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BASIC PRINCIPLES OF INTERNATIONAL HUMANITARIAN LAW CONCERNING TREATMENT OF WAR PRISONERS: THEORETICAL AND LEGAL ANALYSIS

Abstract. The author determined that the adoption of the norms of international humanitarian law (hereinafter referred to as IHL) served as a new push for the entire civilized world to humanize social legal relations, which in turn related to the rules of keeping soldiers in captivity and treating them. De jure, this model of protection seems to be used during armed conflicts, but de facto there are significant violations, in particular in terms of the declarative nature of international obligations and the leveling of the influence of international organizations on the side of the conflict that has war prisoners, which is due to the obsolescence of IHL norms in terms of the absence effective mechanisms to counteract such a phenomenon as the violation of the rights of war prisoners.

In addition, the practice of applying legal norms in the field of treatment of war prisoners was analyzed, where the question of their status became a reality due to the introduction of a state of war on the territory of Ukraine, the growing number of war prisoners on both sides, the lack of real mechanisms to guarantee proper treatment, the weakness of international organizations in this area, the promotion of false information about the conditions of their detention to the general public, globalization and changes in social life in all spheres, which became the prerequisites for the situation that arose with the legislation on ensuring the rights and freedoms of participants in military operations, adopted after the World War II, and, accordingly, which needs to be updated according to modern challenges and existing problems.

The main principles of IHL regarding the treatment of war prisoners were studied and the importance of the full implementation of these principles was emphasized for effective compliance by the parties to the conflict with certain norms and standards, since it is seen that as of the beginning of 2024, Ukraine has complied with the provisions of the Third Geneva Convention on the protection of war prisoners and demonstrated its readiness and ability fulfill their obligations. At the same time, the russian federation did not show readiness or initiative to take similar measures, which calls into question its commitment to international standards, which has a negative impact on international security and law and order.

Keywords: *principles of international humanitarian law, war prisoners, legal status of war prisoners, treatment of war prisoners.*

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Introduction. One of the key problems of military conflicts is the protection and observance of the rights of war prisoners, which is the most important in the field of military conflicts. According to IHL, there are norms and principles established by international legal acts aimed at ensuring humane treatment of persons deprived of their liberty as a result of armed conflict.

However, with the beginning of the full-scale invasion of the russian army on the territory of Ukraine in 2022, numerous reports began to be received about the brutal treatment of Ukrainian war prisoners by the army of the aggressor country. Unprecedented cases of illegal detention and torture called into question not only the application of the relevant norms, which define the legal mechanisms of protection and responsibility for such acts, but also the effectiveness of the functioning of existing international bodies and procedures for considering serious violations of the rules of war (Kravtsova & Datsyuk, 2023, p. 399). It also emphasizes the need for more active involvement of state authorities and human rights organizations in monitoring, investigating and applying the norms of international humanitarian law to ensure the humane treatment of prisoners and restore justice.

One of the important aspects of humanism towards war prisoners is the prohibition of any cruel or degrading treatment. International conventions, in particular the Geneva Conventions, clearly establish standards that require the parties to the conflict to respect the dignity of war prisoners and keep them in appropriate conditions.

However, the issue of scientific intelligence, to which the writing of the article is devoted, requires revision, taking into account a number of circumstances:

– increase in the number of war prisoners from both sides of the armed conflict in connection with the state of war on the territory of Ukraine;

– the absence of effective mechanisms that would guarantee the proper treatment of war prisoners, as well as the weakness of international organizations in this area;

– in the conditions of the information society, globalization and changes in all spheres of life, there is a need to update and clarify norms and develop an effective policy in this area, since some laws were adopted after the World War II.

Analysis of recent research and publications. Analysis of recent research and publications. Many works are devoted to the issue of the rights of war prisoners, but all of them are of a purely theoretical nature, since such large-scale conflicts have not occurred since the World War II. Thus, certain issues regarding the treatment of war prisoners were analyzed in the works of such modern authors, in particular, taking into account the realities of the war in Ukraine, namely: O. Bykova, N. Bortnyk, P. Garasymova, T. Datsyuk, I. Zharovskaia, Yu. Kernyakevich-Tanasiychuk, M. Kravtsova, V. Mangora, T. Mangora, O. Minko, K. Nedrya, O. Punda, V. Sarancha, M. Syra, O. Starytska, N. Yastremska and others.

The purpose of the article is is to analyze the basic principles of international humanitarian law and practice of applying legal norms in the field of treatment of war prisoners.

Formulation of the main material. After World War II, most conflicts were non-international (internal), and it was during such conflicts that the most

serious human rights violations occurred. International justice has also focused on prosecuting those responsible for crimes committed during civil wars. The scope of application of IHL in non-international armed conflicts is not the same as in international armed conflicts (for example, the legal status of combatants and, accordingly, war prisoners), which complicates enforcement. Currently, it is obvious that the armed conflict between russia and Ukraine has an international character. Because of this, the application of the Third Geneva Convention of 1949 (Geneva Convention on the Treatment of Prisoners of War) and the First Additional Protocol (Additional Protocol to the Geneva Conventions of August 12, 1949) ‘, as well as the customary norms of IHL should be in full, because both Ukraine and the russian federation have ratified the mentioned legal acts. However, the realities are somewhat different, because the question of the degree of implementation of the ratified norms and the readiness to comply with the assumed obligations does not lose its relevance.

It should be noted that the "Geneva Convention on the Treatment of Prisoners of War" or the Third Geneva Convention (Geneva Convention on the Treatment of Prisoners of War) occupies a special place in the research topic, in which the definition of "prisoner of war" is regulated. Accordingly, war prisoners are combatants (or persons equivalent to them) who find themselves under the power of the enemy as a result of war or armed conflict. The Convention also recognizes the rights of war prisoners, that is, military personnel of the armed forces, other members of militias and voluntary formations, persons who accompany the armed forces but do not actually belong to them, members of the crews of merchant ships and residents of unoccupied territories who, when the enemy approaches, take up arms and resist the invading forces.

At the same time, the Convention prohibits the following (Geneva Convention on the Treatment of Prisoners of War):

– application of physical or mental torture to war prisoners (Article 17);

– collective punishment for individual misdeeds, corporal punishment, detention in rooms without daylight and all other forms of torture or ill-treatment in general (Article 87);

– disciplinary measures must in no case be inhumane, cruel or such as may harm the prisoner's health (Article 89).

In addition, the Convention imposes the following obligations on the parties to an armed conflict (Geneva Convention on the Treatment of Prisoners of War):

– creation of information bureaus (Article 122);

– war prisoners are given the opportunity to inform their families and the information bureaus of the warring sides of the conflict about their capture and the place of internment no later than a week after arriving at the camp (Article 70);

– to provide the prisoner of war with the possibility of further communication with his family (Articles 71-72);

– to evacuate and place war prisoners as soon as possible at a sufficient distance from the combat zone to ensure their safety. (Article 19);

– provide war prisoners with drinking water and food in sufficient quantities, provide them with the necessary clothing and medical care (Articles 20, 26, 27, 29-31);

– don’t to place war prisoners in prison buildings (Article 22), etc.

However, the existence of international norms does not necessarily mean that they are effective. Despite the presence of established legal standards, international practice and developed doctrine, the actual implementation of humane treatment of war prisoners depends on the level of democracy and legal policy of the warring parties, where another problem is the lack of clear legal regulation of the status of war prisoners.

Even at the stage of pre-trial detention, captured and belligerent states are expected to treat combatants humanely. However, the term "enemy combatant" covers both "lawful" and "illegal" combatants, and it is quite difficult to distinguish between them. While lawful combatants are automatically granted POW status, it is generally not advisable to classify unlawful combatants in the same way. As a result, captured combatants may be deprived of the rights granted to war prisoners (Taran, 2022, p. 682-683).

The term "enemy combatant" does not formally exist in the Geneva Conventions, but is widely used in other documents and is the subject of debate. Unfortunately, this omission makes participants in illegal armed conflicts more vulnerable to cruel and inhumane treatment while in enemy captivity. In this context, the discrimination between legal and illegal combatants is considered and the question is raised whether the refusal to grant the status of a prisoner of war and proper protection is justified only on the basis of the absence of a direct mention of it in the Geneva Conventions. However, our state assumed the obligation to fulfill all obligations regarding war prisoners, which are stipulated by the Geneva Conventions, as well as additional protocols to them, adopted on June 8, 1977, which were ratified by Ukraine on August 18, 1989 and entered into force on July 25, 1990 despite the fact that the norms of international law in the specified area have existed for a long time, it should be noted that there is insufficient proper legal regulation of the status of military personnel at the state level. The problem lies not only in the conflict, but also in the declarativeness of the norms, since the full-scale invasion of the aggressor state on our territory demonstrated the absence of a real mechanism for the protection and protection of war prisoners, a mechanism for their exchange.

It should be noted that the International Committee of the Red Cross (hereinafter – the ICRC) singles out the most important means of protection provided to war prisoners under international humanitarian law, including humane treatment, respect for the personality and honor of war prisoners, equality and non-discrimination on any grounds, the right to medical assistance, contact with the outside world, the right to visit the ICRC, the right to a fair trial, release and repatriation. Therefore, special attention should be focused on the main principles of legal regulation of the status of war prisoners, which in turn are divided into general and special.

The general principles should be understood as those provided by the norms of international humanitarian law, influencing the modern development of social realities regarding the establishment of humane views in society. These include:

1. One of the primary principles that guarantees protection from any cruel or humiliating, veto on the use of physical or psychological pressure is the principle of prohibition of cruel treatment. However, its real observance is impossible without a democratic internal political component of the state, which has prisoners of war.

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2. The principle of humane treatment, according to which those holding war prisoners must treat them with dignity and safety, including providing them with adequate food, water, medical care and minimum sanitary conditions. It is important to understand that war prisoners, despite the fact that they are citizens of an enemy country, are still bearers of human rights.

3. The principle of ensuring decent treatment. Everyone has the right to have their honor and dignity respected in all circumstances. In this regard, prisoners of war belong to a special category of persons who are under the protection of international law. In other words, war prisoners are guaranteed protection by the state in whose custody they are.

4. Ensuring the safety of personal belongings and documents. War prisoners have the right to keep personal belongings, documents and other items that reflect their identity.

5. Guaranteeing proper communication with the family and bodies that should ensure their protection.

6. War prisoners must be released or returned to their homeland after the end of the military conflict. However, this principle should be considered in a broad sense, taking into account political circumstances (Lahav et al., 2015). For example, at the end of the Korean War, 76 Korean POWs and 12 Chinese POWs refused to return on both sides of the border. Instead, they sought refuge in neutral countries and risked their lives to escape their leaders.

However, we believe that the focus should also be on specific principles that should be implemented in national legislation and legal policy. Such is rehabilitation and special state assistance after the return of war prisoners. This question concerns all military personnel, but to an even greater extent – those who have been in captivity. Scientific studies show that captivity increases the risk of developing multiple disorders that worsen in old age.

The period of life as a prisoner of war is one of the most difficult traumatic events for a person, and its consequences are associated not only with long-term psychological and physiological difficulties, but also with accelerated aging. Being in captivity entails long-term complex stress and increases the risk of numerous mental and physical disorders even many years after repatriation (Dekel et al., 2014).

Experts have also proven that in later life former prisoners of war may suffer from depression and accelerated aging (Lahav, 2020). We believe that this issue is complex and should be considered more broadly, rather than focusing exclusively on war prisoners. After release from captivity, these people find themselves in the family circle, where their families also suffer from the psychological trauma of their absence. State policy on family protection should include rehabilitation and state guarantees of protection and support for families of war prisoners.

Conclusions. Thus, international humanitarian law plays an important role in ensuring the protection and humane treatment of war prisoners. The Geneva Conventions and their Additional Protocols are the basis for the protection of persons who do not participate in hostilities or who have ceased to participate in hostilities.

Despite the unified standards, the practice of armed conflicts and related phenomena differs, which leads to cruel treatment and inhumane conditions of detention of war prisoners. The russian-Ukrainian war contributed to the creation

of new dimensions and challenges in the field of international humanitarian law, covering the protection of war prisoners. Formally, there are models for protecting such participants in armed conflict and ensuring their humane treatment. However, there are serious, even enormous problems associated with the declarative nature of international obligations, the ineffectiveness of international organizations, and the lack of significant influence on the party that holds prisoners of war, making their application impossible. In this context, it is necessary to talk about the implementation of international norms of international humanitarian law in general and norms concerning prisoners of war in particular.

Within the framework of this scientific study, the basic principles (basic principles) of the legal policy of democratic states in the field of treatment of war prisoners have been determined. These principles are divided into general (prohibition of cruel treatment, humane treatment, right to dignity, preservation of property and documents, right to contact with family and security agencies, right to return home) and special (rehabilitation of war prisoners after return and special assistance from state, support for families of war prisoners).

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ОСНОВНІ ПРИНЦИПИ МІЖНАРОДНОГО ГУМАНІТАРНОГО ПРАВА В ЧАСТИНІ ПОВОДЖЕННЯ З ВІЙСЬКОПОЛОНЕНИМИ: ТЕОРЕТИКО-ПРАВОВИЙ АНАЛІЗ

Анотація. Автором визначено, що прийняття норм міжнародного гуманітарного права (далі – МГП) слугувало новим поштовхом всього цивілізованого світу до гуманізації суспільних правовідносин, які стосувалися своєю чергою й правил тримання військових у полоні та поводження з ними. Де-юре така модель захисту начебто

застосовується під час збройних конфліктів, проте де-факто наявні значні порушення, зокрема в частині декларативності міжнародних зобов'язань та нівелюванні впливу міжнародних організацій на сторону конфлікту, яка має військовополонених, що обумовлено застарілістю норм МГП в частині відсутності дієвих механізмів протидії такому явищу, як порушення прав військовополонених.

Крім цього було проаналізовано практику застосування правових норм у сфері поводження з військовополоненими, де питання про їх статус стало реальністю через запровадження стану війни на території України, зростаючу кількість військовополонених з обох сторін, відсутність реальних механізмів гарантування належного поводження, слабкість міжнародних організацій у цій сфері, пропагуванні неправдивих відомостей про умови їх тримання на широкий загал, глобалізації та змінам в суспільному житті в усіх сферах, що стало передумовами ситуації, яка склалася із законодавством щодо забезпечення прав та свобод учасників воєнних дій, прийнятим після Другої світової війни, і, відповідно, яке потребує оновлення згідно з сучасними викликами та наявними проблемами.

Досліджено основні принципи МГП щодо поводження з військовополоненими та наголошено на важливості повної імплементації цих принципів для ефективного дотримання сторонами конфлікту певних норм і стандартів, оскільки вбачається, що станом на початок 2024 року Україною дотримано положення Третьої Женевської конвенції, щодо захисту військовополонених та продемонстровано готовність і спроможність виконувати свої зобов'язання. Водночас рф не виявила готовності або ініціативи вжити аналогічних заходів, що ставить під сумнів її прихильність до міжнародних стандартів, що несе негативний вплив на міжнародну безпеку і правопорядок.

***Ключові слова**: принципи міжнародного гуманітарного права, військовополонені, правовий статус військовополонених, поводження з військовополоненими.*

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JUVENILE POLICE MEDIATOR AS A WAY TO PREVENT BULLYING IN SCHOOL EDUCATIONAL INSTITUTIONS

Abstract. The article is devoted to solving the problem of bullying prevention in schools through the use of juvenile police mediation. It has been found that in the conditions of war, children are subjected to psychological pressure and stress, psychological stress as a result of direct experience or observation of war events, shooting, bombing, destruction of their homes, change of residence, etc. All this complicates the standard mechanisms of prevention and

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