and international humanitarian law, which has had catastrophic consequences for the enjoyment of virtually all human rights by the population of Ukraine [18].

Conclusions. The initiation of hostilities in 2014 and the subsequent declaration of martial law in Ukraine in 2022 have significantly complicated the protection of social and humanitarian rights in accordance with international standards. While the imposition of martial law grants specific powers to the state, it concurrently imposes a fundamental obligation on relevant authorities to fulfill their duties to respect and protect human rights. A critical aspect of this obligation is ensuring uninterrupted access to essential social services necessary for the population's survival and basic well-being. Effectively addressing these complex challenges necessitates the active engagement of representatives from civil society organizations, international bodies, and other relevant stakeholders possessing specialized expertise in safeguarding human rights within conflict and post-conflict environments.

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