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State measures to protect the rights of children on the territory of Ukraine under martial law

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Abstract

The relevance of the study is due to the fact that in the conditions of war, Ukrainian children experience physical, psychological, and social difficulties. In these difficult conditions, the state must guarantee children, as the most vulnerable segments of the population, safety and protection. The purpose of the study is to determine what measures are appropriate to implement or have already been implemented to protect the rights of children under martial law and determine their effectiveness. For obtaining complete and objective information the methods of system analysis, concretisation and abstraction, determinism, induction, and deduction are used. The paper analyses the methods and measures of the state to protect the rights of children in Ukraine during the war. The legal framework regulating the protection of children's rights under martial law is considered. It is noted that the examination of methods of protecting the rights of children under martial law is of great

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importance for improving the quality of life of children and improving the situation with their safety. The results of the study justify that the state should guarantee a safe place for children to live and study; it should also conduct safe evacuation of children to other cities or countries and provide assistance in moving to other areas. It is also important to ensure that children have access to healthcare. In addition, the state should provide children with the opportunity to receive education in a safe environment, in particular, remotely. In addition to physical safety, children should be protected from the negative consequences of war from a psychological standpoint. The study is practically relevant for law enforcement, as it provides a deep understanding of what measures should be taken to ensure the protection of children's rights during martial law

Keywords: war; international standards; security; evacuation; programme; convention; psychological support

Introduction

During the war in Ukraine, every child suffered violations of their legally established rights. Even if the child has not suffered bodily harm, exploitation, sexual violence, torture, or other forms of cruel, inhumane, or degrading treatment, in any event, their rights have been violated (Turchenko, 2019). This refers to violations of the basic rights of the child, which are enshrined in the Constitution of Ukraine and international legal norms, such as the right to privacy, development, health, care, recreation, leisure, education, and family (Ihnatenko, 2021). The government of Ukraine is obliged to protect the rights of the child by improving legislation and ratifying international conventions. Ukraine is a party to many international documents related to the protection of children's rights, but under martial law, it is very difficult to ensure their compliance (Kypych, 2022).

The subject of protecting children's rights on the territory of Ukraine under martial law is very important since children are one of the most vulnerable groups of the population. The protection of children's rights is one of the main requirements of international legislation, in particular, the Convention on the Rights of the Child (1989). In addition, the successful implementation of children's rights

in times of war is a key element in ensuring future peace and stability in the country.

In addition, the protection of children's rights during war is also important from the standpoint of the humanitarian crisis that occurs during war. Ensuring the basic needs of children, including access to education and health services, is a prerequisite for preserving the life and health of children in times of war.

L. Protsyk and I. Pampura (2019) noted that "the use of violence against children in war conditions is a serious violation of their rights and has far-reaching consequences for their psychological state, development, and future well-being. States must take responsibility for protecting children from violence and provide them with the necessary assistance and support."

O. Korniyenko (2023) pointed out that "violence and war have a great impact on the physical and mental health of children and their ability to receive proper education and development. It is important to provide children with access to the necessary resources and support to help them survive this difficult period in life."

"Children who experience violence in conflict situations have substantial risks to their health

and well-being, the consequences of which can last a lifetime. Access to adequate medical care, education, and psychological support is critical to ensuring the safety and well-being of children in war conditions”, concluded S. Nikolaichuk (2022).

O. Turchenko and I. Pylypyshyna (2022) analysed the consequences of the impact of armed attacks on the lives of children and determined the specific features of ensuring certain rights of children in the context of the armed conflict in Ukraine.

Therefore, the importance of this subject lies in the need to ensure the protection of children’s rights on the territory of Ukraine under martial law to ensure their future and stability of the country.

The relevance of the study lies in the need to protect the rights of children on the territory of Ukraine under martial law. War can lead to violations of children’s rights and pose threats to their lives and health. Therefore, it is important to analyse the measures that the state should take or has already taken to protect the rights of children in war.

The purpose of the study is to determine the measures that the state should implement or has already implemented to protect the rights of children on the territory of Ukraine under martial law. The objectives of the study are to analyse the legal framework governing the protection of children’s rights in war conditions, describe the measures taken by the state to protect children’s rights, and analyse the effectiveness of applying these measures.

Materials and Methods

To obtain complete and objective information, the method of system analysis was used, which allowed for assessing the state of legislation and practice of protecting children’s rights on the territory of Ukraine under martial law from different standpoints.

Concretisation and abstraction were used in the study to analyse the legislation of Ukraine and international norms regulating the protection of children’s rights in war conditions. The study focused on specific measures taken by the state to protect the rights of children on the territory of Ukraine during martial law. The concretisation method allowed for the examination of legislative acts, programmes, and projects that are aimed at protecting the rights of children during war. The method of abstraction allowed generalising and systematising the results of the study.

The method of determinism was also applied in the study for the clarification of cause-and-effect relationships in the context of the analysis of factors affecting the protection of children’s rights on the territory of Ukraine during martial law.

Induction and deduction methods were also used in the study. The induction was used to analyse the practice of protecting children’s rights under martial law on the territory of Ukraine and form general conclusions from the collected data. The deduction is used to establish a link between the general principles of protection of children’s rights and their specific application in the context of war. The use of these methods allowed for conducting a systematic analysis of the problem and drawing scientifically based conclusions on the protection of children’s rights on the territory of Ukraine under martial law.

The main provisions and conclusions of this study are based on an analysis of national legislation. In particular, the following documents were used in the study: Convention on the Rights of the Child (1989), Law of Ukraine “On Childhood Protection” (2001), Resolutions of the Cabinet of Ministers of Ukraine “On the Establishment of the Coordination Headquarters for the Protection of Children’s Rights in Martial Law” (2022), “On Making Changes to Some Resolutions of the

Cabinet of Ministers of Ukraine Regarding the Protection of Children's Rights During a State of Emergency or Martial Law" (2022), "On the Approval of the Regulation on the Foster Family" (2002), Order of the Ministry of Science and Education "On Some Issues of the Organisation of Obtaining General Secondary Education and the Educational Process in the Conditions of Martial Law in Ukraine" (2022).

Results and Discussion

Ensuring peace and protecting human rights are important tasks for any state. Various countries are making substantial efforts to establish and operate international organisations that are aimed at preventing armed conflicts that can lead to massive violations of the rights of people, in particular, children to achieve these goals (Shchebetun & Mikhaylina, 2019). Many international organisations, in particular, the Council of Europe, the UN Security Council, the African Union, the Organisation of American States, and the Group of 7, work for the security of their member countries, and this once again emphasises the importance of the right to human security, in particular, children, who are a particularly vulnerable category of persons and need special protection. During wars, children become victims of human rights violations to a greater extent (Korniyenko, 2023).

Since the beginning of 2014, the armed conflict has continued on the territory of Ukraine, which on February 24, 2022, turned into a full-scale war as a result of Russian aggression. As a result of war, children suffer from various forms of violence. The system of protecting the rights and interests of children faces numerous problems, including insufficient consideration of the position of the child as a subject of relations, lack of proper legal protection of children's rights, and declarative legislative norms on special

protection of children's rights during armed conflicts (Turchenko & Pylypshyna, 2022).

The actions of the Russian military on the territory of Ukraine, such as the use of prohibited cluster munitions, shelling of civilian populated areas, destruction of civilian infrastructure, and restriction of access to medical care, and numerous cases of murder, rape, in particular, children, and execution of civilians are war crimes under international humanitarian law. Ukrainian legislation provides for criminal liability for the ill-treatment of prisoners of war and civilians, deportation of the civilian population to forced labour, looting of state property in the occupied territories, use of means of warfare prohibited by international law, and other violations of the laws and customs of war provided for by international treaties, the consent to be bound by which was granted by the Verkhovna Rada of Ukraine (Shchebetun & Mikhaylina, 2019).

International standards for the protection of children's rights in situations of military conflict are an important component of the work of states and public organisations to protect the rights of children (O. Melnychuk, 2022). The United Nations Declaration on the Rights of the Child (Geneva Declaration..., 1924) and the Convention on the Rights of the Child (1989) define the rights of children and provide them with protection from violence, exploitation, and discrimination in all circumstances, including in situations of military conflict (Bürgin *et al.*, 2022).

According to international standards for the protection of children's rights in situations of military conflict, states must ensure appropriate conditions for the life, safety, and well-being of children. This includes providing them with access to healthcare, education, and social protection, protection against violence, exploitation, and sexual crimes. It is also necessary to provide

children with access to humanitarian assistance and protection from exploitation and involvement in the armed forces to ensure the protection of children's rights in situations of military conflict (Veronese *et al.*, 2021).

Some of the international standards for the protection of children's rights in situations of military conflict also provide protection for children in extreme conditions, such as refugee children, orphans, children with disabilities, and other children in a vulnerable state (Simakova & Malyshko, 2023).

According to Article 10 of the Law of Ukraine "On Childhood Protection" (2001), every child has the right to liberty, security of person, and protection. State social programme for the period up to 2021, "National Action Plan for the Implementation of the UN Convention on the Rights of the Child" (Resolution of the Cabinet of Ministers of Ukraine No. 453..., 2018) also provides for the protection of the rights and interests of children in conditions of military operations or armed conflict, in particular, preventing the involvement of children in such actions, protecting the rights of children in the conflict zone, and conducting comprehensive measures for the rehabilitation of children affected by military operations or armed conflict. According to Article 30 of the above-mentioned law, it is prohibited to involve children in military operations and armed conflicts, including the recruitment, financing, and training of children for the purpose of their use in armed conflicts, the use of children in armed conflicts, and the recruitment and/or involvement of children in armed formations or armed groups not provided for by the legislation of Ukraine. Persons involved in the introduction of minors to armed groups are liable under Article 304 of the Criminal Code of Ukraine (2001) "Involvement of minors in criminal activities".

An important area of activity of Ukraine in the field of protection of children's rights is the

improvement of current legislation, including the implementation of international law and the ratification of treaties. Due to this, Ukraine has become a party to a number of international documents in the field of children's rights (UN Declaration on the Rights of the Child, Convention on the Rights of the Child, etc.). However, under martial law imposed throughout the country, it is extremely difficult to perform the functions assigned to the state to ensure the protection of children's rights.

On March 17, 2022, the Resolution of the Cabinet of Ministers of Ukraine "On the Establishment of the Coordination Headquarters for the Protection of Children's Rights in Martial Law" (2022) entered into force. The Coordination Centre is a temporary consultative and advisory body of the Cabinet of Ministers of Ukraine, established to facilitate the coordination of activities of central and local executive authorities, other state bodies, and local self-government bodies to protect the rights of children under martial law.

The main purpose of the Coordination Centre is to ensure the coordination of actions of local authorities and executive authorities regarding the evacuation of children from dangerous territories, including disabled children, orphans, children deprived of parental care, and other minors living or staying in institutions of various types and forms of ownership.

In addition, the Centre coordinates the placement and satisfaction of the needs of children who were evacuated to safe regions of Ukraine or moved to temporary stay countries. It controls the process of registering children at the consulate and ensures their return to Ukraine after the end of hostilities.

The coordination headquarters determines ways and means of solving problems that arise in connection with the protection of children's

rights under martial law and makes prompt decisions on this issue. It also monitors compliance with social standards and the rights of children in the states of their temporary stay and organises the return of children to Ukraine.

Another function of the institution is the provision of information to the citizens of Ukraine and the international community about the situation and needs for the protection of children under martial law.

Implementation of the national programme "The child is not alone" ("The child is not alone" programme..., 2022) is a substantial step in protecting children's rights during martial law. The programme was created by the Office of the President of Ukraine in cooperation with the United Nations International Children's Emergency Fund (UNICEF Ukraine) and the Ministry of Social Policy. The programme includes the functioning of the chatbot "The child is not alone", which provides assistance to children during military operations. However, after getting acquainted with the work of the chatbot in the course of the study, it is proposed to implement certain recommendations, namely: since a child can become a victim of any type of violence (physical, economic, psychological), and not just sexual (as indicated in the programme), it is necessary to add indicators of the type of violence the child has experienced.

War is the cause of suffering for many children. This can be separation from parents, being in filtration camps, or being lost as a result of shelling (Motsa & Motsa, 2022). However, due to the chatbot "The child is not alone", any Ukrainian citizen can get answers to questions about the temporary shelter of a child in a family, the search for a lost child, or report cases of child neglect. In addition, this resource contains useful information about the rights of children in war conditions, in particular, the regulatory framework and

contacts of child protection services and authorities. The site also contains instructions and rules for relatives, caregivers, psychologists, and journalists on how to communicate with traumatised children. The resource "The child is not alone" is an important step in protecting children from the consequences of war (Drobiazko, 2022).

The conditions of martial law raise the issue of protecting the rights of children who have become victims of Russian aggression and are in difficult life circumstances without parental care. The resolution of the Cabinet of Ministers of Ukraine "On Making Changes to Some Resolutions of the Cabinet of Ministers of Ukraine Regarding the Protection of Children's Rights During a State of Emergency or Martial Law" (2022) was amended. These changes allow temporary placement of children left without parental care in family-type orphanages.

In connection with the outbreak of war, changes were made to the regulations on a family-type orphanage, according to the above-mentioned decree (No. 349). According to these changes, family-type orphanages can temporarily accept children who have become orphans as a result of the war and do not have parental care. However, the number of children who can be placed in such an orphanage is limited. The amendments also provide for the possibility of temporary placement of such children in foster families.

According to Resolution of the Cabinet of Ministers of Ukraine No. 349 (2022), Resolution of the Cabinet of Ministers of Ukraine "On the Approval of the Regulation on the Foster Family" (2002), a new paragraph has been added that concerns the possibility of temporary stay of children without parental care in foster families during a state of emergency or martial law. Such children can be temporarily placed within the maximum number provided for a particular foster family. In addition, it is indicated that during

a state of emergency or martial law, children who find themselves in difficult life circumstances, orphans, children deprived of parental care and children who live in round-the-clock institutions of various types and forms of ownership can temporarily get a job in other institutions located in localities (Tantsiura, 2022).

The Ministry of Science and Education of Ukraine issued the Order "On Some Issues of the Organisation of Obtaining General Secondary Education and the Educational Process in the Conditions of Martial Law in Ukraine" (2022), which emphasises the need to organise general secondary education for those who were forced to change their place of study and/or residence under martial law in Ukraine or abroad. It is necessary to ensure that they are enrolled in educational institutions and receive education in any form that is most safe for them to do this.

During martial law, the state provides an opportunity for children to receive education in a safe environment, in particular, through distance learning. However, many children are unable to take advantage of these opportunities due to a lack of internet access or necessary equipment for distance learning. This problem is urgent, as many families were forced to leave their homes due to the war, go abroad, or stay in the occupied territories, which led to restrictions on the right to education for children (Shchebetun & Mikhaylina, 2019).

Psychological support for children during the war is extremely important, as they may experience fear, anxiety, depression, post-traumatic stress disorder, and other mental health problems that can negatively affect their health and well-being.

One of the ways to provide psychological support to children during the war is to conduct special trainings and consultations with psychologists (Yatsyna, 2022). Such activities can help

children understand their feelings and emotions, teach them strategies that will help them overcome fear and anxiety (Calam *et al.*, 2022)

In addition, it is important to provide children with the opportunity to communicate with family, friends, and psychologists who can understand their situation and help them feel safe. Creative techniques such as drawing, music therapy, etc. can also be used to help children express their feelings and emotions (Giannopoulou *et al.*, 2021).

The state and non-governmental organisations can also organise various activities to support the mental health of children during the war, such as summer camps, sports, creative activities, and excursions (Stepanenko, 2021). Such activities can help children find new friends, distract them from fears and traumatic events.

O. Lehka (2022) emphasises the need to bring national legislation in line with international standards as soon as possible to avoid conflict and ensure adequate protection of the rights of children in situations of armed conflict. The authors agree with the results of this study because changes to all Ukrainian regulatory legal acts that ensure the protection of children on the territory of Ukraine are urgently needed. A. Holubov and L. Gretchenko (2022) noted that strengthening the institutional capacity of the child protection system is an opportunity for the state to provide specialised care and assistance and take the necessary measures to promote the physical and psychological recovery and social integration of children, in particular, those whose rights have been restricted or directly harmed as a result of conflict. Therefore, the results of the study are quite substantial and can be used by the executive power of Ukraine.

Foreign researchers who have raised the issue under study note that it is necessary to remember about economic violence against

children because now this issue is relevant in the field of child protection under martial law. As noted by I. Geovani *et al.* (2021), ineffective legal protection of children affected by economic exploitation means that there are barriers and obstacles to addressing the problem of violence and economic exploitation of children, that is, barriers and obstacles faced by law enforcement agencies in working with children, in their practice, which does not solve the underlying problem, but only takes therapeutic measures, not prevents it. Therefore, researchers believe that it is necessary for the government, together with law enforcement agencies, to pay more attention and act more decisively on the issue of economic exploitation of children with no place of residence, both in terms of leadership and in terms of legal sanctions against individuals who conduct economic exploitation.

However, it is worth noting that in the current situation, it is necessary to consider all children in respect of whom there is a threat of violation of their rights. It is necessary to create a separate unit that will monitor the issues of economic exploitation of children and will be able to apply appropriate measures to counteract this phenomenon.

Notably, the experience of the Republic of Poland in protecting children's rights is somewhat different from the measures taken to protect Ukraine. As K.S. Łupiński (2019) noted, Polish law protects children from various threats at home, at school and on the street. Accordingly, the child is authorised to act personally in their own proceedings, namely, they take part in the court session when considering cases that concern them. The state should facilitate this process through various forms of guardianship and legal assistance. The experience of the Republic of Poland can also be applied in Ukraine to protect children from various threats that may lead to violations of their rights provided for by law.

Therefore, the protection of children and respect for their rights should be a priority for all citizens, and Ukraine should give priority to the protection of children and respect for their rights in the family, school, and other fields of life.

Conclusions

Given the above, the following can be concluded. First of all, the state should provide children with a safe place to live and study, which may include evacuation to other cities or countries, or assistance to move to other parts of the country. It is also important to ensure that children have access to health care. In addition, the state should provide children with the opportunity to receive education in a safe environment, in particular, remotely, if necessary.

In addition to physical safety, the child must be protected from the negative effects of war, from a psychological standpoint. Therefore, the state should provide psychological support to children and their families. This may include counselling and therapy, group and individual sessions, and other forms of support. Government and non-governmental organisations can also organise a number of activities to support children's mental health during wartime, including summer camps, sports, creative events, and excursions. However, with regard to the country's measures, it should be emphasised that in this case (child protection), all children whose rights are at risk of violation should be considered. It is necessary to create a separate unit that can deal with the problem of violence against children and implement appropriate measures to overcome this phenomenon.

The scientific originality of the study is a comprehensive examination of the problems of protecting the rights of children in the conditions of war in Ukraine, determining the effectiveness of the application of measures that the state takes

to protect the rights of children and identifying problems that arise in the process of protecting the rights of children in the conditions of war.

To protect the rights of children, it is also proposed to improve the Ukrainian legislation with relevant regulatory legal acts, which will indicate that, regardless of the place of stay of the child, his rights will not be violated. Notably, such studies will be appropriate to conduct systematically, because children on the territory of Ukraine during

martial law are constantly exposed to various types of violations of rights, and therefore researchers need to develop an appropriate mechanism for protecting children's rights.

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Conflict of Interest

There is no conflict of interest in this study.

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Заходи держави щодо захисту прав дітей на території України в умовах воєнного стану

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Анотація

Актуальність статті зумовлено тим, що в умовах війни українські діти переживають фізичні, психологічні та соціальні труднощі. У цих складних умовах, держава повинна гарантувати дітям як найбільш вразливими верствами населення безпеку та захист. Мета дослідження – з'ясувати, які заходи доцільно реалізувати або вже реалізовано для захисту прав дітей в умовах воєнного стану, та визначити їхню ефективність. Для отримання повної та об'єктивної інформації використано метод системного аналізу, конкретизації та абстрагування, підхід детермінізму, методи індукції та дедукції. У роботі проаналізовано методи й заходи держави щодо захисту прав дітей в Україні в умовах війни. Розглянуто нормативно-правову базу, що регулює захист прав дитини в умовах воєнного стану. Наголошено, що вивчення методів захисту прав дітей в умовах військового стану має велике значення для підвищення якості їхнього життя дітей і покращення ситуації з їхньою безпекою. Результати наукового дослідження обґрунтовують, що держава повинна гарантувати безпечне місце для проживання та навчання дітей; також потрібно проводити безпечну евакуацію дітей в інші міста чи країни та надавати допомогу в переїзді до інших районів. Також важливо забезпечити дітям доступ до охорони здоров'я. Крім того, держава повинна забезпечити дітям можливість здобувати освіту в безпечному середовищі, зокрема дистанційно. Окрім фізичної безпеки, діти повинні бути захищені від негативних наслідків війни з психологічного погляду. Наукове дослідження практично значиме для правозастосування, оскільки надає глибоке розуміння того, які заходи необхідно проводити для забезпечення захисту прав дітей під час воєнного стану

Ключові слова: війна; міжнародні стандарти; безпека; евакуація; програма; конвенція; психологічна підтримка
