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**State humanitarian policy of
Ukraine in war conditions in a
comparative perspective**

**Política de Estado da Ucrânia na
esfera humanitária em condições
de guerra**

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State humanitarian policy of Ukraine in war conditions in a comparative perspective*

Política de Estado da Ucrânia na esfera humanitária em condições de guerra

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Abstract

The purpose of the article is to analyze the current state humanitarian policy of Ukraine and its regulatory and legal provision and to substantiate on the basis thereof the universal criteria for the effectiveness of the state humanitarian policy in the conditions of war. As a theoretical basis for the provided assessment, two approaches to the formation of the state humanitarian policy were selected: the first emphasizes the priority of the humanitarian patronage on the part of third countries, the second prioritizes the intensification of the internal potential of the belligerent state. To demonstrate the efficiency of implementing the stated approaches in the world practice, the relevant experience of other countries that at various times had been involved in military conflicts has been studied. The humanitarian policy of Ukraine was investigated in its dynamic state, from the moment of its accession to independence up until the present time. In the course of the study, the authors employed the method of comparative analysis on a par with the dialectical and modeling methods. The originality of the article consists in the fact that it investigates the issues that have been prompted and actualized by the Russian-Ukrainian war: whether the belligerent state is able to preserve its sovereignty, relying solely on external support, and whether the self-recovery is deemed realistic in the conditions of war for countries with weak economies and a neglected financial and humanitarian sphere, including science, education, healthcare and culture. The example of Ukraine evidences that the existing approaches to the formation of the state humanitarian policy in the conditions of war are not consistent with the latest geopolitical transformations, while the international humanitarian law requires revision both in terms of the fundamental principles of humanitarian policy and its regulatory and legal provision. The results of the study can be employed in developing effective strategies for state development in the conditions of a military conflict.

Keywords: state humanitarian policy; war; international law; regulatory and legal provision of humanitarian policy.

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Resumo

Objetivo do artigo: o objetivo do artigo é analisar os aspectos administrativos e jurídicos, organizacionais e administrativos, ideológicos e de valor da implementação de uma política de Estado eficaz na esfera humanitária nas condições de guerra e reconstrução do pós-guerra. O seu sucesso foi avaliado com base em duas abordagens elaboradas pela prática internacional: a primeira, baseada na assistência de emergência num contexto transnacional; o segundo - humanismo sustentável - envolve ativar o potencial interno do estado. Os autores investigam a forma como essas abordagens se manifestam na política humanitária da Ucrânia durante a guerra com a Federação Russa, bem como a partir dos relatos dos conflitos militares e da reconstrução do pós-guerra na Bósnia e Herzegovina (BiH), Kosovo, Israel, e Coreia do Sul. Metodologia: no decorrer do estudo foram empregados o método de análise comparativa e sistema-estrutural, bem como métodos dialéticos e de modelagem. Conclusões: tendo realizado a pesquisa apresentada, os autores comprovaram que aquela política de Estado na área humanitária adequada às condições de guerra deve assegurar um equilíbrio entre a fonte externa de apoio e o vetor interno de auto-renovação sob o qual o uso de o potencial nacional do estado seria maximizado. Originalidade ou valor: a política humanitária da Ucrânia e de outros Estados na condição de guerra e reconstrução do pós-guerra está sendo apresentada em uma perspectiva comparada; os autores verificaram que a variabilidade, a flexibilidade dessa política, seu devido suporte regulatório e legal é uma condição fundamental para alcançar a vitória em um conflito militar e posterior restauração do estado.

Palavras-chave: política pública, esfera humanitária, guerra, quadro jurídico da política humanitária

1 Introduction

The issue of forming an effective government policy in the humanitarian sphere remains of high relevance for all countries, regardless of their «weight category» in the international arena. The interest in said issue is only increasing in view of growing tensions and contradictions in the contemporary society on the basis of ethnic, religious, social and, as a matter of fact, civiliza-

tional differences between people. The viability, economic competitiveness and geopolitical influence of the state all depend on how actively the state promotes the development in the fields of science, education, culture, healthcare and social protection of the population. After all, it is namely these fields that are primarily focused on personal development, protection of life and fundamental human rights as the highest value and the most important resource for the state. From this standpoint, the humanitarian policy of the state can be defined as a specific system of principles, strategies of state administration and normative legal acts aimed at ensuring social, legal, intellectual, spiritual security of citizens of this particular state and their vital needs. The instruments of humanitarian policy at the national level are represented by normative legal acts, which ascertain the supreme value of an individual and legally ensure his/her right of access to effective systems of education, healthcare and culture. For instance, Article 3 of the Constitution of Ukraine states that an individual, his/her life and health, honor and dignity, inviolability and security are the highest social value, and ensuring human rights and freedoms is the main duty of the state¹. Such an approach relies on the key provisions of the core international human rights treaties, the most significant among them being the «Universal Declaration of Human Rights», developed by the UN Commission on Human Rights and adopted at a meeting of the UN General Assembly in 1948.

In the conditions of military conflict, the internal humanitarian policy of the state is also being formed in accordance with two «branches» of international humanitarian law: the norms that protect the life and property of persons affected by hostilities and regulate humanitarian assistance provided to them (the Geneva Conventions) and the norms that impose certain prohibitions for the parties to the conflict due to humanitarian reasons (the Hague Conventions). The problem lies in the fact that insufficient attention at the international level is paid to the role of the conflict-affected state itself in responding to the needs of its citizens in wartime conditions.

In the view of P. Harvey, the states – parties to the conflict – first and foremost, should invest their own

¹ CONSTITUTION of Ukraine from June 28, 1996, No. 254k/96-VR. Revision on January 1, 2020, on the basis - 27-IX. Available at: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>. Access on: 01 dec. 2022.

resources into the aid and protection of their citizens, since this is not only humane, but also cost-effective for the state itself². The issue of legal provision of the humanitarian policy of the belligerent state in accordance with international law is addressed by L. G. Alves in his fundamental work «The need for regulation of armed conflicts for the reinstatement of democracy»³. He investigates international humanitarian law in a historical retrospect and substantiates the vectors of its improvement within the aspect of humanitarian assistance to the states affected by military conflicts. The issue of correlation between human rights and national and international humanitarian policy at one time was also addressed by Nagamine, R. & Roriz, J.⁴

Nonetheless, another issue remains uninvestigated: how can a warring state build an efficient, nationally oriented humanitarian policy and not become «trapped» by its own economic insolvency and dependence on international donors?

Ukraine, which has been withstanding the Russian military aggression for nearly a year, since February 2022, has been systematically receiving considerable humanitarian and military support from the entire civilized world. However, there is already an obvious risk for Ukraine to find itself in the said «trap» in case the state policy in the humanitarian sphere proves to be ineffective. The authors of the presented article have attempted to elucidate: how effective this policy proves to be in the current conditions of the ongoing war and what served as actual prerequisites for its present state. In the course of the study, the method of comparative analysis was employed to juxtapose the characteristics of the state policy in the humanitarian sphere of the countries participating in military conflicts; the dialectical method – as a tool for studying the humanitarian sphere of Ukraine in the dynamics of its development after the country gained independence. Utilizing the modeling method,

further prospects for the development of humanitarian policy of Ukraine in the conditions of war and post-war reconstruction were substantiated.

The state policy of Ukraine has been studied within the context of two fundamental approaches with regard to the humanitarian assistance to the states affected by military conflicts. The first approach – tentatively referred to as an «externally oriented» – is based on A. Dunant’s classical paradigm of humanitarian ethics. It prioritizes the patronage of international organizations and systemic humanitarian assistance from third-party states based on the principles of humanity, political indifference and independence. The key role in the coordination and administration of the state humanitarian sphere under this approach belongs to the UN, donor countries and international non-governmental organizations. In the conditions of both war and post-war reconstruction the state takes a largely passive stance, relying on external initiative and assistance for solving humanitarian problems⁵.

The second approach – «sustainable humanism» – stipulates the enhancement of internal capacities and maximizing the involvement of national actors into the humanitarian activities management. For sustainable humanism, the role of national and local authorities as well as local communities, affected by military hostilities, is crucial in solving humanitarian problems⁶.

In her article «Classical humanitarianism and resilience humanitarianism: making sense of two brands of humanitarian action» Dorothea Hilhorst criticizes both approaches emphasizing that they both share the same negative feature, more precisely their focus on only one of the models of state policy - either on overcoming a crisis exclusively through foreign aid or placing the primary responsibility for its own survival on the affected population⁷.

² HARVEY, Paul. Towards good humanitarian government: the role of the affected state in disaster response. *ODI*, 12 oct. 2009. Available at: <https://odi.org/en/publications/towards-good-humanitarian-government-the-role-of-the-affected-state-in-disaster-response/>. Access on: 01 nov. 2022.

³ ALVES, L. G. The need for regulation of armed conflicts for the reinstatement of democracy. *Revista de Direito Internacional*, v. 9, n. 2, p. 45-67, 2012. Available at: <https://www.publicacoes.uniceub.br/rdi/article/view/1840/pdf>. Access on: 01 nov. 2022.

⁴ NAGAMINE, R.; RORIZ, J. Human rights, humanitarian law and state power. *International Law Magazine*, v. 17, n. 1, p. 417-431, 2020. Available at: <https://www.publicacoes.uniceub.br/rdi/article/view/6505>. Access on: 01 nov. 2022.

⁵ HILHORST, D.; DESPORTES, I.; MILLIANO, C. W. J. de. Humanitarian governance and resilience building: Ethiopia in comparative perspective. *Disasters*, v. 43, n. S2, p. s109-s131, 2019. DOI: <https://doi.org/10.1111/disa.12332>.

⁶ ILCAN, S.; RYGIEL, K. “Resiliency Humanitarianism”: responsabilizing refugees through humanitarian emergency governance in the Camp. *International Political Sociology*, v. 9, issue 4, p. 333-351, dec. 2015. DOI: <https://doi.org/10.1111/ips.12101>.

⁷ HILHORST, D. Classical humanitarianism and resilience humanitarianism: making sense of two brands of humanitarian action. *Journal of International Humanitarian Action*, v. 3, n. 15, 2018. DOI: <https://doi.org/10.1186/s41018-018-0043-6>.

Simultaneously, if the first approach is taken as the basis, the state risks losing its legal capacity ending up in complete dependence on external support. Yotam Polizer, CEO of Israeli IsraAid Foundation, explains the prejudice of some countries against prolonged cross-border aid by the fact that humanitarian assistance renders them weak, transforming into a political instrument of impact of third-party states⁸. Employing solely the second approach - sustainable humanism – appears to be fictional in view of the authors of the presented paper⁹ as only the states with sufficient economic and institutional potential, strong legal framework, self-aware elites and strongly-established civic society can afford and manage it.

Within the scientific discourse related to the researched scope of issues, increasing attention has been given to restructuring these approaches in such a manner that they would supplement the long-term measures in the field of development and contribute to reducing the vulnerability of the state stricken by the social disaster⁹.

2 Humanitarian policy of the Ukrainian state: pre-war prerequisites and current wartime realities

Since Ukraine's accession to independence in 1991, the development of the humanitarian sphere has been progressing with extreme difficulty. Despite the availability of a considerable number of normative legal acts which, in one way or another, are related to this sphere, Ukraine still has no stand-alone systemic legal act deve-

loped that would define the conceptual foundations of the state humanitarian policy and which could be drawn upon by public authorities of all levels. The policy of the independent Ukrainian State has been characterized for many years by «underestimating» the issue of the humanitarian sphere development. Virtually every government of Ukraine had been largely focusing on improvement of social protection of the population without taking into account that the humanitarian sphere is primarily a spiritual, i.e. sense-shaping, ideological, value-oriented sphere. Hence, it is the state humanitarian policy that must, first and foremost, concentrate on evolving the spiritual potential of the nation and, correspondingly, to consolidate it around the state-forming ideas and values. Nonetheless, the said process in Ukraine was complicated due to the regional and ethnic heterogeneity of the state comprised of regions with different mentality, culture, ethnic composition and resource potential.

Furthermore, significant wage gaps due to sectoral differences in regional economies did not contribute to the national unity, but rather created complex problems in ensuring uniform national living standard of the population, as well as in combating against poverty across the country. In general, Ukraine is characterized by the phenomenon of widespread poverty among the economically active population regardless of its professional, educational and demographic particularities. The causes of poverty among employable citizens in Ukraine most notably lie in the slow rate of adaptation of the national economy to market conditions, the lack of competitiveness of a number of industries and productions, low labor productivity. Excessive differentiation of regions in terms of their socio-economic status, a significant gap between the central and peripheral population centers of the country has led to the formation of unequal opportunities for development of Ukrainians, the strengthening of migration processes and ultimately to the ideological and political disintegration of the society. The state funding on a residual principle did not further contribute to the development of the humanitarian sphere as well, which created every precondition for moral and legal anomie within the society.

A state wherein the humanitarian sphere is underfunded and the economy is weak, despite having significant development potential owing to its abundant natural resources – black soil known for its high fertility and ability to produce high agricultural yields, covers

⁸ SVETLOVA, K. Syria-Israel: big humanitarian policy. *Details*, 07 aug. 2020. Available at: <https://detaly.co.il/siriya-i-izrail-bolshaya-gumanitarnaya-politika>. Access on: 01 nov. 2022.

⁹ ADAMI, M. Disorder within the humanitarian sector: the old versus new humanitarianism debate. *Disasters*, v. 45, n. 2, p. 403-423, nov. 2019. DOI: <https://doi.org/10.1111/disa.12426>. Available at: <https://onlinelibrary.wiley.com/doi/epdf/10.1111/disa.12426>. Access on: 01 nov. 2022.

CARPENTER, S.; BENNETT, C. *Managing crises together: towards coherence and complementarity in recurrent and protracted crises*. London: Overseas Development Institute, 2015. Available at: <http://cdn-odi-production.s3.amazonaws.com/media/documents/9736.pdf>. Access on: 01 nov. 2022.

KLEIN-KELLY, N. More accountability, less humanitarian access? Alternative ideas on accountability for protection activities in conflict settings. *International Review of the Red Cross*, v. 100, n. 1-2-3, p. 287-313, 2018. DOI: <https://doi.org/10.1017/S1816383119000031>.

46% of Ukraine¹⁰ – is a tempting «target» for the neighboring aggressor state. The Russian Federation has previously infringed on the sovereignty of the Ukrainian state since 2014 by annexing Crimea and supporting the separatist movement in the east of the country with armaments. On February 24, 2022, it launched a full-scale war against Ukraine, which has already brought about a real humanitarian catastrophe therein. For instance, the Ukrainian economy has lost almost USD100 billion because of the war. Its GDP may decline by 40-45% in annual terms. The Russian army's war atrocities have caused an unprecedented flow of refugees and internally displaced persons since World War II. Thus, according to the UN, 5.6 million citizens have left Ukraine, almost all of them women, children and senior citizens. Approximately 7 million people moved to the western regions of the country, hence 40% of the employable population faced full or partial loss of their sources of income. About 250,000 people lost their homes¹¹.

Since the outbreak of war Ukraine has been receiving financial assistance from international organizations. Even before the U.S. government approved a total package of USD 40 billion in military and economic aid to Ukraine, more than a billion dollars in humanitarian flows to Ukraine were secured by world's leading governments, the IMF and other international financial institutions, making it the largest emergency funding in only the first few months of 2022. As of May 2022, the UN OCHA Financial Tracking Service (FTS) showed that UN agencies had received about two-thirds of humanitarian aid funding for Ukraine with its major share having been transferred to implementing partners of NGOs¹².

Hence, state policy in the humanitarian sphere during the first six months of the war was formulated chiefly on the basis of an externally oriented approach which seems quite natural. After all, under the conditions of war the institutional and physical infrastruc-

ture of the country ends up in the state of crisis and the use of national resources to cover the urgent needs of the belligerent state becomes complicated or even impossible. The causes of this are quite objective: the shock in the society from shifting its vital activity to a war footing; destruction of infrastructure facilities and logistical chains that provide essential goods and services; insufficient management capacity to ensure rapid response to the challenges of war; lack of a regulatory and resource framework necessary for wartime conditions. It is therefore a possibility to avoid a humanitarian catastrophe in such extreme conditions exists only with the support from outside - from friendly states and international organizations.

At the same time, as Lt Gen Balbir Singh Sandhu (Retd) rightly observes, Ukraine will have to defend itself by relying mostly on its own military assets¹³. Hence, without intensification of the internal economic potential, including the efforts made towards the development of the national military-industrial complex, as well as humanitarian support of the most vulnerable segments of the population, the Ukrainian state risks falling into complete financial dependence on donor countries.

3 International practice of formation of humanitarian policy in the conditions of war and post-war reconstruction

The states affected by the armed conflict develop their own humanitarian policy, taking into consideration the principles of international humanitarian law, with three of them having been identified by the authors as the most relevant to the scope of the presented research: 1. Assistance to the victims of the conflict is first and utmost the responsibility of the parties to the conflict, and the issue of outside humanitarian assistance arises when the parties to the conflict are unable or refuse to perform their responsibilities. 2. The aid is ai-

¹⁰ GAYDUK, A. Ukrainian “Chernozem”. *GTInvest Ukraine*, 29 nov. 2021. Available at: <https://good-time-invest.com/blog/ukrainian-chernozem/>. Access on: 01 nov. 2022.

¹¹ GRIGORENKO, Y. Anatolij Kinakh: Ukraine's post-war economy will be radically different. *GMK.center*, 21 may 2022. Available at: <https://gmk.center/ua/interview/anatolij-kinah-povoienna-ekonomika-ukraini-bude-kardinalno-inshoju-2/>. Access on: 01 nov. 2022.

¹² ENABLING the local response: emerging humanitarian priorities in Ukraine March–May 2022. Available at: https://www.humanitarianoutcomes.org/sites/default/files/publications/ukraine_review_2022.pdf. Access on: 01 sep. 2022.

¹³ SANDHU, B. Singh. War in Ukraine: lessons in self-reliance for India as posturing makes ‘Two-Front Conflict’ a possibility. *NEWS18*, 27 feb. 2022. Available at: <https://www.news18.com/news/opinion/war-in-ukraine-lessons-in-self-reliance-for-india-as-posturing-makes-two-front-conflict-a-possibility-4815551.html>. Access on: 01 sep. 2022.

med at preventing the tragic consequences of conflict, i.e. it will prove to be most useful if administered early.

3. The nature of humanitarian support involves reducing the subsequent dependence of the conflict-affected state on third parties. As an instance, the provision of food aid is mainly coupled with the resumption of local food production and recovery of the agricultural sector. For example, in 1992 in Somalia the ICRC provided assistance by supplying food (120 thousand tons) simultaneously implementing programs to restore the agricultural and medical sectors¹⁴.

For the majority of belligerent countries, external emergency assistance is certainly vital, particularly at the beginning of hostilities. However, further on, if the internal rescue mechanisms are not triggered, this may lead to dependence on international donors and the passivity of country's society, as the international practice demonstrates. The so-called «dependency syndrome» can be observed, for example, in Bosnia and Herzegovina (BiH). Former UN High Representative for Bosnia and Herzegovina W. Petritsch commented on the situation with humanitarian aid to BiH as follows: «Some people, having received an aid of a dollar, believe that the international community will pay for everything and for years to come»¹⁵. In the period between 1995 and 2000, BiH obtained four times more financial assistance than all of Europe after World War II¹⁶. Despite significant support from international donors, the government has failed to develop and implement an effective humanitarian policy, leading to the decline of the local economy and labor market. USD1 billion of funding provided to BiH since the Dayton Accords of 1995 had not been used for its intended purpose, forcing the establishment of an anti-corruption unit within the office of the UN High Representative. International funding

has strengthened local elites that had connections with corrupt officials and organized crime groups.

Israel in contrast can serve as an example of effective state policy in the humanitarian sphere. Since 1947, the Israeli-Palestinian conflict has been ongoing, which is considered to be one of the most complex and prolonged hostilities in the modern history.

Financial support in this confrontation, which has been provided to Israel by the United States in the course of more than half a century, has assumed different forms and volumes. Until 1985, the assistance came mainly in the form of long-term loans. Later on, a comprehensive program of arms supply to the country (Foreign Military Financing, FMF) was introduced considered to be the most extensive among similar programs implemented by the United States. Within its framework, Israel had been receiving an average of USD2,4 billion annually between 1998 and 2007, from 2008 to 2017 it constituted USD2,9-3,1 billion. The military assistance package from 2019 to 2028, which the parties agreed upon several years ago, amounts to USD170 billion. Overall, the US aid comprises approximately 3% of the total state budget and 1% of the GDP of Israel. Even a partial loss of such assistance could prove to have an extremely negative impact on healthcare and education, leading to social tension¹⁷. At the same time, Israel has employed this solid support on the part of the United States to the benefit of its national interests: the constant threat has become a stimulus for the Israelis in their development of the military-industrial complex and building a modern military. Presently, Israel is one of the leading arms exporters: 75% of the manufactured weapons are exported, 25% are used for the needs of its own military force. Israel has proven that in the conditions of war it is possible not only to develop the military-industrial complex, but also to establish it as a source of economic growth.

The protracted and in fact continuous armed conflict has particularly impacted the development of the humanitarian sphere in Israel: over the past fifteen years, public spending on it has been consistently high. For instance, the share of public spending on education constituted 5.54% of GDP in 2008, the 2022 state bud-

¹⁴ PERRIN, P. The impact of humanitarian aid on conflict development. *International Review of the Red Cross*, n. 323, jun. 1998. Available at: <https://www.icrc.org/en/doc/resources/documents/article/other/57jpcj.htm>. Access on: 01 nov. 2022.

¹⁵ PETRITSCH, W. Bosnien und Herzegowina 5 Jahre nach Dayton – Hat der Friede eine Chance? *Klagenfurt u.a.: Wieser-Verlag*, p. 257, 2001.

¹⁶ FISCHER, M. Recovering from violent conflict: regeneration and (Re-)integration as elements of peacebuilding. *Academia*, p. 474-501. Available at: https://www.academia.edu/24771913/Recovering_from_Violent_Conflict_Regeneration_and_Re_integration_as_Elements_of_Peacebuilding_Contribution_by_M_Fischer_to_the_Berghof_Handbook_for_Conflict_Transformation. Access on: 01 sep. 2022.

¹⁷ SOLOVEY, I.; MIKHAILOV, Y. *US-Israel: Historic Military Aid*. 16 sep. 2016. Available at: https://rus.lb.ua/world/2016/09/16/345264_sshaizrail_istoricheskaya_voennaya.html. Access on: 01 sep. 2022.

get allocates 6% of GDP being a remarkably high rate compared with international practices. Such attitude to the education sector contributes to the progressive development and build-up of the economic potential of the state. Funding of the healthcare sector during this period has been provided within 7-7,5% of GDP. In terms of development of science, the Israeli military has been armed with high-tech weaponry and protective equipment over the last 15 years. The consolidated scientific effort is actively functioning to ensure the safety of soldiers and the civilian population. Technology transfer companies and business incubators have been established at each Israeli university, each of them working on an average of 10 startups simultaneously. A new enterprise is gathering strength in the «greenhouse» mode during several years, and later goes out to «navigate its own way». If the project proves to be successful, the state regains its invested funds through royalties –3-4% of sales, if not – the entrepreneur is not accountable to the state. The process is being coordinated by the Office of the Chief Scientist at the Ministry of Industry, Trade and Labor. Such active producing of innovations has made Israel attractive for multinational companies such as Microsoft, Cisco Systems, Motorola, IBM, Intel, Google, Apple¹⁸.

Nowadays, Israel is a recognized leader in the world trade in electronics, optical devices, medical equipment, computer hardware and software, pharmaceuticals and other high-tech products. The primary factors that allow Israel to be a prosperous country, despite the continuous Arab-Israeli conflict, are as follows: the channeling of foreign financial assistance onto the development of the national economy and the military-industrial complex; an efficient combination of security systems, education, science and business which ensures a breakthrough in defense technologies and training of highly skilled professionals; high level of support of innovations on the part of the state, since innovations are conducive to a strong economy and high-tech exports. Proceeding from Israel's experience, national security does not only imply defense, but also education, medicine, social protection, etc. The efficiency of administrative and financial mechanisms of the state provides a strong combination of defense capacity and high social quality.

¹⁸ HLUSHCHENKO, M. War as an engine of progress. *Liga.net*, 17 dec. 2014. Available at: <https://blog.liga.net/user/mgluschenko/article/16490>. Access on: 01 sep. 2022.

4 Administrative and legal conflicts in the implementation of two approaches to ensuring the humanitarian policy of the state in the conditions of war

The crucial issue for the humanitarian policy of the state in the conditions of war is the protection of human life which must be provided for at the legislative level. Anti-crisis legislative activity in the conditions of war, according to the international practice, predominantly takes two principal directions. The first relates to international normative legal acts that may be used to ensure the influx of humanitarian aid from international donors or to launch legal proceedings on the consequences of war in the international courts. The second is focused on the regulatory and legal support for mobilization of internal resources by the belligerent state.

With regard to the first direction, the key reference point for Ukraine is, without a shadow of a doubt, represented by the norms of international humanitarian law. This concerns humanitarian conventions, foremost The Geneva Conventions of 1949 and the Protocol Additional to the Geneva Conventions as of 1977 (Protocol I)¹⁹, the Hague Convention of 1907 that regulate the methods and means of warfare. Both Ukraine and Russia are parties to the Geneva Conventions of 1949 and Protocol I. Nonetheless, Russia has completely neglected the international humanitarian law, employing indiscriminate weapons and destroying the civilian infrastructure, as stated by the UN High Commissioner for Human Rights Michelle Bachelet. The organization further noted that the Russian armed forces indiscriminately shell and bomb populated areas, killing civilians and destroying hospitals, schools and other civilian infrastructure²⁰. The cruelties suffered by the residents of Ukrainian cities from the Russian occupiers constitutes a violation of the Convention for the Protection of Human Rights and Fundamental Freedoms, in parti-

¹⁹ THE GENEVA Conventions of 1949 and their Additional Protocols. *ICRC*, 01 jan. 2014. Available at: <https://www.icrc.org/en/document/geneva-conventions-1949-additional-protocols>. Access on: 01 sep. 2022.

²⁰ BACHELET urges respect for international humanitarian law amid growing evidence of war crimes in Ukraine. *United Nations Human Rights*, 22 apr. 2022. Available at: <https://www.ohchr.org/en/press-releases/2022/04/bachelet-urges-respect-international-humanitarian-law-amid-growing-evidence>. Access on: 01 sep. 2022.

cular Article 2 «Right to life», Article 3 «Prohibition of torture», etc²¹. This opens up the possibility to protect the violated rights, including in the European Court of Human Rights. Despite its withdrawal from the Council of Europe, Russia is bearing responsibility for violations of the Convention committed before September 16, 2022.

The Russian invasion of Ukraine has caused an estimated 16 million people either displaced from their dwellings or struggling to survive in the extreme conditions of the armed conflict and having required urgent humanitarian assistance. The most acute need in terms of humanitarian protection was the evacuation of civilians that became trapped in the areas of intense fights. Since March the ICRC, in coordination with the UN, has facilitated the safe evacuation of 10,000 civilians from these areas. The risks and complexity of such operations, particularly the necessity to negotiate agreements with belligerent parties regarding safe passage, ascertain that the protection of civilians and the infrastructure is one of the spheres where an international humanitarian presence is vitally important.

In respect of the second direction, the existing legal framework in Ukraine has been significantly augmented since the outbreak of the full-scale war. Overall, during this period the Ukrainian government has adopted over 726 normative legal acts aimed at administrative regulation of martial law, in general, and regulation of the economy, in particular. The primary changes related to the issues of defense, provision of the troops, as well as economic issues (such as operation of businesses and taxation, establishment of social benefits) and humanitarian provision. On the very first day of the war, an action plan was approved that would regulate the martial law regime, which ensured the establishment of interaction and coordination between government authorities and the military command. Solving the humanitarian issues has been and still remains one of the main areas of the government's activities under martial law. In particular, a number of resolutions were adopted regulating the evacuation of population and facilitating border crossing for children and members of vulnerable groups of population.

The Ukrainian government and the civic society ensured a proper humanitarian response, with numerous volunteer initiatives as a matter of fact playing a key role during the first months of the war. Approximately 150 Ukrainian national non-governmental organizations (NGOs) had been working in the emergency humanitarian response prior to the full-scale invasion and were amassed along the lines of the conflict zone in the east of the country. With the outbreak of open warfare in February 2022, a significantly larger number of civic society groups, such as the ones engaged in political advocacy as well as church groups, have shifted their effort onto operational humanitarian functions, while nearly 1700 newly-established groups have applied to the government for registration as «charitable foundations or public organizations». The author M. Stephen emphasizes that where international actors struggle to get access to contested territories and rely on national or local NGOs to reach conflict-affected communities, partnerships allow life-saving resources to reach the people who need them most²².

Legal aid and informing are yet another field of activity for civic initiatives by NGOs in the conditions of war. Armed hostilities indeed represent not only physical destruction and killing, but also numerous problems with lost documents and various procedures being violated. NGOs have launched a large number of legal aid hotlines, opened public reception offices to provide secondary legal aid. It is namely through these resources of the civic society organizations that the internally displaced persons and those who remained in the occupied territories were able to obtain the necessary help.

Under such difficult conditions, the representatives of public authorities and civic society are building partner relations. Experts from civic society organizations are being actively involved in various processes related to the drafting of laws. For instance, the specialized Law «On Ensuring the Rights and Freedoms of Internally Displaced Persons in Ukraine» was written namely by the experts from civic society organizations²³. Pre-

²¹ EUROPEAN CONVENTION ON HUMAN RIGHTS. European Court of Human Rights. Available at: https://www.echr.coe.int/Documents/Convention_ENG.pdf. Access on: 01 nov. 2022.

²² STEPHEN, M. Partnerships in conflict: how violent conflict impacts local civil society and how international partners respond. *International Alert*, Oxfam, p. 56, 2017. DOI: <https://doi.org/10.21201/2017.0759>.

²³ LAW «On Ensuring the Rights and Freedoms of Internally Displaced Persons in Ukraine» Document 1706-VII. Revision on October 29, 2022, on the basis - 2622-IX. Available at: <https://zakon.rada.gov.ua/laws/show/en/1706-18?lang=en#Text>. Access on: 01 nov. 2022.

sently, they are involved in drafting the Law on Defense and Ensuring the Sovereignty and Territorial Integrity of the State of Ukraine. It will stipulate strict procedural and institutional requirements according to the criteria of clarity of the law developed by the ECHR and the Venice Commission. This proceeding is important in terms of the legitimacy of the actions by the state in its self-defense and *jus ad bellum* within the context of the Article 51 of Chapter VII of the United Nations Charter²⁴. The law will regulate the procedures of reporting and parliamentary control over the mechanisms of protection of constitutional rights and freedoms of citizens in the conditions of their objective restriction arising from martial law.

5 Modern humanitarian policy of Ukraine: organizational and administrative mechanism of implementation in the conditions of war

5.1 Spiritual and value-based constituent of the state humanitarian policy

War is doubtlessly evil however with all its devastating impact on the material and human resources of the country, it may also become a powerful uniting factor, an impetus for the formation of a politically-aware nation and a civic society. In nearly a year of war, the Ukrainian society has undergone considerable shifts at the spiritual and value-based level of social relations. Firstly, this concerns the consolidation of society, being previously not observed in pre-war Ukraine with its distinct regional differentiation. Secondly, active mobilization of resources – both human and social. Society, with its significantly worsened economic circumstances, is seeking out resources for its own survival and providing support to the army. And thirdly, which is also extremely important, the percentage of people primarily identifying themselves with Ukraine has substantially increased during the war. As of now it already constitutes two thirds of the population even though only a

year ago the number was less than a half.²⁵ With such strong support from the society the state is capable of ensuring the formulation and implementation of an effective humanitarian policy which is to become the guarantee to preserving the most important resource indispensable for victory and post-war reconstruction of the country – the human resource. With the purpose of legal consolidation of the principles and directions of the formation and implementation of the spiritual and value-based constituent of the state humanitarian policy, the Verkhovna Rada of Ukraine on December 13, 2022 adopted the Draft Law «On the Basic Principles of State Policy in the Sphere of Establishing Ukrainian National and Civil Identity»²⁶.

The European integration of Ukraine is pivotal for the formation of spiritual and value-based guidelines of the humanitarian policy of Ukraine. Ukraine is a part of the European civilization, the Ukrainian people have identical spiritual values with Europeans. Particular steps in European integration of pre-war Ukraine were related to reforms of the judicial system, the anti-corruption infrastructure, civil service, local self-government; decentralization of economic and political authority; introducing amendments to tax and labor legislation. However, the most important remain the processes of transforming the social consciousness: Ukrainians have in their majority come to realize that democracy, the rule of law, equality, respect for human dignity and human rights are the basic factors that provide a decent living.

The war has become a motivating factor for the social, political and military reconstruction of the state through military values. The militarization implies not only the manufacturing of weapons and equipment, but also the transformation of consciousness of citizens, their gender identities, language, ethics, morality, ways of living and ways of viewing the world²⁷. One of the consequences of the war became the direct involve-

²⁵ OSADCHA, Y. Less than 1% consider themselves citizens of the USSR: how the identity of the population of Ukraine has changed. *Ukrainian truth*, 16 aug. 2022. Available at: <https://life.pravda.com.ua/society/2022/08/16/250037/>. Access on: 01 nov. 2022.

²⁶ DRAFT Law “On the Basic Principles of State Policy in the Sphere of Establishing Ukrainian National and Civil Identity”, 13.12.2022, n° 6341. Available at: <https://ips.ligazakon.net/document/JI06469G?an=375>. Access on: 01 nov. 2022.

²⁷ BICKFORD, A. Militaries and militarization, anthropology of. *International Encyclopedia of the Social & Behavioral Sciences (Second Edition) Elsevier*, v. 15, p. 483-489, 2015. DOI: <https://doi.org/10.1016/B978-0-08-097086-8.12210-X>.

²⁴ UNITED NATIONS CHARTER. Available at: <https://www.un.org/en/about-us/un-charter>. Access on: 01 nov. 2022.

ment of a part of the civilian population in the armed forces, the defense sector or its adjacent sectors. Hence, with the onset of the full-scale invasion, various skilled professionals found their new calling in the military profession. Nowadays, the Armed Forces are already shaping up an inclusive workforce with a wide range of views, experiences and capabilities.

5.2 Energy security as a basis for the development of humanitarian sphere in the conditions of war

The source of development of the humanitarian sphere lies in the successful economy of the country. The war has destroyed millions of jobs of Ukrainians which means that the basic institution of the economy, that permitted to convert the labor of its citizens into new added value, has significantly curtailed its efficiency. Further market reforms are impossible in a country where citizens face mass unemployment, with incomes several times lower than those in neighboring countries and with the post-traumatic stress disorder as a consequence of war they experienced.

Historically, Ukraine had had an industrial-type economy. At the same time, it had been a commodity-oriented, low-productivity economy which had virtually no investments made into its modernization and transition to higher technological modes. The technical modernization of individual enterprises had not occurred for 15 years and more. Due to war, Ukraine has already lost at the very least 30-50% of its production capacities in heavy industry, which employed 25-30% of the economically active population prior to war.

After the severe damage to Ukraine's energy infrastructure inflicted by the Russian Federation in November-December this year, the restoration and modernization of industrial facilities has become extremely complicated. For the purpose of overcoming the ensued energy crisis, the Government of Ukraine has stepped up on its work towards the large-scale development of renewable energy sources (RES).

An important decision taken during the ongoing military conflict, which directly affects the further development of RES in Ukraine, was the approval by the European Commission in May 2022 of the REPowerEU plan, which determines the development of renewable energy sources as a primary public interest and stipula-

tes an increase in the EU's goal to achieve the share of RES in the electrical power balance in 2030 from 40% to 45%. For instance, in accordance with this plan, Europe aims to increase the total capacity of wind energy to 510 GW by 2030 (currently comprising 190 GW)²⁸. Ukraine, as a part of the European energy system, has no choice but to be developing in conformance with the European energy trends. At the state level, a positive decision for this sector became the signing by President of Ukraine V. Zelenskyy of the «Law on the Development of Energy Storage Facilities»²⁹, which greenlights the large-scale construction of energy collection and storage systems across the country. Hence, by 2032, it is planned to build 5-7 GW worth of new solar and wind power plants to meet domestic energy needs and expand Ukraine's energy export capabilities.

All these positive decisions, taken or elaborated during the war, ascertain the understanding by the state authorities of the important role of renewable energy sources for the post-war reconstruction of the country's energy sector. Possessing one of the best wind and solar energy potentials, being an agricultural country with nearly incessant water and bioresources, also considered by Europe as a future hub for renewable hydrogen production, Ukraine cannot afford to miss out on the opportunity to create a stable, sustainable, carbon-neutral and secure energy system.

5.3 The role of science in enhancing the country's defense capability and its post-war reconstruction

Another priority for the state policy within the humanitarian sphere lies in the revival of Ukrainian science, increasing its significance for the defense capability of the country, its healthcare and inclusive development. Hence the need for highly-developed national scientific institutions capable of serving as the centers of special in-depth knowledge and generating adequate responses to new geopolitical challenges.

²⁸ REPOWEREU: affordable, secure and sustainable energy for Europe. European Commission. Available at: https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/repowereu-affordable-secure-and-sustainable-energy-europe_en. Access on: 01 nov. 2022.

²⁹ ZELENSKY signed a law on the development of energy storage systems. *Ecopolitic*, 20 apr. 2022. Available at: <https://ecopolitic.com.ua/en/news/zelenskij-pidpisav-zakon-pro-rozvitok-sistem-nakopichennya-energii-3/>. Access on: 01 nov. 2022.

From 2010 to 2020, the real scope of research and development in Ukraine had decreased by 45% (in international dollars by purchasing power parity), and the number of researchers shrank by more than a half (by 62%). Ukraine became one of the countries with the lowest concentration of researchers (11 people per 10000 of population against 55 in Europe and the OECD). Right before the war Ukraine was among the countries with the lowest level of «scientific research capitalization» of the GDP. For instance, research and development conducted in Ukraine in 2020 amounted to only 0.4% of its GDP, while the average for OECD countries amounted to 2% of the GDP; in Switzerland – 3,4%; South Korea – 4,2%; Israel – 4,3% of the GDP.

In order for Ukraine to form a new framework of the national innovation system, which would be capable of providing maximum facilitation to the modernization of production and ensuring an appropriate level of employment, it is imperative to conduct a systemic restructuring of the scientific sphere and its interrelations with society, government and business. It should be carried out in accordance with two vectors:

1. Legislative support of relations within the triad of «society» - «state» - «science» with clear regulation of responsibility between them; adoption of normative legal acts that would enable the implementation of European standards³⁰ in the field of organization of conducting and funding of scientific research.

2. Implementation of specific instruments to stimulate the development of scientific and technological sphere and capturing innovations. Formation (revival, modernization) of a network of research and innovation infrastructure centers - technology parks, innovation centers, innovative technology clusters, business incubators, venture funds. Ukraine needs to standardize the forms of state aid, precisely the following: a) direct grants; b) tax exemption / reduction in the tax rates; c) allocation of land plots; d) supply of required goods or services at reduced prices; e) ensuring access to debt financing or equity financing on favorable conditions. Such standards are being successfully applied in the practice by EU countries to provide incentives to business for the purpose of funding research and de-

³⁰ RESOLUTION of the Verkhovna Rada of Ukraine About some measures to fulfill Ukraine's obligations in the field of European integration. 2483-IX. 07/29/2022. Available at: <https://zakon.rada.gov.ua/laws/show/2483-IX#Text>. Access on: 01 sep. 2022.

velopment, innovations as well as to support the state research and informational infrastructure.

5.4 State healthcare policy of Ukraine in the conditions of war

All pre-war problems in the healthcare sector related to underfunding of the sphere on the part of the state, shortage of personnel and medication, have become ever more acute with the outbreak of armed hostilities in Ukraine. The situation is particularly difficult in the frontline regions, where over 900 medical institutions have been destroyed, with one third of which not possible to be restored³¹.

The war had all the prerequisites to destroy the already imperfect healthcare system in Ukraine but instead it pushed the government and local professionals to seek effective solutions with the help of which the healthcare in the country has been preserved and continues its development. As an instance, the government has approved a number of decisions that facilitated the access of citizens to medical services. The possibility to get primary medical care currently has no compulsory relation to declarations: citizens can seek assistance from any doctor in any city across the country. Referral of cancer patients for treatment in regions outside their residence is also devoid of bureaucratic constituent. The system of state funding for hospitals and procurement of medication has also been simplified. Owing to the coordinated work of the Ministry of Health and the volunteers, as well as considerable international assistance, the hospitals are now fully equipped with everything necessary for successful treatment. Simultaneously, the Ukrainian healthcare system is currently entirely dependent in financing on international donors and, in the absence of planning for its further development on the basis of domestic resources, the healthcare sector recovery may remain an open question.

One positive example of reconstructing the healthcare system, devastated by war, may be drawn from the algorithm of cooperation between international donors and the local government in Kosovo. The war in this country in 1999 led to the displacement of up to 1,5

³¹ KITRAL, O. How ukrainian medicine lives in the conditions of war. *Common: Journal of Social Criticism*, 18 jun. 2022. Available at: <https://commons.com.ua/en/chem-zhivet-ukrainskaya-medicina-v-usloviyah-voyny/>. Access on: 01 sep. 2022.

million people with approximately 800 thousand people becoming refugees in the neighboring Albania, Macedonia and Montenegro. Estimated 12 thousand deaths were directly related to the war. The second main cause of mortality was chronic diseases. The responsibility for public health throughout Kosovo is shared between Kosovar Albanian healthcare workers, the representatives of the WHO, the UNMIK and international non-governmental organizations. Over 400 aid agencies and donors arrived in Kosovo. One tenth of the NGOs involved worked in the healthcare sector. The WHO took on a leading role in developing healthcare policy and ensuring technical support to healthcare professionals. Between 1999 and 2002, the donors spent an estimated €80 million on the healthcare sector which constituted the second largest part of Kosovo's consolidated budget. However, substantial improvements in the healthcare sector began after the revitalization of the inner potential of the healthcare system on the basis of the Kosovo healthcare policy document informally referred to as the «Yellow Book», adopted by the government. As a result of the reform, family doctors underwent advanced training, the responsibility for primary medical care was transferred to the municipal level, the immunization coverage increased whereas the maternal and child health indicators improved.

The healthcare reconstruction strategy proposed by the Ukrainian government as part of the general strategy of the country's recovery, presented in Lugano, Switzerland, in July 2022 proved similar to the Kosovar initiative. It envisages the launch of a national program to support the mental health of people affected by the war, the development of a network of specialized healthcare facilities, the creation of digital healthcare services. The presented plan stipulates 3 stages of introducing changes and attracting the funding in the amount of USD 15 billion as well as systemic coordination on the part of public and international donors³².

³² LEMENOV, O. International experience of restoring medical infrastructure after the war. *BusinessCensor*, 14 sep. 2022. Available at: https://biz.censor.net/columns/3367042/mijnarodnyyi_dosvid_vidnovlennya_medychnoyi_infrastruktury_pislya_viyiny. Access on: 01 nov. 2022.

6 Conclusion

The humanitarian policy of the state is universally accepted as being human-centered. The primary constitutional provisions of most countries of the world that have chosen the democratic path of development, including Ukraine, proclaim a person, his life and health, honor and dignity, inviolability and security as the highest social value. This implies that the spheres of education and science, healthcare, legal protection, culture must represent an indispensable priority for the state both in terms of their regulatory and legal provision and their funding. Moreover, to uphold the unity of the nation, the state is obliged to take into consideration the factor of spiritual and value-based development of citizens in the formation of its humanitarian policy. Firstly, it concerns the educational sphere, with the priority for it being the formation in the individual of respect for his/her country and its laws, readiness to defend national interests.

Regretfully, the state policy of Ukraine in the course of the past thirty years of its independence was being formed mainly outside the interests and financial needs of the humanitarian sphere. Attempts at conducting reforms in the spheres of education, science, healthcare proved to be non-systemic, not adequately funded by the state and as a consequence, ended up being ineffective. The war with Russia, which has been indirectly ongoing since 2015 and became all-out in February 2022, in fact has led to the decline of this sphere. Simultaneously, it became a driving force for unifying the nation, mobilizing human resources, revising and augmenting the regulatory framework of the Ukrainian state.

In the conditions of social upheavals, particularly such as the military conflict, the states are inclined to take an active or a passive position in the formation of their humanitarian policy, as the international practice affirms. In the first case, the national and the local authorities play a key role in solving humanitarian problems with their efforts focused on actively attracting internal resources of the state to preserve and develop the humanitarian space – social protection system, healthcare, science, education, culture. This approach is based on the concept of sustainable development humanism. In the second case, the state takes a mostly passive position, relying on external initiative and transnational assistance in solving humanitarian problems. Israel's experience allows to single out, apart from the two gene-

rally accepted approaches, a one more so-called mixed position of a belligerent state, when external assistance provides an incentive for this particular state to be developing its own economy and military-industrial complex.

In the case of Ukraine, which was literally dragged into a protracted military conflict by Russia, neither of these approaches would currently provide a positive result: the first – due to the lack of internal resources of the state, the second – would lead the country into a «trap» of economic inactivity and dependence on international donors. As for the mixed position, it appears unrealistic as well. The state's own revenues presently are barely sufficient to cover its military expenditures. The social sphere, education, healthcare, which were already underfunded before the outbreak of hostilities, are now in the state of crisis. It is too early to discuss any long-term investments into the development of innovations and high-tech military-industrial complex: the country spends USD 5,7-6,3 billion monthly, with about half of the amount allocated for defense. Financial support from the EU and the US as well as other countries is provided mainly in the form of loans and, partially, grant support which in the long run could lead to a debt pit.

International humanitarian law, in its traditional format, is focused either on humanitarian aid for the war-affected population or on establishing certain prohibitions for the parties to the conflict. The modern realities of the Russian-Ukrainian war indicate that external aid provides only a temporary positive effect, while prohibitions do not stop the aggressor state. The norms of international law must consolidate the rights and obligations of the state affected by the military conflict with regard to activation of its internal resources for self-recovery. At the same time, external support should not be excluded within those limits that pose no threat to the economic stability of donor countries. Abidance by these regulations should be strictly controlled by international organizations in order to avoid corruption on the part of the state apparatus and violations of human rights.

On the basis of the experience gained by the Ukrainian state over the years of its independence and as a consequence of the ongoing active phase of the military conflict, and supplementing it by drawing comparison with the experience of other warring countries, the

authors have elaborated the following universal criteria for the effectiveness of the state humanitarian policy:

- creation of appropriate conditions for an individual, as the primary national resource, for the realization of his/her capabilities. Based on such an approach, the state should engage in the formation of a policy of opportunities and empowerment in the spheres of education, professional development, targeted healthcare and social protection. This implies continuous (not only in crisis situations) increase of investment into human capital, development of social infrastructure; minimization of economically unjustified income inequality of the population, elimination of extreme forms of poverty;

- systemic development of the spiritual potential of the nation and, correspondingly, its consolidation around nation-building ideas and values; ensuring broad access to cultural heritage; preservation of cultural diversity;

- increasing the share of intellectual product in the total national product, establishing innovation as the dominant model of economic behavior;

- public-state model of governance, with the predominant share of authorities in the humanitarian sphere belonging to self-governing and public management entities (during the war in Ukraine, NGOs demonstrated high efficiency in solving humanitarian problems);

- harmonization of security, education, science and business systems, which ensures a breakthrough in defense technologies and training of highly qualified specialists.

The provided list of criteria is not exhaustive, as it only outlines the principal guidelines for the development of the state, the systemic observance of which would allow it to take a strong position in countering any external aggression.

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