

MODERN FEATURES OF INTERNATIONAL ECONOMIC HUMAN RIGHTS IN THE CONTEXT OF MILITARY AGGRESSION

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Abstract. The *subject* of the study is the modern features of international economic human rights in the context of military aggression. *Methodology.* The methodological basis of the study is the methods of induction and deduction, the dialectical-materialistic method, the method of analysis and synthesis, and the historical method, which allowed for an objective understanding of the content and essence of the issues under study. The *purpose* of this paper is to determine the origin, to provide the necessary classification of international economic rights and to demonstrate, on the example of Ukraine, the mechanisms of their guarantee and protection in the context of military aggression. The *results* of the study show that in the current conditions of military aggression, there is an effective mechanism for ensuring economic human rights, which, in particular, is ensured by means of "hard" and "soft" international law. *Conclusion.* Economic rights are closely related not only to social rights, but also to human rights belonging to other categories, which, in particular, leads to the conclusion that it is impossible to unambiguously attribute existing rights to only one of the internationally recognised groups and makes it meaningless to classify human rights by this criterion (sphere of life). Summing up the analysis of the role of soft international law acts in regulating cooperation of States to prevent and overcome financial and economic crises in times of war and full-scale military aggression which directly affect the economic rights of citizens, it should be noted that such acts primarily contribute to the formation of a unified conceptual framework in the area under study, partially enshrined in legally binding documents. In addition, recommendatory acts as the basis for regulating relations on preventing and overcoming financial and economic crises caused by military aggression and affecting the economic rights of citizens are presented to a greater extent at the universal level, where contractual coordination of will is not always achievable due to differences in the economic interests of States. Given the general recognition, time of existence and practical applicability of the provisions of certain recommendatory acts on maintaining financial and economic stability, it makes sense to consider them as international customs, sources of international law that contribute to maintaining guarantees of economic human rights in the context of military aggression.

Keywords: international economic rights, military aggression, martial law, economic rights of citizens, economic activity, natural rights, socio-economic sphere, economic sphere of society, administrative protection, public protection, self-defence, constitutional appeal, activities of law enforcement agencies, judicial control, international protection mechanisms.

JEL Classification: K30, R12, K23

1. Introduction

The concept of human rights is a legally formalised notion that delineates the fundamental requirements for a person to lead a full and meaningful life. When considered collectively, they constitute a comprehensive and holistic concept. All human rights – civil, cultural, economic, political and

social – are recognised as a universal, indivisible and interdependent set of rights, originally enshrined in the Universal Declaration of Human Rights of 1948. A comprehensive approach to the promotion and protection of human rights, which includes economic, social and cultural rights (Universal Declaration of Human Rights, 1948).

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Economic rights are an indispensable component of an individual's constitutional and legal status. In order to ascertain their position within the overarching framework of human and civil rights and freedoms, it is essential to consider that both international law and the majority of national legal systems in contemporary democratic States are defined by a unified approach to human rights. All rights are of equal value; there is no hierarchy amongst them. Each right is necessary in its own way. The designation of a specific subset of rights as the primary category inevitably results in the devaluation and marginalisation of other rights (Sutto, 2019).

Economic rights afford individuals the liberty to dispose of the factors of production (economic activity) that constitute the foundation of societal existence and advancement. Such rights are designed to enable individuals to freely seek and identify sources of income and support for their own livelihood and that of their dependents.

The system of human rights protection in times of war comprises legal measures established in accordance with the norms of national legislation and international law. The Basic Law of the State provides for the right of every individual to protect their rights and freedoms from violations and unlawful encroachments by any means not prohibited by law. In order to guarantee the implementation and protection of rights and freedoms, the Constitution and legislation provide for the possibility of citizens exercising their rights through specific actions, as well as the establishment of a system of State bodies whose purpose is to assist citizens in the implementation and protection of their rights (Protection of economic, social and cultural rights in conflict, 2015).

In the contemporary era, the principal economic indicators are human rights and freedoms. These have evolved from matters of internal State competence to encompass the entire international community. In instances where the State apparatus is incapable of guaranteeing the implementation of economic human rights and freedoms, international law offers the option of resorting to international mechanisms for the purpose of ensuring and safeguarding economic human rights and freedoms. Furthermore, the efficacy of international mechanisms for the safeguarding and monitoring of human rights and freedoms is of paramount importance, particularly in the context of an armed conflict with an aggressor.

2. Formation and Development of International Economic Human Rights in Modern Society

Europe and North America can be considered the historical homeland of the international human

rights standard, which does not deny the existence of national human rights standards in other parts of the world and continents that have not received universal international recognition. The modern doctrine of human rights has emerged as a result of a rather long historical and legal process of formation and development, which, according to the authors, includes 4 main stages: ancient, Christian, bourgeois, and socialist. These periods are evolutionary in nature, linked to universal human progress, so that their chronological framework can only be determined conditionally. At the same time, there is a layering of one period of human rights development upon another, when, for example, the beginning of the socialist period did not lead to the extinction of the bourgeois model. Rather, it led to their competition, which resulted in the creation of modern international human rights law. The appearance of each new stage does not mean the complete death of the previous one. The characteristics of the new stage come to the fore, but the old characteristics remain. Thus, the notions of human rights characteristic of the religious model are also inherent in the bourgeois and socialist models (Beitz, 2009).

The first thing to consider is the ancient period, when the idea of human rights was born as an integral part of the political system of Athens, Sparta and Rome. At that time, only the indigenous population was granted full rights.

The second is the Christian period, one of the signs of which is the fact that human rights are not considered as an independent value worthy of discrete regulation and concretisation, they are, as it were, dissolved in the Holy Scripture. At the same time, the institutions (principles and norms) of human rights are largely anchored in the Bible in the form of incidents that are subject to interpretation by both clergy and laity. In this sense, it would be wrong to believe that the issue of human rights was ignored during the period of the dominance of the religious worldview in the State and the law, and even more so when it came to their first appearance in the West within the framework of the secular bourgeois model.

The Christian model, which arose outside the formal legal methodology, is characterised by the enshrining of natural human rights as religious norms that are not recognised as legal in the Romano-Germanic legal tradition. Therefore, the human rights that were enshrined in writing in the Christian model were of a natural nature. Thus, in the established science of human rights, the thesis that there is no positive enshrining of natural rights inherent in humans from birth needs to be significantly supplemented: natural rights do not necessarily require legislative enshrinement, but they are nevertheless contained in sacred writings, such as the Bible, customary law or doctrine. Furthermore, if natural rights were not

recorded in any form of social norms, they would be an independent source of law.

The third period is that of the secular, or bourgeois, era. The secular model of human rights was first established in countries of Western and Central Europe. This was a consequence of the Reformation of the Catholic Church, the emergence of Protestantism with its numerous divisions, as well as the revolutions in England and France, which resulted in the separation of spiritual and secular authority. During this period, the so-called Western model was formed, which began to provide an unconditional package of rights without taking into account the class, religious, and migratory characteristics of a person (Beitz, 2009).

It is important to highlight that the foundation of the pre-Western (traditional) model of human rights was a "symphony" of secular and spiritual authorities that supported and reinforced each other. This established the legal status of an individual based on their objective characteristics, which is a characteristic of any monarchy that exists in the modern world. In this sense, the achievement of the Western model of human rights was the unconditional provision of these rights to all individuals, which was not a novel concept, having been borrowed from the ancient ideas of Ancient Greece and Ancient Rome about the justice and morality of law. However, these ideas concerned only the inhabitants of the polis itself. Consequently, the absence of universal human rights is perceived as immoral and unfair from a modern perspective. Nevertheless, this was the reality of traditional societies.

The concept of human rights as it is understood in the West today has its roots in the period of the bourgeois revolutions, the elimination of the feudal system and the absolute power of the monarch. In the legal literature of the time, this concept was often referred to as "bourgeois" or "liberal-individualistic". This model is characterised by the following key features: the isolation of the individual from society; the primacy of the individual over society and the State; personal freedom; and the interpretation of rights as natural and inalienable, as a result of the activity of the individual himself. It is important to note that initially, rights served as a means of challenging the arbitrary exercise of power over individuals (Landman, 2006).

Here, human rights in the full sense of the word are referred to as personal and political rights because of their natural nature. They are believed to define and protect the individuality of everyone, unlike socio-economic rights, which are not natural. Socio-economic rights, which do not have a legal nature, are seen as a desirable direction of the State's social policy. According to the Western concept, those who know their rights and make efforts to enjoy them have them. The State intervenes only when they are violated. Since human rights are an absolute value,

the basis for restricting human rights may be prescribed by law, but only if due process is observed.

Some scholars recognise this model as imperfect, weakened by internal contradictions, but it is not yet exhausted. Provided that its individualistic essence is softened, humanistic principles are introduced and economic rights are recognised as rights on the same level as civil and political rights, the Western concept may still be of interest to the rest of the world's communities.

At a certain historical stage of development, human rights went beyond the specific historical space of their application, as they seemed attractive to representatives of other States. However, in the process of implementing the initially Western values, human rights were clarified, changed, compared with the existing values in a particular State, i.e., began to differ from their "predecessors" created by the liberal States of Europe and North America. Adjustments were made both at the official level and at the level of legal awareness of the population. The latter circumstance is extremely important, as it gives an idea of how justified it was to enshrine human rights in national legislation, what are the prospects for their further spread and development, and how other public authorities will react to their emergence. The process of "assimilation" of human rights can be long and painful, since human rights as an element of culture in a social environment that is not prepared for it, have been formed historically over a long period of time, and do not "fit in" (Landman, 2006).

All scholars unanimously refer to economic rights as the second generation of human rights, which indicates that they emerged after the rights of the first generation. For a long time, the classical theory and practice of bourgeois capitalism refused to recognise economic rights as fundamental, having the properties of a natural and inalienable nature, at best considering them only as "legislative policies" (Donnelly, 2003).

In the Western literature, they are called a response "to the abuses and shortcomings of capitalist development based on the absolute concept of individual freedom" (Donnelly, 2003).

The question of the need for constitutional recognition and consolidation of economic rights remains controversial abroad. Their implementation requires a certain "positive" intervention on the part of the State, which must assume responsibility for the creation and implementation of material guarantees for the exercise of such rights. Despite the fact that economic rights appeared quite early at the international level, as the literature rightly points out, they have hardly taken root in the national legislation of Western countries.

The inclusion of economic rights in the system of fundamental rights and freedoms as second-generation rights is characteristic of the socialist model

of human rights. The socialist model emphasises the rights of the citizen, the employee, and economic and social rights. It is characterised by the prevalence of collective interests over individual ones. The sources of law were not only legal but also political norms, which led to the dominance of the State over law.

It is believed that a person can only exercise his rights and fulfil his duties within a certain community of people, which can only be guaranteed by the State, including through the threat of State coercion. Much attention is paid to the duties of the individual to society, and of workers and collectives to the State. Further consolidation of economic rights is linked to their international recognition (Langford, 2009).

The current stage of development of economic human rights should be linked to the adoption of an important international document that enshrines human rights in a general form – the UN Charter. The Human Rights Covenants complement and develop the concise formulations of human rights in the Universal Declaration of Human Rights (Universal Declaration of Human Rights, 1948).

3. International Economic Human Rights and Their Difference from Related Categories of Rights

The concept of economic rights and freedoms can be attributed to the notion of natural rights. In contrast to political rights, economic rights and freedoms have a natural and social origin, as people were compelled to interact with one another in order to produce, exchange and consume material goods. The advent of the State merely imbues these relations with a legal (positive) character, while their natural legal nature remains intact. It can be argued that certain provisions of international legal instruments indicate that the international community considers economic rights to be natural human rights (Rabinovich, 2007).

Thus, Article 17 of the Universal Declaration of Human Rights states: "Everyone has the right to own property, either alone or in association with others." In addition, Article 22 of this document recognises the right of everyone, as a member of society, to free development in all, including economic, spheres of life (Universal Declaration of Human Rights, 1948).

Not all human rights experts consider economic rights to be an independent group. Today, there are ideas that deny the existence of such a category of human rights, despite the fact that in many international documents and constitutions, economic rights are usually mentioned immediately after civil and political rights.

A significant number of authors assert the existence of a distinct category of socio-economic rights, encompassing economic, social, and cultural entitlements. Nevertheless, if one considers the

criteria of subject composition and purpose of the proclamation, it becomes evident that there are considerable differences even between social and economic rights.

Social rights guarantee an adequate standard of living, health and material well-being. They are aimed at ensuring the well-being and quality of life of socially vulnerable categories, including people who are objectively unable to provide for themselves (children, the disabled, refugees), and thus fulfil the function of eliminating excessive social inequality. If economic rights are a form of manifestation of individual freedom in the economic sphere and, to a greater extent, stem from human nature, social rights stem from the nature of society, which is interested in maintaining social peace, which is achieved, among other things, by redistributing resources from the top to the bottom with the help of the State.

The social nature and function of free labour make it possible to characterise it and fair pay as the most important social good. However, labour is a necessary component of any economic system, and property can also perform social functions in modern society. Therefore, it is necessary to recognise the correctness of the position held by scientists who believe that the right to work and freedom of work belong to the category of economic rights and freedoms.

Economic rights are closely related not only to social rights, but also to human rights belonging to other categories, which allows to conclude, in particular, that it is impossible to assign existing rights unambiguously to only one of the internationally recognised groups and that it is meaningless to classify human rights according to this criterion (sphere of life). For example, some authors call the right to private property a political and economic right. According to I. Bantekas and L. Cephas (2019), this right belongs to the category of personal and economic rights.

Within the framework of liberal-democratic doctrine, the right to property is seen as a prerequisite for the realisation of the right to natural freedom, as a guarantee of a certain autonomy of the individual in relation to society and the State, and thus as the culmination of civil and political rights. Moreover, the existence of a property qualification for the right to vote could be used to justify the close link between property rights and political rights. However, the recognition of the primacy of private property rights has had negative consequences, and hence the characterisation of property rights as fundamental and inviolable has been abandoned in favour of an emphasis on their economic (concerning the use of property for entrepreneurial activity) and social functions (Rabinovich, 2007).

As a personal and economic right, the right to freedom of entrepreneurship, which guarantees individual freedom in the sphere of economy, can be

considered as a derivative of the first generation of rights and freedoms (civil and political rights designed to protect individual freedom).

For example, the right to form a trade union as a subset of the broader right to association (freedom of association) can be called a political right.

The right to protection against forced or compulsory labour, which is a modern form of slavery that infringes on human freedom, should be recognised as a personal (civil) right, as evidenced by its enshrinement in the International Covenant on Civil and Political Rights (Article 8, paragraph 3). Such civil rights are equally relevant to the economic sphere, such as the right to dignity, for example, in the field of work, freedom from discrimination, as well as rights-guarantees that ensure the reality of many human rights (International Covenant on Civil and Political Rights, 1966).

Thus, despite the controversy of this approach, it should be noted that economic rights are closely related to other groups of human rights and are of great importance to every member of humanity.

The concept of work is not merely an activity undertaken with the objective of generating income; it is also a process through which an individual's personality is formed and a sense of self-realisation is achieved within the economic domain. The right to work is closely linked to other rights, particularly the rights to dignity and a decent existence while meeting minimum living needs. These are integral to the right to life, which serves as an additional argument for supporters of recognising the essential role of work. Work is a natural material, physical and spiritual need of a person, and the realisation of this right as an integral part of the right to choose a type of activity is a condition for the initial emergence of property rights. It is not possible to engage in entrepreneurial activity without owning property. The interconnection between the aforementioned institutions is exemplified by the stance of the US Supreme Court, which broadened the scope of the XIV Amendment to the Constitution, safeguarding the right to ownership, to encompass the protection of entrepreneurial rights (Ten Supreme Court cases about the 14th Amendment, 2020).

As an economic good, property has not only an economic value. It is indispensable for the realisation of other human rights and confers genuine empowerment. The right to private property serves as a material and personal guarantee of the preservation of economic freedom and provides an avenue for the individual to achieve independence and self-realisation (Fundamentals of international legal standards of human rights, 2019).

It is no coincidence that in socialist countries, economic rights were given great attention, and their consolidation and enforcement was considered a priority task of the State. For example, the slogan of

building a State governed by the rule of law in China is aimed primarily at protecting socio-economic rights. And at present, some researchers note the special importance of economic rights, as they determine the position of a person in the economic sphere as an employee and an owner, and labour and property determine the place of a person and a citizen in society and the State. As posited by S. Leckie and A. Gallanger (2006), these rights serve as the foundation for other human rights, given their intrinsic link to the assurance of a means of livelihood. These rights are not merely an expression of the material necessity of labour (or products of labour); they also serve to acknowledge the intrinsic value of meaningful activity (labour or economic) in the realisation of human dignity and personal development.

It is imperative that the significance of economic rights is neither overstated nor understated. The importance of economic and social rights is on a par with that of civil and political rights. In order to achieve any one of these objectives, it is essential to consider them as indivisible and interdependent. This perspective, which reflects the concept of human rights as universal, indivisible, and interrelated, is officially recognised at the international level and is also characteristic of a number of regional documents. In accordance with the 1981 African Charter on Human and Peoples' Rights, the concepts of civil and political rights are inextricably linked with economic, social and cultural rights, both in terms of their conceptualisation and in a universal sense. The realisation of economic, social and cultural rights serves to guarantee the exercise of civil and political rights (African (Banjul) Charter on Human and Peoples' Rights, 1981).

All human rights originate from the fundamental characteristics of the human species. They are "rooted in the natural desire of the human race for survival" and represent the concept of human dignity, the safeguarding of which is of significant importance not only for the individual, but also for society as a whole.

The following aspects of economic rights are emphasised: the pervasiveness of a specific socio-economic domain of human existence; the acceptability of non-rigid formulations of recommendations; the dependence of implementation on the state of the economy and resources. The International Covenant on Economic, Social and Cultural Rights requires States to "take measures, to the maximum extent of available resources, to ensure the progressive full realisation of the rights recognised in the Covenant by all appropriate means, including, in particular, the adoption of legislative measures" (International Covenant on Civil and Political Rights, 1966).

In addition, being one of the types of constitutional rights of citizens, economic rights and freedoms reflect specific social relations, have their own material

and normative content and social purpose; economic rights and freedoms are aimed at satisfying material needs of a person, provide him/her with the opportunity to participate in economic and economic life of society. At the same time, the content of economic rights and freedoms has a specific historical character, reflecting the level of economic, social, cultural and political development of society, its inherent contradictions and the ways of resolving them.

D. Forsythe (2000) identifies the foundation of economic rights as the guaranteed right of ownership of movable and immovable property. He classifies economic rights and freedoms as follows: the right to engage in entrepreneurial activity without forming a legal entity; the right to create commercial organisations for profit; the right to create non-profit organisations for charitable, educational, cultural and other non-profit objectives; rights in credit and settlement relations with the bank; rights to residential premises; and the right to dispose of property by inheritance.

The classification of economic rights into basic, complex and derivative rights seems to be quite reasonable. Comprehensive rights include the right to conduct business and property rights not prohibited by law, while derivative rights include the right to conduct business, the right to conduct certain types of business, property rights to own, use and dispose of certain types of property (derivative rights are regulated by sectoral, primarily civil, legislation).

R. Hirschl and E. Rosevear (2011) identify the following economic rights: the right to work, the right to property, the right to entrepreneurship, the right to strike, the right to conclude collective agreements, and the right to freely unite in national and international organisations to protect their interests.

Thus, it can be concluded that in the modern world it is quite difficult to define a complete, exhaustive catalogue of economic rights of citizens, and even more difficult to distinguish them from related social and cultural rights. By distinguishing in the structure of socio-economic rights a group of economic rights and a group of social rights, it is possible to propose the nature (negative or positive) of the belonging of a particular right as a criterion for their distinction. Hence, according to the authors, economic rights include rights that are negative in nature (i.e., do not require the State to provide any benefits, allowing a person to enter the economic sphere of society independently): the right to property, the right to freedom of economic activity, the right to work. The rights that require more active State intervention and are intended to ensure a social compromise in society in a market economy are social rights.

4. International Human Rights in the Context of Military Aggression: Ukraine's Experience and the Concept of Soft Law Instruments

The example of today's Ukraine is a good example of the mechanism for protecting the economic rights of citizens in the international legal field. On February 24, 2022, Russia launched a full-scale military invasion of the territory of a sovereign State, Ukraine. Disregarding the norms of international law, the Russian Federation began to physically destroy the population of Ukraine, destroying the infrastructure and residential facilities of the State, thereby violating the rights, freedoms and interests of individuals guaranteed by national and international law (Russia-Ukraine War – Human Rights Watch, 2024).

The full-scale armed aggression of the Russian Federation has not only made certain adjustments to the exercise of the human right to defence, but has also become the main source of violations of human and civil rights and freedoms, as it causes material damage and moral harm to citizens on a daily basis, disrupting and destroying the established habitual way of life of Ukrainian citizens. It is impossible to bring all those responsible to justice now, as Russia's military aggression has not stopped, but all facts of violations of citizens' rights and freedoms must be recorded.

Damage or destruction of property, violation of property rights as a result of deprivation of property, restriction of human rights in the occupied territory, removal of children and divorce from parents, violation of the right to education, etc. Unfortunately, this list of violations is not exhaustive, but the existing system of legal forms and methods of protection will help to restore the broken right and compensation for the damage caused (Report on the human rights situation in Ukraine, 2024).

The system for the protection of human rights in times of war includes legal measures defined by the norms of national and international law. The Constitution of Ukraine guarantees everyone the right to defend their rights and freedoms by any means not prohibited by law. To ensure this, the Constitution and legislation of Ukraine provide for the possibility of citizens to take certain actions, as well as the creation of a system of State bodies that help to implement and protect rights (Rabinovich, 2007).

According to the Constitution of Ukraine, citizens have the right to take actions aimed at protecting their rights and freedoms, including: protecting their own and other people's lives and health from unlawful attacks; forming political parties and public organisations; holding meetings and rallies; appealing to the authorities; defending their rights

in court; and appealing to the Ukrainian Parliament Commissioner for Human Rights or international institutions.

The main forms of protection of rights and freedoms are: administrative protection by State bodies; public protection; self-defence; constitutional appeal; activities of the prosecutor's office, internal affairs bodies, and judicial control. The President of Ukraine plays a key role in the formation of mechanisms for monitoring the implementation of rights and freedoms, as well as contributing to the creation of conditions for intolerance of violations of these rights (Values and rights of importance for Ukrainians in times of war: survey results, 2024).

In the system of separation of powers, the institution of the Commissioner for Human Rights functions as a complement to the existing means of protecting citizens' rights. The judicial form of protection is one of the most effective, as it is carried out by one of the branches of government and is guaranteed by the Constitution. The court cannot refuse to hear a case if a person believes that his or her rights have been violated or infringed (Rabinovich, 2007).

The international mechanisms and methods for the protection of human rights in times of war are based on the norms of international humanitarian law. This branch of international law establishes the fundamental principles and norms for the protection of human rights, particularly with regard to the limitations on the use of force in armed conflicts. It identifies two essential requirements: firstly, the obligation to spare those who are neither engaged nor have ceased participation in military operations; secondly, the necessity to restrict violence to the minimum extent required to achieve the objective of the conflict, which, irrespective of its causes, is to diminish the military capabilities of the adversary.

In recent decades, the global system for the protection of economic human rights has undergone a period of significant expansion and increased complexity. The system now comprises several principal organs and mechanisms:

- The United Nations General Assembly, the United Nations Human Rights Council, and its associated bodies. In 1948, the Universal Declaration of Human Rights was adopted, followed by a number of international legal instruments dealing with various aspects of the protection of human rights, including civil, political, cultural rights, as well as the prohibition of genocide, apartheid and racial discrimination. Furthermore, human rights issues are discussed in the relevant committees of the General Assembly.
- The UN Security Council and its specialised mechanisms.
- The UN Economic and Social Council is responsible for coordinating the economic and social activities of the UN, operating under the guidance of the

General Assembly. Furthermore, it formulates recommendations pertaining to the safeguarding of rights and fundamental freedoms. It has established a Commission on the Status of Women and a Permanent Forum on Indigenous Issues.

- International Court of Justice.
- The UN Secretariat and its various divisions.
- Treaty bodies dealing with human rights issues (OHCHR, 2011).

In addition to the aforementioned universal mechanisms, regional systems for the protection of human rights are also undergoing active development. In particular, the Council of Europe and the European Court of Human Rights play a pivotal role in Europe, while the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights function in the Americas. The latter examines complaints from individuals and legal entities, and its findings have a significant moral impact on States that have been found to be in violation of human rights.

The African system includes the African Commission on Human and Peoples' Rights, which operates within the framework of the Organisation of African Unity. It hears reports from States on the protection of human rights and considers complaints of mass violations (African (Banjul) Charter on Human and Peoples' Rights, 1981).

The European system is based on the European Court of Human Rights, which can be accessed by citizens of Member States, including Ukraine, which joined the Council of Europe in 1995 by signing the European Convention on Human Rights. This allows citizens to submit individual complaints to the European Court.

Ukraine has demonstrated resilience in the face of the initial onslaught resulting from the large-scale Russian invasion. As the war persists, it is imperative that the policy of resistance be extended to encompass the organisation of comprehensive daily operations and the sustainability of the economy and society in the context of a prolonged war. The continuity of national production in the medium and long term is a prerequisite for the establishment of a sustainable economy that can consolidate military victory and ensure adequate living conditions (Values and rights of importance for Ukrainians in times of war: survey results, 2024).

In today's environment, international economic relations involve States with widely differing characteristics, which generates not only heterogeneity of approaches to solving common problems, but also difficulties in coordinating sovereign will in relation to them. Despite the fact that crisis phenomena, including full-scale wars, affect all countries of the global economy, and national governments have a clear understanding of the need to overcome them, the search for unified legally binding solutions

sometimes proves impossible due to serious contradictions in national economic interests (Makeeva, 2022).

The contemporary practice of international economic collaboration in response to crises such as war and military aggression illustrates a notable reluctance on the part of States to conclude multilateral legally binding treaties. Conversely, through active engagement within the framework of formal and informal intergovernmental associations and conferences, they develop solutions that are enshrined in final declarations, joint statements, action programmes and other non-contractual sources (Young, 2019).

The number of extra-contractual acts is constantly growing, and although they are not formally legally binding, they generate consequences in the form of joint actions by States to overcome the economic crisis.

It should be noted that the absence of treaty sources, on the one hand, is due to the informal nature of the associations' activities, and on the other hand, to the deliberate rejection of them by all Member States in recognition of the principle of voluntary implementation of joint decisions.

In the modern international legal literature (both domestic and foreign), there are sometimes directly opposite views on the concept and essence of soft law, as well as on its importance for the regulation of international relations, including for the purpose of guaranteeing economic rights. However, despite the diversity of opinions, all researchers agree on one thing: international relations are influenced not only by legally binding norms, but also by acts that do not impose obligations on their participants. The differences of opinion are mainly limited to the extent to which soft law can influence international relations and whether it can lead to consequences, especially in the context of military aggression (Cope, Crabtree, Fariss, 2020).

The concept of soft law was formed in the 70s of the XX century mainly in Western European legal doctrine. It was then that foreign researchers drew attention to the fact that not only treaty norms, but also acts such as resolutions, declarations, cooperation programmes and other documents that do not fall into the category of legally binding ones have a regulatory impact on international relations, especially in the context of military aggression.

It was in foreign legal doctrine that various conceptual approaches to understanding soft law were first developed. Usually, in the international legal literature, soft law is understood as a normative complex consisting of two types of norms:

– Treaty provisions the content of which is uncertain and which do not give rise to specific rights and obligations for States;

– norms contained in resolutions, decisions and outcome documents of international bodies, organisations and forums that are not legally binding.

Foreign authors mostly base their assessment of the concept and essence of "soft law" on its opposition to "hard law". By the former, they mean recommendatory norms, and by the latter, mandatory norms. However, all researchers, despite sometimes diametrically opposed views on soft law, share a common position that such acts can, under certain circumstances, act as regulators of international relations in times of war and acts of military aggression, as well as be the basis for the development and conclusion of legal acts in the form of treaties or legally binding acts of international organisations. Within the framework of anti-crisis international regulation, acts of soft law are adopted quite often and have a real impact on the behaviour of States in the context of their decision-making to maintain financial and economic stability, including the economic rights of citizens.

Firstly, international advisory acts on maintaining financial and economic stability may in some cases give rise to legal consequences at the level of national legislation. Secondly, it seems that soft law acts in some cases serve as a basis for the development and adoption of international treaties aimed at regulating economic human rights, and in some cases become a supplement and specification of existing international law.

Thirdly, the article shows that the mechanisms of influence of anti-crisis extra-treaty acts on international economic relations are expressed in a combination of several elements. First of all, it is the voluntary and conscientious fulfilment by States of their political obligations. Next, it is the economic measures (positive or negative) that encourage States to implement the recommendations. It is the enshrining of references to soft law in treaty sources. Finally, and last but not least, it is the recognition of the status of customary norms for certain recommendations.

5. Conclusions

Following the outbreak of the war in Ukraine, the United States and the West imposed sanctions against Russia. This had a significant impact on the international economic and trade order, as well as on the institutional basis of economic globalisation. The international multilateral governance system, established after World War II on the basis of rules, is undergoing a process of change that is taking it back towards the geopolitical and economic arrangements that existed before the war. The global economic structure is undergoing profound and unprecedented changes. The theme of the current era has shifted from "peace and development" to "security and development".

In conjunction with these developments, the risk to economic human rights is also rising.

Economic rights are closely related not only to social rights, but also to human rights belonging to other categories. This interconnection between economic and human rights, in particular, leads to the conclusion that it is impossible to unambiguously assign existing rights to only one of the internationally recognised groups. Furthermore, it renders the classification of human rights according to this criterion (sphere of life) meaningless.

The classification of economic rights into basic, complex and derivative rights seems to be quite reasonable. Comprehensive rights include the right to conduct business and property rights not prohibited by law, while derivative rights include the right to conduct business, the right to conduct certain types of business, property rights to own, use and dispose of certain types of property (derivative rights are regulated by sectoral, primarily civil, legislation).

Economic rights include rights that are negative in nature (i.e., do not require the State to provide any benefits, allowing a person to enter the economic sphere of society independently): the right to property, the right to freedom of economic activity, the right to work. The rights that require more active State

intervention and are intended to ensure a social compromise in society in a market economy are social rights.

In conclusion, the analysis of the role of acts of "soft" international law in regulating cooperation between States to prevent and overcome financial and economic crises during war and full-scale military aggression, which directly affect the economic rights of citizens, reveals that such acts primarily facilitate the formation of a uniform conceptual apparatus in the relevant field, partially entrenched in legally binding documents. In addition, recommendatory acts as the basis for regulating relations on preventing and overcoming financial and economic crises caused by military aggression and affecting the economic rights of citizens are presented to a greater extent at the universal level, where contractual coordination of will is not always achievable due to differences in the economic interests of States. Given the general recognition, time of existence and practical applicability of the provisions of certain recommendatory acts on maintaining financial and economic stability, it makes sense to consider them as international customs, sources of international law that contribute to maintaining guarantees of economic human rights in the context of military aggression.

References:

- African (Banjul) Charter on Human and Peoples' Rights (1981). Available at: <https://www.african-court.org/wpafc/wp-content/uploads/2020/04/AFRICAN-BANJUL-CHARTER-ON-HUMAN-AND-PEOPLES-RIGHTS.pdf>
- Bantekas, I., & Cephas, L. (2019). *Sovereign Debt and Human Rights*. Oxford University Press.
- Beitz, C. R. (2009). *The idea of human rights*. Oxford: Oxford University Press.
- Cope, K., Crabtree, C., & Fariss, C. (2020). Patterns of disagreement in indicators of state repression. *Political Science Research and Methods*, Vol. 8(1), p. 178–187.
- Donnelly, J. (2003). *Universal Human Rights in Theory & Practice*. 2nd ed. Ithaca & London: Cornell University Press.
- Forsythe, D. P. (2000). *Human Rights in International Relations*. Cambridge: Cambridge University Press. International Progress Organization.
- Fundamentals of international legal standards of human rights (2019). textbook-method. manual / ed. by the head of the Department of international and European law A. V. Bignyak. Kherson: Publishing House "Helvetica", 168 p.
- Hirschl, R., & Rosevear, E. (2011). *The Legal Protection of Human Rights: Sceptical Essays*. Oxford: Oxford University Press, pp. 207–208.
- International Covenant on Civil and Political Rights (1966). General Assembly resolution 2200A (XXI). Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>
- Landman, T. (2006). *Studying Human Rights*. Oxford and London: Routledge
- Langford, Malcolm (ed.) (2009). *Social Rights Jurisprudence, Emerging Trends in International and Comparative Law*. Cambridge University Press.
- Leckie, S., & Gallanger, A. (2006). *Economic, social and cultural rights: a legal resource guide*. University of Pennsylvania Press.
- Makeeva, O. M. (2022). Human Rights in the system of basic European values. *Legal bulletin*, Vol. 2 (63), p. 48–55.
- Office of the United Nations High Commissioner for Human Rights (OHCHR) (2011), *International Legal Protection of Human Rights in Armed Conflict*. New York and Geneva.
- Protection of economic, social and cultural rights in conflict (2015). Office of the High Commissioner for Human Rights. Available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/ESCR/E-2015-59.pdf>

Rabinovich, P. M. (2007). *Fundamentals of the general theory of law and the state*. Textbook. View. 9th, with changes. Lviv: Krai publ., 192 p.

Report on the human rights situation in Ukraine (2024). Available at: <https://www.ohchr.org/en/documents/country-reports/report-human-rights-situation-ukraine-1-march-31-may-2024>

Russia-Ukraine War – Human Rights Watch (2024). Available at: https://de.search.yahoo.com/yhs/search?hspart=airfind&hsimp=yhs-04&p=human%20rights%20at%20war%20ukraine&type=50302_y2_YHS

Sutto, M. (2019). Human Rights Evolution, A Brief History. *The CoESPU Magazine*, Vol. 3, p. 18–21.

Ten Supreme Court cases about the 14th Amendment (2020) USA Supreme Court. Available at: <https://constitutioncenter.org/blog/10-huge-supreme-court-cases-about-the-14th-amendment>

Universal Declaration of Human Rights (1948). United Nations. Available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

Values and rights of importance for Ukrainians in times of war: survey results (2024). Available at: <https://www.undp.org/ukraine/press-releases/values-and-rights-importance-ukrainians-times-war-survey-results>

Young, Katharine G. (ed.) (2019). *The Future of Economic and Social Rights (Globalization and Human Rights)*. Cambridge University Press.

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