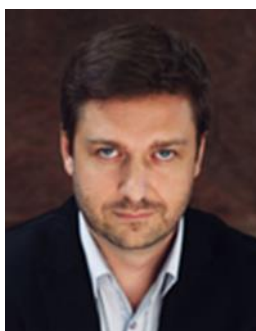


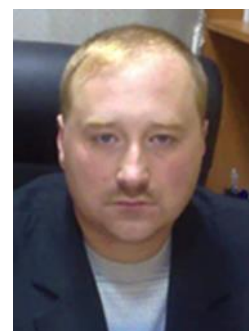
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REGIME OF FOREIGN OCCUPATION AND ITS IMPACT ON HUMAN RIGHTS: FROM POLISH AND UKRAINIAN POLITICAL-LEGAL RETROSPECTIVE AND NOWADAYS

Abstract. The research article deals with different regulatory and doctrinal (mostly based on Polish and Ukrainian sources) concepts of foreign occupation and current means of its enforcement, providing a description of the legal, political and social consequences caused by it, which are primarily suffered by the civilian population as a non-combatant, with the possibility of a full or partial retrospective analogy.

The authors have concluded when the foreign occupation, from one hand, is committed aggressively to seize the alien territory and enslave its population the list of criminal manifestations of occupation state is quite wide and, unfortunately, endless. On the other hand, the possibility of establishing a real legal regime of foreign occupation is seen when the occupation is carried out as a countermeasure to the occupation with the aim of overcoming its negative consequences, restoring law and order and life in the de-occupied territory with the collective participation of international organizations, that will be the subject of further publications.

Keywords: *foreign occupation, regime, war crimes, international law, occupying power.*

Introduction. Since World War II ended and the establishment of a seemingly fair international legal order based on respect for fundamental human

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rights and the right of nations to self-determination, the world community should exist, building the same standards of relations for all its members, which includes, in particular, the principle of the inviolability of borders and the inadmissibility of resolving interstate disputes, including territorial ones, through the use of weapons and military aggression aimed at the occupation and annexation of a sovereign state or part of its territory. Unfortunately, the world has not become perfect and harmonious. The facts of the two world wars, related to the conquests of even entire countries, and on the European continent, should have gone down in history. Moreover, hope was inspired not only by such foundational documents as the UN Charter of 1945 and the Helsinki Accords of 1975 and the processes of the disintegration of colonial empires, but also later – the events of de-sovietization and de-communization as the end of the Cold War, as a result of which international law was replenished with new, mostly by democratic actors.

However, rules and principles established by international law, or rather the mechanism of their action, turned out to be not so desirable for the civilized world. The facts of the occupation, but for now, fortunately, at the local level, constantly accompany the modern world. Some interstate conflicts with the occupation were resolved either through the use of military force by one of the states participating in the conflict (establishment of control over Nagorno-Karabakh by Azerbaijan in September 2023, over which the conflict with Armenia had been ongoing since 1988), or with the help of international subjects led by one or more states (the liberation of Kuwait from the Iraqi invasion through the operation of multinational forces "Desert Storm" in 1991), etc.

At the same time, the majority of military conflicts with the subsequent occupation of foreign territories remain unresolved today, at least in such forms as their freezing (e.g. unrecognized by the world community of the Transnistrian Moldavian Republic, the Republic of Abkhazia, the Republic of South Ossetia – the State of Alania), annexation (also the internationally unrecognized accession of the Autonomous the Republic of Crimea of Ukraine to the Russian Federation as the Republic of Crimea as part of the Krasnodar Territory of the Southern Federal District), the division of the country (the Turkish Republic of Northern Cyprus is also recognized only by Turkey), ongoing conflicts (Israeli-occupied East Jerusalem, the West Bank, the Golan Heights and the Sector Gaza as the capital of the partially recognized State of Palestine^{*}).

The occupation of parts of the Luhansk and Donetsk regions of Ukraine (ORDLO) by the Russian federation in 2014 could be added to the last list. However, as a result of the full-scale invasion of the Russian Federation into Ukraine on February 24, 2022, which is actually considered the largest armed conflict in Europe after the World War II, but so far with the direct participation of only two states, the Luhansk region became almost completely occupied, and the entire south of the Donetsk region was added to the occupation, large parts of the Zaporizhzhia and Kherson regions were also under Russian occupation, which together constitute 18 % of the territory of Ukraine within its internationally recognized borders as of 1991 (Dulyaba, 2023). This area is comparable to most of Italy, the Czech Republic and Slovakia, or Austria and Switzerland together, half of Great Britain or Germany, or Slovenia, Croatia and

^{*} Official names of pseudo-states approved by their puppet or separatist governments.

Bosnia and Herzegovina together. While the total area of the already mentioned post-Soviet territories of frozen conflicts does not exceed the area of Crimea and at the same time exceeds the area of Slovenia.

However, the main thing is not purely the territory with its natural and material resources, but the value is primarily the human capital of these territories. According to various data, the complete reliability of which is rather difficult to prove due to permanent forced migration processes, in the occupied territories of Ukraine (excluding the Crimea annexed since 2014 with almost 2 million and the occupied ORDLO with 1.6 million people) from the moment of the full-scale invasion, a total of more than 2 million citizens of Ukraine – residents of certain districts of Zaporizhzhia, Kherson, Kharkiv, Kyiv and Mykolaiv regions, which in total exceeds the population of, for example, Latvia.

Foreign military occupation entails the establishment of a kind of occupation regime on the occupied territory by the occupying state, which has legal, socio-economic and humanitarian components. Our research should be aimed primarily at the legal and political characteristics of the occupation regime, i.e. its compliance / non-compliance with internationally recognized principles in the context of ensuring fundamental human rights.

The purpose of the article: on the basis of regulatory and doctrinal approaches to the interpretation of the concept of foreign occupation, to determine the current means of its enforcement, providing a description of the legal, political and social consequences caused by it, which are primarily suffered by the civilian population as a non-combatant, with the possibility of a full or partial retrospective analogy. To achieve the goal, we applied general scientific methods of analysis and synthesis, as well as systematic and comparative research methods.

Analysis of the recent research and publications. In social sciences, the concept of "regime" is interpreted in at least two ways in combination with such attributes as "legal" and "political". At the same time, the category of political regime (as a rule, in the dichotomy "authoritarianism/democracy") is also studied by such a branch of legal science as the theory of the state and law.

In the general theoretical aspect, the concept of "legal regime" was considered by such Ukrainian authors as K. Bondareva, T. Drobotova, I. Sokolova, V. Sukhonos, as well as foreign researchers H. Kelsen (Austria, USA), E. Klunzinger (Germany), W. Hurst (USA). The legal regime has also become the subject of research by representatives of other branches of legal sciences in Ukraine and abroad, in particular constitutional law – V. Berezenko, Ya. Kolinko, Łukasz Mikowski (Poland), L. Rozhok, Rémi Rouquette (France); labor law – L. Vakaryuk; of civil law – Pierre-Dominique Ollier (France), Ludwik Kos-Rabcewicz Zubkowski (Poland) and others. Criminal law studies are concerned mainly with issues of the regime of serving punishments, and research in the field of international law is devoted to international legal regimes mainly of territories as an object of international law.

The largest share of research into the problems of legal regimes belongs to administrative law. In the most general terms, works of Ukrainian researchers N. Kovalenko, T. Minka, S. Popovchuk, A. Slavko and others deal with them. Among the features of the legal regime, some of these authors distinguish, in particular, the following: the legal regime is a structured set of regulatory-legal methods (restrictions, prohibitions, permits, additional obligations); application of

the legal regime is always an exception to the systematic legal regulation of social and political relations in the state, connected with the need to limit or, on the contrary, to grant additional rights and powers to persons in a specific sphere or in a specific and situations; application of the legal regime must take place with mandatory restrictions according to such parameters as the time of application, the territory of application, the object, the actor (Kovalenko, 2017, p. 106).

Therefore, it can be argued that the purpose of introducing a legal regime is to ensure exclusive legal regulation in a specifically defined territory of all or individual social relations caused by extraordinary circumstances, with the establishment of stricter legal responsibility for the violation of such a regime. Hence, concepts with a special semantic load are considered to be: "regime territory" ("restricted area"), "regime institution", "regime object", "regime premises", "regime-secret body" etc.

In Ukraine, the works of A. Basov, S. Kuznichenko, S. Mahda, and others are devoted to the topic of emergency regimes. However, in their works there is no information about the legal regime of the occupied territories, i.e. also what is established by another state. On the other hand, similar issues, and mostly from the period of the World War II and after it, were considered in some historical-legal studies (S. Kondratyuk, A. Makarchuk, I. Mamontov, D. Petsa, P. Rekotov, Yu. Saifulina, L. Trepak, Ye. Shybko), but most of all – in monographic publications on historical sciences, that is quite natural.

At the same time, problems of the legal regime of occupation were highlighted in the studies of foreign authors, such as: Yoram Dinstein (USA), Tristan Ferraro (Switzerland), Peter Haggenmacher (France), Kaja Kowalczevska (Poland), Roman Kwiecień (Poland), Nathan Lerner (Israel), Piotr Migdał (Poland), Andreas Th. Müller (Austria), Adam Roberts (USA) and others. In addition, most of these authors' works relate to the modern period of the existence of this problem, but they do not cover the current stage of international relations, marked by some problems of the effectiveness of international law in relation to the Russian-Ukrainian war, which determines the relevance of the chosen direction of research.

Formulation of the main material. An attempt to establish legal boundaries of foreign occupation at the international level was made a few years before the start of the World War I – in the Hague Convention respecting the Laws and Customs of War on Land of 1907. It defines that the territory is considered occupied when it is actually placed under the authority of the hostile army; occupation extends only to the territory where such authority has been established and can be exercised; the authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country; a belligerent is forbidden to force the inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defense; it is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile power; family honor and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected; private property cannot be confiscated; pillage is formally forbidden; all seizure of, destruction or willful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the

subject of legal proceedings (Convention (IV) respecting the Laws and Customs of War on Land and its annex, 1097). As can be seen, what has been stated fully corresponds to the modern spirit of the rule of law.

After World War II, international humanitarian law was supplemented by the four Geneva Conventions of 1949, among which, in the course of our research, a prominent place is given to the Geneva Convention relative to the Protection of Civilian Persons in Time of War. It significantly improved the mechanism for ensuring the rights of civilians by introducing such a term as "occupying state", to which the Convention applies, in particular, such prohibitions: Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive; the occupying power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war, which may have been adopted prior to the occupation in favor of children under fifteen years, expectant mothers, and mothers of children under seven years; the occupying power may not compel protected persons to serve in its armed or auxiliary forces; the occupying power may not alter the status of public officials or judges in the occupied territories, or in any way apply sanctions to or take any measures of coercion or discrimination against them, should they abstain from fulfilling their functions for reasons of conscience; protected persons shall not be arrested, prosecuted or convicted by the Occupying Power for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof, with the exception of breaches of the laws and customs of war. The Occupying Power should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate (Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949).

At the same time, most acts of international law do not contain specific provisions regarding responsibility for violations of their norms. That is, due to the lack of development of the sanctions mechanism, the norms of international law are actually reduced to the category of principles.

The connection between international law and politics is very close, even natural, since the norms of international law operate primarily in international relations, that is, in political reality, which is an axiom. In addition, as some American scholars have thought, international relations are regulated by the distribution of power between states. Their concept of "Politics between nations" (1948) was considered as the beginning of a new direction of international relations – "realism" and at the same time as instructions on the practical limitations of law in international reality. Although they themselves did not deny the binding force, effectiveness and significance of most norms of international law, arguing that international law was ineffective in striking situations that directly related to the distribution of political power and the struggle for it (Morgenthau, 1954, p. 251).

According to the "realists", international legal rules and principles in themselves are a rather weak constraint on the use of force by states. Therefore, the search for actual rules in political reality, rather than legal rules, characterizes "realism" as the opposite of "idealism" or legalism, based on the belief in the force of law. Previously, international law was considered as an imperfect and

incomplete legal order due to the lack of a unified system of sanctions and the trivialization of violations of legal norms. However, in international law there are both institutional sanctions and countermeasures in response to these violations. Rather, the international legal order should be examined to find out whether states really feel obliged to obey legal norms and principles and respond to their violations (Kwiecień, 2022, p. 14).

According to some Ukrainian experts, in its essence, every norm of international humanitarian law is a balance between humanity and military necessity. Moreover, international humanitarian law does not contain a ban on waging war – this ban is contained in other norms of international law. International humanitarian law applies only in the event of an armed conflict and was created by states precisely in order to impose certain limits on violence during war, limit suffering, and protect the victims of war. That is why, in order to achieve the goal with which the states created it, international humanitarian law does not assess the legality or illegality of an armed conflict, it can be applied equally to the victim and the aggressor, without requiring reciprocity (Korotkyy, & Dotsenko, 2020).

Instead, such a document as the Rome Statute of the International Criminal Court already establishes specific types of punishment for crimes of genocide, crimes against humanity, war crimes, and crimes of aggression. These are only two main types of punishment – imprisonment for up to 30 years or life imprisonment; fines or confiscation of income, property and assets obtained as a result of the crime are applied as additional punishments. Therefore, the crime of aggression is an invasion or attack by the armed forces of a state on the territory of another state or any military occupation, regardless of its temporary nature, resulting from such an invasion or attack, or any annexation with the use of force on the territory of another state or its parts. At the same time, war crimes include, in particular, the transfer, directly or indirectly, by the occupying power of a part of its own civilian population to the territory occupied by it, or the deportation or transfer of all or part of the population of the occupied territory within or beyond the borders of this territory (Rome Statute, 1998).

The Rome Statute was signed on behalf of Ukraine on January 20, 2000, but it has not yet been ratified by it on the basis of the opinion of the Constitutional Court of Ukraine of July 11, 2001, by which it was recognized as not in accordance with the Constitution of Ukraine, namely the norm that "the International Criminal Court .. complements the national bodies of criminal justice". And by the Law of Ukraine of June 2, 2016 "On Amendments to the Constitution of Ukraine (concerning justice)", Article 124 of the Constitution of Ukraine was supplemented with part 6 stating that Ukraine can recognize the jurisdiction of the International Criminal Court under the conditions defined by the Rome Statute of the International Criminal Court (Constitution of Ukraine, 1996).

In fact, Ukraine remains only the object of action of the Rome Statute of the International Criminal Court (that is, the war crimes of the Russian Federation against Ukraine are already being examined, but exclusively by foreign specialists), while its subjectivity would involve the delegation of Ukrainian citizens as judges to this organization, as is done in relation to the European Court of human rights on the basis of the Convention on Human Rights and Fundamental Freedoms ratified by Ukraine. As the national legal academic community insists, the ratification of the Rome Statute is a necessary

condition for Ukraine's accession to the EU, as it is an obligation of Ukraine under the Association Agreement (<https://nlu.edu.ua/uni/zaklyk-providnyh-universytetiv...>). At the same time, some arguments regarding the prematurity of ratification, such as the possibility of the Russian Federation, which is not even a signatory country of the Rome Statute, through third countries to bring the military of the Armed Forces of Ukraine to justice for war crimes, are completely groundless.

The Law of Ukraine "On Ensuring Rights Freedoms of Citizens and the Legal Regime on the Temporarily Occupied Territory of Ukraine", adopted on April 15, 2014, that is, after the beginning of the armed aggression of the Russian federation against Ukraine, clearly and unequivocally defines the concept and legal status of the temporarily occupied territory of Ukraine, concepts of de-occupation and occupation state – the Russian Federation – has been named and its occupation administration is defined, as well as goals of the state policy of Ukraine in the temporarily occupied territory have been outlined (On ensuring rights and freedoms of citizens and the legal regime on the temporarily occupied territory of Ukraine : Law of Ukraine). Not only a legislative framework was created, but also an institutional component – the Ministry for the Reintegration of the Temporarily Occupied Territories of Ukraine, which has been operating since 2016 through the merger of the State Agency for the Reconstruction of Donbas and the State Service for the Autonomous Republic of Crimea and Sevastopol under the initial name – the Ministry for temporarily occupied territories and internally displaced persons of Ukraine.

These concepts are somewhat expanded in international organizations practice reviews. Thus, according to the conclusions of several meetings of experts of the International Committee of the Red Cross, the beginning of the occupation is considered to be: 1) presence of foreign forces; 2) exercising power in the occupied territory; 3) absence of the country's consent to the occupation of its territory; 4) presence of geographical limits of occupation (<https://www.icrc.org/en/doc/assets/files/publications/icrc-002-4094.pdf>).

Since occupation takes place mainly during armed conflict, the advantages of the belligerent may not be final. It is in the interests of the party whose territory is occupied that the occupier does not take steps that would make its conquest final or irreversible. There are a number of rules that are based on the principle that the situation of occupation is transitional and temporary, as embodied in the title of the aforementioned law of Ukraine.

However, temporality is a rather relative concept. For example, during the World War II, the occupation of Poland was the longest (1939-1945), although Czechoslovakia and Austria came under Nazi occupation a year before the start of the war. Instead, the Soviet occupation of Eastern Europe countries according to the Yalta Agreements of 1944 lasted for more than 40 years thanks to puppet communist governments controlled by deployed groups of troops and special services of the USSR, which were then sent with the support of additional forces to suppress anti-Soviet riots in Hungary in 1956 and Czechoslovakia in 1968 p.

In the Baltic countries, in addition, in the late 1980s and early 1990s, laws were adopted that interpreted the communist regime as an occupation, the annexation by the Soviet Union in 1940 as an act of occupation (Estonia) and an international crime (Latvia), and soviet special services outlawed (Lithuania). It was forbidden to use symbols of the Nazi and Soviet totalitarian regimes on the

territory of the Baltic States. Persons repressed during the Soviet period were restored in their rights and received symbolic and material compensation. Lustration legislation was passed, according to which citizens who worked for or secretly collaborated with the Communist or Nazi authorities and their secret services were not allowed to enter the civil service (Ohhiyenko, 2013). On the other hand, in Ukraine, lustration and de-communization legislation (although its quality and state of implementation wish for better) was adopted as early as the 23rd year of independence after the fateful events of the Revolution of Dignity at the end of 2013 – beginning of 2014. The Western public was comprehensively informed about them by representatives of their media in order to convince their societies in the need to support comprehensive reforms in Ukraine as a guarantee of its successful integration into the European community (Nowacki, 2017, p. 116).

The Soviet occupation of Afghanistan unfolded in a completely different way in 1979-1989, namely through the violent overthrow of the legitimate government and subsequent active combat operations against rebel units supported by Western governments. And since 2001, US troops have been in Afghanistan for almost 20 years to remove the Taliban from power. As the American government believed, radical Islamists were hiding Osama bin Laden and other al-Qaeda operatives who were behind the September 11 terrorist attacks. In 2003-2011, the military conflict in Iraq continued, which began with the invasion of the armed forces of an international coalition led by the United States and Great Britain with the aim of overthrowing the regime of Saddam Hussein, who was suspected of having weapons of mass destruction and connections with international terrorism, in particular "Al-Qaeda".

However, these types of occupation in the form of participation, as a rule, not by one state, but by united international forces, do not aim at the occupation of states with the elimination of their independence and subsequent annexation, which is carried out mainly by violent means against the civilian population in violation of rules and principles of international law. In the same legal way, West Germany was occupied in 1945-49 by the allied forces of the USA, Great Britain and France with the aim of demilitarization, liquidation of the remnants of Nazism in society and the subsequent post-war revival of the country on the basis of democracy and a market economy under the programs of powerful American financial support of all Western Europe, known as the Marshall Plan.

Despite the temporary nature of the regime of military occupation, the contemporary appearance of armed conflicts, according to the conclusions of some Polish authors, gives a different impression. Particularly interesting from a legal point of view is the issue of the occupied Palestinian territories, the status of which has become the source of extensive case law of the Supreme Court of Israel. The country's highest court has often had the opportunity to resolve dilemmas related to the plight of a generation of Palestinians living under prolonged military occupation. However, the time factor itself was never mentioned as an element affecting the revision of powers and legal prohibitions addressed to the occupier. The value that influenced the reinterpretation of certain provisions of Geneva and Hague law was the interests of people living in these territories. The Supreme Court argued that, in particular, the peaceful character of the occupation phase, which was practically devoid of military action, contributed to a gradual change in the nature of the administration of the

occupied territory, which increasingly resembled the exercise of state functions in a situation of peace, and where the military mission became secondary. It's important to consider proportionally and casuistically the admissibility of introducing changes with long-term consequences, which, on the one hand, may be necessary for the development of social life in the occupied territories, and on the other hand, create ideal conditions for conspiratorial actions aimed at excessive penetration and, as a result, annexation of the occupied territory (Kowalczywska, 2015, p. 264).

However, in our opinion, the immediate occupation phase is preceded by the so-called preparatory, which, for its part, has several components – military-political, economic, ideological-informational, which the occupying state must strengthen for itself in order to confidently commit and further maintain the occupation. After all, wars are started by the aggressor who is more confident, prepared and mobilized than its victim, who must be weakened and discredited before the attack.

Political mobilization begins with securing public support for the ruling class through the following measures: indoctrination of its own citizens; speculation on national defeats and "humiliations" (Germany in the World War I, the collapse of the USSR after the Cold War); nationalization of natural resources and capital goods (actually – control over them by a narrow circle of persons); control over the budget with the removal of control over it and the rest of the political processes of the opposition and its further destruction; the regime of managed (limited) democracy (preserving some elements of the market economy, even attracting foreign investments, while strengthening authoritarianism), preventing political competition; conclusion of an unspoken social contract, when citizens do not interfere in politics (control over power) in exchange for social benefits and stability; eradication of "parasitic" elements; transition of the economy to military lines with elements of "import substitution", etc.

In addition, there is a search and identification of internal and external "enemies" – the culprits of all troubles (in Nazi Germany – Jews, in the USSR – cosmopolitans, spies and world imperialism, in the current Russian Federation – "grant eaters" and "foreign agents": cohesion around the "leader" is formed due to the fear of the "enemy environment"; media freedom is replaced by state propaganda based on lies, hate speech, and calls for war (for the first time, this was established at the state level in Nazi Germany through the specially created Reich Ministry of Public Education and Propaganda and even some anti-Semitic print media, one of whose leaders was executed by hanging for by the Nuremberg Tribunal judgment in 1946) (Samotuha, 2022, p. 254). The occupying power put on the conveyor belt the ideological discrediting of the country – the future victim of the occupation, the defamation of its history, language, culture and the denial of national sovereignty, or the accusation of its citizens "in a coup d'état" (in this regard, the messianic subtext of Russia presented its war against Ukraine as a "special military operation" "from the "demilitarization" and "denazification" of Ukraine in order to "protect people ... who faced humiliation and genocide carried out by the Kyiv regime") (Mälksoo, 2022, p. 6). There is a process of creating and applying labels like "terrorist" or "fascist" to the perspective victims. It aims at building negative emotional associations with them to decrease compassion towards them when

the acts of war are in place.

Along with the violation of information sovereignty, there is an increase in the destructive impact on the economy of the victim country due to the monopoly supply of energy resources to it; introduction of influence agents into its power structures and political establishment, including during elections with the support of the desired candidate; reconnaissance and sabotage measures in the defense-industrial and infrastructure sector, cyber-attacks on state information resources; interference in church affairs; building a network of pseudo-public organizations, historical and cultural societies, for example, the revival of Cossacks; formation of a negative image of the occupied state abroad through the media network and agents in NGOs; blocking diplomatic initiatives and measures at the level of international organizations (e.g., the right of veto in the UN); development of ideological expansionist concepts: the USSR – the idea of a world communist revolution; Nazi Germany – theories of "living space for the Aryan nation"; the "russian world" of the today Russian federation – with anti-Western rhetoric, criticism of gender equality, sexual freedom and non-discrimination of minorities and other "liberal values", which "requires victims"

The next phase is the direct implementation of the occupation by: 1) organizing a coup d'état or mass riots, provocations with calls to "introduce troops to protect the population that speaks the occupier's language and shares its culture and views on history"; 2) direct military invasion. As an example, Hitler's occupation of the Sudetenland region of Czechoslovakia and the Anschluss of Austria under the pretext of protecting the German-speaking population; the annexation by the Russian Federation of the Autonomous Republic of Crimea and the occupation of ORDLO also under the pretext of protecting the russian-speaking population. At the same time, the occupier almost does not conduct active hostilities, with the exception of ORDLO, in order to ensure the loyalty of the local population and preserve the infrastructure, material and spiritual values of the occupied territories for the subsequent occupation of the adjacent territories. For analogy, we can cite examples of the actions of the Nazi occupiers of the Second World War: "soft power" for the countries of Western Europe and exceptional cruelty for the Eastern, especially in relation to Poland and the Slavic republics of the European part of the USSR – Ukraine and Belarus.

However, according to many recent studies, the Second World War did not begin on September 1, 1939, with the open armed aggression of Germany and the USSR against Poland, and not when Czechoslovakia was divided, and not during the Munich conspiracy or the Anschluss of Austria. The beginning was made when, in March, 1936, three years after coming to power, Hitler led his troops into the Rhine Demilitarized Zone – the territory of Germany on the left bank of the Rhine and a strip on its right bank 50 km wide, established by the Versailles Peace Treaty, 1919 in order to complicate the German attack on France. In this zone, Germany was forbidden to deploy troops, build military fortifications, conduct maneuvers, etc. British Prime Minister S. Baldwin declared that the entry of German troops into the Rhine region "does not pose a threat of military conflict", which actually meant recognition of the liquidation of the Rhine demilitarized zone. The rest of the European countries and the League of Nations also limited themselves in this regard to a number of statements the fact of Germany's violation of the Locarno Agreements which

only pushed Hitler to new acts of aggression in Europe. Even now, former US President B. Clinton expressed regret when he convinced Ukraine to give up its nuclear arsenal in exchange for guarantees of its security under the Budapest Memorandum, signed in 1994 by the nuclear powers – the USA, Great Britain and Russia (Gordiychuk, 2023).

However, some Polish authors emphasize that it is important to distinguish between occupation and invasion. The latter is the invasion of armed forces into the territory of another country, but without the establishment of any authority or organization in that territory. If the invasion does not lead to the capture of the territory and the establishment of occupying power, then it is usually only the beginning of the transition to the next stage of land appropriation – occupation. It usually has the character of a military operation, since the occupier is not interested in establishing an administration in the occupied territory. Then the actual power is established and the occupied territory is managed. The introduction of troops into a certain area after hostilities is not occupation, although it is a prerequisite for it. It is necessary to preserve this territory and establish an occupation administration on it. That is, we can conclude that the invasion is only a possible beginning of the occupation and in itself is nothing more than the march of troops on foreign territory.

Therefore, occupation is the seizure of territory by the enemy's troops and it must be temporary, effective and efficient. Occupation is such from the moment of establishment of power in the occupied territory and involves only the seizure of someone else's territory (Haberland, 2017, p. 359).

The first step of the aggressor to subjugate the population in the occupied territories is to restrict and deprive them of their fundamental rights: freedom and personal inviolability, dignity, inviolability of housing and freedom of movement through such repressive measures as illegal deprivation of liberty, interrogations, torture, confiscation of vehicles and personal food stocks; restriction of supply and access to food products, goods of daily use, medicines and medical care, termination of energy supply and provision of other communal services. All this is a violation of both rules and principles of international law, as well as the provisions, first of all, of articles 5-8 of the Law of Ukraine "On ensuring rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine" (On ensuring rights and freedoms of citizens and the legal regime on the temporarily occupied territory of Ukraine : Law of Ukraine).

One of the most severe legal and socio-humanitarian consequences of foreign occupation as a crime of aggression is not only the physiological and moral suffering of the persons remaining in the temporarily occupied territory, but also the forced migration of large masses of the population – as refugees or persons seeking asylum, as well as in the status of internally displaced persons.

The legal basis for the protection of these categories of persons has been established since the beginning of the Russian aggression against Ukraine in 2014 – with the adoption of the Law of Ukraine "On Ensuring the Rights and Freedoms of Internally Displaced Persons", in which armed conflicts, temporary occupation, manifestations of violence and violations of human rights are recognized as circumstances that force people to leave their place of residence. In addition, the law not only declares the rights of these persons, but also provides for a real mechanism for ensuring them, in particular through the

prohibition of discrimination, and establishing the procedure for the interaction of state executive authorities and local self-government bodies with public associations for providing assistance to internally displaced persons (On ensuring rights and freedoms of internally displaced persons: Law of Ukraine).

Among the forms of implementation of this law is, in particular, the provision of legal aid. As some authors note, by the end of 2022, the most common legal issues with which internally displaced persons addressed to free legal aid centers were: restoration of lost documents; receiving social assistance; solving the issue of men traveling abroad as accompanying persons; alienation or purchase and sale of immovable property under martial law, as well as any other transactions with immovable and movable property; consultations on family issues: assignment and payment of alimony, divorce; inheritance issues; resolving issues related to the restoration of property destroyed as a result of military aggression; legal issues in the field of application of labor legislation (Nalyvaiko, & McGee, 2023, p. 198-199). That is, most of the issues are familiar in everyday life, the normal course of solving of which was interrupted by the war.

Aggression of Russia and occupation also caused, as already mentioned, an external migration crisis, the most serious in the world since World War II. According to various data, more than 6 million of its citizens are currently living outside Ukraine, forced to escape from the war. All this places a significant socio-economic burden on the recipient countries and even leads to major changes in the political configuration of the states as a result of the coming to power, but in a quite democratic and legitimate way, of political forces professing populist anti-migration slogans with demands to reduce financial and military aid to Ukraine which, of course, fully fits into plans and hopes of the russian government in force (Samotuha, 2023).

Another harmful consequence of foreign occupation, according to some authors' conclusions, is the criminalization of social relations. It occurs as a result of the destabilization of the socio-economic situation of a significant number of the population (for example, young refugee women are frequent victims of sexual violence and harassment). And if a significant number of people, who are employed in the informal (shadow) economy, survive at the expense of any kind of work and do not have institutionalized social systems, they lose a cultural and psychological connection with their society. And this leads to a clash of interests with other persons, conflict interaction and, as a result, its criminogenic varieties (Nikitin, & Nikitina, 2023, p. 222). In addition, education, introduced by occupational state, has a long-term influence on destruction of national identity of young Ukrainians. Children born in Crimea, which has been occupied for almost ten years, have been studying in schools with russian narratives for more than one year, not to mention more than twenty years of ideological treatment of an entire generation of russians under the continuous Putin's rule.

In general, crime is considered to be a defining and constant companion of separatism and occupation. Persons previously convicted of violent crimes or, in general, persons with criminally oriented behavior, are one of the constant tools in the hands of rogue politicians and adventurers: first, to organize mass riots with the seizure of administrative buildings, intimidation of patriotic activists, disruption and dispersal of events organized by them; in the future – to replenish regular and private military companies, punitive and sabotage squads, puppet

occupation administrations and its pseudo-law enforcement structures, as they are well versed in the forms and methods of intelligence and counterintelligence work, the use of physical and psychological violence and cruelty. Moreover, occupied territories and separatist enclaves in the form of unrecognized "republics" are a favorable environment for the development and spread of such crimes as smuggling, illegal trafficking of weapons and narcotic substances, human trafficking, manufacturing of counterfeit products, etc. After all, occupied territories and all kinds of pseudo-states and "gray zones" are a dream place for hiding wanted persons, stolen property and transit of sanctioned goods to the aggressor state (Samotuha, 2016).

We also consider the information policy of the occupying state implemented in the occupied and adjacent territories to be both a consequence and a constant accompanying factor of foreign occupation. Its defining features are the restriction or, in general, the denial of access of the population of the occupied territories to objective information. Instead, propaganda based on the narratives of the aggressor state is being intensified with the aim of discrediting the state – the victim of aggression in its inability to ensure people's rights of in the occupied territories and its armed forces in their inability to resist and liberate the occupied territories, which ultimately achieves the occupier's goal of subduing the occupied population on their side.

There are more than enough examples of occupation propaganda in history. For example, during the German-Soviet war, the propaganda of each side did not differ in any particular way. Although both in Germany and in the occupied territories of the USSR, the Nazis actively mastered such audiovisual means as radio (including wireless) and cinematography. The most common method of psychological pressure on the population of the occupied territories was the use of threatening messages in the press regarding the mass execution of local residents in the event of their resistance to the Nazi occupation authorities, as well as collective responsibility for criminal cooperation with Soviet partisans and the Red Army. According to the testimony of former employees of the "Wineta" propaganda apparatus of the Reichskommissariat "Ukrayina", which operated in the occupied Ukrainian territories, including in the agency and intelligence direction, the staff of this organization numbered up to 3 thousand people (Dolhoruchenko, 2021, p. 196).

A kind of media terror reigned also on the territory of Nazi-occupied Poland during World War II. The Germans imposed a curfew there, which was strictly enforced throughout the occupation. The organization of meetings and rallies, movement and use of public means of communication were prohibited. Poles could use them only with special passes and in cars designated for them. Radios and cameras were prohibited (Chinciński, 2022).

Even today methods of information occupation have not changed. As noted by Ukrainian researchers, the coup d'état in the ARC took place in the best traditions of Bolshevism: the seizure of the Crimean Television and Radio Company with the disconnection of Ukrainian TV channels, the blocking of transport communications with continental Ukraine, the seizure of airfields, etc. (Kul'chyts'kyi & Yakubova, 2019, p. 406).

The information occupation is also facilitated by the weakness of national identity. Representatives of ethnic groups living compactly in the border regions, succumbing to the propaganda of the neighboring state, begin to identify

themselves with its people. The separatist movement is growing. The weakness of the state is used by the repressive political power of the neighboring country, which does not share the political preferences (views) of the ruling party of the country and opposes it by inciting citizens to disobedience, rallies, holding illegal referendums, declaring the independence of a certain region and further ideological and political adherence to its ideology. And if the desire for political control over one's power, ideology, way of life and even the loss of the sovereignty of another state is not achieved, but there is a threat of losing power, as an extreme manifestation a military attack is carried out, which leads to socio-economic decline, the death of people (an entire generation), and the ultimate result of achieving one's goal is the preservation of power (for example, increasing the ratings of the russian government after each act of "collecting land" or "punishing provinces for anti-russian riots"). In this aspect, it is appropriate to emphasize that military conflicts (hybrid wars), which are accompanied by active military actions, should be classified as social disasters (Nikitin, & Nikitina, 2023, p. 223).

A kind of social catastrophe is evidenced by numerous publications about how the russians continue to implement terror in the temporarily occupied territories. For example, in Kherson and Zaporizhzhia regions, they try to bribe the local population with social benefits, but in a primitive way: by blocking social benefits from Ukraine, they deliberately create a humanitarian crisis, offering their own social benefits instead, but on the condition of obtaining a russian passport. The same condition is the provision of employment and health care services. And if there are children in the family, then there is another requirement – an application for enrolling the child in a russian school. That is, in fact, the russians are blackmailing the local population with hunger and forcing them to work in the fields, at the same time counting on this to solve their problems with the pace of passporting and the failure of the "educational process". At the same time, the russians are focused on launching their "educational process", the purpose of which is to create propaganda centers and russify Ukrainian children. However, despite the fact that they have brought their teachers and anti-Ukrainian textbooks, parents refuse to send their children to schools that have been invaded, for which the occupiers threaten them with confiscation of property, fines and even deprivation of parental rights. However, at the same time, they promise to make one-time payments for admission: if they promised \$100 earlier, only \$20 reaches people in Nova Kakhovka (<https://tyzhden.ua/sprotyv-okupatsii...>).

A slightly different situation is observed with universities, most of which (i.e. professors and students) were moved to the controlled territory of Ukraine, while the abandoned buildings with material values were adapted by the occupation authorities with newly appointed rectors and collaborating professors from Russia. However, they are unable to fulfill orders even for budgetary specialties, and the youth there prefer universities mostly in Russia, despite the fact that the Ukrainian government allowed applicants from the occupied territories to enter all Ukrainian universities under a simplified procedure.

Along with the realization of certain social rights, forced passporting has such a reverse side as military mobilization in the occupied territories, which in a certain way can be qualified as a violation of Art. 45 of the Hague Convention of 1907, Art. 51 of the Geneva Convention of 1949 and Art. 8 of the Rome

Statute of the International Criminal Court, which, in particular, classified it as a war crime. At the same time, none of these acts criminalizes forced passporting (meaning not the recipient, but the issuer of the passport) and the very fact of coercion is quite difficult to prove, while all documents testify to its seemingly voluntary nature. According to human rights defenders, forced mobilization took place in ORDLO as early as the middle of 2021. That is, Russia already then began to prepare for a large-scale aggression against Ukraine, at the beginning of which on February 24, 2022, more than 100,000 men were mobilized from ORDLO, of which at the end April 2022, 23,000 people died (<https://www.ukrinform.ua/rubric-ato/>). And already after the full-scale invasion by Russia in the temporarily occupied territories of Ukraine, as of July 2023, from 55 to 60 thousand men were mobilized into its army (Katsimon, 2023). However, the puppet government does not pay compensation to the families of the dead and wounded, mobilized from the occupied territories (Berezhans'kyi, 2022).

In the same way, in Russia, the authorities are mobilizing residents of mainly purposefully created depressed regions, for whom war is the only way out of poverty, as well as representatives of non-russian ethnic groups with the aim of destroying their gene pool. Moreover, social disorganization, aggressiveness, envy, vindictiveness, lack of empathy, low social culture, lack of critical thinking, impervious to manipulations of propaganda, are the driving forces of various deviations, which in the conditions of war manifest themselves in the form of murder, rape and looting.

People with russian passports from ORDLO, as well as from the rest of the pseudo-states in the post-Soviet space, are not full-fledged citizens – on the territory of the great Russia, their rights are restricted, they are not registered, they are not given loans, etc. This is exactly what Stalin did with the citizens of the western lands captured in 1939. The new Soviet people were forbidden to move to the canonical territory of the USSR, there were checkpoints along the old border that turned people away. These points also worked in 1941, when the Nazis crossed the border, refugees were not allowed beyond the town of Proskuriv (now – Khmelnytskyi). And since many people were threatened with death at the hands of the Nazis, Stalin actually left them to be massacred by the occupiers.

The next manifestation of the "legitimization" of the occupation regime is the long-tested methods of "direct democracy" – pseudo-referendums on joining the occupation state and pseudo-elections of pseudo-representative (puppet) government bodies, which can be held after forced passporting, which allows for the formation of the occupation voter register.

After the occupation of Poland in September, 1939, elections to the People's Assembly of Western Belarus and the People's Assembly of Western Ukraine were held in an atmosphere of terror in October, 1939. According to the falsified results, approximately 90 % of the votes were cast for candidates supported by the occupier. "Legitimized" in this way, the People's Assembly appealed to the Verkhovna Rada of the Belarusian RSR and the Verkhovna Rada of the Ukrainian SSR with a request to include Western Belarus and Western Ukraine in the composition of the BRSR and the Ukrainian SSR, respectively, which was carried out already in November, 1939 (Szczęśniak, 1990).

Similar tactics were used by the USSR, under whose influence the countries of Eastern Europe fell after the Second World War. The event that

finally decided the future of Poland were the elections foreseen by the decisions of the Yalta Conference in 1944. The communists saw in them a chance to legalize their power, and the opposition and underground organizations hoped to demonstrate the weakness of the regime and politically neutralize Stalin's supporters in Poland. Activists of independence hoped that the Western powers, in accordance with the Yalta promises, would ensure compliance with democratic procedures during the elections. However, the refusal of the opposition to offer joint participation in the elections prompted the Polish communists supported by the USSR – the Polish Workers' Party – to another method of falsification – the postponement of the elections by organizing the so-called people's referendum. The success of the communists was to be ensured by new repressions. In the spring of 1946, the State Security Commission was created, the purpose of which was to coordinate activities against the opposition and independent underground in the period preceding the "people's referendum" and elections to the Legislative Sejm. Rigged elections contributed to the apparent legalization of communist rule. But more important was the collapse of public sentiment, which was the result of a months-long campaign of terror, the peak of which fell in the period immediately before the elections. Forcing people to vote openly for the Communists meant that for the first time the public, under the pressure of fear, supported the regime (<http://www.polska1918-89.pl/poczatki-komunistycznego-rezimu...>). And already the first partially free elections in Poland after the Second World War were held in June, 1989, as a result of which the opposition "Solidarity" (<https://www.wnp.pl/parlamentarny>). And the Soviet Union, as we believe, due to its economic decline and the demands of the West to start liberal reforms as a condition for receiving food aid, was no longer able to carry out military intervention, as it did in Hungary and Czechoslovakia.

Unlike the Soviet one, the Nazi government did not practice such a "formality" with regard to occupied Poland, one part of which was directly included in the Third Reich, the other was transformed into the General Governorate with division into Krakow, Lublin, Radom, and Warsaw districts. Immediately after the invasion of Poland, in September 1939, the government of the Third Reich implemented the first stage of the General Eastern Plan. The main principles of the relevant policy were outlined by the Department of Racial Policy of the NSDAP in a special instruction. According to them, the Slavs who lived in the territories east of the pre-war German borders were to be Germanized, transferred to slave labor or liquidated, depending on whether the territories in which they lived were directly annexed by the German state or entered into of the General Governorate (Waingertner, 2020, p. 187).

Prisons and concentration camps became symbols of the German occupation. The largest concentration camp – Auschwitz – was established in the spring of 1940 in Auschwitz. Two years later, the camp was established in the village of Brzezinka (Birkenau) near Oświęcim. Moreover, in April, 1942, one of the largest concentration camps in the General Governorate was established in Majdanek near Lublin (<http://www.polska1918-89.pl/niemiecka-polityka...>).

Similar tactics were used by the Nazis in the occupied territory of Soviet Ukraine to continue their anti-Semitic policy. On September 19, 1941, German troops entered the capital of Ukraine, Kyiv. Together with a significant part of

Ukraine occupied by the Germans, the city was included in the Reichskommissariat "Ukrayina", created on September 1, headed by Reichskommissar E. Koch and subordinated to the Ministry of Occupied Eastern Territories in Berlin, headed by Reichsminister A. Rosenberg. Before the Nazi invasion, about 160,000 Jews lived in Kyiv, which was approximately 20 % of the entire population of the capital. The first mass murder of Jews by the Nazis (almost 34,000) occurred at the end of September 1941 in the Babyn Yar tract, which at that time was located near Kyiv. According to estimates, about 100,000 people, both Jews and other nationalities, were shot in Babi Yar during 1941-1943 (<https://encyclopedia.ushmm.org...>).

In addition to Kyiv, tens of thousands of Jews and other nationalities were exterminated in other cities of Ukraine (Donetsk, Rivne, Vinnytsia, Berdychiv, Lutsk, Kharkiv). It should be recalled that before the German attack on the USSR, Ukraine had the largest Jewish population in Europe – 2.7 million. Part of the population – 3.8 million, including 900,000 Jews – the Soviet authorities managed to evacuate to the east (Shchur, 2023). These are mainly "valuable" personnel for the Soviet authorities: managers, security forces, engineering and technical staff and workers of defense enterprises. Most of the people were left to fend for themselves, unable to escape on their own (there was also a communist ban on free movement, and peasants forcibly driven to collective farms in the early 1930s did not have passports until the 1970s and were bound to live and work in collective farms and could not move anywhere without a special permit), for whom the dilemma then arose – either if to resist to die at the occupier's hands, or to adapt, avoiding at the same time an open collaborationism). It is not for nothing that after the war there was a kind of discrimination for a long time, when the questionnaires contained a line about the stay of persons and their relatives in the occupation during the war, which meant restrictions on the right to work, education, civil service, etc. This shameful practice was abolished after Stalin's death in 1953.

The Soviet regime turned out to be no less cruel than the Nazi one, in particular in relation to indigenous peoples. They are Crimean Tatars, Karaites and Krymchaks are already legally recognized in Ukraine (On indigenous peoples of Ukraine : Law of Ukraine). In particular, the policy of the Russian Empire, the USSR and the Russian Federation has always been discriminatory towards the Crimean Tatars. It reached its peak when, in May 1944, nearly 200,000 Crimean Tatars were deported from Crimea to Central Asia on charges of alleged collaborationism and aiding the Nazis, which the NKVD called a special operation for the "resettlement of Crimean Tatars". About 8,000 people, most of them children and the elderly, died during the move in freight cars. Despite certain successes in the struggle for their rights, in particular the cancellation of charges of collective treason, the Crimean Tatars, however, were forbidden to return to Crimea until 1989. In 2015, the Verkhovna Rada of Ukraine recognized the deportation of the Crimean Tatar people in 1944 as genocide (Matviychuk, 2020).

The Soviet authorities committed similar acts of genocide against other ethnic groups (in particular, Volga Germans, individual peoples of the North Caucasus), deporting them also to Central Asia and Siberia on charges of treason. The same tragedy could have befallen the Ukrainians, whom the Russian government has branded treason for several centuries (according to its logic,

"who is against Russia is a traitor"), but due to the large population and territory, genetic thirst for resistance and freedom, Stalin's plans were not realized.

It would seem that an independent Ukraine should have been the guarantor of the renewed rights of the Crimean Tatars, but Russia's annexation of the ARC in 2014 plunged them into a new tragedy. Even during the "legitimization" of the annexation through "direct popular power", the Sevastopol city council and the parliament of the ARC adopted a declaration on state sovereignty, which was to be confirmed in an all-Crimean referendum. On March 16, 2014, taking advantage of the confusion of the world community, the creators of the "Crimean Spring" changed not only the procedure, but also the wording of the question that was submitted to the "referendum", two of which were determined: "You are for the reunification of Crimea with Russia on the rights of entity of the Russian Federation? Are you in favor of restoring the Constitution of the Republic of Crimea of 1992 and for the status of Crimea as part of Ukraine?" (Kul'chyts'kyy & Yakubova, 2019, p. 406).

At the same time, not a single representative of the Crimean Tatar people was elected to the newly elected puppet representative bodies, and the majority of Crimean Tatars ignored such "elections" and "referendums", thus expressing their loyalty to Ukraine and hope for its support. According to the latest publications, Crimean Tatars living in the temporarily occupied territory of the Republic of Crimea are subject to systematic repression, serious violations of human rights and discrimination, which is manifested, in particular, in the destruction of collective forms of self-organization, suppression of political identity (the Russian authorities fear that Crimean Tatars, having historical experience of fighting the regime, can lead the Tatar, Turkic and even the Muslim world of Russia, which will pose a threat to the current government); in the persecution of Crimean Tatars, cases of violence and cruel treatment of them; in the restriction of the right to freedom of religion, persecution of mass media and journalists, restriction of the right to education in their native language (Mazuka, 2023, p. 110-111).

In the same way, it is possible to claim that the collective rights of Ukrainians have been violated, but mainly as a political and not an ethnic nation in the rest of the temporarily occupied territories of Ukraine, in particular due to their accession to the Russian Federation on the basis of a pseudo-popular expression of will already at the level of regions, as it happened at the level of provinces in Russian Empire, in which even Kyiv was a completely Russian-speaking city. That is, we see an attempt to implement the program instructions expressed by Putin about the "non-existence of Ukraine as a state, which was as it were invented by Lenin and developed due to being part of the USSR" (Azarov, Koval & Nuridzhanian, 2022).

So, the fact of a kind of humanitarian genocide due to the enemy's efforts to deprive Ukrainians of all signs of national identification is obvious. In addition, a certain de-urbanization (urbocide) and de-intellectualization of entire regions of the state is carried out, when educated, creative, economically active, civically responsible and patriotic individuals are saved both from mental occupation and from physical extermination, under which they fall in the first queue.

For comparison with previous wars, the destruction of national identity with elements of genocide is discussed in the publications of some Polish

authors. Polish language was prohibited to eradicate the culture. In the annexed territories, Polish education was abolished, and most Catholic churches were closed, which made it impossible for believers to participate in religious ceremonies. Marriage restrictions were also introduced for Poles – they could be concluded after a woman turned 25 and a man turned 28. It is estimated that as a result of these restrictions, the number of Polish children born in Greater Poland decreased by approximately 100,000. The occupation authorities even interfered with the names of Polish children. In Greater Poland, children whose parents were Poles could only be given a name that was included in the "list of names for Polish children" specially prepared by the Nazi authorities (Chinciński, 2022).

As one of the forms of genocide in the occupied territory, ecocide is spreading – violation of the collective right to exist in a healthy, favorable environment. Not only is the side effect of hostilities pollution by products of explosions, fuel and lubricants and corpses of fallen arable lands and pastures, reservoirs and underground waters, the occupiers also resort to large-scale mines and nuclear terrorism by seizing nuclear power plants. One of the telling facts is the undermining of the Kakhovska hydro power plant dam, as a result of which the stability of the ecosystem of almost the entire southern part of Ukraine was disrupted for many years. Also, Russia plans to use the temporarily occupied territories of Ukraine for landfills, but it is not excluded that it may also be used to bury nuclear waste.

And the most terrible manifestation of the genocide of Ukrainians during the current war was the deportation of Ukrainian children by the russians. It was on the charges of this crime that the International Criminal Court issued an arrest warrant for russian president Putin. As one of the diplomats explained, without children any country is doomed and has no prospects and future. And Russia just wants to take away Ukraine's future, in fact, by kidnapping its children. Moreover, children are not only kidnapped physically, but also try to "re-educate" them, "reprogram" in fact, destroying their Ukrainian identity. The russian war affected all 7.5 million children of Ukraine. Almost two-thirds of them became internal or external migrants.

Unfortunately, children are also direct victims of war. So far, the Office of the UN High Commissioner for Human Rights has confirmed that at least 9,500 civilians, including 545 children, have been killed. Another 17,000 people, including 1,156 children, were injured. In addition, to date, the UN has recorded 173 cases of sexual violence related to the conflict, of which 112 – against men, 57 – against women and four girls (Solomko, 2023).

The actions of the russian occupiers regarding the use of the civilian population and objects of social infrastructure as "human shields" are characterized by considerable cynicism and audacity. In order to prevent the actions of the Armed Forces of Ukraine liberate the occupied territories, combat units with offensive weapons, equipment and ammunition are placed in hospitals, schools, kindergartens and even in households.

The list of criminal manifestations in the conditions of the foreign occupation regime, unfortunately, can be continued. After all, in this article we have given only a general description of the most eloquent ones, about each of which you can prepare more than one lengthy publication.

Conclusions. The possibility of establishing a real legal regime of foreign

occupation is seen when the occupation is carried out as a countermeasure to the occupation with the aim of overcoming its negative consequences, restoring law and order and life in the de-occupied territory with the collective participation of international organizations, regional blocs, peacekeeping forces and individual democratic, and civilized states.

In this regard, it is worth citing an example when the German lawyer and political scientist E. Frenkel, who acted as a lawyer for Jews who suffered from the Nazi regime, published the work "Military Occupation and the Rule of Law" in 1944. Studying the already mentioned occupation of the Rhine region after the World War I from 1918 to 1923, he sought to contribute to the "understanding of the problems that the future occupation regime will face". He believed that the traditional law of occupation was unable to cope with the challenges of the inevitable occupation of Germany after World War.

It is interesting that the prism through which E. Frenkel decided to look at the occupation was the concept of the rule of law – "one of the main elements of Western civilization". In this regard, he asked the question "whether the principle applicable to national governments exercising their powers under national laws does not also apply to regimes of foreign governments exercising their powers under international law" (Fraenkel, 1944).

At the same time, it is extremely important to resist the temptation to grant too much legislative freedom to the occupying power in order to promote the rule of law. Treating "the occupier as the bearer of progress can lead to a dangerous mixture of crusade, self-confidence, and self-delusion". Indeed, "experience shows that even overtly transformative occupiers would be wise to recognize the force and continued validity of the law of occupation in general".

Therefore, it is recommended to show restraint when assessing the appropriate measure of prerogatives of the occupying power. Despite the tempting promises of "transformational" and "humanitarian" occupation or the like, the rule of law is also not a panacea that allows us to imagine a "modern" occupation law that would remove the risks inherent in political and military power ruling over foreign populations. These risks do not necessarily decrease over time, but the appetite of a power that controls another territory and population may also increase. This caveat should remain in the mind of the international lawyer, especially when dealing with prolonged occupation and the dangers of not only formal but also factual and creeping annexation.

In this sense, the rule of law ultimately remains a means of mitigating the dangers associated with the existence of situations of occupation, knowing that it can all too easily be used for purposes alien to the noble aspirations underlying the idea of the rule of law (Müller, 2018, p. 168-170). As E. Frenkel soberly and wisely concluded his research, the rule of law in a democratic state is based on the citizens' consent. In the occupied territory, state power is imposed on the inhabitants regardless of their inner feelings. Therefore, the concept of "rule of law" has different meanings for a government based on democratic consent and a government based on military force. It was the failure to recognize this fundamental fact that became the greatest weakness of the above-mentioned Rhine Agreement.

However, the situation regarding the punishment of the current aggressor-occupier, who disregards international law, has not yet found an effective political and legal solution. That is, to draw some analogies with the collapse of

the USSR and the possibility of the collapse of the Russian Federation as an authoritarian empire (although all empires are by definition authoritarian and recursive and the condition for their existence is wars, during which power becomes unlimited and unchangeable, and the USSR disappeared thanks to the internal processes of democratization and defeats in wars) are not entirely appropriate. At the time of its collapse, the USSR did not have the kind of international support (with the exception of humanitarian one), which Russia has now built mainly as part of the same authoritarian regimes. And that is why it is extremely difficult for Ukraine and its allies to build a global alliance against Russian aggression. The most telling illustration is that two-thirds of the Earth's population lives in countries (almost all of them belonging to the "Global South") that have not imposed sanctions against the Kremlin's war machine.

According to some authors, it did not develop as a result of Russian and Chinese influence operations, but due to the fact that large, wealthy countries, which mostly rule the world, tend to selfishly ignore the problem. In particular, it is about the legacy of former colonial states in Africa, Asia and Latin America; the failed wars in Iraq and Afghanistan and the decline of the "global war on terrorism"; inadequate response to global warming, including failure to meet funding obligations under the Paris Climate Agreement; inhibition and stinginess in the matter of releasing countries from debt, which was accompanied by protectionism of wealthy countries; underrepresentation in international organizations.

It is not surprising, then, that over several decades of such an approach, the conviction has taken root that the "rules-based international order" is a Western concept and that even its proponents are sometimes engaged in nothing but demagoguery. Can the majority of people on Earth be expected to concern themselves with the affairs of the West when the West does not concern themselves with theirs (Lucas, 2023).

Therefore, the solution, as we believe and support some experts in this, should be sought among those members of existing alliances who have never had empires and know what it is like to be poor and endure condescending treatment. Perhaps such a real entity will become "Eastern Europe", coordinating positions in which, in our opinion, such relatively large countries by European standards as Poland and Ukraine could eventually occupy. After all, how could they not know more than all the cruelty of the empires that were engaged in their division and extortion several times.

Therefore, the topic of the following publications should be the so-called positive role of occupation, that is, how foreign occupation can contribute to the de-Nazification and demilitarization of an aggressor state or a terrorist state (using the example of post-war Germany).

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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**РЕЖИМ ІНОЗЕМНОЇ ОКУПАЦІЇ ТА ЇЇ ВПЛИВ НА ПРАВА ЛЮДИНИ:
З ТОЧКИ ЗОРУ ПОЛЬСЬКОЇ ТА УКРАЇНСЬКОЇ ПОЛІТИКО-ПРАВОВОЇ
РЕТРОСПЕКТИВИ ТА СУЧАСНОСТІ**

Анотація. Дослідницька стаття стосується різних нормативно-правових та доктринальних (здебільшого на основі польських та українських джерел) концептів, зі спробами повної або часткової ретроспективної аналогії, іноземної окупації та сучасних засобів її встановлення, описуючи спричинені нею правові, політичні та соціальні наслідки, яких зазнають передусім цивільні особи як некомбатанти.

Автори дійшли висновку, коли іноземна окупація, з одного боку, вчиняється агресивно з метою захоплення чужої території та поневолення її населення, перелік злочинних проявів, що зафіксовані передовсім міжнародно-правовими актами, з боку представників окупаційної держави є досить широким і, на жаль, в умовах російсько-української війни нескінченним, як то: геноцид – вбивства, депортації дітей, примусова

паспортизація в обмін на користування мінімумом життєвих прав, екоцид як створення окупаційною владою несприятливого для життя навколишнього середовища; злочини проти людяності – винищення, оборнення в рабство, насильницьке переміщення населення, незаконне позбавлення волі та обмеження права на вільне пересування; воєнні злочини – знищення і привласнення майна, що не викликане військовою необхідністю (мародерство), примусова мобілізація окупованого населення до окупаційного війська. Крім того, російською окупаційною владою на окупованих територіях України здійснюються свого роду злочини культурно-освітнього геноциду: знищення та викрадення культурних пам'яток, впровадження освітнього процесу за російськими політико-історичними наративами тощо.

З іншого боку, можливість встановлення реального правового режиму іноземної окупації вбачається тоді, коли окупація здійснюється як протидія незаконній окупації з метою подолання її негативних наслідків, відновлення правопорядку та життя на деокупованих територіях, зокрема за колективної участі міжнародних організацій. Водночас ситуація щодо покарання нинішнього агресора-окупанта, який нехтує міжнародним правом, не знаходить поки що свого ефективного політико-правового вирішення, що стане предметом подальших публікацій.

Ключові слова: іноземна окупація, режим, воєнні злочини, міжнародне право, окупаційна влада.

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THEORETICAL AND LEGAL PRINCIPLES OF THE CONVERGENCE OF EQUALITY AND JUSTICE IN THE FIELD OF PERSONALIZED MEDICINE IN THE CONTEXT OF THE STATE'S SOCIAL POLICY

Abstract. In the context of health care, social justice plays a crucial role in ensuring that individuals have equal access to quality and affordable health services. This article delves into the significance of social justice in healthcare and its impact on the overall well-being of individuals. It emphasizes the need for a regulatory framework that fosters the integration of innovative technologies to enhance the quality and duration of human life. Additionally, the article sheds light on the role of the state in upholding and providing human rights and freedoms, particularly in the realm of personalized medicine.

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