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The law of peace: a new legal field based on the subjective right to peace

Abstract: One of the human rights most frequently violated during wars and other armed conflicts in the world is the right to peace, which occupies a unique place in the collective human rights system. The current study emphasizes the lack of sufficient theoretical analysis of the right to peace, and proves that international and national legislative norms in this direction are also not well-structured. However, the right to peace as a whole envisages one of the main goals of international law and the UN Charter - ensuring global peace and security. The concept of "peace", which is one of the main components of the right to peace, has not been widely studied in legal theory and is examined more from a philosophical and psychological perspective. For this reason, the article shows that the law of peace (what is based on the right to peace, which is one of the collective and individual human rights) is not recognized by lawyers from different countries of the world, and its theoretical and legal foundations are rejected or criticized. However, the law of peace is a developed and completed form of the subjective right to peace. The subject matter, scope, specific and sectoral principles and sources of the law of peace, which should be considered as one of the peace sciences, are among the problems systematically investigated in the present study. The article suggests that the law of peace can be considered as a complex field of law from the point of view of traditional legal theory and it is possible to systematize the legislative norms related to this field separately.

Keywords:law of peace, human rights, international law, subjective right to peace, humanitarian law, legislation, legal theory, global peace, global citizen, collective rights, security law, international crimes, war crimes, human rights violations.

Introduction. The right to peace is one of the collective and individual human rights what has an essential place within the international human rights system as well as human rights generations. The importance and complex role of the right to peace for international community and global world leads to the emergence of a new legal field – the law of peace or the peace law. The law of peace can be considered as a complex field of law from the point of view of traditional legal theory and it is possible to systematize the legislative norms, principles and methods related to this field separately.Because ensuring peace is one of the basic and initial conditions for the implementation of norms related to other fields of law and the protection of human rights.

Historically, the law of peace has emerged as a well-developed and conceptualized form of the peacemaking practice derived from soft law norms and judicial examinations [2, p.287]. Vast majority of these judicial examinations and international case law are rooted in traditional international humanitarian law. It is now acknowledged that international humanitarian law does not supersede international human rights law during armed conflicts. It means that none of the norms of international

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humanitarian law overcomes the obligations derived from the right to peace. This new approach to the issue of conflicting norms between two distinct legal fields warrants further study. In particular, this is because the application of international legal norms and principles restricting the methods and means of warfare is largely driven by military considerations and the right to peace. International humanitarian law was established to ensure minimum protection for the civilian population even during the gravest of humanitarian catastrophes—namely, war [4, p.28]. War or any kind of other armed conflicts is the gravest violation against the right to peace and the law of peace. During an armed clash, the parties to the conflict are entitled to destroy enemy military personnel. Yet, civilian population suffers from wars as well. International humanitarian law seeks to preserve what can realistically be saved despite the armed conflict. Therefore, primary goals of international humanitarian law draws framework for the law of peace and the right to peace too. International human rights law emerged after World War II as a response to the atrocities committed during that conflict also strives to protect the peace law. Initially, human rights law was intended to provide protection against unlawful state interference; however, as is well known, the scope of this legal field has expanded significantly over the ensuing decades. The formation of the peace law is indeed one of the expansions of the traditional human rights law, the right to peace in particular. Human rights are no longer viewed solely as "negative liberty"—freedom from external constraints which imposes numerous obligations on the state [6, p.18]. Instead, human rights have come to be interpreted as "positive liberty," characterized by the opportunity and availability of resources for individuals to realize their full potential [8, p.174]. The right to life which is one of the primary elements of the right to peace holds the primary position in both the doctrinal classification of human rights and the peace of law. The conventions and agreements what play the cornerstion for international law were originally drafted for preserving peace and the law of peace. In the event of an emergency, governments formally acknowledge its existence, thereby gaining the right to take actions that may be incompatible with their obligations under human rights conventions and agreements. It should be noted, however, that in accordance with Article 4(2) of the 1966 International Covenant on Civil and Political Rights, no restriction or partial derogation regarding the right to life is permissible [5, p.225]. This fundamental prohibition highlights the unlawfulness of agressory wars and armed conflicts. We consider the same prohibition as one of the special principles of the law of peace. Therefore, theoretical views about the clear distinction of the law of war and the law of peace can be regarded as false concept. International law can be devided to the law of peace and the law of war because of the mere fact that international law provides principles and mechanisms for preserving universal peace as well as human rights as a foundation for peace [11, p.65].

The right to peace as “lex specialis”. International law and its essential part – the international humanitarian law emerged before the concept of human rights existed. While the right to life was undoubtedly a fundamental premise in the formation of international humanitarian law, it must be acknowledged that this right arose in an era when military doctrine largely shaped the field's norms and principles. Human life was certainly afforded protection, but only within the limits dictated by military necessity—a constraint that could, in itself, render the entire body of international legal norms and principles governing humanitarian law a mockery. Therefore, we cannot today place blind faith in the traditional doctrine of international humanitarian law while ignoring the problems inherent in this field. The attitude of international judiciary about the right to peace is of utmost important in this regard. These issues came to the fore in 1996, when the International Court of Justice was called upon to issue an advisory opinion on the legality of the threat or use of nuclear weapons [10, p.59]. Representatives of several states argued that the use of nuclear weapons was unlawful because it inevitably infringed

upon a fundamental human right: the right to life. Other states countered by citing the traditional doctrine, under which all issues arising during armed conflict are resolved in accordance with the principles and norms of international humanitarian law. Faced with these conflicting views, the Court noted that "the protection offered by the International Covenant on Civil and Political Rights does not cease in times of war," yet it simultaneously made a contradictory statement invoking the principle of “lex specialis”—specifically, the law applicable during armed conflict [12, p.325]. In our view, the Court intended to emphasize that Article 6 of the Covenant must be interpreted in conjunction with the norms and principles of international humanitarian law what serves as a space for the law of peace. This interpretation appears all the more reasonable given the Court's earlier statement that the protection afforded by the Covenant does not cease during wartime. Eight years later, in 2004, the Court revisited the nature of the interaction between international human rights law and international humanitarian law in its Advisory Opinion on the “Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory” [3, p.255]. It firmly reaffirmed its position that the protection afforded by human rights conventions does not cease during armed conflict. The Court stated that three possible situations exist: some rights may be matters exclusively of international humanitarian law; others, exclusively of human rights standards; and still others may fall within the scope of both branches of international law. Judges at the European Court of Human Rights in Strasbourg have frequently encountered such situations, including in proceedings concerning the internal armed conflict in Chechnya. The judgment in the case of “Isayeva v. the Russian Federation” (24 February 2005) established a precedent upon which the Court subsequently relied in similar cases [13, p.99]. Russian armed forces had entered a village where militants were hiding; residents attempting to leave came under fire from military aircraft. The applicants—relatives of those killed in the shelling alleged that the actions of Russian military personnel had violated their right to life. The Court examined the complaint regarding a violation of Article 2 of the European Convention on Human Rights. In doing so, the Court did not address the question of whether the law of peace had been superseded by the law of war in this instance, in accordance with the principle of “lex specialis”. However, we think that the Court’s assessment was based on criteria that essentially pertain to international humanitarian law. For instance, the Court scrutinized the strategy employed by Russian troops in minute detail and concluded that the State had breached its positive obligation to protect the right to life.

Subsequently, during proceedings in similar cases, the Court examined and investigated the circumstances in a comparable manner. The Court’s findings state that, given the circumstances, the use of force was not absolutely necessary and, consequently, was not strictly proportionate to the aims pursued under Article 6(2) of the European Convention. The human rights to peace is considered by experts as a moral and legal approach to governance as well as as alternative approach to “hegemonial logic” [9, p.29]. Thus, non-international armed conflicts represent an area where the human right to peace can significantly influence the traditional doctrine holding that the law of war and the law of peace do not interact—that their norms govern distinct relationships, making a conflict between them impossible. The author emphasizes once again that international humanitarian law is rooted in the distant past and therefore requires a thorough overhaul.

Peace as a moral-legal value. Human life as well as peaceful co-existence of nations, as a supreme value, inherently implies the dignity of every individual, every nation and group of people even those unaware of it. It is therefore reasonable to assume that the right to personal dignity requires refraining from weighing human life against so-called "military necessity", let alone sacrificing human lives for the sake of such necessity. The distinction between civilian and military objects forms

the foundation of humanitarian law. If a belligerent party deliberately places military objects in densely populated areas, it must be held accountable. It would be inappropriate to condone the actions of a belligerent party that disregards the laws and customs of war to tip the military balance in its favor. Abolishing the right to attack military targets—where such an attack would result in civilian casualties and damage to civilian objects—would achieve the desired outcome. The principle of proportionality—which permits incidental loss of civilian life during an attack—must be applied with particular caution. Accordingly, Article 57 of Additional Protocol I sets out precautions to be taken in the conduct of attacks. Actions in which entire families are killed in aerial bombardments—based merely on the suspicion that a house contains someone linked to a terrorist organization—are entirely inconsistent with the norms and principles of international humanitarian law. Yet, US forces in Afghanistan deemed it justifiable to conduct aerial bombardments of residential areas located far from any actual combat zones. Given this situation, the gravity of the consequences arising from the distinction between international humanitarian law and human rights standards is evident:

– under the norms of international humanitarian law, a person belonging to the enemy's "armed forces or other organized armed groups" may be targeted outside the zone of hostilities;

– under human rights standards, whenever a state intends to take a person's life, it is obliged to take the utmost precautions, adhering to the narrow wording of the relevant articles in instruments guaranteeing the right to life as well as the right to peace. The entire context and all specific features of the situation must be taken into account. Cases of self-defense are analyzed and assessed according to strict rules. Lethal force is permissible only in exceptional circumstances.

Where conflicting parties are not engaged in hostilities, a "license to kill" is impermissible. The laws and customs of war cannot be loosely interpreted to classify as combatants or active fighters all those who identify with a conflicting party but engage solely in politics without taking a direct, active part in hostilities. Consequently, measures aimed at eliminating anyone associated with Hamas's political activities in the Gaza Strip are incompatible with the norms and principles of international humanitarian law. Legal proceedings concerning international armed conflicts are traditionally conducted at the intergovernmental level within the framework of relations between states. There is every reason to believe that this practice will continue. However, this approach cannot be applied to non-international armed conflicts. Primarily, the state on whose territory norms and principles of international humanitarian law have been violated must take immediate steps to ensure judicial remedies. Yet, where such remedies cannot be utilized in accordance with the state's human rights obligations, the European Court of Human Rights remains the only alternative for victims of human rights violations.

Based on the scale of peace's spread, this value can be represented as:

- universal or planetary peace among all states and peoples (nations);
- regional peace (peace on a continent or in a specific region encompassing a group of states);
- peace within a single state within a specific territory.

Unfortunately, the principle of "peace as the highest value" itself has not yet been directly enshrined, i.e., as a separate norm, in either international legal acts or the domestic laws of states. However, it should be noted that the essence of this principle is revealed through a system of other principles and norms. The very concept of "peace as a value" is a leitmotif found in many key international documents and in the constitutions of states across various regions and continents.

Thus, based on the meaning of many provisions of the UN Charter, universal or international law of peace is presented as the highest and most important value. The idea of universal peace, as the

basis for recognizing the inherent dignity of all members of the human family, their equal and inalienable rights, along with freedom and justice, is contained in virtually all fundamental international legal documents devoted to human and civil rights and freedoms. The Preamble to the UN Universal Declaration of Human Rights of December 10, 1948, states that recognition of the inherent dignity of all members of the human family, their equal and inalienable rights, is the foundation of freedom, justice, and universal peace. This same idea is reiterated in the International Covenant on Civil and Political Rights of 1966. The preamble to the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 emphasizes that the governments signatory to this Convention and members of the Council of Europe reaffirm their profound attachment to these fundamental freedoms, which serve as the foundation of justice and peace in the world. Many international legal documents devoted to human and civil rights and freedoms contain specific norms touching on various aspects of the maintenance, preservation, and protection of peace. For example, in accordance with Article 20 of the International Covenant on Civil and Political Rights, any propaganda for war must be prohibited by law. Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence must be prohibited by law. Only the right to peaceful assembly is recognized by international instruments. Peace as a special, supreme value is outlined in the final documents of the Conference on Security and Cooperation in Europe (CSCE) too (Helsinki, August 1, 1975).

The Charter of Paris for a New Europe—the final document of the Conference on Security and Cooperation in Europe, held in Paris on November 21, 1990—also specifically notes: the participants of the Conference fully support the UN and the enhancement of its role in promoting international peace, security, and justice; recognize the urgent needs of a significant part of the world and undertake to show solidarity with all other countries. Among the international legal documents that define peace as the highest value, the right to which is sacred and inalienable, the 1981 African Charter on Human and Peoples' Rights and the Declaration on the Right of Peoples to Peace (adopted by the UN General Assembly on November 12, 1984) are note worthy.The 1981 African Charter on Human and Peoples' Rights stands out among these documents for being the first in international legal practice to enshrine the right to peace, while also specifying that this right applies both internationally and within each country. The 1984 UN Declaration reminded the peoples of the world that the primary purpose of the UN is the maintenance of international peace and security. Establishing the right of peoples to peace, this international legal document reflected the aspirations of all peoples to eliminate war from the life of humanity and, above all, to prevent a global nuclear catastrophe. It expressed the conviction that a life without war is a fundamental prerequisite for the material well-being, development, and progress of countries, as well as the full realization of human rights and fundamental freedoms proclaimed by the UN. The Declaration emphasized that in the nuclear age, the establishment of lasting peace on Earth is the primary condition for the preservation of human civilization and its existence, and that ensuring a peaceful life for peoples is the sacred duty of every state.

Proof for the law of peace. Peace, as the highest value, is constitutionally recognized today by most states that have chosen a democratic and humanitarian path of development. First and foremost, preambles and first articles of constitutions frequently mention peace as one of the priority, supreme values, for the sake of ensuring and protecting which the basic law of the state is adopted. Thus, national and international law together were created for ensuring peace and regulating the law of peace. The consolidation and protection of peace are defined as priority goals of state policy and are placed on a par with other supreme humanitarian values and objectives. Such provisions are contained

in the constitutions of states on all continents and regions. A characteristic feature has become the recognition of the subjective right to peace. Following the proclamation of this right at the international legal level (the African Charter on Human and Peoples' Rights of 1981, the Declaration on the Right of Peoples to Peace of 1984), a number of states have directly enshrined this fundamental right in their constitutions.

One of the most important issues of peace, also determined at the constitutional and legal level, is the attitude toward war. The attitude of states toward war is a direct expression of state policy on the recognition and protection of the right to peace. In practice, at least four main approaches have emerged on this issue: 1) reserving the state's right to wage war without any reservations; 2) recognizing defensive war as a means of resolving internal and external problems related to ensuring state security and the possibility of joining defensive blocs; 3) recognizing only defensive war and neutrality in international relations;4) completely rejecting war as a means of resolving international disputes.

An important element of the constitutional and legal regulation of the right to peace in states is the mechanism for protecting peace. It is defined in current constitutions, beginning with the establishment of the fundamental goals of the state in establishing peace, the general principles of peace, and prohibitions on its violation, and ending with the definition of the responsibilities of citizens and the system of bodies, their competence in protecting peaceful life and the national sovereignty of states. Transparency in the position of states regarding the production of weapons, disarmament, and the prohibition of certain types of weapons is essential for the protection of peace. Most countries define in their constitutions and laws the state bodies whose powers include: deciding matters of war and protecting peace; pursuing a peaceful foreign policy and determining its strategy; declaring a state of emergency (martial law); and concluding and ratifying international peace treaties. These and other similar powers are exercised by the legislative branch—parliament, the head of state (president, king, monarch, sultan), and the executive branch, represented by the government, within the functions of each body. Many states, in their most recent (currently in force) constitutions, define the status of the armed forces as an instrument for protecting peace and national sovereignty. However, the level of detail in regulating this issue varies significantly. European states and countries of the post-Soviet space regulate this issue, as a rule, only in the context of general defense tasks and specify the status in ordinary or special constitutional laws.

Another important peace issue subject to constitutional and legal regulation is the determination of the conditions, procedures, and consequences of declaring martial law (emergency) in the event of an armed conflict. The constitutions of most countries contain articles on martial law (emergency), which are later expanded upon in more detail in special legislation. A new direction in constitutional regulation related to the law of peace is the strengthening of constitutional guarantees of security and the fight against terrorism. In modern constitutions, peace and security often stand side by side as the highest values of human society. Many recent constitutions contain special sections on ensuring national security. A relatively new direction in constitutional regulation is the specific mention in constitutions of terrorism as an evil, a declaration of its rejection, and the definition of key means of combating it. The development of international law and domestic legal systems protecting peace as the supreme universal value, regulating the subjective right to peace, and guarantees and mechanisms for ensuring peace, contributed to the gradual formation of a distinct system of principles and norms—the law of peace. Initially, this law developed as an institution of public international law, while its individual elements were defined by various branches of national law—state, administrative,

criminal, and others. The intensive development of the system of legal norms regulating peace issues in recent centuries, particularly in the modern period, gives grounds for discussing the emergence of the law of peace as an independent, integrated branch of law. The law of peace can be defined as a system of principles and norms governing relations that characterize the level of achievement by human society and states of the supreme value—peace. These relations are associated with the realization of the subjective right to peace, and also define mechanisms for ensuring and protecting peace. The development of this branch is a fundamental humanistic task for humanity.

The law of peace, together with the law of armed conflict, can considered in as a sub-branch (branch) of international law and an institution of domestic (national) law (constitutional, administrative, and several others). It encompasses key institutions of the leading branches of law—public international law and constitutional law. The distinctive features of the law of peace as a branch of law are also evident in its specialized legal functions: regulatory, security, and law enforcement. However, it is not these specifically legal functions that distinguish the law of peace as a distinct branch. The primary social purpose of this branch is the implementation of a humanistic (humanitarian) world-building function. This humanistic world-building function is manifested in ensuring human life through the preservation and maintenance of peace, its restoration, and protection. Another characteristic of the law of peace as a branch is the extensive interaction of legal norms with moral norms, social and religious norms, and customs. The gradual expansion of the international legal and domestic (intra-national) legal framework does not diminish the regulatory role of other social norms. Their close interweaving is a crucial condition for the preservation and maintenance of peace. The system of the law of peace is formed at two levels: on the international (interstate) scale and in the national law of each country. Within states, the law of peace, based on the norms of international law, is created based on the traditions of legal culture and the specific features of their development. At the same time, at the national level, there are common patterns of systematization for all states. The law of peace, as part of the legal system, is complex and structured into elements. As a branch of law, it represents a large and diverse array of legal norms. This is not a simple set of norms, but an internally organized system. The primary elements of this system – legal norms – are arranged into interconnected groups, forming institutions and sub-branches, and their implementation gives rise to legal relations with a certain composition of participants or subjects of legal relations.

The structural architecture of peace law encompasses norms from several branches of law. Norms of public international law and norms of constitutional (state) law form the foundation of this branch's system. Within the framework of international legal regulation, peace law closely intersects with space, maritime, air, and a number of other branches (subbranches) of international law covering issues of ensuring peaceful life and security. The provisions of national constitutional law, which regulate peace issues at the basic level, are complemented by norms from administrative, criminal, financial, environmental, and a number of other branches of law.

According to scholars, the law of peace is a new step towards humanity and justice [7, p.53]. The law of peace, like other branches of law, is structured within a system of institutions that structure legal norms into groups or complexes regulating specific types of social relations. It should be noted that, at present, only certain institutions of peace law as a branch have been fully formed. Nevertheless, the law of peace is in the stage of intensive development and has significant prospects for development, similar to such complex branches as human rights (humanitarian law in the broad sense) and the law of armed conflicts (humanitarian law in the narrow sense). The following main

institutions could be identified that form the branch of the law of peace: 1) principles of peace; 2) the right to peace; 3) the law of international peace treaties; 4) diplomatic law as a means of ensuring peace; 5) the law of peace and armed conflicts; 6) legal protection of peace (international legal and state-legal); 7) the law of security and peace; 8) the status and role of international public institutions in the protection of peace; 9) the status and role of international courts in ensuring peace; 10) responsibility for the violation of the law of peace (international legal and state-legal). The proposed list of institutions is not exhaustive; it may be expanded as public and government efforts to ensure peace expand. The names of these institutions are also subject to change in light of their development. Among the branches of modern international law, the law of armed conflict, or the laws and customs of war, stands out. The law that regulates the limits of the means and methods of warfare through the development of international treaties defining the rights and obligations of the parties, thereby aiming to reduce the suffering caused by armed violence and to protect human rights and freedoms, is known as international humanitarian law.

The law of peace and the law of security. The norms of international humanitarian law, when implemented in national law, acquire the quality of elements of domestic law, and the overwhelming majority of them are related to norms of constitutional law. Thus, everything related to issues of ensuring and protecting civilians in wartime constitutes an element of the law of peace and forms a major sub-branch within the system of this branch of law. Particular attention must be paid to the relationship between the law of peace and the law of security. Ensuring peace is closely linked to achieving a state of society characterized by human security. War and military conflicts disrupt security, creating a real threat to it. International and domestic law aim to regulate relations related to achieving and ensuring security. In the context of this task, numerous international legal acts are issued, national laws are adopted, and special doctrines are approved. Therefore, it can be said that in the modern period, the law of security has been formed within both international public law and the system of national law of states. Given that modern scholarship has not yet recognized the existence of an independent branch of "peace law," we tend to view security law (international, state) as an independent branch of law or as a sub-branch of international law (if we are talking only about international security law). In particular, international security law, in the broad sense, is understood as a set of international legal principles and norms aimed at maintaining international peace and ensuring security in a wide variety of areas—military, political, economic, humanitarian, environmental, and others. In a narrow sense, international security law encompasses principles and norms that are directly related to the maintenance of international peace and security in the military and political spheres.

If we examine security law, which combines international and intra-national (state) components, from the perspective of its relationship with the law of peace, it appears that international security law and national security law are constituent elements (as institutions, and in the future, sub-branches) of a larger system—the law of peace. Thus, we may consider the following to be the fundamental principles of international security law: non-use of force or threat of force; non-interference in internal affairs; peaceful resolution of international disputes; disarmament; state responsibility for aggression; maintenance of international peace and security; indivisibility of security and the principle of equal security. All of these principles are simultaneously principles of peace, collectively constituting the basic institution of the law of peace.

Similarly, one can speak of the convergence of legal sources. The sources of international security law include universal treaties (UN Charters, disarmament agreements), regional treaties

(charters of regional security organizations, disarmament agreements, confidence-building measures, and the creation of nuclear-free zones), and bilateral agreements (on peace and friendship, on disarmament, etc.). The means of ensuring peace and security are also common. The most important means of strengthening both peace and security include disarmament, confidence-building measures, and the creation of nuclear-free zones. The means of maintaining peace include peaceful means of conflict resolution and peacekeeping operations. The means of restoring peace are UN enforcement actions.

Conclusion. In our opinion, there is no basis for dividing the law of peace and the law of security into two independent branches. It would be more accurate to speak of the functioning of the institutions (subbranches) of international security law and national security law within the framework of a larger integrated branch—the law of peace. Given this characteristic, the law of peace belongs to a complex, integrated branch, representing a secondary formation resulting from the integration of a specific group of legal norms that originally arose within the system of other branches of law. This characteristic gives the law of peace the characteristics of a supranational and supra-branch law. This type of law, combining the norms of international and domestic law, is being formed today in a wide variety of areas of human activity.

From this perspective, the law of peace is similar in nature to such fields (sub-fields) as human rights, the law of armed conflict, security law, environmental law, information law, and others, which are characterized by a close and comprehensive interweaving of international and domestic law. In the modern era, the law of peace is characterized by both an expansion of the scope of legal regulation and the growth of the body of legal norms governing peace issues. Customs are transforming into legal norms, international and national law is interpenetrating, and the nature of legal norms is becoming increasingly complex. Assessing the overall system of sources of international and national law of peace, it should be emphasized that this system is not static; it is constantly evolving and modifying. One of the key issues in this area is the adoption of a special document comprehensively regulating peace issues. Such a fundamental act does not exist either at the international legal level or in any state.

For the full development of peace law, the adoption of a Universal Peace Charter is essential. Such a document should cover the regulation of those institutions that together constitute the branch of law. These include, at a minimum, the following issues: 1) the concept of peace as the supreme value and its fundamental content; 2) the main sources of peace law; 3) the principles of peace; 4) the right to peace as a collective and individual right; 5) the foundations of the treaty-based law of peace; 6) limiting armed conflicts and minimizing their negative consequences (attitudes toward war and armed conflicts, legal regulation of the outbreak of hostilities and participants in armed conflicts, the principles of introducing martial law and a state of emergency, the rules and territory for conducting military operations, the protection of human rights during armed conflicts and in the post-war period, the protection of civilian objects and cultural property during armed conflicts, prohibited methods and means of warfare, legal regulation of the termination of hostilities and the state of war);7) protection of peace (mechanism and forms of protection); 8) the security system – a key element of the peace protection mechanism;9) International organizations, movements, and other public institutions in the mechanism of peace protection; 10) Responsibility as a specialized institution for the protection of peace; 11) The role of international courts in ensuring peace.

The list of issues covered by the Universal Peace Charter is not exhaustive; it should evolve and adapt to changes, and the document itself should be flexible to accommodate amendments. It is

believed that the Universal Peace Charter as a codified act should be adopted at three levels. The first is the proclamation by the United Nations of the Universal Peace Charter—a document of universal significance; The second level is the signing of peace charters by states within the framework of regional (continental) international organizations and the inclusion of their key provisions in state constitutions; the third level is the adoption of peace charters based on international legal documents in the form of laws of specific states.

The law of peace can be evaluated as a new method of the recognition and realization of the right to peace. Thus, the current right to peace is not only a human right, it is also an element of the UN Sustainable Development Goals. In this regard, the law of peace should be examined in its negative form (such as absence of violence) and the positive (equality, prohibition of discrimination and social justice) form [1, p.1].A distinctive feature of the development of peace law as a field has been its intensive development in international and national legal systems in the 20th and 21st centuries. The steadily increasing role of peace law in the modern era is due to numerous factors of globalization and increasing interdependence between nations and peoples. All of this determines the importance of emphasizing the significance of peace law as a field. Firstly, the need for codification of the norms governing the subject matter of this field has matured. The need arises for the adoption of an integrated legal act regulating peace law both at the universal international legal level and within specific states and their communities. Secondly, the development of the science of peace law, which studies this field, should become a priority in the modern period. Thirdly, the branch of peace law and the science corresponding to it should be the subject of special study in universities and other educational institutions.

References

1. Bailliet C.M. The construction of the customary law of peace: Latin America and the Inter-American Court of Human Rights. UK, Cheltenham: Edward Elgar Publishing. 2021, 256p.

2. Bell C. On the law of peace: peace agreements and the lex pacificatoria. UK, Oxford: Oxford University Press. 2008, 410 p.

3. Chane A.L., Wouters J., Nowak M., Hachez N. The European Union and human rights: law and policy. UK, Oxford: Oxford University Press. 2020, 634 p.

4. Cohen A., Zlotogorski D. Proportionality in international humanitarian law: consequences, precautions, and procedures. USA, New York: Oxford University Press. 2021, 280 p.

5. Dinstein Y. Israel Yearbook on Human Rights. Volume 52 (2022). The Kingdom of Netherlands, Leiden: Koninlijke Brill. 2022, 444 p.

6. Fagan A. Human rights and cultural diversity: core issues and cases. Great Britain, Scotland, Edinburgh: Edinburgh University Press. 2017, 264 p.

7. Reinisch A. The settlement of disputes involving international organizations. The Kingdom of Netherlands, Leiden: Koninklijke Brill. 2025, 416 p.

8. Sarangi U. A Handbook of research on global peace governance and the sustainable development of economies. UK, Newcastle: Cambridge Scholars Publishing. 2023, 139 p.

9. Skordas A., Mardikian L. Research handbook on the International Court of Justice. UK, Cheltenham: Edward Elgar Publishing. 2025, 630 p.

10. Zimmermann A., Weiss N. Human rights and international humanitarian law: challenges ahead. UK, Cheltenham: Edward Elgar Publishing. 2022, 272 p.

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Sülh hüququ: subyektiv sülh hüququna əsaslanan yeni hüquq sahəsi

Xülasə: Dünyada müharibələr və digər silahlı münaqişələr zamanı ən çox pozulan insan hüquqlarından biri də kollektiv insan hüquqları sistemində özünəməxsus yer tutan sülh hüququdur. Bu tədqiqat sülh hüququ ilə bağlı kifayət qədər nəzəri təhlilin aparılmadığını vurğulayır və bu istiqamətdəki beynəlxalq və milli qanunvericilik normalarının da lazımi səviyyədə strukturlaşdırılmadığını sübut edir. Halbuki, bütövlükdə sülh hüququ beynəlxalq hüququn və BMT Nizamnaməsinin əsas məqsədlərindən birini – qlobal sülhün və təhlükəsizliyin təmin edilməsini özündə ehtiva edir. Sülh hüququnun əsas komponentlərindən biri olan "sülh" anlayışı hüquq nəzəriyyəsində geniş tədqiq olunmamış, daha çox fəlsəfi və psixoloji aspektdən araşdırılmışdır. Məhz buna görə də məqalədə göstərilir ki, sülh hüququ (kollektiv və fərdi insan hüquqlarından biri olan sülh hüququna əsaslanan hüquq sahəsi) dünyanın müxtəlif ölkələrinin hüquqşünasları tərəfindən tanınmır, onun nəzəri və hüquqi əsasları isə ya rədd edilir, ya da tənqid olunur. Lakin sülh hüququ sahəsi sülhə olan subyektiv hüququn inkişaf etmiş və tamamlanmış formasıdır. Sülh elmlərindən biri kimi nəzərdən keçirilməli olan sülh hüququ sahəsinin predmeti, əhatə dairəsi, xüsusi və sahəvi prinsipləri, eləcə də mənbələri bu tədqiqatda sistemli şəkildə araşdırılan məsələlər sırasındadır. Məqalədə irəli sürülür ki, ənənəvi hüquq nəzəriyyəsi baxımından sülh hüququ sahəsini kompleks bir hüquq sahəsi kimi qiymətləndirmək və bu sahəyə aid qanunvericilik normalarını ayrıca sistemləşdirmək mümkündür.

Açar sözlər:sülh hüququ sahəsi, insan hüquqları, beynəlxalq hüquq, subyektiv sülh hüququ, humanitar hüquq, qanunvericilik, hüquq nəzəriyyəsi, qlobal sülh, qlobal vətəndaş, kollektiv hüquqlar, təhlükəsizlik hüququ, beynəlxalq cinayətlər, müharibə cinayətləri, insan hüquqları pozuntuları.

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Право мира: новая правовая область, основанная на субъективном праве на мир

Аннотация: Одним из прав человека, наиболее часто нарушаемых в ходе войн и иных вооруженных конфликтов, является право на мир, занимающее уникальное место в системе коллективных прав человека. В настоящем исследовании подчеркивается недостаток теоретического анализа права на мир и обосновывается, что международные и национальные правовые нормы в этой сфере также не отличаются системностью. Между тем право на мир в целом воплощает одну из главных целей международного права и Устава ООН — обеспечение глобального мира и безопасности. Понятие «мир», выступающее одним из ключевых элементов права на мир, не получило широкого освещения в правовой теории и рассматривается преимущественно с философской и психологической точек зрения. В связи с этим в статье показано, что право мира (основанное на праве на мир — одном из коллективных и индивидуальных прав человека) не признается юристами разных стран, а его теоретико-правовые основы подвергаются критике или отвергаются. Вместе с тем право мира представляет собой развитую и завершенную форму субъективного права на мир. Предмет, сфера действия, специфические и отраслевые принципы, а также источники права мира, которое следует рассматривать как одну из наук о мире, относятся к числу проблем, системно исследуемых в данной работе. В статье высказывается мнение, что с позиций традиционной правовой теории право мира может рассматриваться как комплексная отрасль права, а относящиеся к ней законодательные нормы поддаются обособленной систематизации.

Ключевые слова: право мира, права человека, международное право, субъективное право на мир, гуманитарное право, законодательство, правовая теория, глобальный мир, гражданин мира, коллективные права, право безопасности, международные преступления, военные преступления, нарушения прав человека.

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