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## **RIGHTS AND FREEDOMS OF THE MAN AND THE CITIZEN ON TEMPORARY OCCUPIED TERRITORIES: MAJOR VIOLATIONS AND PROTECTION MECHANISMS**

**Лариса Налывайко. ПРАВА І СВОБОДИ ЛЮДИНИ ТА ГРОМАДЯНИНА НА ТИМЧАСОВО ОКУПОВАНИХ ТЕРИТОРІЯХ: ОСНОВНІ ПОРУШЕННЯ ТА МЕХАНІЗМИ ЗАХИСТУ.** Статтю присвячено визначенню основних порушень у сфері прав і свобод людини і громадянина на тимчасово окупованих територіях та визначенню механізмів їх захисту. Досліджено та систематизовано чинне законодавства України з питань визначення правового статусу особи на тимчасово окупованих територіях України. Обґрунтовано масове порушення прав і свобод людини та громадянина на тимчасово окупованих територіях.

Визначено, що найбільшого порушення зазнали особисті, економічні, соціальні та культурні права громадян. Проведено детальний аналіз порушень цих прав на тимчасово окупованих територіях. Наголошено, що перелік прав і свобод людини та громадянина, що систематично обмежуються чи порушуються, може бути розширений через збройну агресію РФ. Досліджено інструменти захисту прав людини на тимчасово окупованих територіях. Визначено місце і роль міжнародного співробітництва у захисті прав і свобод людини і громадянина на тимчасово окупованих територіях. Акцентовано увагу на необхідності застосування комплексного підходу у механізмі захисту прав людини на тимчасово окупованих територіях для досягнення найбільш дієвих результатів.

**Ключові слова:** воєнний стан, збройна агресія, тимчасово окуповані території, права та свободи людини і громадянина.

**Relevance of the study.** The problem of human rights protection is an integral aspect of the functioning of society and the state, which remains relevant at all stages of their existence. During this historical period, various tools were created and implemented to protect the rights and freedoms of a person and a citizen and to overcome their violations. However, as a result of the armed aggression of the Russian Federation, which began in 2014, and the full-scale military invasion on February 24, 2022, part of the territory of Ukraine came under temporary occupation. To solve national security issues in the conditions of martial law and ongoing armed aggression, the state must systematically and effectively respond to all possible violations of the rights and freedoms of people and citizens living in temporarily occupied territories.

For the effective protection of human rights in the temporarily occupied territories of Ukraine, the legislator introduced into the national legislation a number of legal acts that have a direct impact on the protection of the rights and freedoms of people living in these territories. However, the temporarily occupied territories are not under the control of Ukraine, so the mechanism of implementation of regulatory provisions in this area is complicated.

**Recent publications review.** Various aspects of the protection of human and citizen rights and freedoms were studied by: V. Bukach, S. Hrytskevich, V. Demydenko, N. Zadorozhnyia, N. Kaminska, A. Kolodiy, L. Nalyvaiko, O. Petryshyn, V. Lutkovska, O. Martseiyak, A. Oliynyk, B. Parakhovskiy, V. Seryogin, V. Tatsii, G. Yavorska and others.

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Individual issues of human rights in the temporarily occupied territories were studied by: L. Varunts, A. Voytsikhovskiy, N. Kaminska, K. Katerynychuk, K. Koval, O. Koryagina, I. Krytsak, O. Radchenko, O. Reznikova, O. Ilyashko, A. Palyukh, O. Slavna, N. Shaptala, V. Franchuk and others.

**The article's objective** is a theoretical and legal description of the main violations and mechanisms for the protection of human and citizen rights and freedoms in the temporarily occupied territories during martial law and in the post-war period.

**Discussion.** Within the framework of the study, it is important to determine the spatial limits of the temporary occupation of the territories of the national jurisdiction of Ukraine. According to the current legislation, the temporarily occupied territories include the following: land territory within the boundaries of the Autonomous Republic of Crimea and the city of Sevastopol, separate districts, cities, towns and villages of Donetsk, Zhytomyr, Zaporizhzhya, Kyiv, Luhansk, Mykolaiv, Sumy, Kharkiv, Kherson, Chernihiv regions, internal waters and internal sea waters of adjacent territories, the territorial sea of Ukraine around the Crimean Peninsula, the subsoil under these territories and the air space above them, as well as other land territories, internal sea waters and the territorial sea of Ukraine [12, 13].

The Law of Ukraine "On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine" defines that the territory of Ukraine, which is currently under the temporary occupation of the Russian Federation, is an inseparable part of the territory of Ukraine [12]. According to the provisions of the Law, the temporarily occupied territory belongs to a category with a special legal status, which determines a specific legal regime for this space, which provides for a special procedure for ensuring the rights and freedoms of a person and a citizen in this territory.

The Constitution and laws of Ukraine, as well as international treaties ratified by the Verkhovna Rada of Ukraine, apply to the temporarily occupied territories. Thus, the laws of Ukraine "On the state border of Ukraine", "On the Armed Forces of Ukraine", "On citizenship of Ukraine", "On the legal status of foreigners and persons without citizenship", "On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine", "On national security of Ukraine", "On compensation for damage and destruction of certain categories of immovable property as a result of hostilities, acts of terrorism, sabotage, caused by the armed aggression of the Russian Federation against Ukraine", "On the main principles of state policy in the sphere of the establishment of Ukrainian national and civil identity", etc.

In addition, human rights in the temporarily occupied territory are protected by the norms of international law contained in the Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; Conventions against torture and other cruel, inhuman or discriminatory treatment or punishment; Convention on the elimination of all forms of discrimination against women; Conventions on the rights of people with disabilities; Conventions on the rights of the child; Resolutions of the UN General Assembly "Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)", etc. [7, p. 15]. Despite this, ensuring the rights and freedoms of a person and a citizen, enshrined in legislation, becomes impossible due to the fact that citizens are under the occupation of a terrorist country that sets its own norms.

In the context of the temporary occupation of the territory, the problem of ensuring the rights and freedoms of the population of this region is extremely important. The list of rights and freedoms of a citizen enshrined in the Constitution of Ukraine is widely recognized and defines the strategic tasks of the state aimed at the effective implementation of these rights and the creation of effective mechanisms for their protection. Human rights and freedoms, including those existing in temporarily occupied territories, are an indispensable component of the constitutional rights and freedoms of a citizen [1, p. 57; 8]. Given the significant and systematic violations of the norms of national legislation and international treaties in this area by the Russian Federation, the main task of our state is to develop an effective toolkit to protect the rights and freedoms of people and citizens under temporary occupation.

In order to develop mechanisms for the protection of rights and freedoms that meet the requirements of the time, it is necessary to investigate the rights and freedoms that continue to be systematically violated in these territories.

The studies conducted by national and international human rights organizations, determined that the personal, economic, social and cultural rights of citizens were the most violated [2, 5, 6, 16]. For the objectivity of the research, we emphasize that today the territories

of Ukraine temporarily occupied by the Russian Federation remain restricted for access by national and international institutions and organizations that investigate the situation with human rights, therefore the data given in the reporting documents of these institutions may not contain all the violations experienced by the residents of these territories.

Among *the personal rights and freedoms of a person and a citizen*, the most violated are the right to life, freedom and personal integrity, freedom of movement and free choice of place of residence, etc. [18]. In particular, in the temporarily occupied territories, civilians are killed by the Armed Forces of the Russian Federation through extrajudicial executions, attacks on individuals; enforced disappearances and arbitrary detentions of civilians; imprisonment; sexual violence; the transfer of civilians, including children and adults from social care facilities, adults from pretrial detention centers and penitentiary institutions, and unaccompanied children, from the occupied parts of Donetsk, Kharkiv, Kherson, Kyiv, Odesa, and Zaporizhzhia regions to the Russian Federation, etc. [5]. Thus, Art. 27, 29, 33 of the Constitution of Ukraine, as well as Art. 3, 9, 13 of the Universal Declaration of Human Rights, Art. 6, 7, 9 of the International Covenant on Civil and Political Rights, Art. 8, 16 of the Convention on the Legal Status of Migrant Workers and Members of Their Families of the Commonwealth of Independent States, etc.

*The economic rights and freedoms of a person and a citizen*, which continue to be systematically violated in the temporarily occupied territories, include: the right to entrepreneurial activity, the right to work, and the right to property [10]. Some violations of economic rights include illegal privatization; destruction and damage to property; forced redistribution of property; violation of intellectual property rights; restriction of access to own property; forced labor; discrimination in the workplace; unfair working conditions; restriction of professional freedom; forced resettlement and transfer of workers; forced seizure of enterprises and objects of business activity; illegal confiscation of property, including equipment and assets of enterprises; limiting access to resources and markets, corruption, etc. [17].

The problem of human rights protection is an integral aspect of the functioning of society and the state, which remains relevant at all stages of their existence. During this historical period, various tools were created and implemented to protect the rights and freedoms of a person and a citizen and to overcome their violations. However, as a result of the armed aggression of the Russian Federation, which began in 2014, and the full-scale military invasion on February 24, 2022, part of the territory of Ukraine came under temporary occupation. To solve national security issues in the conditions of martial law and ongoing armed aggression, the state must systematically and effectively respond to all possible violations of the rights and freedoms of people and citizens living in temporarily occupied territories. Thus, there is a violation of Art. 42, 43 of the Constitution of Ukraine, as well as Art. 17 of the Universal Declaration of Human Rights, Art. 6 of the International Covenant on Economic, Social and Cultural Rights, Art. 1 of Protocol No. 1 of the European Convention on the Protection of Human Rights and Fundamental Freedoms, etc.

Among *the social rights and freedoms of a person and a citizen*, the most violated were: the right to social protection, a sufficient standard of living for oneself and one's family, health care, medical assistance and medical insurance [18]. Thus, the violation of these rights is manifested in the following: denial of access to social services; changes in the social security system, which leads to a reduction or denial of payments of social benefits, pensions or other types of social assistance; discrimination in the provision of social services on the basis of political beliefs, ethnic origin, etc.; limitation of social guarantees for vulnerable population groups; introduction of non-transparent tax burdens and regulations; restriction of access to medical institutions, due to blockade or other restrictive measures; termination of the supply of necessary medical drugs and equipment due to transport or financial restrictions; delays in providing emergency medical care, etc. [9; 15]. Thus, Art. 46-49 of the Constitution of Ukraine, as well as Art. 22, 25 of the Universal Declaration of Human Rights, Art. 6-12 of the International Covenant on Economic, Social and Cultural Rights, Art. 24, 27 of the Convention on the Rights of the Child, Art. 25, 26 of the International Convention on the Rights of Persons with Disabilities, etc.

*The cultural rights and freedoms of a person and a citizen* violated in the temporarily occupied territories include the right to education, freedom of cultural, scientific and creative activity [5]. Violations in this area occur by limiting physical access to educational institutions for the local population; politicization of the educational process; decrease in financing and support of educational institutions; limitation of higher education opportunities due to the introduction of

administrative barriers; prohibitions or restrictions on the expression of one's own cultural identity or creative expression; persecution and detention of representatives of the cultural and scientific elite because of their creative or scientific activities; removal or destruction of objects of cultural heritage, museums, architectural monuments; forced introduction of another language in cultural, scientific and creative spheres; bans or restrictions on holding cultural events, exhibitions, conferences, etc. [14]. Thus, Art. 53, 54 of the Constitution of Ukraine, as well as Art. 27 of the Universal Declaration of Human Rights, Art. 15 of the International Covenant on Economic, Social and Cultural Rights, Art. 16 of the Additional Protocol to the Geneva Conventions on the Protection of Victims of Uncontrolled Territories, etc. Since the above groups of rights and freedoms are fundamental and indisputable, their violation requires careful study and response of the international community.

Due to the ongoing military operations in Ukraine, the list of human and citizen rights and freedoms that are systematically restricted or violated by the Russian Federation may be expanded. One of the latest measures aimed at ensuring the protection of human rights in the temporarily occupied territories is the use of electronic messages through the Diya application. This electronic service can be an effective tool for providing assistance to internally displaced persons affected by conflict and property damage. Within this service, it is possible to submit an application and receive compensation for documented damages. This service is addressed to persons living in the temporarily occupied territories of Ukraine, giving them the opportunity to restore their property and improve their living conditions. It is important to note that the compensation mechanism becomes effective only after the deoccupation of the specified territories. This shows the importance of resolving the conflict and restoring control over the occupied regions for the full restoration of the rights and guarantees of Ukrainian citizens in these territories.

In addition, persons currently living in the temporarily occupied territories have the right to access free legal aid. Residents of these territories have the opportunity to take advantage of free secondary legal assistance by submitting applications for representation in court and drafting legal documents in cases related to the protection of violated, unrecognized or contested rights and freedoms in connection with the armed aggression of the Russian Federation [3].

Other areas of ensuring the rights of the population in the temporarily occupied territories are the protection of basic rights and freedoms, the creation of an effective mechanism for reunification with the families of children displaced from Ukraine to Belarus and the Russian Federation, taking measures to ensure the release of illegally detained persons, providing assistance in the restoration of violated rights person and citizen, provision of legal and humanitarian aid [11, p. 24]. In order to protect the rights of individuals in these territories, general measures may include active interaction between public authorities and institutions of civil society, which contributes to the creation of effective control mechanisms aimed at solving specific problems in the protection of rights and freedoms. In addition, an important component of ensuring human rights in temporarily occupied territories is guaranteeing access to humanitarian aid, medical rehabilitation and educational opportunities for internally displaced persons [4, p. 64]. Additionally, international cooperation and exchange of experience with states facing similar challenges can be an effective tool. Such an integrated approach can become the basis for creating a sustainable mechanism for the protection of human and citizen rights and freedoms in the temporarily occupied territories.

**Conclusions.** Based on the conducted research, we can draw the following conclusions. Today, the fundamental human and citizen rights are being systematically violated in the temporarily occupied territories. Thus, the personal rights and freedoms of a person and a citizen have been violated, in particular, the right to life, freedom and personal integrity, freedom of movement and free choice of place of residence; economic rights and freedoms of a person and a citizen, among which the most violated are the right to entrepreneurial activity, the right to work and the right to property; social rights and freedoms of a person and a citizen, in particular, the right to social protection, a sufficient standard of living for oneself and one's family, health care, medical assistance and medical insurance; cultural rights and freedoms of a person and a citizen, including the right to education, freedom of cultural, scientific and creative activities, etc.

In order to protect the rights of the population in the temporarily occupied territories, various measures are being considered. Among them, it is worth highlighting taking measures to release illegally detained persons, providing free legal aid; interaction between public authorities and institutions of civil society; guaranteeing access to humanitarian aid, medical rehabilitation

and educational opportunities for internally displaced persons. In addition, international cooperation and the creation of an international coalition for active support of the de-occupation process can be an effective tool. These strategic measures can contribute to both the protection of citizens' rights and the diplomatic isolation of the aggressor country in the future.

*Conflict of Interest and other Ethics Statements*

The author declares no conflict of interest.

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#### ABSTRACT

This article focuses on the identification of primary infringements within the domain of human rights and freedoms in temporarily occupied territories, as well as the delineation of protective mechanisms. The study systematically examines the existing legislation in Ukraine concerning the determination of the legal status of individuals residing in these territories. Extensive evidence is provided to substantiate mass violations of human and citizen rights and freedoms in temporarily occupied areas, with a particular emphasis on the considerable transgressions against personal, economic, social, and cultural rights. A meticulous analysis of these rights' violations within these territories is conducted. Notably, the article underscores that the list of systematically restricted or violated rights and freedoms may be expanded due to the armed aggression of the Russian Federation. Furthermore, the study delves into the instruments available for safeguarding human rights in temporarily occupied territories.

It has been determined that, with the aim of addressing national security issues amid a state of war and persistent armed aggression, the state is obliged to systematically and efficiently respond to all potential infringements upon the rights and freedoms of individuals residing in temporarily occupied territories. A conclusion has been drawn that, for the effective safeguarding of human rights in the temporarily occupied territories of Ukraine, the legislator has incorporated a series of normative legal acts into the national legislative framework, exerting a direct influence on the protection of the rights and freedoms of individuals situated in these territories.

Nevertheless, the temporarily occupied territories remain beyond Ukraine's jurisdiction, rendering the implementation mechanism of normative provisions in this sphere intricate. It is posited that, in light of the substantial and systematic violations of national legislative norms and international treaties in this domain by the Russian Federation, Ukraine's primary task lies in the development of an efficacious toolkit for the protection of the rights and freedoms of individuals within the context of temporary occupation. Additionally, it determines the position and role of international cooperation in the protection of rights and freedoms for individuals and citizens in such territories. The article concludes by highlighting the imperative need for a comprehensive approach in the mechanism designed for protecting human rights in temporarily occupied territories to attain the most effective outcomes.

**Keywords:** *state of war, armed aggression, temporarily occupied territories, human rights and freedoms.*

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#### THE INFLUENCE OF TNCs ON THE STATE SOVEREIGNTY OF DEVELOPING COUNTRIES

**Олена Марченко. ВПЛИВ ТНК НА ДЕРЖАВНИЙ СУВЕРЕНІТЕТ КРАЇН, ЩО РОЗВИВАЮТЬСЯ.** У статті здійснено комплексний аналіз ролі сучасних транснаціональних компаній (ТНК) у формуванні соціально-економічної та геополітичної реальності інформаційного суспільства. Здатність ТНК швидко конвертувати значні матеріально-фінансові, правові, організаційні ресурси у політичний вплив задля отримання надприбутків актуалізує необхідність дослідження ступеню їх впливовості на традиційні інститути державної влади. З одного боку, мова йде про аналіз феномену ТНК в категоріальній площині влади, легітимності й суверенітету, з урахуванням системної взаємодії корпорацій з іншими акторами і суспільством в цілому. З іншого боку, попри усі економічні і соціальні перспективи розвитку, які відкриваються для держави,

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