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### APPLYING OF NORMS OF INTERNATIONAL HUMANITARIAN LAW IN THE CONDITIONS OF MILITARY OPERATIONS

**Abstract.** War is the most terrible thing that can happen in the modern world, it is senseless destruction of cities and other settlements, destruction of cultural values, abduction into slavery, cruel treatment of prisoners of war, wounded and sick, as well as the civilian population. The article analyzes the facts of violations of international law, and in particular international humanitarian law. Based on the normative framework, the authors conclude that the essence of IHL is to ensure the protection of war victims. This branch of law is the basis for the protection of human rights in times of war between countries. The main task of IHL is to ensure the maximum possible protection during an armed conflict for all persons who are not fighting or have stopped fighting (due to capture, voluntary refusal, illness or injury). It is one of the most effective tools the international community has at its disposal to ensure people's safety and respect and dignity in times of war.

The authors determined that the so-called Geneva Conventions are the main international legal acts that regulate the behavior of the participants in an armed conflict. In modern international law, they are part of the branch traditionally called «international humanitarian law». International humanitarian law aims to protect victims of armed conflicts. The application of international humanitarian law in the context of armed conflicts is one of the urgent problems of international humanitarian law. For Ukraine, the issue of compliance with international humanitarian law in conditions of armed conflict is very relevant. The article notes that, despite the existing normative legal framework regarding the rules of warfare, numerous violations of the norms of international humanitarian law are recorded. The issue of violation of norms of international humanitarian law is very relevant today.

**Key words:** war, armed conflict, Geneva Conventions, international humanitarian law, victims, combatants, prisoners.

**А**нотація. Війна – це найстрашніше що може бути в сучасному світі, це безглузда руйнація міст та інших населених пунктів, знищення культурних цінностей, викрадення в рабство, жорстоке поводження з військовополоненими, пораненими та хворими, а також з мирним населенням. В статті проаналізовані факти порушення норм міжнародного права, і зокрема міжнародного гуманітарного права. Автори, спираючись на нормативну базу, робить висновок, що сутність МГП – забезпечити захист жертв війни. Ця галузь права є основою для захисту права людини піж час ведення війни між країнами. основним завданням МГП є забезпечення максимально можливого під час збройного конфлікту захист всіх осіб, які не воюють чи перестали воювати (через захоплення в полон, добровільну відмову, хворобу чи поранення). Це один із найефективніших інструментів, які міжнародна спільнота має у своєму розпорядженні для забезпечення безпеки людей та дотримання поваги і гідності під час війни.

Авторами визначено, що основними міжнародними нормативно-правовими актами, які регламентують поведінку учасників збройного конфлікту є так звані Женевські конвенції. У сучасному міжнародному праві вони входять до складу галузі, традиційно іменованої «міжнародне гуманітарне право». Міжнародне гуманітарне право спрямоване на захист жертв збройних конфліктів. Застосування міжнародного гуманітарного права в умовах збройних конфліктів – одна з актуальних проблем міжнародного гуманітарного права. Для України питання дотримання міжнародного гуманітарного права в умовах збройного конфлікту є дуже актуальним. В статті зазначається, що незважаючи на існуючу нормативно-правову базу щодо правил ведення війни, фіксуються чисельні порушення норм міжнародного гуманітарного права. Питання порушення норм міжнародного гуманітарного права сьогодні є дуже актуальним.

**Ключові слова:** війна, збройний конфлікт, Женевські конвенції, міжнародне гуманітарне право, жертви, комбатанти, полонені.

International humanitarian law is a part of international law that governs relations between states. International humanitarian law (or the law of armed conflict) is a set of international legal norms and principles governing the protection of victims of war, as well as limiting the methods and means of warfare. This set of legal norms can be defined as principles and norms limiting the use of violence during armed conflicts.

The issue of violation of norms of international humanitarian law is very relevant today. Such facts are recorded almost every day. Many experts and scientists analyze the events and provide their conclusions. Various sources were used in the research, in particular, the conclusions of organizations regarding events in Ukraine.

Today, international humanitarian law can be seen as a law aimed at resolving armed conflicts, which determines the rules of warfare, as well as limits the methods and means of warfare. IHL is intended to limit the effects of armed conflicts. International humanitarian law deals exclusively with armed conflicts, both international and internal. It does not work in peacetime.

Modern international humanitarian law was formed mainly in the middle of the 20th century and in a certain form was reflected in the UN Charter, and this became a new era in the legal regulation of international relations and normatively consolidated the main important principles of international law.

International humanitarian law is an attempt by states to establish a certain minimum of norms and rules for the conduct of parties to an armed conflict in order to alleviate the suffering of the victims of such conflicts. These norms are set out in international treaties and are recognized by almost all members of the world community. Yes, they are recognized, but recognition does not mean following and fulfilling if there is no will apply these agreements in all conditions. IHL governs the conduct of parties during armed conflicts. Limit violence by prohibiting certain methods and weapons. The purpose of a military conflict should be only the military weakening of the enemy [1].

International human rights law remains applicable even in situations of armed conflict or occupation, where the laws and customs of war also apply. In some situations, a rule of international humanitarian law may take precedence over a human rights rule (*lex specialis*), or a specific rule for particular circumstances).

The principles and norms of IHL are aimed at limiting war. As the authors of the educational and methodological manual «Studying international humanitarian law» emphasize: «The main principle of IHL is the principle of humanity, which is reflected in any norm of IHL. Unrestricted war is arbitrariness, and IHL limits this arbitrariness in favor of humanity» [2].

According to the definition, military actions between the Russian and Ukrainian armed forces are defined as an international armed conflict, which is regulated both by written norms of international humanitarian law and international customs. The main international legal acts can be called the Geneva Conventions of 1949 and their Protocols - the Convention on the Amelioration of the Fate of the Wounded and Sick in Active Armies, the Convention on the Amelioration of the Fate of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea, the Convention on treatment of prisoners of war, the Convention on the Protection of Civilians in Time of War, and the Hague Convention on the Laws and Customs of Land War of 1907. Both Ukraine and Russia are parties to the Geneva Conventions of 1949 and Protocol I to them.

The four Geneva's Conventions of 1949 and Additional Protocols to them in 1977 and 2005 remain the basis of IHL. They include clear legal obligations and establish fundamental humanitarian principles.

- Combatants who have laid down their arms or ceased to take part in hostilities have the right to respect for their lives and to spiritual and physical integrity. It is forbidden to kill or injure them (Part 1, Article 3 of the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field).

- The wounded and sick must be picked up and the belligerent in whose power they must render assistance to them. Medical personnel, medical units, transport and equipment are also subject to protection. The emblem of the red cross, red crescent or red crystal is a sign of such protection and should be respected (part 2 of article 3 of the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field).

- Those taken prisoner are entitled to respect for their lives, dignity, individual rights, and convictions. They must be protected from any acts of violence and reprisals. They should be given the right to correspond with their families and receive humanitarian assistance (section 2 of the Geneva Convention relative to the Treatment of Prisoners of War).

- Civilians in the hands of a belligerent or occupying power of which they are not nationals have the right to respect for their lives, dignity, individual rights and convictions (Article 3, Part 1 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War).

- Everyone has the right to enjoy basic judicial guarantees. No one may be convicted without a prior judgment rendered by a duly constituted court. No one can be held responsible for an action that he did not commit. No one may be subjected to physical or mental torture, corporal punishment, or cruel and degrading treatment (Article 3 of the Geneva Convention relative to the Treatment of Prisoners of War).

- The parties to the conflict and members of their armed forces may not use any methods and means of warfare. It is forbidden to use weapons or methods that cause unnecessary loss or cause unnecessary suffering (The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons).

- Parties to a conflict must always distinguish between civilians and combatants so as to spare civilians and property. To do this, before launching an attack, it is necessary to take appropriate precautions (Article 15 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War).

International humanitarian law obliges the parties to an armed conflict to constantly distinguish between the civilian population and combatants; conduct operations only against military targets. Also, the civilian population and civilians cannot become the object of a deliberate attack.

IHL requires action to protect civilians on both sides. The attacking side is obliged to warn about its actions and attack only military targets, while the defending side is obliged to take all possible actions to free the zones near military targets from civilians. Responsible is the aggressor who arranges an attack on cities and civilian objects. In addition, Watling notes that the Ukrainian side has repeatedly warned civilians about the need to leave the areas of hostilities, despite the absence of mandatory evacuation. According to him, this is also not a violation since the forced displacement of civilians during the war is a direct violation of IHL [3].

International humanitarian law insists that the attacking party must: make sure its target is legitimate; warn the civilian population of the attack, if possible; cancel or suspend an attack when it is found to violate international humanitarian law; choose a target and choose the means and methods of warfare that carry the least risk to the civilian population.

International humanitarian law, or the laws and customs of war, provides guarantees for civilians and other non-combatants to be protected from the dangers of armed conflict. It extends to the means and methods of conducting military operations by all parties. The main thing is the principle of selectivity - the parties are always obliged and everywhere to distinguish between combatants and civilians. The latter under no circumstances can be the object of a targeted attack. Parties to a conflict are required to take all reasonable precautions to minimize civilian loss and damage and to refrain from attacks that do not distinguish between combatants and civilians or that are likely to cause disproportionate harm to the civilian population [4]. According to appointment, transfer from the Geneva Conventions and from the Additional Protocol I of 1977, a combatant is a person, yak to enter the warehouse of the national armed forces or organized groups, who are under direct control of these armed forces. He himself allowed the force to strike the combatant as a civilian.

One of the specific features of international humanitarian law is that in its development and implementation an important role belongs to public organizations and, above all, to the Red Cross and Red Crescent Movement. The International Committee of the Red Cross is considered the guardian of the Geneva Conventions and all other treaties that constitute international humanitarian law. He, however, cannot act as a policeman or judge. These functions belong to the governments of those countries that are parties to international treaties. Their duty is to prevent violations of IHL and prevent the continuation of such violations. They also committed themselves to punish those responsible for what we call "serious violations" of IHL, or war crimes.

However, from the beginning of hostilities to the present day, in Ukraine, as numerous testimonies show, international law, and in particular international humanitarian law, was simply ignored. The UN Human Rights Monitoring Mission in Ukraine (HRMMU) also documented the use of what appears to be indiscriminate weapons by Russian forces in the east of the country, resulting in civilian deaths and destruction of civilian facilities. From 24 February to midnight on 20 April, the HRMMU recorded and confirmed 5,264 civilian casualties, including 2,345 killed and 2,919 injured. Of these, 92.3 percent (2,266 killed and 2,593 injured) were registered in the territory under the control of the government of the country. About 7.7 percent of the total casualties (79 killed and 326 injured) were registered in the Donetsk and Luhansk regions controlled by the Russian armed forces and their affiliated armed groups [5]. Intentional killing of protected persons, including extrajudicial executions, are gross violations of international human rights law and international humanitarian law, and may also amount to war crimes.

On April 13, the Organization for Security and Cooperation in Europe - OSCE released a report on violations of international humanitarian law and human rights on the territory of Ukraine since the start of the full-scale Russian invasion and until April 1 - the result of the Organization's Mission [6].

As stated in the OSCE report, Russia and Ukraine are bound by the four Geneva Conventions and Additional Protocol I, to which they are signatories. In addition, they are subject to the rules of customary international law applicable in times of armed conflict. Also, Russia and Ukraine are parties to the Hague Convention IV of 1907 with the Regulations on the Laws and Customs of Land War attached to it. Also, Russia and Ukraine cannot use biological and chemical weapons under the 1972 and 1993 Conventions on their prohibition. Convention is hindering the distribution, production, transfer, transfer, saving and retrieval:

- biological agents and toxins of such types and in such quantities «that are not justified from the point of view of prophylactic, protective or other peaceful purposes»;
- weapons, equipment and means of delivery «intended for the use of such agents or toxins for hostile purposes or in armed conflict».

The Ottawa Convention on Anti-Personnel Landmines of 1997 is binding only for Ukraine. The 2008 Oslo Convention on Cluster Munitions and the 2017 Treaty on the Ban of Cluster Munitions were not adopted by Russia or Ukraine, but both must comply with common contractual and customary norms regarding the use of any weapon: it is necessary to distinguish the civilian population from the military, observe precautions and carries out attacks in proportion to its goals.

With the development of technology, a special place in the war was occupied by the so-called cyber attacks, that is, the impact on various objects remotely using modern technologies. Attacks in computer networks, or "cyber warfare", are not directly regulated by the Geneva Conventions, but all the basic principles regarding the means and methods of warfare apply equally to them. Cyber attacks must be directed at military targets and must not be indiscriminate or disproportionate. For example, the disruption of the electricity network, which would have long-term negative consequences for the civilian population, if carried out through air strikes or cyber attacks, is very likely to be unlawfully disproportionate. The provisions on perfidy, collective punishment and reprisals against the civilian population also remain applicable.

The use of cyber warfare by governments threatens fundamental rights. In 2015, the UN General Assembly supported the report of a group of governmental experts, which formulated a consensus approach to the applicability of international humanitarian law and international human rights law to cyberspace and proposed standards for the conduct of states in this area [1].

Conclusions. The actions of the Russian Federation against Ukraine are a violation of the principles of international law, a direct violation of the UN Charter, namely the principle of the obligation of states to refrain

in international relations from the threat of force or its use against the territorial integrity and independence of any state. So, based on the above, we see that during the military operations in Ukraine on the part of Russia, violations of the norms of international humanitarian law were repeatedly recorded. In violation of international humanitarian law, Russian troops have insidiously launched and continue to launch rocket attacks on residential buildings and social infrastructure throughout the territory of Ukraine. Russia's use of cluster bombs, thermobaric "vacuum" bombs, and anti-personnel mines in Ukrainian cities is a violation of the Hague Conventions and customary international humanitarian law. The use of phosphorus munitions and incendiary aerial bombs by the Russian military in Ukraine violates the Convention on Specific Types of Conventional Weapons. The Geneva Conventions of 1949 and customary international humanitarian law expressly forbid attacking civilian objects, placing military objects next to civilians, and attacking historical monuments. Architectural monuments, dozens of which were destroyed by the Russians, are protected by the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict [7].

All such facts have wide international publicity and will certainly become aggravating circumstances in international trials against Russian war criminals.

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