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Transformation of the legal system in a time of war: international, administrative, and criminal aspects

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Abstract

The authors of the article discuss international humanitarian law (IHL) as a normative mechanism for the protection and defense of victims of armed conflicts. The problems of IHL due to the loss of effectiveness of international legal regulation are pointed out. The aim of the article is a broad theoretical-legal and international-practical analysis of the transformations of the legal system under conditions of war. The basis of this scientific search was a system of methodology, which includes a complex of three levels of philosophical, general scientific and specifically scientific methods and a group of approaches, conditioned by the subject of the research. As a result of the analysis, it was shown that the current system of international legal regulation has significant drawbacks. The most significant of them is the declarative character of the rules, caused by the absence of an effective system of accountability and the failure to update the doctrine of IHL rules in the light of new challenges and transformations of the political and social reality. In addition, the analysis of the organizational and administrative problems of the regulation of the law of war indicated that the institutional guarantees in a military conflict also need revision.

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Keywords: international humanitarian law; wartime hostilities; international organizations; transformation of the legal system; war crimes.

Transformación del sistema jurídico en tiempos de guerra: aspectos internacionales, administrativos y penales

Resumen

Los autores del artículo discuten el derecho internacional humanitario DIH como mecanismo normativo de protección y defensa de las víctimas de los conflictos armados. Se señalan los problemas del DIH debido a la pérdida de eficacia de la regulación jurídica internacional. El objetivo del artículo es un amplio análisis teórico-jurídico e internacional-práctico de las transformaciones del sistema jurídico en condiciones de guerra. La base de esta búsqueda científica fue un sistema de metodología, que incluye un complejo de tres niveles de métodos filosóficos, científicos generales y específicamente científicos y un grupo de enfoques, condicionados por el tema de la investigación. Como resultado del análisis, se demostró que el actual sistema de regulación jurídica internacional presenta importantes inconvenientes. El más significativo de ellos es el carácter declarativo de las normas, provocado por la ausencia de un sistema eficaz de rendición de cuentas y la falta de actualización de la doctrina de las normas de DIH a la luz de los nuevos retos y transformaciones de la realidad política y social. Además, el análisis de los problemas organizativos y administrativos de la regulación del derecho de la guerra indicó que las garantías institucionales en un conflicto militar también necesitan una revisión.

Palabras clave: derecho internacional humanitario; hostilidades en tiempos de guerra; organismos internacionales; transformación del sistema jurídico; crímenes de guerra.

Introduction

Military conflict is a permanent process of human existence for many centuries of human existence, for “fighting and war are inherent in human history” (Filipec, 2019: 52–70). The system of collective security and legal mechanism of democratic states created in the world in the twentieth century has been for many years an effective form of prevention of major

armed conflicts. Moreover, scholars have stated that the threat of force is now dominant, “the special strategic conditions created by the nuclear age have encouraged states to engage in a ritualistic style of warfare in which demonstration, rather than the physical use of violence, has become increasingly important” (Chin, 2019: 765–783).

February 24, 2022 is the date of the newest countdown of the current social reality, where all spheres of life have been transformed, including the date of the beginning of a new challenge to collective world security. Russia’s military annexation of Ukraine was the basis for the formation of a new geopolitical, legal and social system of interaction (Kononenko *et al.*, 2022). At the same time, the military full-scale attack on sovereign territories has revealed a number of significant problems that should have long been resolved at both the international and national levels.

Many areas of human existence are subject to dramatic change, among them a significant reshaping of approaches to natural resources, changes in the subjects of international market relations, a dramatic crisis in the financial sector, and the problem of food supplies. B. Kemmerling, C. Schetter, and L. Wirkus summarize that war on food security in the following four ways: a) destruction; b) conflict-induced displacement; c) food control; d) hunger as a “weapon of war” (Kemmerling *et al.*, 2022: 100634; Rekotov *et al.*, 2022: 901–918).

UN Secretary-General A. Guterres has said that grain and fertilizer shortages caused by war, rising temperatures, and supply problems caused by the pandemic threaten to “push tens of millions of people toward food security” (Guardian, 2022: 2). The U.N. Food and Agricultural Price Index hit an all-time high of nearly 160 points in March (The Food and Agriculture Organization, 2022), and other types of food are also affected.

There are also demographic changes that are overdue. The number of refugees from Ukraine who have been forced to leave their homes and go abroad as a result of the Russian invasion exceeded 5.6 million as of early June 2022 (UNHCR, 2022). This has caused significant political and economic challenges for many countries, especially in Europe, in the context of accepting these persons.

All of these changes and challenges require a review of the adequacy of the legal sphere’s response to transformational change. The question that needs to be answered is “how prepared were the rules of law for military action in the current context of the development of the collective defense mechanism and the response of states to military action?” The established international and national system has a number of positive features, but significant shortcomings due to the emergence of new global challenges.

This is the main purpose of the presented research article. To achieve the goal, the authors set the following tasks: to reveal the debatable aspects

of the effectiveness of international humanitarian law and identify the most significant gaps in the legal regulation of the protection of victims of war; to experience organizational and administrative problems of the law of war regulation; to analyze the correspondence of criminal legal regulation to the modern challenges of military character on the example of the national legislation of Ukraine.

1. Literature Review

International humanitarian law is an established branch of international law, which is why many modern scholars have drawn attention in their works to the peculiarities of the legal protection of victims and participants in hostilities and the regulation of means and methods of warfare. Among them are the works of Solis (2021), Fillo Mazo (2020), Fleck (2021). Most of them are of a general doctrinal descriptive nature.

A whole school of scholars has devoted attention to the right of war in the context of the implementation of a policy of preventive actions (Stengel, 2020) or to the mechanism of the threat of force as a means of achieving a political result without military aggression (Chin, 2019). The activation of hybrid means of warfare has given rise to additional research in this area, in particular Gore *et al.* (2022), Filipec (2019), Kovalchuk *et al.* (2022) and others.

However, today we should speak about the necessity of renewed perception of legal needs in the context of additional, synergetic challenges in the sphere of military actions. The specified is connected both with certain controversial effectiveness of separate bodies and institutions of an international character and with the declarative nature of norms of international humanitarian law, therefore, requires additional motivation and strengthening of the legal doctrine of the military policy of civilized nations and the legislation of nation-states.

2. Materials and Methods

For the analysis of the subject of research was used humanistic approach as the primary determinant of the individual value of human rights, which is subordinated to the basic construct of social being of the twentieth century, even in the conditions of full-scale war. The basis of the author's scientific search is the system of methodology, including a three-level complex of philosophical, general scientific, and specifically scientific methods and a group of approaches, conditioned by the subject of research.

Among the philosophical methods, the metaphysical one is used to highlight the external factors influencing the hybrid form of warfare and the changing legal regulation of this sphere, and the synergetic one, which allows to address the issue of the need to update the legal system in light of the bifurcation factors of the impact of the new military reality.

The middle level of the methodology includes general scientific methods, among which special attention should be paid to: analysis and synthesis are applied to study the norms of international humanitarian law as a part of the integral concept of the international system of human rights, which in turn can be viewed as separate parts of influence on the national Ukrainian military situation; the method of induction reflects elementary components of national and international legal regulation of military activity; abstraction helps delimit the object of study

The last level of methodology is represented by special-scientific methods, in particular, the formal-legal method, which became one of the most used in the study, since it allows a dogmatic analysis of clear legal phenomena, helped in describing, classifying, and generalizing legal notions; legal-statistical - to study indicators of changes in social reality in Ukraine and the world and the functioning of international and public institutions in the studied area (among others UN, UNHCR, International Committee of the Red Cross, The Food and Agriculture Organization).

The method of individual observation is essential, since the authors directly have the opportunity of personal scientific research of objects and phenomena of military reality, as witnesses of the military and social situation in Ukraine.

According to the authors' questionnaires, the authors surveyed the population to determine the impact of disinformation on civil society. The survey was conducted in Lviv, but it can be considered representative of the entire territory since the subject included persons in centers for temporarily displaced persons. The focus group consisted of 102 adults who were residents of Kyiv, Lviv, Donetsk, Kharkiv, Zhytomyr, Odesa, and the Mykolaiv regions. The margin of error of the obtained results, taking into account the number of respondents, is 2-3.5%. Questionnaires are designed for anonymous and quick completion. The survey was conducted on March 7, 2022, following ten days of Russia's full-scale invasion of Ukraine.

3. Results

3.1 Debatable Aspects of International Humanitarian Law

The problem of ensuring and protecting human rights during armed conflicts has a long history. Civilized nations have developed an entire complex area of international law, international humanitarian law, whose task is to protect and alleviate the plight of the victims of war, who include both combatants and civilians. As Professor Turns (2018: 27), “rooted in customary law, often very ancient, since the late nineteenth century it has become one of the most intensely codified areas of international law”.

The role of these rules is significant because it points to a legal “obligation of result to achieve humanity’s ends” Longobardo (2019: 50) and “reflects the collective transnational view of the international community that unilateral tactics, coercion, and sheer force will no longer be tolerated to compel submission to individual ambition and desire” (Gore *et al.*, 2022).

In general, international humanitarian law (IHL) has the unique function of establishing rules of humanity in a totally inhumane situation, that is, in warfare. The laws of war are intended to act as a factor for the harmonization and international recognition of certain limits to violence during armed conflicts. The original of the most fundamental principles of IHL concerns the protection of victims of armed conflicts, including civilians and prisoners.

The 1949 Geneva Conventions and the subsequent 1977 Additional Protocols define many of the guarantees afforded to protected groups in time of war, along with the corresponding responsibilities of combatants. Article 27 of the Fourth Convention, governing the treatment of civilians, states: “They shall at all times be treated humanely and shall be protected, especially against all acts of violence or threats thereof, and against insults and public curiosity”.

Similarly, Article 13 of the Third Convention, concerning prisoners of war, declares: “Prisoners of war must always be treated humanely. Any unlawful act or omission by a State which holds a prisoner of war which results in death or seriously endangers the health of the prisoner of war under its custody shall be prohibited.” All four Conventions detail the rights and obligations of belligerents.

As Hrushko (2016) reasonably states, the objective factors of the low effectiveness of IHL include the ineffectiveness of the legal system of the state, the imperfection of the mechanisms of implementation of international legal norms, the insufficiency of its actions on organizational and legal issues of implementation of international humanitarian law, the low level of implementation of international humanitarian law norms in

national legislation, the ineffectiveness of the legal system of the state during an armed conflict and the mechanisms of accountability for violations of international humanitarian law. Indeed, the current system has significant disadvantages, let us point out only two major ones.

Declarative norms, due to the lack of an effective system of responsibility. Harm to civilian actors and the environment always accompanies military action. The principle of proportionality protects civilians and civilian objects from expected incidental harm from an attack, excessive to the military superiority expected from an attack (Henderson and Reece, 2018). The problem, however, is that the harm they inflict is often not proportional or incidental, but objectively targeted at nonmilitary targets.

In a full-scale war in Ukraine, as of June 9, 2022, 4,302 people have been killed and 5,217 wounded, according to the UN (Office of high commissioner for human right, 2022). However, the figures are far from the actual figure, in the occupied territories the count is complicated and not included in international reports.

According to local authorities, in Mariupol alone, there are bodies of about 23,000 civilians under the rubble of houses. Russia is actively using indiscriminate means of warfare in this war. According to the Office of the UN High Commissioner for Human Rights, “The majority of civilian deaths or injuries were caused by the use of large-area explosive devices, including heavy artillery and multiple rocket launchers, as well as missile and air strikes” (UN Security Council, 2022). This significant number of casualties is due to the fact that civilian infrastructure - cities and villages, including Mariupol, Kharkiv, Zaporizhzhia, and Severodonetsk - are being systematically shelled and destroyed.

This happens despite the existence of more than seventy years of norms that clearly prohibit such terrible actions. Therefore, we can talk about the declarative nature of the regulations and the lack of an effective system of accountability. This is the biggest and most significant, but unresolved, problem of IHL. The responsibility in IHL is imposed on states, it arises if the state has clearly failed to take all measures[...] that were within its “power” to prevent events (International Court of Justice, 2007, Feb. 26).

These measures require the belligerent State to continuously monitor compliance with international obligations of conduct. As the International Court of Justice affirms, the obligation of due diligence “entails not only the adoption of appropriate rules and measures but also a certain level of vigilance in their observance and the exercise of administrative control over the public and private operators” (International Court of Justice, 2010, Apr. 20).

Lack of clear legal regulation of a number of fundamental issues of protection of war veterans. “International humanitarian law has failed to

adequately address and protect important basic civilian infrastructure, especially water resources and managed water systems because the laws themselves are insufficient or improperly enforced” (Gilder, 2019: 62).

But it is quite difficult to bring to justice. Such a procedure is ad hoc and requires significant procedural, economic, and political decisions. In addition, the period of real functioning of the competent judicial body is long in time, which can lead to the avoidance of responsibility of representatives of the public authorities of the aggressor state.

The lack of an updated doctrine of IHL norms in light of additional challenges and transformations of political and social reality. The field of law under study formed its main ideology after World War II on the paradigm of social relations there. Modern methods and ways of warfare have an updated, far from the classical form. Now we should talk about hybrid wars, which, unfortunately, do not find proper regulation in the system of IHL. Hybrid war includes both classical forms of warfare and others, aimed at social destabilization of the enemy’s side.

The following features of hybrid warfare are appropriately singled out by modern scientists: there are no classical approaches to military actions, the state of the “gray” zone between peace and war; the war is undeclared, using the rules of conspiracy and disguise their actions as humanitarian, protective actions; both classical forms of warfare and others aimed at social destabilization of the enemy side are used; transformation of participants of military actions by attracting hybrid actors (illegal combatants); the state of confrontation is ongoing; the means of hybrid warfare are applied not only to the individual state as an enemy, but also to other international entities and states that support the enemy side in the international arena (Kovalchuk *et al.*, 2022).

The following features of hybrid warfare can be singled out:

- there are no classical approaches to hostilities in the State of the “gray” zone between peace and war;
- the war is undeclared, and their actions are disguised as humanitarian/protective actions; hybrid warfare includes both classic forms of hostilities and those aimed at social destabilization of the target enemy;
- the transformation of belligerents through the hybridization of different actors; (unlawful combatants);
- the state of confrontation is ongoing;
- hybrid warfare is not focus only on an individual State as a target enemy.

It includes other international entities and States that support this State in the international arena as well.

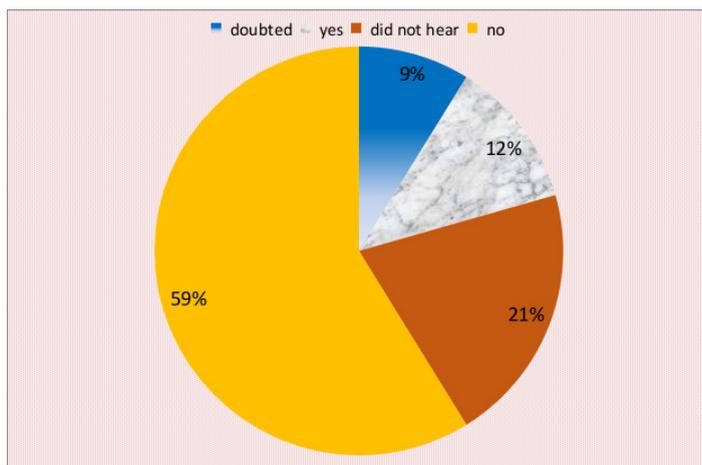
Among other things, information warfare plays an essential role in hybrid warfare. Types of information fakes and hybrid methodologies disseminated in the media and social networks to sow misinformation, panic, and fear. An analysis of the first ten days of the war in Ukraine allowed the authors, including as eyewitnesses to the events, to analyze the significance of fake information and its effectiveness. In our opinion, all information attacks can be divided into the following groups.

1. The information is focused on discrediting the public authorities. It is divided into two groups: a) about the capitulation of state authorities and representatives of local government; b) and that Ukraine is run by a “junta” and neo-Nazis who are destroying Russian-speaking citizens. The most massive fake is the report about Ukrainian President Zelensky fleeing with his family on the first or second day of the war. To debunk this information, the President promptly recorded two posts from his real location against the background of the Office of the President and the sights of the center of the Ukrainian capital, along with other senior members of the state’s public authorities. This method of warfare is effective because it distracts the enemy from debunking disinformation and pacifying the civilian population.

Subsequently, misinformation spread to capitulate local authorities. For example, on March 4, 2022, there were attempts on the part of the Russian Federation to provide humanitarian aid in Kherson to demonstrate the joy of residents regarding the creation of a “Kherson People’s Republic,” similar to the “Donetsk People’s Republic” and “Lugansk People’s Republic,” which were able to form in 2014. However, such a propaganda review failed, as an estimated 5,000 residents gathered for a spontaneous unarmed rally with national Ukrainian flags, demanding that they leave their native land.

A survey conducted among the respondents demonstrated insignificant effectiveness of the information flows to discredit the authorities. Only 12% of the respondents believed in such information. The results are shown in Fig. 1

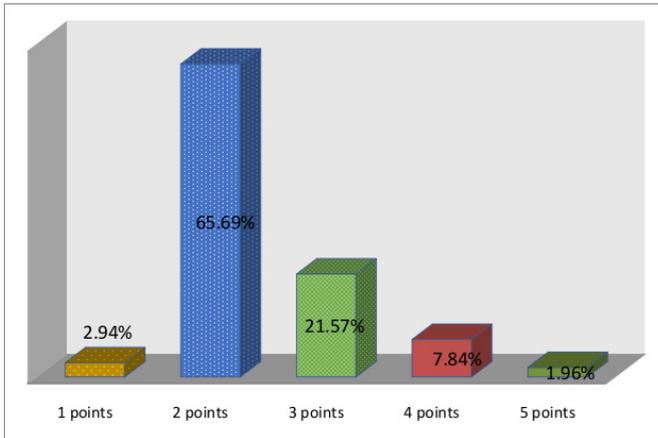
Figure. No. 01: Did you believe the information that Ukraine / President capitulated?



Source: authors.

- Information about economic harassment by the authorities. In particular, SMS messages are circulating throughout the state about threats to disconnect mobile communications for non-payment, raise the prices of such services, charge fines for loans or utilities through non-payment, and stop payments of pensions and other social benefits. Perhaps such information would have had panic consequences at other times, but in the first days of the war the population is incredibly united, consolidated, helping each other and the army, and engaged in volunteer activities, so the vector of public attention is concentrated not on material factors, but on the aspects of security. The ineffectiveness of such information fakes is confirmed by the survey, the results of which are shown in Fig. 2

Figure No. 02: How worried you are today considering the information about non-payment of pensions or other economic harassment?

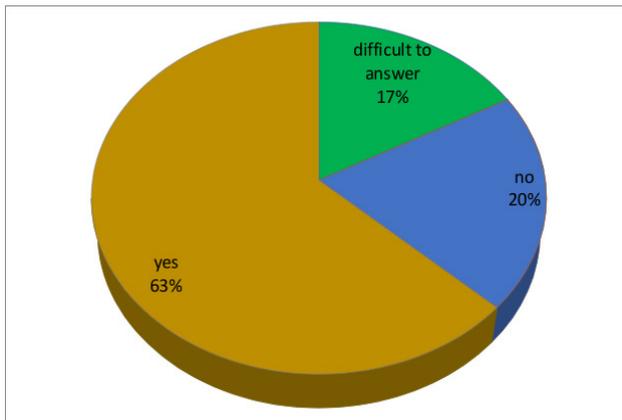


Source: authors.

3. Information aimed at inciting enmity and hatred within the country. They are concerned seemingly inappropriate behavior of internally displaced persons. To create clashes, information is spread in local telegram channels that the displaced abuse alcohol, organize feasts during the war, demand special attention, expensive food, new clothes, etc. Rumors of looting prices for housing and other services for this group of people are spread to negatively perceive displaced persons from the Eastern regions.

A survey conducted exclusively among local residents demonstrated the significant effects of such fake information. See Fig. 3.

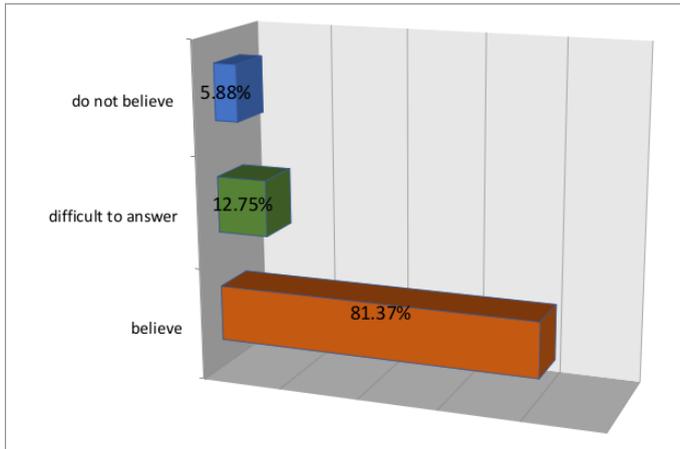
Figure No. 03: Do you agree with the statement that displaced persons often behave immorally / defiantly?



Source: authors.

- Information on requesting assistance from the war arena. As of the tenth day of the war, there were at least eight hot spots of resistance, among them cities with significant numbers of residents, including Sumy - 250,000, Mariupol - 460,000, Zaporizhzhia - 710,000, Kharkiv - 1 million 400,000, where civilian infrastructure, including homes of civilians, is shelled. Therefore, the public's particularly destructive behavior, panic, and outrage are caused by reports that the armed forces of Ukraine and the central authorities have abandoned the inhabitants of these regions to their fate. Bots of the aggressor country in social networks spread messages "Everything is gone!", "Help us here we are dying!", "Everyone has abandoned us, we are without food, water, and light, freezing in basements". At the same time, the accounts have a patriotic design but do not contain personal information. The effectiveness of the fake information is 81%. The results are shown in Fig. 4.

Figure No. 04: Do you believe the information from social networks that contains requests for help?



Source: authors.

Therefore, information warfare is proving to be very effective, but there is a lack of international and national legal regulation of it.

4. Organizational and administrative problems of the law of war regulation

Institutional safeguards in a military conflict also need to be reconsidered. The functioning of certain bodies and international institutions designed to address the problem of countering armed aggression proved to be ineffective and passive in the context of supporting the Ukrainian people and protecting them from aggression. Such institutions include, first of all, the UN Security Council. As Gilder, A. points out, “the current debate in academic and political circles reflects the need to reassess UN peacekeeping doctrine in order to assess the impact of these doctrinal shifts in recent years” (Gilder, 2019: 47–73).

Scholars are not inclined to praise the UN’s effectiveness, pointing out that Although there are a number of measures focused on peacekeeping, with notable successes, the UN still faces problems and challenges that negatively affect the effectiveness, efficiency, and success of its peacekeeping operations. Inefficiency is initially inherent in the very structure of the institution.

The UN Security Council consists of 15 members (among them 5 permanent members) and has the specific task of ensuring global peace and security. According to Article 1 of the UN Charter, the purpose of this organization is to promote international peace and security and, to this end, to take effective measures to eliminate threats to peace and suppress acts of aggression or other breaches of the peace. UN performance has faced well-deserved criticism for inaction since the invasion began in February, especially the UN Security Council. “Let me be as clear as possible: [the Security Council] has failed to do everything in its power to prevent and end this war”, – even the UN secretary-general stated (Ukraine war: Rockets hit Kyiv as UN chief admits failings, 2022).

In this case, a paradoxical, illogical situation emerges for a right that upholds the values of equality. It manifests itself in the fact that to quote Charles Michel, President of the European Council, “this is a barbaric war started by a permanent member of the UN” (UN Security Council, 2022). Russia, as a permanent member of the UN, vetoes resolutions concerning its own actions. On February 26, 2022, Russia used its powers as a permanent member of the UN Security Council to veto a draft resolution to respond to Russia’s act of armed aggression against Ukraine and to hold its governing bodies accountable.

The role of the permanent member is special and dominant in the system of these institutions, “permanent members are given greater influence in drafting, agenda setting and their ability to veto informally, even though this influence is uncodified and informal” (Albaret and Brun, 2022: 16). The problem of inequality has a general international character but is particularly significant in the issue of countering a bloody armed conflict.

There is also a discussion of the activities of the International Committee of the Red Cross. In the system of implementation of the provisions of international humanitarian law, a specific role is played by this organization. The ICRC is an international non-governmental organization, but it occupies a special place determined by the provisions of Article 9 common to the First, Second, and Third Geneva Conventions of 1949 and Article 10 of the Fourth Geneva Convention on the right to engage in humanitarian activities. The International Committee of the Red Cross is an independent humanitarian organization that played a leading role in the creation of the Red Cross Movement and in the formation and development of international humanitarian law.

“The ICRC promotes and monitors the application of international humanitarian law, provides legal protection and material assistance to military and civilian victims of wars and helps people affected by natural disasters in conflict zones and vulnerable migrants” (Canton, 2021:630). The ICRC may not only provide its good offices to facilitate the establishment and recognition of hospitals and safe zones and human settlements (Article

14 of the Geneva Convention IV) but may also take any humanitarian initiative it deems necessary.

Its importance and potential are often overestimated, even pointing out that the ICRC should become the kind of organization it was, mobilizing public opinion against their reluctant governments and cooperating with civil society (Sasso`li, 2019). (ICRC must become the advocacy organization it once was by mobilizing public opinion against their reluctant governments and cooperating with civil society.) Therefore, its relevance in the area of armed conflicts is particularly striking.

The significance for the Ukrainian-Russian war is manifested in the need for assistance in the following: full-scale support of green corridors from zones of occupation and hostilities, territories with humanitarian disasters; assistance in the logistics of humanitarian aid; stopping the forced deportation of people from Mariupol, Donetsk, and other territories temporarily or potentially under Russian control to Russia without their freely given consent and documents, especially given that the ICRC mission is collecting the bodies of Russian soldiers and sending them back to Russia (Public Appeal to ICRC, 2022).

However, none of these actions have been implemented, so criticism of this organization's inaction in hot spots is well-deserved. On March 17, 2022, the ICRC left Mariupol, where there were still hundreds of thousands of civilians in need of assistance. The war in Ukraine demonstrated that the Red Cross turned out to be completely unable to work in conditions of full-scale military conflict, although this is what is spelled out in the organization's objectives.

5. Discussion

5.1 The Transformation of Criminal Law in the Context of warfare

The open phase of the armed aggression of the Russian Federation against Ukraine, which began on February 24, 2022, needed urgent and immediate changes in the legal regulation of a significant array of important issues in the state. That's why the President of Ukraine has adopted the Decree "On the imposition of martial law in Ukraine" (President of Ukraine, 2022), by which martial law was introduced from February 24, 2022, for 30 days, and then continued, as the military actions did not stop.

The readiness of the national Ukrainian legislation for such events can be assessed at an average level. We cannot say that the national law was ready for legal regulation in wartime. We note that Ukraine had already

been at war for eight years prior to that since the Crimea peninsula and parts of the Donetsk and Luhansk regions were annexed back in 2014. On the one hand, the state had specialized legislation since 2015, in particular, the Law of Ukraine “On the Legal Regime of Martial Law”.

It defines the content of the legal regime of martial law, the procedure for its introduction and cancellation, and the legal basis for the activities of public authorities, military command, military administrations, local self-government bodies, enterprises, institutions, and organizations under martial law, guarantees of human and civil rights and freedoms and the rights and legitimate interests of legal entities (Verkhovna Rada of Ukraine, 2015).

In addition, the present hostilities necessitated significant additions and configurations to the well-established legislation. They took place in all areas, from financial to administrative. But most of all they affected the criminal and criminal-procedural norms. This was due to the need to strengthen liability for offenses committed under martial law (Laws of Ukraine “On Amendments to the Criminal Code of Ukraine on strengthening liability for crimes against the foundations of national security of Ukraine under martial law” № 2113-IX, “On Amendments to the Criminal Code of Ukraine on strengthening liability for looting” № 2117-IX of March 3, 2022) (Verkhovna Rada of Ukraine, 2022a) and the inclusion of additional offenses to the list of criminal and punishable.

To preserve the state of law and order and the rule of law in wartime, the legislator amended the Criminal Code of Ukraine by increasing liability for property crimes committed under martial law (theft, robbery, extortion, as well as embezzlement, and seizure of property through abuse of official position). Certain of them during the war were transferred from the theoretical classification of criminal offenses to full-fledged criminal acts, for example, Art. 185 (theft) provides an additional aggravating circumstance, and the sanction is strengthened, requiring special qualification, thus moving from a simple sanction - a fine (under normal conditions) to a penalty of imprisonment of 5 to 8 years (under martial law).

New corpus delicti of crimes appeared. The Criminal Code of Ukraine was supplemented with Article 111, which defines collaboration activity (Verkhovna Rada of Ukraine, 2022b), which includes the following acts: public opposition by a citizen of Ukraine to the implementation of armed aggression against Ukraine, establishment and approval of temporary occupation of part of the territory of Ukraine or public calls to support the decisions and/or actions of the aggressor state, armed formations; propaganda of the aggressor state in educational institutions; transfer of material resources to illegal armed or paramilitary formations of the aggressor state; carrying out economic activities in cooperation with the aggressor State and illegal authorities; organization and conduct of

events of a political nature/information activities in cooperation with the aggressor State; voluntary occupation by a citizen of Ukraine of a position in illegal authorities; participation in the organization and conduct of illegal elections; provision of assistance to illegal armed or paramilitary formations of the aggressor State in conducting combat operations against the Armed Forces of Ukraine and other military formations of Ukraine. This crime must be committed only in the form of an active act and voluntarily.

Such an article is especially necessary in times of war because subversion within the country is just as harmful to national interests and territorial integrity as the occupation of territories. As for the latter, as of June 11, 2022, about 20 percent of Ukraine's territory is occupied, so collaboration with an aggressor country and voluntary occupation of positions in the so-called "authorities" is a criminal offense.

We cannot indicate the number of court decisions in these cases because access to the Unified State Register of Court Decisions is temporarily suspended during martial law to prevent threats to the lives and health of judges and participants in the judicial process. According to the State Bureau of Investigation, up to 200 criminal cases were initiated under this article in one month alone (State Bureau of Investigation, 2022).

The latest amendments concerned the emergence of another crime – "aiding and abetting the aggressor state" (Art. 111² of the Criminal Code of Ukraine). Such actions are defined as intentional actions aimed at assisting the aggressor state (aiding and abetting), armed groups, and/or occupation administration of the aggressor state, committed by a citizen of Ukraine, a foreigner, or a stateless person, except for citizens of the aggressor state, in order to cause damage to Ukraine (Verkhovna Rada of Ukraine, 2022c).

Changes were also made in other areas, in particular, additional regulation was implemented in the context of countering the unauthorized dissemination of information about the direction, movement of weapons, weapons and ammunition to Ukraine, the movement, movement, or deployment of the Armed Forces of Ukraine or other military formations formed in accordance with the laws of Ukraine, committed under martial law or a state of emergency, increasing responsibility for cybercrime and crimes in the field of volunteerism, as well as in the field of the state of emergency.

Also, procedural activity in the context of improvement of the procedure of criminal proceedings under martial law has been formatted extensively. So, we can state the update of the criminal law of Ukraine in wartime conditions in the following: strengthening of criminal liability for crimes during wartime; the appearance of new *corpus delicti* of crimes of particular relevance in wartime.

Conclusions

IHL, as a rule of law designed to regulate relations during a military conflict, creates a collective security mechanism and is the legal form of prevention of major armed conflicts. Russia's aggression against Ukraine, which started on February 24, 2022, demonstrated a number of significant legal gaps, both at the international and national levels.

It is stated that the current system of international legal regulation has significant drawbacks, the most significant of which are recognized declarative norms, due to the lack of an effective system of accountability and the lack of updated doctrine of IHL norms in the light of additional challenges and transformations of political and social reality.

Based on the author's survey, it was demonstrated that disinformation is an essential, effective means of warfare, especially information aimed at discrediting public authorities; information aimed at inciting enmity and hatred within the country; information about inappropriate policies to protect civilians and help combatants, which came as a kind of arena of warfare. Information about economic harassment by the authorities did not have a significant impact on undermining public stability.

An analysis of the organizational and administrative problems of the law of war regulation indicated that institutional safeguards in a military conflict also need to be reviewed. The effectiveness of the UN in this fault has been criticized and it has been argued that this policy is primarily embedded in the very structure of the UN Security Council, as there are permanent members with the right of unquestioning veto. There is no mechanism for changing these provisions when a permanent member is an aggressor state. It is also stated that the International Committee of the Red Cross has not used all available mechanisms defined in the mandate of this institution and has demonstrated its inability to work in conditions of full-scale military conflict.

Military actions demonstrated the need to improve the norms of various branches, especially criminal law at the national level. The state of war demonstrated the need to strengthen criminal responsibility for material crimes in wartime, as well as the regulation of new elements of crimes of particular relevance during the war (collaborative activities, aiding and abetting the aggressor state).

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