

## **INTERNATIONAL PUBLIC SAFETY STANDARDS AND THEIR IMPACT ON THE IMPLEMENTATION OF THE PROTECTION OF WOMEN AND CHILDREN'S RIGHTS UNDER MARTIAL LAW IN UKRAINE**

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### **INTRODUCTION**

The modern world is facing many challenges and threats, among which military conflicts accompanied by numerous human rights violations occupy a special place.

Above all, special attention is paid to the protection of civilians, especially women and children, who are the most vulnerable. In addition to the general rights that every human being is born with, women and children have specific rights that require special protection not only in peacetime but also in emergency situations such as martial law.

Among the scholars who have studied the protection of women's and children's rights are K. Rezvorovych, N. Lahovska, A. Yunin, M. Yunina, N. Yastremska and others. For example, K. Rezvorovych considers the role of international norms in shaping gender equality in Ukraine in the post-war period. N. Lahovska points out the importance of raising a child in a family, the urgency of the problem of orphanhood in Ukraine, which has significantly increased since the beginning of the military aggression of the Russian Federation. O. Krasnikova, D. Bodian analyse the protection of civilians who suffer primarily from hostilities, in particular women and children as the most vulnerable category. Yu. Bilianskyi, N. Linnyk and L. Rusnak draw attention to the problems of legal regulation of the protection of children's rights in war. In their turn, T. Batrachenko, O. Rozghon, I. Yefimova note that the fundamental legal instruments are the Council of Europe Convention on the Prevention of Violence against Women and Domestic Violence (Istanbul Convention), as well as other general conventions of the Council of Europe and European standards for the observance of the rights of victims.

Despite numerous studies and publications, the situation with war crimes against women and children in Ukraine requires a more thorough and specific analysis. During armed conflicts, women and children and their rights are protected by international humanitarian law and national

legislation, but this is not always implemented in practice. Given that our country is at war, the issue of protecting the rights of women and children during this period is not only relevant, but is becoming increasingly important and requires thorough study. Understanding this problem requires constant updating of knowledge and adaptation of approaches to effectively protect the rights and dignity of victims and prevent the recurrence of similar incidents in the future.

The study of international law relating to the limitations and obligations of States under the law of war primarily involves the study of aspects of international humanitarian law. During an armed conflict, both international humanitarian law and human rights apply. However, in peacetime, international humanitarian law does not apply. This is because its main purpose is to protect victims of war. Certain groups of civilians, including children, women, prisoners of war, the wounded and civilians, are entitled to protection under international humanitarian law.

Equality mechanisms guarantee equal rights and opportunities for everyone, regardless of gender, any restrictions or privileges. This includes adopting and implementing legislation to prevent discrimination, monitoring compliance with anti-discrimination requirements, providing channels for reporting and eliminating discrimination, promoting motherhood and early childhood, implementing measures to protect women's health and safety, and assessing the effectiveness and legality of public authorities' actions.<sup>1</sup>

The effectiveness of the protection of any rights depends on the effectiveness of the mechanisms created for this purpose on the basis of normative agreements. Thus, customary and treaty norms, in particular standards on the rights of women and children, are the first elements of the international mechanism for the protection of their rights.<sup>2</sup>

### **1. The impact of international standards on the protection of children's rights under martial law**

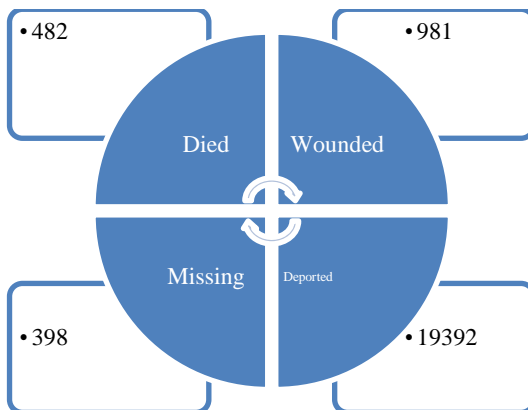
Children are the most vulnerable category of the population, requiring special care and support from the state. The events related to the invasion of Ukraine by the Russian Federation are a clear indication of this. According to

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<sup>1</sup> Rezvorovych, K. R. Regulatory legal acts of Ukraine as a means of ensuring the effective functioning of the mechanism for the implementation of gender equality in Ukraine. *Scientific Bulletin of Dnipro State University of Internal Affairs*. 2021. № 2. C. 125-129. URL: [https://visnik.dduvs.in.ua/wp-content/uploads/2021/09/21\\_2\\_ua/%D0%9D%D0%92\\_2-2021\\_23.10.21-125-130.pdf](https://visnik.dduvs.in.ua/wp-content/uploads/2021/09/21_2_ua/%D0%9D%D0%92_2-2021_23.10.21-125-130.pdf)

<sup>2</sup> Krasnikova O., Bodian D. International legal mechanism for the protection of children's rights in war. *Prykarpattya legal bulletin*. 2023. Issue 5 (52). C. 107-111. URL: [http://pjbv.nuoua.od.ua/v5\\_2023/21.pdf](http://pjbv.nuoua.od.ua/v5_2023/21.pdf).

the national portal “Children of War”, since the beginning of Russia’s full-scale war against Ukraine, 482 children have been killed, 981 children have been injured, 398 are missing and 19,392 have been deported (Figure 1).



**Fig. 1. Number of children affected by Russian aggression at the beginning of the war**

*Source: compiled by the author(s) based on their own observations*

It is clear that it is currently impossible to determine the exact number of children affected by the hostilities and the temporary occupation of part of the territory of Ukraine. In addition, if we talk about deported children, their number is known only from statements by representatives of the aggressor, so the figure given is not reliable. Of course, this number has increased significantly over the two years of war.

In order to ensure the protection of children’s rights, including in times of war, international law has separate legal norms whose provisions are intended to determine the status of children and the conditions for their survival in wartime. We have made an attempt to analyse the implementation of these norms based on the events that took place on the territory of Ukraine during the current large-scale war.

The Universal Declaration of Human Rights, adopted on 10 December 1948, is one of the main documents in force in peacetime. It is a universal international human rights document whose provisions regulate the rights directly related to children<sup>3</sup>. The adoption of the Declaration was the driving

<sup>3</sup> Universal Declaration of Human Rights : Declaration of the Org. United Nations Declaration of 10.12.1948: [https://zakon.rada.gov.ua/laws/show/995\\_015#Text](https://zakon.rada.gov.ua/laws/show/995_015#Text)

force behind the signing of other documents aimed at ensuring equal rights for all children. Later, in 1974, the Declaration on the Protection of Women and Children in Emergency and Armed Conflict was adopted<sup>4</sup>. All these acts are part of the mechanisms that ensure the protection and observance of children's rights in international and national law.

However, despite the established rules, Russia cynically violates them, including the norms of the Convention relative to the Protection of Civilian Persons in Time of War of 1949. Article 17 of this international law provides for the right to evacuate from besieged areas, which is especially true for women and children<sup>5</sup>. However, Russia has repeatedly violated the Green Corridors Agreement. The most illustrative example of non-compliance with international norms is the rocket attack on the railway station in Kramatorsk on 08 April 2022, which resulted in injuries and deaths of civilians, including children.

Other violations by the Russian Federation include shelling of Ukraine's civilian infrastructure, mass executions in the occupied territories and forcing Ukrainian citizens to serve in the Russian army. Especially outrageous are the killings and torture of civilians, as well as sexual violence against women and children. The occupation forces are denying access to water, food, medicine and humanitarian aid, and leaving the population without electricity and communication. The aggressor's use of prohibited weapons, including cluster munitions, deserves special attention. The methods used by the Russian Federation in the war on the territory of Ukraine can be described without hesitation as terrorist. The atrocities and humanitarian disasters committed by the occupation forces in Bucha, Irpin, Gostomel, Mariupol and other cities are known to the whole world and are indefensible<sup>6</sup>.

Ukraine has international legal obligations to implement international standards in the field of children's rights, according to which it must ensure the safety, health, housing, social security and education of all children without discrimination, and realise the interests and rights of children in all spheres of public life<sup>7</sup>.

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<sup>4</sup> Declaration on the Protection of Women and Children in Emergency and Armed Conflict : Declaration of the Org. United Nations Declaration of 14.12.1974: [https://zakon.rada.gov.ua/laws/show/995\\_317#Text](https://zakon.rada.gov.ua/laws/show/995_317#Text)

<sup>5</sup> Convention relative to the Protection of Civilian Persons in Time of War (Ukrainian/Russian) : Convention of the Org. United Nations of 12.08.1949: as of 23 Feb. 2023 p. URL: [https://zakon.rada.gov.ua/laws/show/995\\_154#Text](https://zakon.rada.gov.ua/laws/show/995_154#Text)

<sup>6</sup> Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict : Protocol of the Org. United Nations of 01.01.2000: as of 23 June. 2004 URL: [https://zakon.rada.gov.ua/laws/show/995\\_795#Text](https://zakon.rada.gov.ua/laws/show/995_795#Text)

<sup>7</sup> Implementation of European standards of protection of children's rights in the national legislation of Ukraine. *New ukrainian law*. 2023. VOL. 2. PP. 7-14. URL: <https://doi.org/10.51989/nul.2022.6.2.1>

The international system for the protection of children's rights and freedoms contains a set of international legal principles and norms governing the rights and freedoms of the child. International cooperation has made significant progress in ensuring the full realisation of children's rights. The 1989 Convention on the Rights of the Child is one of the most important documents in the history of child rights, and its value lies in the fact that it was created to protect the rights of all children from any form of exclusion or discrimination. The Convention is an important tool in the fight against violations of children's rights and contributes to the creation of a world in which children can develop and live in full harmony<sup>8</sup>.

The need to protect children's rights arises not only for orphans and children deprived of parental care, but also for all children in vulnerable situations. Armed conflicts pose additional challenges to the observance and protection of children's rights, regardless of their status. Children whose parents do not require special protection in peacetime need support and protection during wartime. In the occupied territories, children under the age of 15, pregnant women and mothers of children under the age of seven have the right to continue to benefit from assistance such as nutrition, medical care and protection from the effects of war, provided in accordance with the measures taken before the occupation<sup>9</sup>. The Article provides that the Occupying Power is obliged to facilitate the activities of institutions responsible for the care of children in the occupied territories.

Addressing the issue of children in armed conflict is one of the priorities of the European Union's human rights strategy. By ratifying the Optional Protocol to the Convention on the Involvement of Children in Armed Conflict, Ukraine reaffirms its commitment to address the harmful and widespread impact on children, condemns unlawful attacks on children in conflict and on institutions where children are often present, such as schools and hospitals, and condemns the involvement of children in armed conflict, recognising the need to strengthen their protection<sup>10</sup>.

According to international law, children growing up during war are recognised as being in need of special protection. This is because all children's rights are violated during war. In particular, the right to life, the right to be with

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<sup>8</sup> Convention on the Rights of the Child : Convention of the Org. United Nations Convention of 20.11.1989: as of 16 November. 2023 p. URL: [https://zakon.rada.gov.ua/laws/show/995\\_021#Text](https://zakon.rada.gov.ua/laws/show/995_021#Text)

<sup>9</sup> Convention on the Rights of the Child.

<sup>10</sup> Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

family and community, the right to health, the right to personal development, and the right to care and protection are all under threat<sup>11</sup>.

Thus, in modern conditions, especially in the situation of armed conflict, the issue of protecting the rights and interests of children is of particular importance.

## **2. The impact of international standards on the protection of women's rights under martial law**

K. Rezvorovych's opinion that the violation of the principle of gender equality is one of the main problems of the modern world and requires state institutions and the international community as a whole to develop effective mechanisms for ensuring and protecting equal rights of women and men in various spheres of life is fair<sup>12</sup>. Domestic violence is an equally important issue that needs to be addressed urgently, as it is closely linked to violations of the principle of gender equality. This problem is particularly acute during wartime.

Violations of the principle of gender equality in Ukraine occur in various spheres of life, and women's rights are mostly violated. For example, the principle of gender equality is manifested in the restriction of women's labour rights. Ukrainian labour legislation restricts women's work at night, prohibits the use of women's labour in heavy work and work in harmful or dangerous working conditions, and in underground work. However, many experts and scholars believe that the restrictions on certain professions and types of work for women under Ukrainian law violate the principle of gender equality. In its report, the International Labour Organization reiterates that labour legislation should not go beyond the protection of women's reproductive health and be based on stereotypes about the role of women in society.

An important and successful experience is Ukraine's close cooperation with the United Nations (UN) and the adoption of standards set by the UN to strengthen the role and protection of women in hostilities<sup>13</sup>. Since 2016, Ukraine has implemented two UN Security Council resolutions No. 1325 (2000) aimed at strengthening the role of women in armed conflict and post-

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<sup>11</sup> Bilyanskyi Y.O., Linnyk N.V., Rusnak L.V. Peculiarities of regulatory and legal regulation of the protection of children's rights under martial law: problems and ways of improvement. *Human rights and public administration in modern conditions: materials. VI International Legal Forum*, Chernivtsi, 9 June 2023: Liha-Pres, 2023. URL: <https://doi.org/10.36059/978-966-397-314-2-4>

<sup>12</sup> Gender equality and combating domestic violence. *The Grail of Science*. 2023. № 25. C. 121-124. URL: <https://doi.org/10.36074/grail-of-science.17.03.2023.0172>

<sup>13</sup> Batrachenko T., Rozgon O., Yefimova I. Sexual violence in the context of war crimes: analysis of international and European standards and responsibility. *Science and Technology Today*. 2024. № 1(29). URL: [https://doi.org/10.52058/2786-6025-2024-1\(29\)-13-21](https://doi.org/10.52058/2786-6025-2024-1(29)-13-21)

conflict reconstruction, protecting women and respecting their rights<sup>14</sup>. It should be noted that Ukraine was one of the first countries to adopt a national wartime action plan, and in May 2022, a framework programme of cooperation between the Government of Ukraine and the UN on preventing and responding to conflict-related sexual violence was approved. In addition to the Criminal Code, Ukrainian legislation recognises war-related sexual violence as a form of gender-based violence. Therefore, all legal norms that define the rights of victims and regulate the activities of authorised actors in the field of preventing and combating gender-based violence also apply to victims of war-related sexual violence.

It is also important not to forget about psychological violence at school, which can be especially used by the Russian Federation against deported children and those living in the occupied territories. Violence in educational institutions has a different nature and character, manifesting itself either in the form of one-off acts of violence or in the form of constant bullying, humiliation and organised harassment (bullying). Organised harassment and bullying are particularly dangerous<sup>15</sup>.

### **3. Improving legislation to protect the rights of women and children**

One cannot but agree with the opinion of K. Rezvorovych, who argues that comprehensive measures are needed to address a number of social problems, including the protection of women's and children's rights in the post-war period<sup>16</sup>.

The following recommendations highlight the key areas that Ukraine should focus on, including access to justice, support services, prevention and awareness-raising, and international cooperation.

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<sup>14</sup> Resolution 1325 (2000).

<sup>15</sup> Yunin A., Yunina M., Rezvorovych K. Violence against children in educational institutions (bullying): causes, consequences, prevention measures and responsibility. *Juvenile policy as a component of supporting Ukraine's national security and defence (dedicated to the 53rd anniversary of the UN General Assembly adoption of the Declaration of the Rights of the Child and the 56th anniversary of the establishment of Dnipropetrovsk State University of Internal Affairs)* Riga, Latvia: Baltija Publishin", 2023. P. 528-549. URL: <https://doi.org/10.30525/978-9934-26-276-0-23>

<sup>16</sup> Rezvorovych K. International norms and their role in the gender vector of ukraine in the post-war period: analysis of social, economic and political aspects. *Scientific journal "Philosophy, Economics and Law Review"*. 2023. № 3 (2). P. 137-146. URL: <https://doi.org/10.31733/2786-491X-2023-2-137-146>

Ukraine should prioritise the establishment of a court or tribunal that would specialise in cases of gender-based violence.

Ukraine should invest heavily in comprehensive support services for victims of gender-based violence.

Ukraine should actively seek and develop international cooperation, working with other countries that have experienced similar post-conflict challenges.

**Fig. 2. Recommendations for improving the legislation in the field of protection women's and children's rights**

*Source: created by the authors based on [14]*

It is crucial to actively combat impunity by providing legal aid and support services to victims, applying a victim-centred approach throughout the justice process and ensuring that perpetrators are held accountable for their actions. It is important to establish and fund shelters, counselling centres and hotlines that provide emergency assistance, psychological support and rehabilitation programmes. These vital services should be easily accessible to all victims, regardless of their geographical location or socio-economic status, with particular attention to marginalised communities at risk.

With the support of international partners and the improvement of international legal mechanisms for bringing perpetrators to justice, positive changes in the application of international humanitarian law can be achieved. International support for Ukraine is not a wish, but a duty of states seeking global prosperity and security. This is security not only for Ukraine, but also for the territories of other states, as the imperial intentions of the Russian Federation may spread to other countries. Preservation of records and evidence of crimes, especially by UN and Council of Europe monitoring missions, is essential<sup>17</sup>.

By cooperating with international organisations, civil society groups and regional initiatives, Ukraine can access valuable support, resources and

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<sup>17</sup> International law and martial law: restrictions and obligations of states. *Scientific Perspectives (Naukovi perspektivi)*. 2024. № 2(44). URL: [https://doi.org/10.52058/2708-7530-2024-2\(44\)-1252-1262](https://doi.org/10.52058/2708-7530-2024-2(44)-1252-1262)



expertise in combating gender-based violence and promoting gender inequality, and make significant progress in addressing the social challenges faced by women and children in post-conflict situations. By prioritising gender equality, promoting women's rights and ensuring access to justice and support services, Ukraine can build a safe and inclusive society for all its citizens.

At this stage, Ukrainian legislation on the protection of women's and children's rights under martial law is undergoing dynamic development. However, the effectiveness of this development depends on a number of factors. The first of them is the existence of temporarily occupied territories. The problem is that it is impossible to exert legal influence on these territories, to obtain reliable information about the needs of children living there, to track their whereabouts and living conditions. In other words, it is possible to develop legal action plans for children living in the occupied territories, but it is currently impossible to implement them in practice. The second factor is the lack of funding. Implementation of child protection programmes in wartime requires adequate funding, which is currently difficult to obtain from the state budget. In our opinion, it would also be advisable to prepare a draft law that would contain all the basic norms on the protection of children in wartime. This would allow updating the legal framework in this area, reducing the number of existing legal acts and introducing provisions that take into account new challenges.

## **CONCLUSIONS**

In summary, we can conclude that the rights of women and children are an integral part of human rights. The international institution for the protection of women's and children's rights is developing dynamically in modern international law. Of course, international standards for the protection of women's and children's rights in modern international law have come a long way – from the definition and consolidation of the principles of non-discrimination and equal rights of men and women to modern international legal norms. Today, international protection of women's and children's rights is a set of international legal treaty norms that govern cooperation between countries to achieve universal respect and observance, as well as to protect and guarantee women's rights in all spheres of life.

The legal protection of children's rights in times of war is a prerequisite for the formation of a just society. Only targeted international cooperation and the harmonisation of international and national legal norms can ensure the implementation of adequate and necessary protection of the rights of all people, not just children. Currently, Ukrainian legislation on the protection of women's and children's rights under martial law is being developed intensively, but its effectiveness depends on many factors. The presence of

the temporarily occupied territories has a negative impact on this process, as it is impossible to obtain reliable information about the needs of children living there and to monitor their living conditions. This means that, although it is possible to adopt an action plan for children living in the occupied territories, it is not possible to implement it. Another negative factor is the lack of funds. Programmes to protect children's rights in wartime require sufficient funding, which is currently difficult to secure even from the state budget.

In the future, it seems promising to develop a draft law that would contain all the basic norms related to the protection of women and children in war.

### **SUMMARY**

The work is devoted to research on the protection of women's and children's rights. During armed conflicts, women and children and their rights are protected by international humanitarian law and national law, but in practice this is not always the case. Therefore, considering that our country is in a state of war, the issue of protecting the rights of women and children in this period is not only relevant, but it is gaining more and more importance and needs to be worked out. The purpose of the work is to analyse international standards on the protection of women's and children's rights under martial law. It was noted that the international standards for the protection of women's and children's rights in modern international law have come a long way from establishing the principles of non-discrimination and equal rights of men and women to modern international legal norms. The effectiveness of the protection of any rights depends on the effectiveness of the mechanisms created for this purpose on the basis of regulatory agreements. Thus, customary and treaty norms, in particular the standards of women's and children's rights, are the first elements of the international mechanism for the protection of women's and children's rights. It was found that Ukraine has international legal obligations regarding the implementation of international standards in the field of children's rights, according to which it must ensure the safety of health, life, social security and education for all children without discrimination, as well as realise the best interests and children's rights in all spheres of social life. Currently, Ukrainian legislation in the field of protection of the rights of women and children under martial law is dynamically developing. However, the effectiveness of this improvement now depends on many factors. The first is the presence of temporarily occupied territories. The second factor is the lack of funds. Programmes for the protection of women's and children's rights in wartime require sufficient funding, which is currently difficult even from the state budget. Further research should be directed to the development of an effective bill on the protection of the rights of women and children in wartime.

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