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Legal challenges of social protection of students under martial law

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Abstract

The study aimed to establish the legal framework governing the social protection of students during martial law, and to identify the main legal issues in this regard in Ukraine and Myanmar. To achieve this goal, hermeneutical, comparative and historical methods were used. The study analysed the conceptual approaches to determining the social protection of students under martial law. In particular, the study demonstrated the impact of martial law on the provision of social protection and assistance to students by the State, highlighted the main legal problems of such provision. An analysis of international and Ukrainian legal acts related to the protection of social rights of the population, including students, was conducted. The study identified the main legal issues related to the protection of the social rights of higher education students based on the experience of martial law in Ukraine and Myanmar. The study also demonstrated the correlation between these concepts in the provision of higher education during the military conflict in Ukraine and Myanmar. It was emphasised the need for state authorities to respect fundamental human rights in ensuring the right to education (in particular, the right to life and health, which are under threat given the systematic shelling of educational institutions). The practical significance of

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this study is determined by the possibility of its use by scientists for a deeper study of the problems of social protection of students in states where martial law is in force

Keywords: emergency; vulnerable segments of society; armed conflict; difficult life circumstances; higher education student

Introduction

In the context of the martial law in Ukraine, which has been in force since February 2022, the issue of social protection of citizens, including students, by state authorities is becoming increasingly important. The imposition of martial law has had a dramatic impact on the legal order in the country, especially in terms of ensuring the protection of vulnerable groups such as students. In the context of the military conflict, higher education institutions and students faced several challenges, including systematic interruptions in the educational process, threats to the safety of students' lives and health, and limited access to basic educational facilities. In such circumstances, the legal issues of ensuring an adequate level of social protection of students' rights are of particular relevance.

An important problem is the legal ambiguity regarding students' rights under martial law. As current legislation does not sufficiently address the extraordinary circumstances arising from the armed conflict, this creates problems in protecting and enforcing students' rights (Kurapov *et al.*, 2022). For instance, despite the existence of regulations on general social support, there are no specific provisions governing the educational rights and protection of students during martial law. As a result, students are left without legal remedies in case of violation of their rights or discrimination in access to educational resources or financial aid. Therefore, the research relevance is determined by the need to address the problems of legal regulation to develop an effective state policy that will ensure the continuity of the

educational process and social support for students in these conditions (Tymochko, 2022).

T.Y. Hren (2022), analysing the implementation of social protection policies under martial law, addressed the challenges faced by local governments in providing adequate social support during the conflict. The study determined that effective social protection requires a more flexible approach focused on the specific needs of the affected population. V. Kremen *et al.* (2023) analysed the main challenges facing higher education in the context of martial law in Ukraine. The authors addressed the potential danger to students and teachers, the destruction of educational facilities and the need to ensure equal access to education. The study formulated priority areas for further development, including improving the quality of education, introducing the latest technologies, and strengthening international cooperation to address current challenges.

V. Novikov (2024), however, analysed the leading concepts and principles of social protection. The author formulated a comprehensive definition of social protection and identifies its fundamental principles and public administration instruments that increase the effectiveness of social protection systems. Lastly, the study emphasised the need to create an appropriate legal framework to improve social protection policies and improve the lives of vulnerable groups in society. I. Ivanyshyn (2024) analysed the legal frameworks governing the provision of social services in the European Union (EU) member states. The study highlighted the diversity of legal

acts and practices, which leads to inconsistencies in the provision of and access to social services. The author called for the harmonisation of regulations to improve the efficiency and quality of social services.

The study by I.O. Nalyvaiko (2024) identified the historical development of social standards in Ukrainian legislation. The study highlighted the current problems of effective implementation of these standards in the context of socio-economic changes. The author examined possible options for reforms that would strengthen the legal mechanisms for ensuring social rights. Overall, the study necessitated a comprehensive review of the current state policy to align it with current needs and international standards. L. Proserpio (2022) revealed how the public, including student unions and international organisations, reformed educational activities to create an independent education system. Through surveys, the study demonstrated the emergence of alternative educational systems in the face of political instability, emphasising the importance of public participation. While S.T.M. Htun and S. Mortensen (2023), investigated barriers to access to higher education, including the problem of non-recognition of students' qualifications obtained in non-state educational institutions. The emphasis was placed on the dependence of Myanmar students on alternative ways of obtaining higher education (outside the control of the military), such as the General Educational Development (GED) programme.

In general, the study of the legal issues of social protection of students under martial law is rather limited, despite the relevance of this issue. Despite the ongoing discussions on social protection during martial law, there is still a significant gap in research that directly addresses the legal issues faced by students. Previous studies have focused mainly on more general issues of social protection or specific categories of vulnerable groups in society. However, the specifics of the so-

cial security situation of students under martial law are understudied.

The study aimed to identify problematic legal aspects of social protection of students during armed conflict, based on the experience of Myanmar and Ukraine, and to analyse the legislation of the states to ensure this protection. The primary objectives of the study were:

- to conduct a critical analysis of conceptual approaches to the definition of social protection of students in the context of armed conflicts and martial law;
- to analyse international and Ukrainian legal acts that establish the state's obligation to provide social protection to the population, including provisions relating to students;
- to study the legal issues of social protection of students during martial law, using the military experience of Ukraine and Myanmar.

Materials and Methods

To study the legal issues of social protection of students during martial law, the experience of Ukraine and Myanmar was primarily used. These countries were chosen due to the presence of a military conflict that has been going on in the countries for several years (in Ukraine since 2022 and in Myanmar since 2021). The experience of these countries was used due to the situation with growing problems of social protection of students in Ukraine.

In the course of the study, the following legal acts of Ukraine were analysed: Law of Ukraine No. 1556-VII "On Higher Education" (2014); Law of Ukraine No. 2671-VIII "On Social Services" (2019); Constitution of Ukraine (1996); Resolutions of the Cabinet of Ministers of Ukraine No. 576 (2019), No. 294 (2022), No. 560, (2022); as well as Draft of the Law of Ukraine No. 10399 "On Amendments to Certain Laws of Ukraine on Financing Higher Education and Providing State Targeted Support to its Applicants" (2024). The

analysis of amendments to legal acts and draft laws after the introduction of martial law was substantial for the study.

The study employed the analytical method to study international acts on social protection of students, in particular, under martial law: Universal Declaration of Human Rights (1948); International Covenant on Economic, Social and Cultural Rights (1976); Convention on the Rights of Persons with Disabilities (2008); Convention on the Rights of the Child (1990); Convention on the Elimination of All Forms of Discrimination against Women New York (1979); C102 – Social Security (Minimum Standards) Convention (1952); R202 – Social Protection Floors Recommendation (2012), Constitution of the Republic of the Union of Myanmar (2008); The Social Security Law of Myanmar (2012), etc.

During the study of legal acts, they were compared with each other, especially concerning the definition of certain concepts (social protection), their tasks and goals, and the purpose of certain legislation. A systematic comparison of Ukrainian and international legislation was used to correlate the existing legal norms regulating the social protection of the population (in particular, social security, social assistance, etc.). A particular place among the general theoretical methods and research techniques used in the study was occupied by the historical method. It was used to trace the development of the legal framework in the field of social protection.

Results

The concept of social protection in science and law. Social protection is a set of various public and private sector measures designed to assist low-income individuals. It protects vulnerable segments of society (disabled people, pensioners, the unemployed, single mothers, children growing up without parents) and marginalised groups (homeless people, refugees, etc.) from the

threat of losing their livelihoods and promotes better social status (Marwala & Mpedi, 2024). The main objective of such measures is to reduce the social and economic vulnerability of the poor, disadvantaged and marginalised (Devereux & Sabates-Wheeler, 2004).

The main objectives of this protection are: 1) to overcome poverty among the population, which, in turn, implies the allocation of funds (mostly from the state budget) to provide poor and low-income people with the most necessities for existence; 2) to support vulnerable categories of the population, including children, people with disabilities and women, by creating social resources and prospects available to them. This will contribute to social cohesion and create equal opportunities for different segments of the population; 3) protecting members of vulnerable social groups from the dangers that lead to impoverishment, including the possibility of a certain emergency (in particular, martial law or natural disaster), illness or job loss. This will help ready such groups for negative changes and partially protect them from their consequences (Carter *et al.*, 2019); 4) maintaining economic stability in the country, which involves providing social assistance during emergencies so that the population can continue to be active participants in market relations. As a result, the conditions for economic stability are established; 5) guaranteeing equality of the population, in particular, by providing financial support to vulnerable groups, the state contributes to improving their living standards and creating equal opportunities. For example, in the field of education, the state provides free education to persons belonging to vulnerable groups, as well as other benefits (scholarships for students, free accommodation in dormitories, etc.) This, in turn, creates equal opportunities, in this case, the opportunity to study in educational institutions (Social protection, n.d.); 6) alignment with broader development goals, such as the

Sustainable Development Goals (SDG). This approach is aimed at eradicating poverty, combating gender inequality and discrimination in general, creating decent working conditions, etc. (Mishra *et al.*, 2024).

Through the operation of social protection programmes, the state develops the capacity to cope with the consequences of crises and strengthens its ability to respond quickly and effectively. Such protection manages emergencies in a sustainable and controlled manner. It is also effective in the context of fragility and protracted crises, as it aims to ensure that affected populations are supported (Social Protection, n.d.).

Social protection of the population is an important component of state policy and has a direct impact on the spheres of public life. For instance, the most common categories of people receiving social assistance include people with illnesses and disabilities, mothers, the unemployed, workers injured at work, and dependents, etc. Social assistance to large families and children without parents plays an important role. They are unable to provide themselves with the conditions for a normal existence and are dependent on social services.

To ensure effective social protection, there are implementation methods, including social payments, social assistance, social insurance, and a secure labour market (De Neubourg *et al.*, 2021). Thus, social payments involve the provision of funds by the state in the form of social protection, social assistance, and other forms of social insurance. They are granted in the event of certain circumstances that negatively affect the financial situation of the population. This, in turn, can increase the consumption of their resources or a reduction in their income (An Explanation of social..., 2013).

Social benefits are provided in the following circumstances: reduced income in case of birth of a child or illness; support of disabled persons, children, elderly relatives, or spouses; unemployment (forced unemployment or resignation);

need for medical care; lack of housing; death of a person who was responsible for the financial support of another person (for instance, death of the child's parents); lack of financial opportunity for education (provision of state places in universities (free education) and scholarships) (An explanation of social..., 2013; Ferraz & Mantilla, 2023).

Social assistance involves the provision of funds by the state to the population as a whole and certain category of the population (pensioners, disabled, etc.). Such assistance can be provided through direct cash transfers to people in need; food stamps to cover basic living needs; and assistance in resolving housing issues (e.g., subsidies or other benefits for low-income families to buy housing). Another social protection measure is social insurance, which is characterised by systematic contributions from employers and employees. This is done to ensure a secure financial situation in the event of unforeseen circumstances (unemployment, illness, and pension calculation) (Pennings & Vonk, 2023).

For instance, unemployment benefits are provided to people who lost a job due to external factors. The prerequisite is that the person in question is actively seeking employment and can work. This category of persons is entitled to payments ranging from 50-75% of their basic salary, and such payments are based on previous insurance contributions made by the employer or employee (or both).

An important measure is also to ensure a stable and secure labour market, which directly affects the standard of living of citizens as it creates safe working conditions. Labour market security is ensured by the development of a regulatory framework that contains provisions defining the minimum wage and ways to protect labour relations (Gogsadze, 2022). In general, the process of implementing a social protection system is complex and involves a wide range of instruments. Their combination results in an effective model of

protection for the population that is implemented throughout their lives.

Legal regulation of social protection, particularly the category of students under martial law. Social protection is an integral part of ensuring fundamental human rights, which implies the obligation of states to create appropriate conditions for effective regulation of the provision of social assistance. The issue of social protection is enshrined at both the national and international levels and is provided for in human rights regulations. Despite the large number of legal acts regulating social protection in general, as well as certain specific groups (disabled, children, mothers, women subject to discrimination, etc.), there are no specific acts regulating such protection of students (only those that partially do so).

The same applies to the regulation of social protection of students during martial law, however, given the wide range of persons belonging to the category of students, it is necessary to consider this issue in a general context. This is determined by the fact that higher education students may come from different strata of society, including children, mothers, disabled people, etc. This is evidenced by paragraph 4 of part 1 of Article 4 of the Law of Ukraine No. 1556-VII "On Higher Education" (2014), which establishes the equality of persons in obtaining higher education and prohibits any restrictions. The martial law, in turn, increases the vulnerability of the population and leads to an increased need for social assistance for more people.

Thus, following the main legal acts – the Universal Declaration of Human Rights (1948), namely Article 22, everyone has the right to expect to receive social protection and to enjoy social, cultural and economic rights. These rights are implemented within the framework of state and international measures and are integral elements of a person's dignified and free life. While Article 25 of the Universal Declaration of Human

Rights (1948) stipulates that everyone has the right to a life of basic conditions for the maintenance of health, this also includes the right to social services. These services cover their use in cases of disability or illness, unemployment, old age, widowhood, etc. This Article also establishes the exclusive right to social protection for mothers and children.

Another, equally important, normative act ensuring social protection is the International Covenant on Economic, Social and Cultural Rights (1976). Article 9 stipulates that States Parties to the Covenant must affirm the right of the individual to the protection of social needs, which also includes the right to social insurance. According to Article 10, paragraph 2, mothers who were employed before the birth of a child should be granted paid leave and appropriate social benefits (which again indicates the vulnerability of this category of persons and the need for assistance). The Covenant also enshrines the obligation of states to implement such social security rights as the right to an adequate standard of living (Article 11), the right to health (Article 12), and the right to education (Article 13).

Other key international instruments that guarantee the right to social protection for vulnerable groups in society include the Convention on the Rights of Persons with Disabilities (2008) (Article 28); Convention on the Rights of the Child (1990) (Article 26); and Convention on the Elimination of All Forms of Discrimination against Women (1979) (Article 11). These conventions identify three groups of the population that are most vulnerable and require special support in ensuring their social rights (persons with disabilities, children, and women subject to gender discrimination).

An important role in the legal regulation of various aspects of social protection is performed by the legal acts of the International Labour Organisation (hereinafter – ILO), which

has developed a comprehensive system of social protection. C102 – Social Security (Minimum Standards) Convention (1952) defines minimum standards for nine areas of social security, including medical care, temporary disability (sickness), unemployment benefits, pension benefits, compensation for work-related injuries, family assistance, maternity benefits, disability benefits, and survivors' benefits. R202 – Social Protection Floors Recommendation (2012), in turn, laid the foundation for universal social protection. This is done by establishing minimum criteria for the scope of assistance, the number of payments and the principles of public administration (Article 1).

The main provision for ensuring social protection of students is the guarantee of the right to education in certain cases (in case of disability or for children from low-income families) this means providing free education in higher education institutions. This right is enshrined in Article 13(2c) of the International Covenant on Economic, Social and Cultural Rights (1976), and establishes the need for states parties to the Covenant to ensure equal accessibility for future students. It emphasises the need to account for their abilities, as well as the importance of introducing free education for this level of education (similar statements are contained in Article 26 of the Universal Declaration of Human Rights (1948), Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women New York (1979), Article 24 of the Convention on the Rights of Persons with Disabilities (2008), and Article 28 of the Convention on the Rights of the Child (1990).

These international legal acts do not contain specific provisions on the possibility of derogation from the obligations assumed by the state parties to these acts. This indicates that states are obliged to provide social protection to the population, including students, even in an emergency (martial law). In general, international law emphasises the

importance of ensuring the right to education as a fundamental human right and the obligation of states to implement this right at all times. However, at the same time, Articles 3 and 22 of the Universal Declaration of Human Rights (1948) affirm the duty of the state to protect and ensure the security of citizens, which also applies to the period of martial law. Thus, the obligation to provide education to some extent contradicts the state's duty to ensure the security of citizens, because, during martial law, there is always danger, which negatively affects the educational process.

The issue of social protection in Myanmar remains relevant given the military conflict in the country. Article 26b of the Constitution of the Republic of the Union of Myanmar (2008) establishes the state's obligation to provide social security and protection to such a category of citizens as civil servants. In particular, the Union must create conditions to provide them with housing, food, clothing, and maternity benefits for married women (who must be civil servants), and improve the welfare of pensioners. However, no provision in the Myanmar Constitution specifically states a similar obligation of the state to provide social protection and welfare for all citizens.

Article 28 of the Constitution of the Republic of the Union of Myanmar (2008) addresses to some extent the social protection of citizens, establishing the Union's obligation to develop the education system and promote public health. With this provision, the state introduced compulsory and free primary education and engaged the public in education reform. In particular, the provisions on social protection include Article 31, which provides for the reduction of unemployment in Myanmar. Article 32 establishes the state's obligation to provide social benefits to vulnerable groups (including orphans, mothers and children, disabled persons (including those who were members of the Defence Service), pensioners, and children of fallen soldiers).

The Social Security Law of Myanmar (2012) is the key legal act regulating social security. Article 3 sets out its main objectives, which include providing social benefits to workers and their families, guaranteeing healthcare, and promoting welfare and social equality. Although the Law does not contain specific provisions for the social protection of students, the content of its provisions includes this category of population. Part b of Article 13 refers to the provision of social assistance to families, which also includes a scholarship for education. The provision of state scholarships depends on the level of income in the family, except in the case of primary education – Article 28 of the Constitution of the Republic of the Union of Myanmar (2008).

As a state party to the Convention on the Rights of the Child (1990), Myanmar is responsible for compliance with Article 26 of the Convention, which provides for the social protection of the child (including students). This, in turn, obliges the state to ensure the social protection of students (minors, according to this Convention) in any situation, including martial law.

Following the Martial Law Order 3/2021 in Myanmar, all power was transferred to the military, which effectively suspended the laws of the state, enabling violations of the rights of Myanmar's people without responsibility (Myanmar: Martial law..., 2021). Thus, along with the introduction of martial law, regulations related to the fundamental human right to social protection were suspended or severely restricted (Radio Free Asia, 2023).

Given the martial law in Ukraine, which was imposed since the beginning of the full-scale invasion in 2022, the state has faced the problem of social security for students. This problem concerns not only the provision of the educational process but also the system of payments (scholarships) and benefits (Ihnatyuk *et al.*, 2023). Thus, the main normative act guaranteeing social

protection of Ukrainian citizens is the Constitution of Ukraine (1996). Article 46 establishes the right of the population of the state to social security in old age, in case of illness, disability, loss of breadwinner and in other circumstances determined by law. This provision creates a legal basis for the implementation of social protection programmes.

Law of Ukraine No. 2671-VIII "On Social Services" (2019) regulates the provision of social services aimed at overcoming difficult life circumstances. Following Article 1, paragraph 1, clause 15 of the Law, difficult life circumstances imply the presence of negative factors that impede the normal existence and development of an individual or the family and which are unable to be overcome independently. In particular, these factors include homelessness; old age; disability; lack of mobility or memory problems; unemployment; illnesses that interfere with normal existence; poverty; domestic violence; problems with a child's behaviour after a parental divorce; gender-based violence; child abuse; the presence of a human trafficking situation; damage caused by an emergency or natural disaster; loss of relationships with people (during imprisonment).

In general, the idea of hardship is quite similar to the concept of vulnerable groups in society, as both concepts imply circumstances that put people in a position of dependence on the state and other actors (Boyko, 2023). During martial law in Ukraine, most of the national population faces challenging life circumstances. Since the beginning of the full-scale armed conflict, the number of internally displaced persons (IDPs) has been growing. In particular, as a result of rocket attacks, a large number of people lost their homes and suffered significant health damage, etc. This, in turn, has highlighted the urgency of the problem of social protection of citizens.

Since 2022, the Ministry of Social Policy has introduced recommendations for ensuring the social protection of Ukrainian citizens during

martial law. These recommendations were aimed to simplify the procedure for providing social assistance by authorised state bodies. It also reduced the time for decision-making on this issue to one day after receiving the relevant application (Social services in times of war..., 2023). The adoption of Resolution of the Cabinet of Ministers of Ukraine No. 294 (2022) amended Resolution of the Cabinet of Ministers of Ukraine No. 576 (2019) and established the urgency of providing the following social services: home care; inpatient care; palliative care; supported accommodation. The Resolution of the Cabinet of Ministers of Ukraine No. 560 (2022) made certain clarifications that the provision of these services on an emergency basis is possible in case of a threat to the health or life of an individual during martial law or another emergency.

Another legal act that to some extent regulates the issue of social protection of students in Ukraine is the Law of Ukraine No. 1556-VII (2013). Article 61(2)(1) of this Law defines a student as a person who has entered a higher education institution to obtain a junior bachelor's or master's degree. Article 3(3)(8) of the Law states that the state policy in the field of education is ensured by providing students with appropriate benefits and other types of social security following the Law. Article 4 provides for the right of every Ukrainian citizen to receive free education in higher education institutions on a competitive basis. Article 4, paragraph 7, defines the state's obligation to implement the right to social support for those who need it. Part 15 of Article 44 of the Law provides for the obligation to provide social support to those students who have been recognised as victims of hostilities in the period from 2014 (including the events of the Revolution of Dignity and Euromaidan) until the end of martial law. Such support should be provided until the completion of studies at any degree level, but before such persons reach the age of 23. Such

support is provided in the form of scholarships or full or partial payment of tuition fees; free accommodation in dormitories; free books, Internet access, and other learning tools; long-term loans, etc.

In general, since the introduction of martial law in Ukraine, the government has expanded the powers of local authorities and prioritised the provision of social assistance to the most vulnerable groups of the population. The adoption of the Law of Ukraine "On Social Services" (2019) and the introduction of further clarifying provisions improved the system of legal regulation of social protection of citizens under martial law. However, there is still a problem with the regulation of this issue directly concerning such a category as students, and social security concerning education in general. Since the Law of Ukraine "On Higher Education" (2014) contains norms only regarding the basic provisions on the provision of social services to students.

Legal issues of social protection of students during martial law in Ukraine and Myanmar. The right to education is one of the social rights that must be provided and protected by the state both in times of peace and in times of war. However, since the beginning of the full-scale invasion of Ukraine by the Russian armed forces, there has been a significant problem with the enforcement of this right. This concerns the systematic rocket attacks on higher education institutions (69 higher education institutions were damaged during martial law) (Higher education in the time of war..., 2023). This has not only affected the quality of education and the guarantee of educational services to students but also the state's provision of fundamental human rights (the right to life and health, as well as their protection).

Kharkiv higher education institutions were particularly affected, including State Biotechnology University, Ukrainian State University of Railway Transport, Kharkiv National University of Civil Engineering and Architecture, Ukrainian

Engineering and Pedagogical Academy, Kharkiv Institute of Physics and Technology, National Academy of Public Administration under the President of Ukraine, and Karazin Kharkiv National University, among others. Other universities in Ukrainian cities have also been subjected to similar attacks, which have caused a major problem in the provision of educational services to students. Some of the universities were forced to move their actual locations to other cities in the country (e.g. Karazin University). This, in turn, simultaneously ensured the relative safety of students and caused a lot of problems in the field of their social security (Analytical Centre "Observatory of Democracy", n.d.).

Such problems included the provision of accommodation (dormitories) for students who lived in other areas, as the relocation of departments or institutes of higher education institutions made it impossible to provide them with accommodation (there were no suitable buildings, or they were already occupied). Such destruction and displacement significantly affected the provision of scholarships and other benefits by the state. In addition, because of the hostilities, many students were forced to leave the cities where they were studying, as it threatened their safety. This has led to the problem of temporary suspension and resumption of studies, as many universities in Ukraine have established rules for providing documents on previous places of study and relevant achievements. Some students lost their documents due to the bombing of Ukrainian cities, which became an obstacle to resuming their studies in the programmes they had been enrolled in. Thus, students were forced to re-enter higher education institutions for the same or different specialities.

Another global challenge is the inconsistency of the legal and regulatory framework in the education sector under martial law in Ukraine. While the Ministry of Education and Science of Ukraine

introduced several regulations to help maintain the continuity of the educational process, they do not clearly define the rights and mechanisms for protecting students during this period. This applies to the changes introduced in March 2022, which provided for the preservation of jobs for education workers, but did not consider the needs of students who were unable to attend classes due to a change of place of study (Nazarenko *et al.*, 2022).

Significant shortcomings were also observed in the protection of the labour rights of student interns. Current legislation does not sufficiently protect their rights to prevent exploitation and the risk of unemployment during this period. In addition, due to the hostilities, many citizens have experienced financial difficulties, which have further exacerbated the situation with student employment (reduction in the number of jobs) (Vakariuk *et al.*, 2023). A serious problem is a significant reduction in social assistance to students, including internally displaced students, as a result of the hostilities in Ukraine. Thus, many educational scholarship programs were cut or closed altogether. This resulted in students losing most of the financial assistance they needed to continue their studies. This issue was especially relevant for vulnerable groups in society (those affected by displacement or loss of income due to the war) (Chmeliuk, 2024).

The adoption of the Draft Law of Ukraine No. 10399 (2024) will be significant in ensuring the social protection of students. Its main feature is the introduction of amendments to the Law of Ukraine "On Higher Education" (2014), namely the absence of part 1 of Article 72 of the Law, which provides for minimum volumes of state orders (it is only mentioned that the Ministry of Economy of Ukraine forms such volumes). This, in turn, will eliminate public procurement, which violates the provisions of the Constitution of Ukraine (1996). Thus, the Draft of the Law of

Ukraine No. 10399 (2024) replaces the guarantee of state order with the introduction of a grant system, which significantly reduces the opportunities for future students to receive free education (Samsonenko, 2024).

The mentioned Draft of the Law of Ukraine No. 10399 (2024) will not only reduce the number of state-funded places for studying in higher education institutions but also reduce the flow of students (in particular, children from disadvantaged families may lose the opportunity to receive higher education due to lack of funds). Given the martial law and the consequences of the shelling, more and more citizens are losing their homes and jobs, which is weakening their financial situation. Thus, this educational reform violates the constitutional rights of citizens, namely the right to accessible and free education – Article 53 of the Constitution of Ukraine (1996).

The military experience of Myanmar can be contrasted with the social protection of students in Ukraine. Thus, on 1 February 2021, a military coup occurred in Myanmar, which resulted in the detention of key political figures (including Aung San Suu Kyi) and the coming to power of military officials led by the Council of State Administration (hereinafter – the Council) (McKenna, 2024). After the people of the state began to protest massively against the state changes and the de facto martial law, on 15 March 2021, the Council imposed martial law (as of March 2024, it was introduced in 61 municipalities of Myanmar) (ASIA/MYANMAR – Martial..., 2024). This was done so that the junta (the authoritarian governing body, in this case, the Council) could establish order and stop those who opposed the state change (the military takeover) (Saw, 2024).

Thein Tun Oo (Executive Director of the Theyninga Institute for Strategic Studies) noted that during the fight against the insurgency, the military reacted with as much restraint as possible and sometimes even avoided the use of force.

As such, rebels had a chance to develop a peaceful solution to the conflict, while hoping that they would support them during the elections. Despite their hopes, however, the insurgents did not back down. Thein Tun Oo argued that such resistance can be likened to an ulcer that never heals over time. Furthermore, martial law was imposed to suppress the uprising of citizens who were against the coup and to ensure peace and security in the country (Radio Free Asia, 2023). Thus, the state is dominated by an authoritarian regime established by the military, which denies any manifestations of negative attitudes and disrespect by Myanmar citizens.

After the military coup d'état, more than 300,000 teachers and other employees of educational institutions joined the militia. This resulted in the dismissal by the Council of a large number of people involved in the militia, which led to a shortage of specialists in Myanmar's educational institutions. In particular, the number of pupils and students decreased, as many were against studying under military control (International Trade Administration, 2023; Shahrudin & Fauziah, 2024). For instance, in 2021, the Council closed higher education institutions and carried out large-scale arrests of teachers and expulsions of students involved in opposition to the government (in 2022, they reopened, but very few students returned) (Rodriguez, 2023). This forced closure of educational institutions violates the fundamental human right to education and is completely contrary to the notion of social protection that the state authorities are supposed to provide.

In parallel, the people (including trade unions, international organisations, scholars invited from abroad, ethnic nationality education departments, etc.) began to develop and implement their educational system, which proved to be both critical and comprehensive (South *et al.*, 2024). Most importantly, they were strikingly different

from the military nationalism that was promoted in schools and higher education institutions. In general, the social protection of Myanmar's students is largely dependent on those responsible for implementing the revamped education system rather than on government agencies (Wong & Kareng, 2024). However, the only manifestation of social protection by the state is the enrolment of students in higher public education institutions, which is funded by the state budget and depends on the results of the national exam (which accounts for about 30% of students) (Ei Phyu & Siriwato, 2022). A substantial problem of social protection for students in Myanmar is the difficult accessibility of higher education. This applies to educational institutions that are not subject to state authority, which completely denies student dissent. Those educational institutions that are not controlled by the military have too expensive tuition fees that are unaffordable for most of the population (Aung, 2024).

Furthermore, the report "Schools Under Attack: Challenges to the right to education in

Southeast Burma" (Karen Human Rights Group, 2024), identified the following obstacles to access to education in Myanmar: 1) poor security in educational institutions, which causes injuries and deaths of students and pupils, as well as damage to educational facilities; 2) the Council's interference in the public education system, which has led to confrontation between educational systems; 3) cases of violence against guardians and financial difficulties in families; and 4) protracted forced displacement of rural residents.

In general, Myanmar's military authorities do not provide significant legal protection (including social protection), as the state authorities have completely suspended *habeas corpus* (a constitutional guarantee aimed at protecting human life and liberty (for example, a guarantee against unlawful arrest)) and other legal remedies. Thus, during the period of martial law, Myanmar's state authorities retreated from their obligations not only to the international community but also directly to their citizens (ICJ, 2022; Chambers & Cheesman, 2024).

Table 1. Statistics on student welfare in Ukraine and Myanmar

Metric	Ukraine	Myanmar
Number of destroyed educational institutions	3,798 institutions (365 of which were destroyed)	146 educational institutions were fully destroyed
Lack of access to the educational process	~30% of children did not have access to education	About 12 million children by 2022 and 5 million by 2023
Access to the educational process for internally displaced persons (hereinafter – IDPs)	86% of children in urban areas, 80% in rural areas	Limited access due to the closure of a large number of educational institutions
Form of study	15% full-time, 33% distance learning, 51% mixed	15% formal state education (run by the military (similar to full-time education)); 30% alternative education systems (curricula created by Myanmar NGOs or ethnic armed organisations; 25% non-formal education (moving the learning process to safe places); ~10% distance learning
State funding of education	UAH 290.76 billion (6.2% of GDP) in 2022	Unknown

Source: compiled by the author based on ICJ (2022), Vox Populi Agency (2024), Karen Human Rights Group (2024), Radio Free Asia (2024), Khine (2024)

Table 1 shows statistics on student welfare under martial law in Ukraine and Myanmar. Based

on the data in Table 1, the damage to educational institutions in Ukraine is much higher than in

Myanmar, although a significant gap in Myanmar's state monitoring of access to education is notable. This is determined by the lack of specific data on this issue, as well as the fact that the state is exercised by the military, which has been targeting educational institutions and students. Another reason for this absence is that a large number of educational institutions are closed, and education is provided in several forms, making it difficult to calculate the exact number of people deprived of access to education.

Given the growing legal challenges faced by students in their social security during martial law in Ukraine and Myanmar, there is a need to improve the system of ensuring their legal right to social protection. International practice plays an important role in this, namely the legal framework that is binding on both countries. For example, the Convention on the Rights of the Child (1990) establishes a general rule regarding the obligation of states to ensure the right to education for their citizens, during states of emergency and martial law. Thus, the provisions of the Convention point to the importance of continuous attendance at educational institutions and equal access to education (Articles 28 and 29 of the Convention). At the same time, ILO standards (Humblet *et al.*, 2001) contain recommendations on the protection of the rights of workers, in particular, student interns. This applies to those who are trainees or part-time workers, and such protection is crucial in preventing the exploitation of their labour in conditions where employment opportunities are reduced due to armed conflict.

The Guiding Principles on Business and Human Rights (UNHR, 2011) are particularly relevant to the protection of the right to social security, which, in turn, stipulate those states must protect the rights of people within their jurisdiction (including access to education under martial law). Principle 4 states that states should take appropriate precautions to prevent human rights

abuses by third parties, including business enterprises and armed groups. This principle emphasises the need for state intervention to protect educational institutions from military attacks and to ensure that students can study safely under martial law. In Ukraine, however, this principle is not fulfilled, given the damage to a significant number of educational institutions and the constant threat of shelling.

According to international standards, possible ways to improve the social protection system in both Ukraine and Myanmar are as follows: 1) firstly, strengthening the legal framework of the states clearly defining the rights of students (including during martial law), by revising the existing legal acts regulating education. The main provisions that should be reviewed are access to education, defining specific documents required for admission to higher education institutions during martial law and receiving financial support; 2) improving the system of providing financial assistance to students, particularly those affected by military operations; 3) ensuring that states provide a special protective mechanism for education during martial law. For instance, the creation of bodies or groups at the state level that will deal with issues of ensuring the continuity of the educational process; 4) creating proper and uninterrupted access to education in the distance mode. This includes the creation of a single learning platform that will contain the materials passed (lectures and practice lessons), as well as be easy to use and ensure stability in learning; 5) consideration of possible crises during the educational process under martial law. This is directly related to access to education, which should be provided in difficult circumstances; 6) international organisations such as the ILO, the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the United Nations Children's Fund (UNICEF), etc. are important for ensuring social protection of students

under martial law. This will help to develop effective strategies to restore state provision of educational services in the regions most affected by the war, etc.

Table 2. Comparison of legal issues of social protection of students during martial law in Ukraine and Myanmar

The legal problem	Ukraine	Myanmar
Access to educational services	Limited due to missile attacks, which interfere with education in educational institutions, and systematic power outages hinder distance learning.	Limited, due to the control of state educational institutions by the military. Shelling and bombardment prevent safe learning in schools. The absence or interruption of the Internet does not allow for remote training.
Legal and regulatory framework	The lack of clear provisions regulating the social protection of students under martial law concerns the issues of necessary documents for admission to a university; financial support for students affected by the war and access to education.	The unstable nature of the state's legal acts, including frequent amendments to legislation that are difficult for civilians to follow; the lack of a unified mechanism for social security for students, etc.
Ensuring the social protection of students	State budget cuts and cancellation of social benefits for IDPs; lack of free places in dormitories; the problem of suspension and resumption of studies due to the departure of students from the occupied territories; and a decrease in the number of jobs, which prevents students from finding employment.	The closure of educational institutions by the military authorities; lack of financial support for students from non-state higher education institutions; low employment rates; harassment and repression of students.

Source: compiled by the author based on Y. Nazarenko *et al.* (2022), L. Vakariuk *et al.* (2023), K. Chmeliuk (2024)

Table 2 shows the main legal issues of social protection of students in the context of the military conflict in Myanmar and Ukraine. Comparing the legal issues, the legal framework of Ukraine provides guarantees of access to education, including distance education, but in practice, there is a reduction in the amount of state support. By cancelling payments for internally displaced students, the state has put them in a serious problem of access to education. In addition, access to educational services in Ukraine has become more difficult due to power and internet outages. In Myanmar, due to the economic crisis and lack of social support, students are forced to combine their studies and job search (which is extremely difficult due to the low labour market). This causes many students being unable to continue their studies due to financial difficulties.

In general, these problems are quite similar in both countries, given the shelling and bombing of educational institutions, limited access to

educational services, insufficient state funding, and the lack of clear provisions in the legislation on the social protection of students during martial law. Nevertheless, the situation with social protection in Myanmar is much more complicated due to the violent seizure of state power by the military, which not only terrorises the population but also controls all spheres of life (including education). This demonstrates the urgency of making significant changes to the social policy of student protection.

Comparing the implementation of social protection for students in Ukraine and Myanmar during martial law, unlike Myanmar, Ukraine implements such protection. In Myanmar, the military authorities almost entirely abandoned the provision of legal protection of citizens, including social aspects (except for the provision of free higher education in state institutions under military control). In Ukraine, the social protection of students during martial law became quite low

compared to the pre-war situation. The state has reduced the provision of financial aid to students, the legislation is rather unclear, and possible educational reforms (if the draft law is adopted) will lead to the cancellation of the provisions on the minimum number of budget places, the need for IDPs to provide documents from previous educational institutions that were destroyed (which led to the destruction of relevant documents) makes it impossible to obtain higher education, etc. Nevertheless, the Ukrainian government has not abandoned fundamental human rights and their protection, as the Myanmar government has done.

Discussion

The issues of social protection of students during martial law in Ukraine and Myanmar are becoming increasingly relevant in the academic discourse. Studies have shown that the declaration of martial law has a significant impact on the legislative framework governing social rights, which often entails restrictions on fundamental human rights and freedoms (Gusarov *et al.*, 2023). In general, the analysed studies highlighted contradictions between existing legal norms, which necessitates the creation of special legal regulations (Nornes, 2022). Despite the absence of studies directly comparing the legal issues of social protection in Ukraine and Myanmar, the data comparison concluded that in both countries there is a need to create a regulatory framework that accounts for the vulnerability of the population (including students) in wartime. In addition, comparative studies between Ukraine and Myanmar reveal different approaches to protecting students' rights in conflict, highlighting the need for tailored legal solutions that consider the specific aspects of vulnerability faced by students in these contexts. The extension of martial law in 2024 in both countries highlights the importance of developing an effective legal protection mechanism to address the challenges of martial law. This will

help to guarantee equal access to social services for vulnerable segments of society.

R. Sabates-Wheeler *et al.* (2024) in their study considered the development of the social protection system in the context of global crises. The study highlighted the need to ensure the adaptability and sustainability of this system. The authors noted that in times of uncertainty, classical social protection systems are not always effective. This, in turn, necessitates the introduction of non-standard approaches that consider the needs of population groups suffering from the consequences of crises. In addition, the researchers stressed the importance of developing a comprehensive strategy that combines economic, social and political factors to provide more effective support to vulnerable segments of society during emergencies.

Comparing the study by R. Sabates-Wheeler *et al.* (2024) with the present study, they are aimed at studying the problems arising from emergencies. R. Sabates-Wheeler *et al.* (2024) addressed the issues of global uncertainty, while this study directly addressed the legal issues of social protection of students under martial law. Both studies emphasise the need for social protection measures by state authorities. However, this study focuses on the importance of implementing effective legislation for the social protection of students during wartime. It also analyses the legal problems of ensuring such protection and the role of legislation in guaranteeing the social rights of students by the state. In addition, while R. Sabates-Wheeler *et al.* (2024) advocated for a comprehensive approach to social protection, this study emphasised the specificity of legal provisions and their shortcomings in meeting the needs of students in the context of martial law.

E. Aurino and S. Giunti (2021) addressed the impact of emergencies on the development of children (who are also most students), as well as the effectiveness of the social protection system.

The authors highlighted significant gaps in the evidence on how social protection systems can be improved to help children during emergencies (particularly in low- and middle-income countries). The study emphasises the need to implement effective measures directly in child welfare. It also highlights the fact that despite the current legal regulation of this issue, there are problems with resolving crises faced by children in a state of emergency.

Thus, both studies highlight the importance of providing social protection by the state during emergencies, including martial law. However, the study by E. Aurino and S. Giunti (2021) addressed the problem of social protection of children in general, in various crises. Whereas this study identified a specific group of children – students (this category can include both children and adults) and aimed to analyse the problems of their social protection during martial law on the example of the experience of Ukraine and Myanmar. This study highlighted the need for the state to provide an effective legal framework for such protection of students to overcome current legal problems and uncertainties.

A. Banerjee *et al.* (2023) examined the main problems and challenges of providing social protection in developing countries. In particular, the authors emphasised the need to create effective social safety nets to reduce the effects of poverty and discrimination, especially in emergencies. The researchers pointed out that despite the existence of social protection and assistance programmes, their implementation systematically faces several problems. These include insufficient state funding and inefficiency of the state government in general, which, in turn, hinders the social protection of vulnerable segments of society.

The study by A. Banerjee *et al.* (2023) is broader, given that the researchers examined social protection for different demographic groups in developing countries. Whereas this study is

aimed directly at identifying legal issues of social protection of students during martial law. However, this study analysed the problems of Ukraine and Myanmar, which are also developing countries, and students are also a separate category of society. Despite the differences in context and scope, both studies point to the importance of social protection of the state during the state of emergency and martial law.

The study by K.P. Htut *et al.* (2022) identified the challenges faced by Myanmar's higher education system during the COVID-19 pandemic, military coup, and ongoing conflict. The authors demonstrate how these crises have exacerbated pre-existing problems with access to and quality of education. This caused significant disruptions in the academic continuity and social well-being of students. The study highlighted the need for major reforms in Myanmar's higher education system, including the provision of social protection for students.

Both studies analysed the effects of political instability (in particular, martial law) on the higher education system. However, while K.P. Htut *et al.* (2022) addressed the broader aspects of reforming higher education in Myanmar amidst multiple crises, this study directly analysed the analysis of the legal framework and problems of social protection of students under martial law. In addition, the study by K.K.P. Htut *et al.* (2022) addressed access to education and its quality. Instead, this study delves into the legal protection and rights of students, highlighting various aspects of social protection under martial law. Authors analysed the discrepancies between the available evidence on social protection measures and actions taken in a global emergency. In particular, the authors highlighted the reason for the ineffectiveness of these measures. The researchers emphasised that despite the existence of legal regulation of social protection, with the onset of crises (introduction of martial law), many

vulnerable segments of society remain without proper social security. The study points to the need to create effective mechanisms for the implementation of social protection, which will ensure this implementation in full.

E.L. Basterra *et al.* (2023) addressed a more global perspective, also discussing systemic issues that significantly impact the social protection of international society. This study focuses on the legal framework and issues of student social protection in two specific countries (Ukraine and Myanmar). This study identified the legal challenges faced by students during martial law. Overall, both studies highlighted the need for effective social protection in times of global crises and highlighted gaps in its implementation.

The martial law in Ukraine has led to large-scale human rights violations (including against students), and the state authorities are trying to counteract this, even in the face of a lack of financial resources and the systematic destruction of educational institutions. Similarly, the repressive measures of Myanmar's military regime have exacerbated the vulnerability of the population, impeding the enjoyment of fundamental rights and access to education. In particular, the analysed studies have shown that to overcome these problems, both countries should prioritise reforming the legal system and strengthening social protection. In addition, cooperation with international organisations and strict adherence to international standards are important to ensure the protection of students' rights and improve living standards in times of crisis.

Conclusions

The study defined the concept and content of social protection of the population, as well as the concept of such a category of higher education students as students. The analysis of the international legal framework and laws of Ukraine on the protection of the social rights of students and the population

(including vulnerable groups of society) under martial law was a substantial part of the study.

Thus, social protection implies that the state assists people in need of financial support. This mostly concerns vulnerable groups in society, including the disabled, large families, the unemployed, children deprived of parental care, etc. A student is an individual who is pursuing a degree (master's, bachelor's, or junior bachelor's) in higher education institutions.

By examining the issue of social security for students under martial law in the example of the experience of Ukraine and Myanmar, the author identified the main legal problems with its implementation by state authorities. The main problem was the rocket attacks on higher education institutions. This led not only to the destruction of buildings and equipment but also had a significant impact on the state's provision of the right to education and on the fundamental human rights to protect the life and health of citizens. Due to the systematic shelling, students were transferred to distance learning, which significantly deteriorated the quality of educational services.

Among the main legal problems of social protection of students is the imperfection of the legislative framework for guaranteeing their rights during martial law. There are also no effective mechanisms for exercising these rights. In addition, the legislation often ignores the special social needs of students in wartime, which in turn contributes to discrimination against students. The issue of lack of funding for social support measures for students and uncertainty about holding the state accountable for violations of their rights also remains relevant. All of this creates significant difficulties for students in wartime, who face numerous challenges.

To address these issues and ensure social protection of students, the legal framework should be improved to ensure a definition of students' rights and social support systems should be improved,

especially for students affected by the hostilities. In addition, to protect students during martial law, it is important to create safeguards for education, including ensuring uninterrupted access to education through unified platforms and cooperating with international organisations.

This research can make a significant contribution to further study of the issue of identifying legal problems of social protection of students under martial law. It establishes a direct link between violations of the human right to social protection and the imposition of martial law, provides a thorough analysis of international and Ukrainian regulations on social protection of the

population (including students), and points to violations of social rights during martial law in Ukraine and Myanmar.

Prospects for further research are an analysis of the experience of more countries, including the Philippines and Sudan, as these countries also have serious problems with violations of students' social rights.

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Conflict of Interest

None.

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Правові проблеми соціального захисту студентства в умовах воєнного стану

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Анотація

Метою даного дослідження було встановлення нормативно-правової бази, яка регулює питання соціального захисту студентів, зокрема, під час воєнного стану, а також визначення основних правових проблем з даного питання в Україні та М'янмі. Для досягнення мети було використано герменевтичний, порівняльний та історичний методи. У дослідженні проаналізовано концептуальні підходи до визначення соціального захисту студентів в умовах воєнного стану. Зокрема продемонстровано вплив воєнного стану на забезпечення державою соціального захисту та допомоги студентам, а також виокремлено основні правові проблеми даного забезпечення. Було здійснено аналіз міжнародних та українських нормативно-правових актів, що стосуються захисту соціальних прав населення, включаючи студентів. На прикладі досвіду воєнного стану в Україні та М'янмі, було виокремлено основні проблемні місця правового характеру стосовно забезпечення соціального права студентів на здобуття вищої освіти. Також продемонстровано нерозривний зв'язок між даними поняттями у сфері надання вищої освіти під час воєнного конфлікту в Україні та М'янмі. Було наголошено на необхідності дотримання основоположних прав людини державними органами у здійсненні забезпечення права на освіту (зокрема, це стосується права на життя та здоров'я, які знаходяться під загрозою, враховуючи систематичні обстріли закладів освіти). Практичне значення даного дослідження полягає у можливості його використання науковцями, для більш глибокого вивчення проблем соціального захисту студентів у державах, де діє воєнний стан

Ключові слова: надзвичайна ситуація; вразливі прошарки суспільства; збройний конфлікт; складні життєві обставини; здобувач вищої освіти