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## Human rights protection during armed conflicts: Problem aspects

### ЗАХИСТ ПРАВ ЛЮДИНИ ПІД ЧАС ЗБРОЙНИХ КОНФЛІКТІВ: ПРОБЛЕМНІ АСПЕКТИ

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#### Abstract

The purpose of the article is a comprehensive analysis of problematic aspects of legal responsibility for human rights violations during armed conflicts. To achieve the goal, the following methods were used: systematic, logical and semantic, formal legal, comparative legal, formal logical, formal dogmatic, analysis. The article argues the approach according to which armed conflicts are characterized by a total violation of rights, among which the following fundamental rights are the most violated: the right to life, the right not to be subjected to torture, inhuman treatment, enforced disappearance and the right to a trial. It was concluded that these rights are the "immutable core of human rights" that cannot be violated, the characteristic features of which are: fundamentality, inalienability, inalienability and objective necessity. The development of additional regulatory and institutional guarantees

#### Анотація

Метою статті є комплексний аналіз механізмів захисту прав людини під час збройних конфліктів та проблемних аспектів притягнення до кримінальної та міжнародної відповідальності за їх порушення. Для досягнення поставленої мети авторами використовувались наступні методи: системний, логіко-семантичний, формально-юридичний, порівняльно-правовий, формально-логічний, формально-догматичний, аналізу. У статті аргументується підхід, згідно якого збройні конфлікти характеризуються тотальним порушенням прав, серед яких найбільш порушуваними є такі фундаментальні права: право на життя, право не піддаватися катуванням, нелюдському поведженню, насильницькому зникненню та право на судовий розгляд. Зроблено висновок про те, що ці права відносяться до «незмінного ядра прав людини», яке не можна порушувати за жодних обставин. Характерними їх рисами є: фундаментальність, невід'ємність, невідчужуваність, об'єктивна необхідність.

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for the protection of these rights and effective ways to bring perpetrators to criminal and international responsibility requires coordinated work of various institutions. Combating and counteracting human rights violations in time of armed conflict requires the united efforts of nations to eradicate aggressive warfare and the use of weapons.

**Keywords:** human rights, armed conflict, "immutable core of rights", protection of human rights, legal responsibility for human rights violations.

## Introduction

As you know, local and interstate conflicts have been commonplace throughout the development of human civilization. Despite the fact that we are now in the 21st century, these negative phenomena continue to plague the world. The most horrific thing is that during such conflicts, people die, infrastructure is destroyed and the environment is devastated.

Aggression is always associated with the violation of human rights. Unfortunately, social progress and the development of humanistic ideas did not improve the situation with the protection of human rights.

Many conflicts of the twentieth and twenty-first centuries, from World War II to the current wars in Ukraine and Israel, have exposed the inability of the developed international human rights mechanisms and the norms of national legal systems to prevent human rights violations, above all, it concerns the right to life, freedom, physical integrity, judicial protection, torture, humiliation of honor and dignity, bullying, etc. occur. And this list can, unfortunately, be continued. The right of the strong continues to operate, generating crimes against civilians on a horrific scale. Therefore, this study is aimed at improving the mechanisms for the protection of human rights during armed conflicts.

Based on the goal, the following tasks can be identified:

analysis of cases of violation of human rights during armed conflicts, primarily of the "immutable core of human rights" - the right to life, not to be subjected to torture, inhumane

Особливо складно захищати ці права під час збройних конфліктів. Вироблення додаткових нормативних та інституційних гарантій захисту цих прав та відповідно ефективних способів притягнення винних до кримінальної та міжнародної відповідальності потребує злагодженої роботи різних інституцій. У боротьби та протидії порушенням прав людини під час збройних конфліктів потрібні об'єднані зусилля усіх націй та народів, які будуть направлені на викорінення агресивної війни та відповідно застосування зброї. Спільними зусиллями, використовуючи у комплексі різноманітні засоби протидії агресії, можна очікувати позитивні результати.

**Ключові слова:** права людини, збройний конфлікт, «незмінне ядро прав», захист прав людини, юридична відповідальність за порушення прав людини.

treatment, enforced disappearance, to judicial protection;  
researching the problematic aspects of bringing responsibility for human rights violations within the framework of international and national criminal law.

## Theoretical framework or literature review

The problems of human rights protection attracted the attention of ancient Greek philosophers - Alcidas, Antiphon, Lycophron, who in their works defended the equality of all people, claimed that all people have the same rights, determined by nature. In the era of the Renaissance and the Enlightenment Bentham, G. Grotius, T. Jefferson, J. Locke, P. Montesquieu, J. Rousseau, and B. Spinoza developed the idea of human rights as a sacred imperative. Hugo Grotius, Francisco de Vittoria and Thomas Aquinas made a significant contribution to the development of ideas on the protection of the population during war.

As for the conceptual foundations of cooperation between states in the field of international humanitarian law, this issue has found a special place in the works of: M. Baimuratov, M. Barnett, C. O'Brien, M. Buromensky, V. Butkevych, O. Williams, V. Denisov, M. Clarkson, B. Cornell, M. Kruger, V. Lysyk, J. Moon, V. Repetsky, S. Hedberg, etc. Undoubtedly, those main basic provisions regarding the special protection of children, women, the elderly, the inviolability of sacred places and vital infrastructure as the main humane rules during armed conflict, which are analyzed by the specified scientists in the context of interstate cooperation, formed the basis of this study.

No less important in this context were the studies conducted by scientists in connection with the current armed conflicts. In particular, this concerns the Russian-Ukrainian war, which began in 2014 with hybrid aggression, and in 2024 transformed into a traditional form of war. Accordingly, in connection with the hostilities in Ukraine there have been many recent scientific works by Ukrainian scholars: M. Antonovych (2016), who considers the issue of liability for human rights violations in a hybrid war; K. Gaidey and E. Hryhorenko (2016), who study the interconnectedness of the conditions of armed conflict and human rights; O. Senatorov (2018), who provides a comprehensive analysis of armed conflicts themselves, during which human rights are also affected. However, in the mentioned works of Ukrainian scientists, the emphasis is on the nature of modern conflicts and the problem of prosecution for war crimes, regarding the violations of rights themselves, it is only noted that they take place during the war. A. Bilous and A. Pasternak (2016) analyze the specifics of human rights violations in armed conflict in more detail.

Despite such scientific works of scholars on this issue, given the current situation in the world, the existing armed conflicts in certain regions, which are often modified and have a hybrid nature, there is a need for new research that would help to more thoroughly study the nature of such new phenomena and the ways of their counteraction and prevention, especially taking into account the new trends in prosecution within the framework of international criminal law.

### Methodology

The study of the problems of human rights protection during armed conflicts, and the resolution of existing acute and controversial problems in this area with regard to bringing perpetrators to justice require the application of an appropriate methodology.

Accordingly, in the course of the scientific research, the author used a set of general scientific and special research methods. In particular, a systematic analysis of the norms of domestic criminal law and international human rights law in the field of human rights protection during armed conflicts helped to identify specific features of basic human rights that are natural, inalienable and inalienable.

Using the logical-semantic method, the conceptual apparatus was refined and developed. In particular, the concept of the "immutable core of human rights" and its main characteristics were clarified.

The formal legal method was used to analyze the legal content of international and national legal acts

in the field of human rights protection during armed conflicts.

The comparative legal method was actively used to analyze the procedures for bringing perpetrators of human rights violations during the war to criminal and international responsibility.

Other methods were also used: formal-logical – for the study of normative and legal material, in particular the provisions of the Criminal Code of Ukraine and the Geneva Conventions and their protocols. The use of this method made it possible to reveal the imperfections of the norms of criminal and international humanitarian law in the field of human rights protection during war; formal-dogmatic – for the interpretation of provisions of domestic criminal legislation, international agreements, resolutions of international organizations, decisions of international military tribunals and courts in order to revise the basic rules and principles of responsibility for human rights violations during war. Turning to this method made it possible to better understand the benefits of international criminal justice in the context of this study; analysis - for the study of scientific theories, approaches of specialists in the field of human rights protection, which made it possible to formulate conclusions and recommendations regarding the improvement of the national and international rights protection mechanism.

The combination of such methods of legal research made it possible to implement a systematic, comprehensive approach to understanding the problematic aspects that arise when human rights are violated in conditions of war.

### Results and discussion

#### **PROBLEMATIC ASPECTS OF HUMAN RIGHTS DURING ARMED CONFLICTS. "THE UNCHANGING CORE OF HUMAN RIGHTS"**

As already emphasized, unfortunately, armed conflicts have been, are, and probably will be a part of human existence for some time to come. Among the most recent ones are the large-scale Russian invasion of Ukraine in 2022, the conflict in Sudan in 2023, and the Hamas invasion of Israel in late 2023. In all these armed conflicts, there are total human rights violations, especially against civilians. The use of various types of weapons, the abuse of prisoners and civilians in the occupied territories, the destruction of vital infrastructure, and other barbarities that occur during war are not a complete list of the negative consequences of armed confrontation. Clearly, these criminal acts of the military have no justification and

must be severely punished. First and foremost, this concerns responsibility for violations of those rights that can be considered the "unchanging core of human rights": the right to life, the right not to be subjected to torture, inhuman treatment, enforced disappearance, and the right to a trial. Why are these rights so important and constitute the "immutable core of human rights"? It should be recognized that all these rights are inherent in human nature. In particular, it is inconceivable that a person would not be endowed with the right to life, which is the fundamental basis for all other rights. No one has the right to infringe on or deprive of life. An extension of this right is the right not to be subjected to torture, cruel and inhuman treatment or enforced disappearance. Every person is a free and inviolable person, and therefore should not be subjected to any physical or psychological influence if it is contrary to his or her health and mental state. People cannot be kidnapped, held in a state of slavery or restricted in their freedom. And, of course, in case of violation of any rights, a person has the right to their protection. Given the significance, importance, and objective conditionality of such rights, it can be argued that these rights are the core of the human rights system and should be protected to the maximum extent possible. A modern person cannot exist without such rights. Given this nature of these rights, it can be argued that the main characteristics of such rights are: fundamental, inalienable, inalienable and objective necessity.

What are the ways to protect such rights? First of all, it should be noted that such rights are extremely difficult to ensure during wartime. This also applies to their protection. At the same time, victims of violations should be aware that they can seek protection of their rights from both national and international institutions. It is known that such mechanisms in both cases include normative and institutional guarantees. In general, normative guarantees are related to the standards enshrined in international humanitarian law. They are identical at both the national and international levels. After all, almost all democratic states have now implemented most of the humanitarian law conventions into national law. For example, (Code No. 2341-III, 2001), Art. 438, contains a number of articles that provide for criminal liability for ill-treatment of prisoners of war or civilians, expulsion of civilians for forced labor, looting of national property in the occupied territory, use of means of warfare prohibited by international law, use of weapons of mass destruction, other violations of the laws and customs of war aimed at mass murder, torture, rape, restriction of liberty, etc. Similar provisions are contained in the criminal laws of other countries.

At the same time, the protection of rights in the context of armed conflicts raises many questions, and quite often it is difficult or impossible to resolve them

through national jurisdiction. That is why international mechanisms for the protection of rights are used.

International law also has normative and institutional guarantees. However, before applying for protection, it is necessary to understand the following questions: what is the nature of the armed conflict - international or non-international and who are the parties to the confrontation (certain groups, organizations or states). Answers to such questions will allow us to correctly determine which mechanisms will be more effective and adequate in a given situation. For example, in the case of a non-international armed conflict, it is obvious that the first step is to turn to the domestic justice system. In the case of interstate conflicts, it will be more effective to apply to international judicial institutions. In this case, the circle of subjects of responsibility is expanded at the expense of states. There is also another important point in the framework of international criminal justice: in the case of prosecution of the top leadership of the state, their immunities will not be taken into account, which will contribute to a faster procedure and the inability of the perpetrators to avoid responsibility. In this aspect, prosecution for human rights violations during the war in international law looks more effective and complete than it does within the framework of national jurisdiction. However, both in the first case and the second, there are many problems that need to be addressed in order to maximize the principle of inevitability of criminal punishment for human rights violations committed during armed conflict and restore justice. Therefore, we propose to focus on certain aspects of the protection of rights included in the "immutable core of human rights".

### **Protection of the right to life during armed conflict**

The right to life is now enshrined in many universal and regional international acts and in the constitutions of foreign countries. However, despite this, it is extremely difficult to save a person's life during armed conflicts. After all, any armed conflict is a threat and danger to life. The use of various means of warfare, their constant updating due to the intensive development of science and technology, and the increase in military capabilities in general, in practice, make it increasingly difficult to ensure this right. In general, the concepts of "war" and "right to life" are mutually exclusive. According to the laws and customs of war, a combatant of one belligerent party has the right to kill a combatant of the enemy party. In fact, on the one hand, everything in war is contrary to the concept of humanity, and on the other hand, everything calls for the preservation of humanity, and therefore the task of the law of war is, first of all, to reconcile these extremes.

It seems extremely difficult to guarantee or ensure the right to life in the context of the use of various types of weapons. In such circumstances, the rules of international humanitarian law (IHL) apply, some of which are aimed at ensuring the right to life. It is important to understand that IHL rules designed to protect human life adapt this protection to the special conditions and circumstances of war. The rules of treatment of the civilian population, which cannot be the object of attack, physical destruction, murder is prohibited, and provisions are made for relief operations and funds necessary for the survival of the civilian population (United Nations, 1977a), articles 67-71. It is prohibited to destroy objects that are essential for the survival of the civilian population (United Nations, 1977a), article 54, (United Nations, 1977b), article 14.

A fairly progressive provision is provided for in Article 101 of the United Nations Refugee Agency (1949) - the death penalty may be carried out only after 6 months of the sentence. However, in terms of protection, perhaps, prisoners of war are the most vulnerable, from ancient times to the present, and they have always been subject to the most brutal reprisals (Repetskyi & Lysyk, 2007). For example, during World War II, Soviet prisoners of war were subjected to torture, torture, and executions (Mazurok, 2008).

Despite such unfortunate historical examples, we still believe that the conventions that humanity has developed (and will develop) are an important step in establishing humane guidelines for the treatment of prisoners of war. In general, the dynamics of international law are positive. The human-centered movement proclaimed in the last century is gaining momentum. The human being is recognized as the greatest social value. States are obliged to serve their people and provide adequate protection. The international community is not standing aside either. A citizen can now complain against the state. Relevant international mechanisms have been created for this purpose, and accordingly, a large number of conventions on the protection of human rights have been adopted, some of which contain special provisions that create essential conditions for the protection of the human right to life. In particular, (Council of Europe, 1950) article 2, provides: "No one shall be deprived of his life intentionally except in pursuance of a judgment rendered after he has been convicted of a crime for which such punishment is prescribed by law."

Instead, there are no norms aimed at protecting the lives of combatants involved in hostilities. However, according to Doswald-Beck, L. & Vite, S (1993), there are certain rules that prohibit the use of weapons that cause excessive damage, which leads to a reduction in the loss of life of military personnel, so it

is probably incorrect to say that IHL does not contain any rules on this issue.

### **Prohibition of torture and inhuman treatment during armed conflicts**

Along with the right to life, the so-called "immutable core of human rights" includes the prohibition of torture and inhumane treatment, which, above all, degrades human honor and dignity. This right is enshrined in a number of universal (United Nations, 1966) article 7 and regional international acts (Council of Europe, 1950) article 3, in the field of human rights protection, as well as in the norms of IHL. It is important to understand that the term "torture" is a more specific concept than "torture". Torture in most cases is the use of physical violence against a person, which is associated with the infliction of physical suffering in general. Torture should be understood as an act that inflicts severe pain or suffering (may be both physical and mental) on a person in order to obtain a confession or information from him or her or a third party, or to bring that person or a third party to justice, or to intimidate or discriminate against that person (United Nations, 1984), articles 1-3.

The use of torture and inhumane treatment against human beings in general are serious violations for which the perpetrators must be held accountable under national criminal law. To this end, participating States should implement the necessary provisions in their national legislation and provide for serious sanctions for these war crimes. The legislation of a number of states, for example, Belgium, Canada, Denmark, Finland, Norway, Spain, Sweden and Finland, provides for the suppression of acts that qualify as serious violations of the four Geneva Conventions and Additional Protocol I, regardless of whether they are committed during international or internal armed conflict.

Regarding the issue of stopping such violations, it should be noted that the International Criminal Tribunal for Rwanda (Article 4, paragraphs A and E) and the Special Court for Sierra Leone (Article 3, paragraphs A and E) have provisions in their statutes for considering cases related to serious violations of humanitarian law committed during non-international armed conflict. Similar provisions are contained in the Rome Statute of the International Criminal Court (International Criminal Court, 2021), article 7.

The European Court of Human Rights is now actively involved in the implementation of international norms prohibiting torture and ill-treatment, which in its judgments states that inhuman treatment occurs when it causes severe physical and mental suffering that can lead to acute mental disorders, and inhuman punishment is a kind of violence that causes a special

level of suffering. Degrading treatment is behavior that causes feelings of fear, depression or inferiority, which can not only offend or humiliate a person, but also break down their physical or moral resistance. As for punishment, it must be different from the usual nature of humiliation that is inherent in every punishment. This feature of punishment is well demonstrated by the case of the punishment of a boy (15 years old) in the case of *Tyrer v. United Kingdom*. For unlawfully assaulting another boy, three police officers forced the child to take off his pants to receive a caning. This happened in the presence of police officers and bystanders (Van Buren, 2006). The court, having examined all the circumstances of the case, concluded that the boy was in a state of humiliation both in relation to other strangers and in his own eyes, which, given the child's age, could affect his mental health, and therefore the court recognized such punishment as degrading to the child's honor and dignity.

### Protection from enforced disappearances

Enforced disappearances are a violation of international human rights law, and in times of war, they are also a violation of international humanitarian law. Enforced disappearances are tantamount to erasing the very fact of human existence. Disappearances also have profound and long-term psychological consequences for their families. The prohibition of enforced disappearances, like any other rule of humanitarian law, does not tolerate exceptions. No war, no emergency, no threat to national security can justify enforced disappearances.

The European Court of Human Rights has developed extensive practice in the so-called "Chechen cases". Thus, according to the ECHR's decision in the cases of the disappearance of Aslanbek Khamidov and the murder of Kazbek Taisumov in 2000 and 2002, the Russian Federation was obliged to pay compensation to the plaintiffs in the amount of 104,000 euros. In particular, Khamidov's relatives told the ECtHR that they had seen him for the last time in October 2000, when armed men in camouflage took him out of the house to check his documents. The victims in the second case said that their relative Taisumov, his wife and their eldest daughter were killed on September 7, 2002, during an artillery shelling. The court ruled that Russia had violated a number of articles of the Convention for the Protection of Human Rights and Fundamental Freedoms and ordered Russia to pay compensation to the applicants. An important step in combating and countering enforced disappearances was the adoption by the UN General Assembly on December 20, 2006 of the United Nations (2006) Articles 1-7.

### Protection of the right to a trial

As is well known, for more effective protection of human rights under any conditions or circumstances, judicial guarantees must be provided and guaranteed. And although they are not included in the so-called "immutable core of human rights" in most international instruments, they cannot be deviated from. The situation is particularly complicated when it comes to the observance of such guarantees in the context of military operations.

The United Nations Refugee Agency (1949) Article 3, and the Additional Protocol to the Geneva Conventions, relating to the Protection of Victims of International Armed Conflicts (Protocol I) Article 75, (United Nations, 1977a) recognize most of the guarantees of due process of law for persons accused of committing a criminal offense during armed conflict. Moreover, derogation from such guarantees is prohibited. Among such guarantees are the following: the right to a public trial; the avoidance of any delay; the principle of equality and competitiveness in the presentation and examination of witnesses' testimony. These guarantees are universally recognized. It should also be considered positive that these guarantees are provided, firstly, for both international and non-international armed conflicts, and, secondly, for certain cases and situations concerning certain categories of persons (prisoners of war, interned persons, women, children) additional guarantees are provided.

In accordance with the provisions of international instruments, the right to a fair trial is enshrined in a number of instructions of the armed forces of foreign countries. The refusal to grant such a right in the special conditions of armed conflict or its restriction under the criminal law of a number of countries is grounds for criminal liability. In addition, this right is guaranteed by the statutes of international judicial institutions, in particular, the statutes of the Tribunals for the former Yugoslavia and Rwanda, the statute of the Special Court for Sierra Leone, and the ICC statute. It is noteworthy that this practice is supported by a number of regional human rights bodies.

In the event of an armed conflict of an international nature, serious violations of international humanitarian law are: intentional deprivation of a prisoner of war or a civilian under protection of the right to an impartial and normal trial as provided for by the relevant Convention (Article 130 of Geneva Convention III, Art. 147 of Geneva Convention IV); intentional deprivation of a person protected by the Geneva Conventions or the Protocol Additional to the Geneva Conventions and Relating to the Protection of Victims of International Armed Conflicts of the right to an impartial and normal trial in violation of the

Conventions or the Protocol (Article 85(4)(e), Additional Protocol I).

### **LIABILITY FOR HUMAN RIGHTS VIOLATIONS UNDER NATIONAL CRIMINAL LAW: MAIN ISSUES**

As aptly emphasized in the legal literature, "Human Rights do not lose their relevance during war" (Kuchyk et al., 2023), but it is extremely difficult to ensure their protection and prosecution, as the first problem is the loss of evidence or improper collection and processing of evidence.

Equally problematic is the protection and, accordingly, prosecution when human rights violations occur in the occupied territories, where the occupying authorities not only ignore human rights violations but commit them themselves. According to the testimonies of citizens of various regions who were in the zone of armed conflicts, during the occupation there were mass shootings of the civilian population without trial and investigation, people were tortured in basements, girls and women were abused and raped, many citizens disappeared. Undoubtedly, in such circumstances, going to court and having a fair trial was out of the question. After the liberation of such territories, as a rule, law enforcement officers faced numerous problems. Most troublingly, most of the evidence was destroyed. It is obvious that, under any circumstances, it significantly complicates the investigation of criminal cases of human rights violations during the war and, accordingly, bringing the guilty parties to justice. Such problems slow down the process of bringing to justice military personnel who were captured, or even those who will be prosecuted in the future after the war under open criminal proceedings. Similar problems are always inherent during war for any state where an armed conflict took place.

Thus, given these difficulties, it can be argued that the implementation of the principle of inevitability of criminal punishment for a crime committed for human rights violations that occurred during an armed conflict causes many difficulties. Therefore, it forces the victim state to resort to other means and instruments of protection, including international ones.

### **RESPONSIBILITY FOR HUMAN RIGHTS VIOLATIONS UNDER INTERNATIONAL LAW: THE MAIN PROBLEMS**

It would seem that international law, which provides for a peremptory norm prohibiting aggressive war, instead of standing for the protection of human rights, should be more

effective. However, there are no fewer problems here.

The first problem is the length of time it takes to process cases. Wherever a victim state applies, it has to wait for a decision for a long time. Secondly, political ambitions and pragmatic interests of certain subjects of international law sometimes prevent the reflection of real threats and challenges to human rights in wartime, which distorts the picture of real human rights violations. Thirdly, there is no certainty that the decisions of international judicial institutions will be enforced by the violator. In particular, if we take as an example the decision of the International Court of Justice of the United Nations, then the outdated mechanism of enforcement of the decision through the procedures of the UN Security Council may become an obstacle in this case. If the state is supposed to be a permanent member of the Security Council, then it is clear that all initiatives of this body will be blocked due to the applicable right of veto.

However, there are also some positive aspects when it comes to liability under international law. First of all, the specifics of international law should be taken into account: while under national criminal law, the subject of a crime will be a sane individual who has reached the age of criminal responsibility, in international law, the circle of subjects of responsibility, in addition to individuals, includes the state, which will materially compensate for the damage caused by the outbreak of an armed conflict. Another point should be understood here: responsibility for human rights violations during the war will be borne by the state within the framework of the institution of international legal responsibility, and by individuals within the framework of international criminal and humanitarian law. Another advantage of liability under international law is that in the case of prosecution of senior officials, who usually enjoy immunities, the latter will not be taken into account. In national law, on the contrary, immunities will exempt from liability. For example, in order to bring a president to justice, his immunity must be removed by impeachment and then tried. In this regard, international criminal law looks more effective and progressive than national criminal law.

Taking into account such positive aspects of the modern international system of human rights protection, we can conclude that one of the modern trends in the field of punishment for international crimes, the direct object of which is international order, human security and human rights, is the development and improvement of the mechanisms of international criminal of justice.

Despite the numerous difficulties in initiating and considering such cases at the International Criminal Court (long duration, difficulty in obtaining and securing evidence, problems in presenting suspicion, issuing arrest warrants, arrest and delivery of suspects, etc.), the process of signing and ratification by states of the Rome Statute of the Statute of the International Criminal Court is moving forward. There is a growing understanding that it is precisely such bodies of justice that are more adequate in bringing to justice the highest bodies of guilty states compared to national criminal justice. Moreover, the prosecution of the top leadership of the state for international crimes serves as an impetus for more fruitful work by law enforcement agencies within the framework of national jurisdictions in relation to the executors of the orders of such leadership.

And I would also like to emphasize another aspect: why is it necessary to bring perpetrators to justice for total violations of human rights during the war? It is extremely important to maximize the principle of inevitability of punishment for human rights violations during the war, as people, both civilians and military, are in a difficult psychological state and feel justice very keenly and unconditionally want to find it in justice. Many studies have noted that people who have participated in hostilities tend to be in a bad mood, irritability, apathy, depression, anxiety (Krasnodemska et al., 2023) and often feel guilty for their dead comrades. Therefore, punishment of the perpetrators will have not only legal consequences, but also other social effects on the society that suffered rights violations during the war, which will help to gradually restore the psychological climate in such an environment.

## Conclusions

On the basis of the conducted research, the following conclusions can be drawn:

in view of the current situation in the world, the issues of protection of human rights during armed conflicts are extremely acute and urgent. The recent armed conflicts in Ukraine and Israel demonstrate that violations of the right to life, the prohibition of torture and inhuman treatment, the right not to be subjected to enforced disappearance and the right to a trial, which constitute the "immutable core of human rights" remain unchanged;

the specificity of the "immutable core of human rights" is that they should not be limited under any conditions and circumstances, and the guarantees of such rights in cases of armed conflicts should be especially carefully prescribed. However, based on the existing practice, it becomes obvious that violations of these rights have occurred and continue to occur, which forces the affected citizens or their relatives to apply

for the protection of their rights not only to national courts, but also to international ones, primarily to the European Court of Human Rights. Undoubtedly, it must be taken into account that any conflict is already a threat, a danger to human rights, first of all, the right to life, and therefore the first thing that needs to be done in this case is the consolidation of efforts to create a reliable and effective mechanism for countering the emergence of armed conflicts confrontations in international practice, namely: the establishment of a strict sanctions regime against the aggressor state with the aim of its total isolation in international relations - exclusion from the composition of international organizations, bodies and institutions, termination of all contractual relations, prohibition of free movement of citizens of the offending state around the world, prosecution of the guilty;

development of effective regulatory and institutional guarantees for the protection of human rights that are violated in conditions of war, as well as an effective prosecution mechanism, both at the level of the national criminal law of foreign countries and on the basis of the norms of international criminal and humanitarian law at the international level, requires coordinated work of various institutions, organizations and bodies of all nations and peoples without exception. The UN is currently acting as such a universal mechanism, the main purpose of which is to ensure international peace and security. It is under its auspices that the most fruitful and effective cooperation of states in the fight against and countering the violation of human rights, the eradication of aggressive war, and the use of weapons in the resolution of conflicts should take place. In this aspect, the UN should strengthen its activities regarding the introduction of a total ban on nuclear weapons. We also draw attention to the fact that in view of the consideration of the situation regarding the Russian-Ukrainian war within the framework of the UN Security Council and the rejection of any resolution on this issue due to the exercise of the right of "veto" by the Russian representative, there is a need to revise the UN Charter. In particular, this concerns primarily the activities of the UN Security Council: exclusion from the UN Security Council of the aggressor state; deprivation of the right to vote of a member of the Security Council if such a member is a party to the situation that became the subject of consideration at a meeting of the UN Security Council. Finally, we emphasize that another important point for the cooperation of states in the field of human rights protection at the international level is to encourage states to join the Rome Statute of the International Criminal Court.

Therefore, we have high hopes that joint efforts with the combined use of such means of countering aggression can lead to positive results, which will make it impossible to violate human rights.

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