

To the Issue of Human Rights for Peace

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Abstract

The research relevance is predefined by the need to clarify and establish the status of observance and enforcement of the right to peace in the world, as well as to substantiate and develop recommendations for improving the process of protection and implementation of the right to peace and other rights due to an individual in the context of wartime. The research aims to establish the state of observance of the human right to peace through the prism of current events. The research defined the main concepts and terms used in the research, analysed studies and international legal acts regulating peace and the human right to peace; established the importance of consolidating the process and taking the necessary actions to ensure peace in the modern world; established the main international institutions and mechanisms for ensuring and guaranteeing peace in the world.

Keywords: War, Aggression, United Nations, Declaration on the Right to Peace, International Legal Obligations.

Introduction

Human rights are the basis of the need for a rule of law and a democratic state in modern society. It is worth noting that the rights that belong to a person under birth and human activity are an integral part of human existence and are a system of values for which humanity has been fighting for many years (Turyanskiy, 2019).

War cannot be perceived as a phenomenon that restricts human rights. As humanity evolves and many international institutions are created to ensure peace and security in the world and protect human rights, war and any military action should cease to exist. However, as the history of warfare shows, wars have been going on for 10,000 years and continue to this day (Ivankiv, 2020; Frankiv, 2023). It should be noted that an essential component that is a priority in the development

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of a democratic and rule-of-law state is the provision and observance of human rights (Zaborovskyy et al., 2021).

International law is in crisis today, as the realities of today show that it has proved unable to resolve global crises and makes us wonder whether the law is possible and necessary at all and if it is the right of the winner. Several scholars have noted that the idea of justice is gradually fading from a history of power or authority (Baginskyi, 2019).

Violation of international legal obligations by states, as well as violation of the sovereignty of another country by one country, often leads to violations of human rights in various areas, including the right to peace (Sandul et al., 2018). Speaking about ensuring peace for humanity and each person and guaranteeing it by ensuring the relevant rights, scholars note that it is important to equally grant the right to peace to every person in the world, regardless of their financial situation, citizenship, skin colour, religion, etc. (Mykola et al., 2020; Kondratenko et al., 2020). J. Gosko (2016) noted that the granting and recognition of a person's right to something, in this case, the right to peace, allows declaring that the one has this right and that public authorities and the international community are obliged to provide this right and make efforts to protect it. In today's realities, in the context of a full-scale war on the territory of Ukraine that has affected the whole world, national authorities and the entire international community must create effective mechanisms to protect the human right to peace and security (Kostyk and Ovsienko, 2023; Horbal and Makarova, 2023).

Many researchers emphasise that international humanitarian law is intended to regulate the procedure for ensuring human rights in times of war or to establish rules of conduct during hostilities. War as a phenomenon is regulated by international humanitarian law (Voytenko et al., 2021). The conduct of war provided that states comply with the established norms of warfare, is mandatory. However, it is difficult to agree with this statement of scholars, as any military action, even minor, always leads to human rights violations. The full-scale war that began on the territory of Ukraine on 24 February 2022 showed that international humanitarian law does not operate to the extent and following the purpose for which it was created, and the right of people to peace is rarely respected. Peace is one of the basic conditions for the survival and normal existence of humanity and a moral obligation of the entire world (Athie & Mahmoud, 2018; Miethlich et al., 2022).

A. Athie and Y. Mahmoud (2018) emphasised that states should implement policies and measures to maintain world peace. They also noted that maintaining world peace should be considered as an explicit policy objective for all states, whether they are affected by armed and other conflict. Indeed, all states have features that contribute to the preservation of peace through their institutions,

culture, politics, or other areas that facilitate interaction between people around the world (Buletsa et al., 2019).

War cannot be considered a natural phenomenon, and the human right to peace cannot be considered subject to restriction or violation (Kuybida et al., 2019). The study of the human right to peace should primarily be aimed at regulating the protection and enforcement of this right, as well as preventing its violation in the future. In addition, when studying the human right to peace, it is necessary to establish the correlation and establish causation between the violation by states of their international legal obligations and the violation of the human right to peace.

The research aims to study the state of enforcement and protection of the human right to peace in the modern world, especially in the context of a full-scale war on the territory of Ukraine and possible further military risks for the whole world. The main objectives of this study to be addressed are to identify the challenges existing in the modern world that violate the human right to peace, analyse the international legal instruments regulating the enforcement and protection of the human right to peace, identify the specific features of ensuring peace in the modern world, develop recommendations and developments for further improving the development and consolidation of the right to peace.

Materials and methods

Special and general methods were used for an effective and comprehensive study of the research topic. The main methods and means for studying the object of research were the dialectical, logical, and formal legal methods of scientific cognition.

By using the dialectical method, the nature, stage, and peculiarities of consolidation and ensuring the human right to peace in the modern world were highlighted. The systematic analysis was used to identify the main legal acts that regulate and consolidate the right to peace, as well as establish mechanisms for ensuring peace in the world and protecting the human right to peace, especially in today's realities. The historical and legal methods were used to study the problems faced by humanity in the twenty-first century and the challenges faced by the international community between the time of ensuring world peace and the realisation of fundamental human rights.

The logical and legal methods were used to characterise the main concepts used in this study, as well as to develop ways to further improve such a fundamental right as the human right to peace at the national and international levels. The historical method was used to clarify the preconditions and processes of establishing the right to peace and the creation of international institutions responsible for ensuring and protecting this right.

The study also used the formal legal method, which allowed analysing the legal provisions enshrined in Ukrainian legislation and the world doctrine on the human right to peace. The formal legal method was also used to identify ways to improve and develop the human right to peace. The method of synthesis was used to study case law on the protection of the right to peace. It should also be noted that the synthesis method contributed to a detailed study of the specific features of the human right to peace. The systematic method allowed to identify the peculiarities of developing recommendations and developments for further improvement and development of the human right to peace. The logical and semantic method was used to deepen the conceptual apparatus. The formulation of the author's definitions of the concepts referred to in this article was made possible using the generalisation method.

The logical method and means were used to substantiate a particular position of the researcher. The hermeneutic method was used to study the impact of the war in Ukraine on peace and stability in the world. The formal logical method was used to outline the main concepts used in this study and the analysis of the adopted legal acts regulating the issue of ensuring peace in the world. The doctrinal legal research method was used to analyse legal doctrines and various aspects of legal concepts and works to establish the need to improve the human right to peace and further develop scientific doctrines in the field of protection and enforcement of this right and maintenance of peace in the world. The method of comparative analysis allowed for the comparison and study of various legal acts regulating the human right to peace.

Results

The Rome Statute of the International Criminal Court recognises aggression as an international crime. Researchers emphasise that the recognition of aggression as an international crime has become one of the most important achievements in ensuring peace in the world and protecting human rights (Byelov, 2020).

Before studying the issue and problem of ensuring the human right to peace, it is necessary to clarify and define the concept of "peace". The most accurate understanding of "peace" at the present stage of society's development is contained in the study by C. G. Fernandez and D. F. Puyana (2017), who defined "peace" as a concept that is much broader than just the absence of armed and military conflicts, primarily related to the eradication of violence that can lead to social and economic inequality, as well as respect for human rights based on the principles of non-discrimination. Peace is the basis for the promotion and protection of individual human rights and creates the conditions for the effective and proper enjoyment of these rights.

The Declaration on the Right to Peace states that everyone in the world has the right to peace, ensuring the promotion and protection of all human rights and the full realisation of development (General Assembly, 2017). This provision provides people with various benefits that stem from the UN's three pillars of peace, human rights, and development (UN Office of the Highs..., 2020). Ensuring the right to peace is significant as millions of refugees have fled their homes in recent years in desperate attempts to escape violence or war and conflict.

The right to peace was officially approved and declared by the United Nations General Assembly in the Declaration on the Human Right to Peace, which states that the General Assembly, recognised that the preservation of the peaceful enjoyment of life by people is the sacred duty of every country:

- proclaims that the people of our planet have the right to peace;
- solemnly proclaims that it is a fundamental obligation of every country to ensure and guarantee the right of peoples to peace and to promote its fulfilment (United Nations, 1984).

Studying the issue and problem of ensuring the human right to peace, it is necessary to establish the connection between the right to peace and international humanitarian law. Various international legal acts, such as the Geneva Conventions, were created because of and in response to the consequences of wars that took place in the world. After the end of the Second World War, the number of international military clashes decreased, but the number of international military conflicts increased. The perception and response of the international community to international conflicts are insufficient and ineffective, which has repeatedly caused aggressor states that observe the lack of reaction and proper response from the international community and allow themselves to wage an aggressive and brutal war against independent and sovereign states. An example is the current situation in Ukraine, when the insufficient response of various international bodies, organisations, and associations to Russia's illegal annexation of Crimea and the ensuing war in eastern Ukraine led to Russia's launching a full-scale war on the territory of Ukraine on 24 February 2022. The International Court of Justice has stated that international law, including humanitarian law, can and should be applied during armed conflicts (Guban, 2022). I. Ivankiv (2020) notes that international humanitarian law contains norms of a mandatory and absolute nature. It should also be noted that international humanitarian law often appeals to the concept of "humanity", which indicates the main task of the international community, namely the protection of human beings as the highest value of society and the protection of their rights.

The UN Charter states that states undertake the obligation of non-use of force in international relations (United Nations, 1945). The obligation of states not to use

aggression and military force is a peremptory norm of *jus cogens* (Ivankiv, 2020). The adoption of the UN Charter raised international relations between states to a new level, which undertook to protect human rights and freedoms (Nalivayko and Verba, 2018). The UN, as an international organisation that fights for peace in the world, is also called upon to protect and ensure the human right to peace (Zaichuk & Zaichuk, 2019).

Numerous international legal acts regulate the issue of peace and the human right to peace as interdependent phenomena that cannot exist without each other. The protection and enforcement of the human right to peace are stipulated by several legal acts adopted within the framework of the UN. In particular, the Universal Declaration of Human Rights plays a significant role in all legal acts, which enshrines the provision that all human beings should treat each other with respect (The Universal Declaration..., 1948). However, not all states adhere to the above provision, as wars and military conflicts in the world are started by people, so it is for this purpose that the Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding among Peoples was adopted. According to this legal act, young people should be educated in the spirit of respect and observance of the ideals of peace and human rights.

The Declaration on the Right of Peoples to Peace (United Nations, 1984) is an important activity in the field of peacekeeping and the promotion and protection of the human right to peace. The Preamble to this Declaration states that the existence of mankind without war is fundamental to the well-being of people, the progress and development of all nations of the world and ensures the full realisation of human rights and freedoms. The Declaration on a Culture of Peace states that peace is not only the complete absence of military conflicts in the world but also a process aimed at promoting dialogue and understanding among states and the peaceful settlement of disputes and conflicts (General Assembly, 1999).

However, a significant achievement of the international community in guaranteeing humanity the right to peace was the adoption 2016 of the Declaration on the Right to Peace (General Assembly, 2017). Article 2 of the Declaration states that states are obliged to promote, guarantee, and protect, respect, ensure and promote equality and non-discrimination, justice, and the human right to peace. The Declaration also states that everyone has the right to live in peace, with the rights being promoted and protected and their proper development.

The United Nations must actively participate in the process of maintaining peace and the right of people to peace, as well as focusing on counteracting any use of force or aggression (Turkut, 2020). The main purpose of the UN was to ensure and guarantee peace and security in the world. The UN Charter states that States Parties to any conflict, including armed conflict, have a duty first to settle the

conflict by peaceful means, such as negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional organs, or other peaceful means of their choosing (United Nations, 1945). The General Assembly, emphasising the main purpose of the UN, noted that the main goal of their activities is to maintain and ensure peace and security in the world (Spytska, 2023).

One of the most important bodies of the UN, which is called upon to regulate and ensure peace in the world, is the UN Security Council, which is authorised to impose certain sanctions on states that violate world security, such as financial penalties or severance of diplomatic relations (Reddy & Reddy, 2015).

Ukraine's foreign policy plays an important role in ensuring peace and protecting the human right to peace in Ukraine. Thus, the Constitution of Ukraine states that Ukraine's foreign policy activity is aimed at ensuring its national interests and maintaining peaceful coexistence with other states of the world (Verkhovna Rada of Ukraine, 1996). The goal of foreign policy is to ensure peace and security in the country based on mutually beneficial cooperation with the international community. By ratifying numerous international legal acts (the Convention on Fundamental Human Rights and Freedoms (Verkhovna Rada of Ukraine, 1950), the UN Charter (United Nations, 1945), etc.), Ukraine has committed itself to fulfilling the requirements set out in them and ensuring human rights, including the right to peace.

Regional frameworks and mechanisms for the protection of the human right to peace vary according to national, historical, and cultural traditions. For example, the African Charter on the Rights of Women pays much attention to the protection of women's right to peace and other fundamental rights during warfare, especially concerning sexual violence against women during military conflicts in Africa (Malanchuk, 2000).

The most effective regional mechanism for the promotion and protection of the human right to peace is the European Court of Human Rights (ECHR), which is designed to protect the rights enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms (Verkhovna Rada of Ukraine, 1950). Although this Convention does not explicitly mention the protection of the human right to peace, the ECtHR recognises in its judgments that violations of a range of human rights also have a direct impact on the human right to peace and security. As an example, some cases of the ECtHR on the interconnectedness between the right to peace and other human rights can be cited, for example, the case of *Al-Skeini and Others v. the United Kingdom*, according to which the ECtHR recognised a violation of the right to life due to a violation of the human right to peace, which entailed a violation of other rights (European Court of Human Rights, 2011). It

should also be noted that the judiciary has a special and central role to play in the protection of the human right to peace, including international judicial bodies.

The ECHR case law on human rights violations contains a tendency that can be traced to the fact that the use of the mechanisms and instruments of the Convention for the Protection of Human Rights and Fundamental Freedoms to protect human rights also extends to rights that are not explicitly mentioned in the said Convention (European Court of Human Rights, 2011). An example is the so-called "Chechen cases", when as of 9 March, Russia was held accountable for almost 60 cases related to enforced disappearances, 2 cases of extrajudicial executions, cases of torture, etc.

The Criminal Code of Ukraine contains provisions regulating and establishing liability for crimes such as crimes against international law and order, peace, and security, which need to be further improved to reflect the realities of today and bring all perpetrators of war crimes to justice (Verkhovna Rada of Ukraine, 2001).

The right to peace in Ukraine cannot be realised without punishment for international crimes against humanity committed on its territory. The Statute of the International Military Tribunal for War Crimes, Crimes against Peace and Humanity provides for individual responsibility. It is important that states or individuals are held accountable and effectively punished for war crimes and violations of human rights, including the right to peace. In the context of the war in Ukraine, when Russia is waging an aggressive and brutal war against Ukraine, it is necessary to bring to justice all those involved who are responsible for the outbreak of a full-scale war, the commission of many war crimes, and massive human rights violations (Bersheda, 2023). For example, the issue of an international military tribunal for Russian war criminals, which was actively used for war criminals after the Second World War, is being actively discussed. In Strasbourg, on 19 January, the European Parliament adopted a resolution on the establishment of an international tribunal to prosecute the crime of aggression against Ukraine committed by the political and military leadership of Russia and Belarus (European Parliament, 2023).

It is necessary to emphasise the insufficiency of international legal mechanisms for ensuring the right to peace in the current conditions, which, among other things, require qualitative theoretical substantiation and practical refinement.

Discussion

The process of recognising the human right to peace has been considered difficult for many years and remains so due to the lack of unity in approaches to the subject of this right. Recognition of peace as an important component of the normal

existence of mankind has led to the need and necessity to recognise and enshrine the right to peace (Rybchynskyi, 2023).

It should be emphasised that the right to peace appears and is correlated with other rights, such as the right to the environment, to communication, to the common heritage of mankind, etc. M. Parlevliet (2017) concluded that the General Assembly, by declaring the right to peace as the right of everyone to humanity, has thus identified the priority of the international community and each state to properly protect this right. Indeed, the recognition by the international community of the right to peace as belonging to every person in the world automatically led to the fact that every state is obliged to take action to maximise the protection and enforcement of this right (Makhnitskaya and Shalbolova, 2012; Lukeshevych, 2022).

For many years, researchers have been establishing a link between peace and human rights as complementary components that cannot exist separately, as violations of peace in the world directly affect violations of human rights (Bocheliuk et al., 2021). A. H. Hvidsten and K. Skarstad (2018), in their study of the right to peace, distinguished two positions on the interaction between human rights and peace: 1) a negative understanding of peace as stability and 2) a positive understanding of peace as an effective social contract. In the negative understanding, human rights can be an effective or ineffective tool for maintaining stability, which is rightly seen as an empirical issue conceptually related to peace. A positive understanding is to continuously explore and improve the interaction between human rights and peace, which together can lead to a stable and just world (Miethlich, 2022).

D. Perry et al. (2017) noted that the approach to understanding the right to peace in the modern world is expressed in the interconnection of the human right to life and the right to peace, development, human dignity, security, gender equality and the role of women in rebuilding peace in the world, as well as the importance of preventing military conflicts. It is worth agreeing that the right to peace affects several fundamental human rights that cannot exist and be realised without peace and security in the world and in the state (Shalbolova and Kenzhgaliyeva, 2018; Tanchak et al., 2022).

I. G. Panina (2021; 2022) concluded that the concept of "peace" in the political sense is usually expressed in two main interpretations: 1) the absence of war or 2) a state of political relations in which war is unthinkable and impossible. For a long time, the first approach dominated society, but the full-scale war on the territory of Ukraine that began in 2022 changed this approach. Indeed, a full-scale war has posed new challenges to the entire international community, the solution of which requires effective actions aimed at ending hostilities and effectively protecting human rights in various spheres of life.

In recent years, the world has seen actions taken to overcome the threat of uncontrolled escalation through arms control in the world and actions taken to prevent military conflicts. W. Zellner (2020) noted that the degradation of arms control occurs due to the deterioration of political and military relations between Russia and NATO (North Atlantic Treaty Organisation) states. He concluded that there will never be a single security scenario, but rather a hybrid mix of elements of cooperation and deterrence. He emphasised that since 2014, there has been a rapid recovery in the perception of mutually exclusive threats. Analysing the study by W. Zellner (2020), it is worth noting that the military conflict between Russia and Ukraine that began in 2014 changed the world and views on military and armed threats in the world, and the policy of deterrence common among European countries did not yield the expected results, and on 24 February 2022, Russia launched a full-scale war on the territory of Ukraine.

The martial law on the territory of Ukraine, which was introduced in connection with the provoked aggressive war by Russia, requires a study of the issue of ensuring the human right to peace in times of war. The law protects human rights, while the war, on the contrary, violates almost the entire list of human rights and freedoms (Yaremko et al., 2022). The human right to peace belongs to the third generation of human rights. The rights belonging to the third generation of human rights are a complex and multifaceted phenomenon since the rights of this generation are at the stage of their development and formation in connection with the human awareness of their significance and dignity (Peresh & Barna, 2022; Trusova et al., 2021).

Considering the issue of the right to peace, it should be noted that in the modern scientific literature, this category was developed primarily in the context of international law, which in its structure contains many legal norms aimed at limiting the use of military force in resolving relevant international conflicts and introducing the principle of peaceful settlement of interstate disputes into public practice (Gromovenko et al., 2023). The modern concept of the human right to peace is based on the doctrine of international law, which includes several important universal principles of its practical implementation: the principle of peaceful settlement of international disputes, non-use of force and threat of force, non-interference in the internal affairs of states, equality and self-determination of peoples, territorial integrity of states, etc. (Lupenko et al., 2022).

States often resort to conflicts in third countries to resolve disputes among themselves, i.e., to so-called indirect wars, which in turn leads to violations of human rights in various areas, including the right to life, dignity, peace, property, family, etc. P. Malanchuk (2000) expressed his opinion on indirect warfare, believing that instead of declaring war on their territory, some countries go through

the process of supporting several rebel groups, thereby destabilising the situation in another country, achieving their goals, and states, to avoid the spread of hostilities to their territory, increase their influence by encouraging factions and groups that share their ideology to seize power in other countries.

I. Ivankiv (2020) argues that when referring to international humanitarian law when examining the right to peace in contexts, it is necessary to consider Article 20 of the International Covenant on Civil and Political Rights, which states that propaganda for war should be prohibited by law. States need to engage national and international organisations working on peace and the human right to peace to strengthen the spirit of tolerance, interaction, cooperation, and solidarity in society (Koziy and Pochtarev, 2023).

When studying the issue of the human right to peace, it is necessary to mention the politics of peace, which was studied by A. Athie and Y. Mahmoud (2018). Thus, peace policy is a process, cooperation and efforts that should contribute to the improvement and development of peaceful coexistence in the world to maintain stability and justice in the world, as well as to protect human rights (Rudenko et al., 2021). It is worth noting that human rights contribute to the strengthening of relationships between people and peaceful coexistence in society. States and the international community are called upon and obliged to make every effort to ensure the observance of human rights, including the right to peace, without which normal coexistence is simply impossible (Shalbolova et al., 2021).

It should be noted that "positive peace" was the subject of a study by P. Bogutskyi (2020). Positive peace is the ability of states to meet the needs of their citizens, reduce the number of grievances that arise, and resolve differences without the use of violence. The state's adherence to the principles of the rule of law and legality in resolving problems and conflicts indicates that human rights are the core value of the state, and the resolution of problematic issues in a world without armed conflict is the existence of the prerogative of peace in states and the human right to peace (Konieczny, 2023). Analysing the above, it can be argued that one of the most important tasks is to ensure peace in the world and protect existing human rights.

Russia's aggressive war has resulted in violations of numerous fundamental human rights. The war in Ukraine, which was started by Russia, has led to the violation of several fundamental human rights enshrined in international legal instruments: the right to life, to dignity, prohibition of torture, to property, the right to family, to family well-being, violation of children's rights and deprivation of their normal life. The hostilities on the territory of Ukraine have led to terrible consequences and great grief, depriving people of normal living conditions. The war has led to a terrible disaster that will be etched in the memory of many generations

of Ukrainians, as the aggressive war provoked by Russia has taken the lives of many people, separated families and sent people far from their homes.

Conclusions

Summing up the above, it should be noted that the human right to peace is evolving more and more every year and has moved from the state of the people's right to peace as a general phenomenon to the right of an individual to peace and must be ensured worldwide. The international community has realised that a range of human rights cannot be realised and guaranteed without ensuring the human right to peace.

The human right to peace stems from the third generation of human rights. The human right to peace requires their proper enforcement and protection. Given the development of the judiciary, it can be argued that judicial protection of violated human rights, including the right to peace, should play a key role in the protection of human rights.

Numerous international legal acts establish and regulate the human right to peace. Many legal acts in the field of guaranteeing and observing the right to peace were adopted under the auspices of the United Nations, among which the Declaration on the Right to Peace, which establishes the obligation of the state to ensure and guarantee the right to peace to everyone, occupies an important place.

Nowadays, more than ever before, namely in the context of war and other realities occurring in the world, the issue of the relevance of ensuring the right to peace is becoming increasingly important in comparison with other rights, as a violation of the right to peace entails a violation of all other rights. For example, Russia's illegal invasion of Ukraine has led to a gross violation of human rights and a violation of international law, and the provisions enshrined in the UN Charter. It should be noted that every violation of Ukrainians' rights by Russia leads to a direct violation of their right to peace.

The global challenge for the international community is to eradicate war, armed conflict, and violence. Only under conditions of peace is it possible to improve human living standards and gradual development of human rights and their effective protection and enforcement. In this regard, modern general theoretical jurisprudence faces an urgent task, which is to ensure the substantive content of the human right to peace, to identify its essential features, prerequisites, and stages of its practical implementation, etc.

The challenge for the entire international community is to create effective mechanisms for ensuring peace in the world, as well as to reform and improve the activities of international organisations and bodies whose mandate is to guarantee, regulate and protect the human right to peace. It is important to reassess and improve

the regulatory framework designed to regulate the maintenance of peace in the world and guarantee the right to peace for everyone. In today's realities, the entire international community is required to bring Russia's perpetrators to justice for their crimes on the territory of Ukraine.

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