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The Development of Administrative and Legal Science under Martial Law: An Assessment of its Prospective Direction in Ukraine

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Abstract

Developing a promising directions of administrative and legal science under martial law is element that attracts huge applause even though it considers the challenges and difficulties of the development of the administrative and legal sphere in the conditions of a crisis situation martial law, when traditional legal frameworks may not be sufficient. Given the emergency measures taken during martial law, it is important to examine the legal framework governing such situations and explore the role of administrative law in ensuring accountability, transparency and the protection of fundamental rights. This article focuses on how the legal system can adapt to the modern challenges of martial law. Promising directions for the development of administrative and legal science under martial law are considered, for example, ensuring the compliance of the legal system with the needs of society.

Key words: *Martial Law Regime, Administrative Law, State Administration, Legal System, Political Regime, Administrative Legislation.*

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Introduction

The problem of effective provision of the protection of the aggrieved person's rights has always existed. However, as historical events testify, the Second World War radically changed views on guarantees of world peace because humanity understood the true value of human rights and freedoms, which led to a fundamental update of the legal mechanism for their protection. Starting from this time, protecting human rights is not a purely internal competence of states. It has gained international significance, embodied in the idea of creating a new international law and order, the basis of which is the respect for fundamental rights and freedoms (Ablamskiy et al. 2020). There was a time when the one-party system was prevalent, with political leaders from liberation movements taking pride in practicing the one-party system. However, the decade of the 1990s came with an increase in democratization and 'multi-partyism'. There was hope that the influence of the dictators would be restrained while the military would stay in the barracks (Asuelime, 2022).

The declaration of martial law poses unique challenges to administrative and legal science because it requires the application of legal principles in a highly unusual and rapidly changing context. However, it also opens up opportunities to develop new and innovative approaches to legal administration, including the use of new technologies to improve the administration of justice and ensure that the legal system meets the needs of society. As of today, a considerable number of domestic and foreign researchers and scientists in the field of administrative law and state management are interested in the issues of the current martial law regime introduced in Ukraine, and are also conducting active scientific and legal discussions about whether Ukraine, in the person of its legislators and state bodies, to carry out qualitative improvement of their own system of administrative law during the period of martial law. It will of great emphasis here to know and understand that, the development of martial law in recent administrative issues should be to ensure a dignified and reputable society with valuable standard and integrity. The presence of the Martial law should rather be to build and ensure a proper Ukraine society than with the objective of destroying it. The question one need to pose is whether with the existence of the martial law in administrative and legal science, the society have meets it's proposed objective being that of stability and security? The problem is just bringing in martial law, but to see whether the expectations of the people have been accomplished? Ukraine being a state of law must ensure that it used the martial law system in administrative law and legal science to ensure proper maintenance of society public order and security then violating fundamental human rights and freedom of it's population.

The purpose

of this article is to define, establish and reveal and detail possible options for improving the system and mechanisms of administrative law and administrative and legal science in Ukraine during the period of active martial law. For the successful implementation of the specified purpose, the foreign experience of strengthening and improving administrative law and its internal mechanisms during martial law in various countries of the world was used. The issue remain that there is great euphoria when dealing with aspect of administrative law in the domain of legal science which have seen the need in developing a concrete and effective martial law system. The used of this system of law has gone a long way in improving recent technological developments. The problem here is not just looking at the administrative law in legal science when assessing it's position in martial law, but rather in assessing how this recent means of legal science have been able in meeting up with current expectations. The law is very interesting and attract plausible salutations, but of what used will this recent use of legal science in administrative law being able in ensure a proper martial law enforcement. The rule becomes aspect of questioning in it's application in Ukraine. It's application in all it's terms of existence is really problematic and questioning as there is continuous handicap on the system of enforcing administrative law.

Results and Discussion

The science of administrative law, as of today, is one of the most relevant and actively researched among all branches of law in Ukraine. Among other things, it is noted that such a high interest in it, as well as a large number of high-quality scientific works and publications that have appeared in recent years, can be explained by the fact that a large-scale, high-quality political and state-management transformation is currently underway in Ukraine , and the field of administrative law is precisely the legal field that is most closely related to the field of public administration and is the field of law that studies the relations between state bodies.

The declaration of martial law poses unique challenges for administrative law scholarship, as it requires the application of legal principles in a highly unusual context that can change rapidly (Luk'yanets, Markova, Gurzhii, Petritskyi, 2022). However, it also opens up opportunities to develop new and innovative approaches to legal administration, including the use of the latest technologies to improve the administration of justice and ensure that the legal system meets the needs of society. Administrative law is a term used to describe the intersection of administrative science and legal science. It refers to the study of the legal framework and administrative processes that shape public institutions and organizations.

Administrative and legal sciences cover a wide range of topics, including the study of administrative law, regulatory law, and constitutional law. It also includes the analysis of public

policy, decision-making processes, and the management of public institutions. This field of study is important for professionals working in government, as well as for lawyers and policy makers dealing with legal issues in the public sector. By understanding the complex interplay between administrative processes and legal frameworks, those working in this field can develop effective strategies for managing public institutions and promoting good governance (Brusakova, Yefremov, Riazantseva, 2022). Martial law is a state of emergency that can be declared by governments when a country faces a threat to its existence, such as war, insurrection, or natural disaster. During martial law, governments may suspend certain civil liberties and increase control over the population to ensure public safety. In such circumstances, the legal system must adapt to the unique challenges and complexities posed by the situation.

In most countries, the power to declare martial law is vested in the executive branch of government, usually the president or prime minister. The decision to declare martial law must be based on a real threat to public security, and it must be narrowly tailored to address that threat (Halunko, Dikhtiiivskyi, Kuzmenko et al., 2021). Once declared in force, martial law suspends certain civil liberties, such as freedom of speech, assembly and the press, and grants the military authorities broad powers to ensure law and order. Truly there is always a place occupied by martial law in country where the aim is the preservation of national security and peace for a common interest of the people. The question one will be interested in posing here is in assessing whether the martial law put in place by the state really respect fundamental human right practices? In order to better understand the essence and characteristic features of the impact of the martial law regime on the day-to-day functioning of administrative legal norms in administrative legal relations, it is necessary to study this phenomenon in practice. It should be noted that historical examples of actual practical application of martial law in countries with different state and political systems, where martial law was introduced for different periods of time, under different circumstances and even when the introduction of this regime had no objective prerequisites, can help us with this (Rusetskyi, Lelet, Dopilka, Tsybulnyk, 2020). It should be noted here that some authoritarian political regimes have used martial law to satisfy their own interests. The rule stands that when implementing martial law, basic human right of the population should be respected at all time, and under no circumstances should this law be used in frustrating the existence of a given society. Once the law does not respect fundamental human right of the population, then there is a need in reviewing the said method. The objective of the law is not in destroying the beautiful society that is expected to be created. There martial law should be put in place to build, maintain and sustained the society for a common interest thqn destroying the said society. This should a matter of common understanding.

Throughout history, martial law has been declared in various countries and regions, and its introduction has often been associated with political instability, conflicts and crises. Historically, martial law has been used as a means of maintaining law and order in times of war. For example, during the Second World War, martial law was declared in several countries, including the United States, the United Kingdom, Japan, and Germany. In these cases, martial law was used to control civil unrest and maintain order while the countries were at war. In this context, we can also recall the US Civil War, when martial law was introduced simultaneously throughout the country and was aimed at the rapid elimination of mass disorders and the temporary suspension of civilian proceedings and peacetime laws. Over the past ten years, the introduction of martial law has been associated with conflicts and crises that threaten the national and public security of a particular state. For example, martial law was declared in the Philippines in 2017 in response to the growing threat of terrorism that actually existed in the southern part of the country (Rostovska, Hryshyna, Kaidash, Syromiatnikova, 2021). Similarly, martial law was declared in Thailand in 2014 after political protests and violence that led to the overthrow of the then government and the permanent introduction of a military dictatorship in that country, which began to control all aspects of political life. It should also be noted that the imposition of martial law is often controversial, raising concerns about the suspension of civil liberties and the possible abuse of power by the ruling party and its control over the nation's life.

In some cases, the introduction of martial law or a state of emergency was used as a pretext for political repression and suppression of dissent. In particular, according to the established historical and legal facts, the use of martial law or a state of emergency by the state authorities to achieve certain criminal and useful goals (most often to suppress popular uprisings and take political revenge on their opponents) has been used many times in many countries (Hetman, Kobrusieva, Dzhafarova, 2022). For example, we can recall the state of the Philippines during the presidency of Ferdinand Marcos. It is alleged that in 1972, President Marcos declared martial law in the Philippines, claiming that it was necessary to suppress communist insurgents and maintain the state's norms of law and order. However, Marcos used the powers granted to him under martial law to suppress political opposition, censor the press, and detain tens of thousands of people without trial. He has also used the military to secure his regime and enrich himself and his family.

Around the same time, in Chile, during the military dictatorship of Augusto Pinochet, who seized power in the country by force in 1973, martial law was almost immediately declared active and indefinite throughout the country. Pinochet tried to reassure the public that it was necessary to suppress left-wing extremists and restore order, but he used the powers granted to

him under martial law to torture, kill, and disappear thousands of people who opposed his criminal regime. He also rewrote the country's constitution to consolidate his power and install a neoliberal economic system in Chile. Although this economic system had positive aspects, it came at a bloody price.

In 1981, General Wojciech Jaruzelski declared martial law in Poland, claiming that it was necessary to prevent a Soviet invasion and maintain stability. However, he used the powers granted to him under martial law to suppress the Solidarity trade union movement and arrest its leaders, as well as to censor the media and restrict civil liberties. The introduction of martial law led to a wave of repression and political upheaval in Poland.

In 1999, in Pakistan, General Pervez Musharraf seized power in a military coup and declared martial law. He suspended the country's constitution and dismissed the elected government, claiming that there was a threat to national security. Musharraf used martial law to suppress the opposition and maintain his power.

In Egypt, in 2013, General Abdel Fattah al-Sisi seized power in a military coup and declared martial law. He suspended the country's constitution and cracked down on the Muslim Brotherhood and other opposition groups, claiming they posed a threat to national security. Since then, Sisi has consolidated his power and suppressed dissent through martial law and other authoritarian measures. He also managed to place his relatives in various influential government positions in Egypt (Yunin, Nikolaichuk, Brusakova, Kravchenko, Kolesnikova, 2021).

In Turkey, in 2016, President Recep Tayyip Erdogan declared a state of emergency and imposed martial law after a failed coup attempt by some military leaders. Erdogan used martial law to crack down on the political opposition, arresting tens of thousands of people and purging the army, judiciary and civil service of potential enemies. Currently, experts and researchers are still debating whether this coup attempt was real or staged by Erdogan.

In our opinion, international law and international organizations should not be underestimated, as they play a crucial role in regulating the introduction of martial law and ensuring compliance with human rights standards around the world.

The United Nations, for example, has developed guidelines for the use of force and firearms by law enforcement officials, which provide guidance on the proportionate and necessary use of force in the context of martial law (Teremetskyi et al., 2021). In general, the historical and global political context is an essential basis for understanding the significance of promising areas of development of administrative and legal science under martial law. It emphasizes the

challenges and opportunities associated with the development of a legislative framework that protects individual rights and freedoms while maintaining national and public security.

As an artificial and extraordinary regime, martial law is not usually considered a favorable time to strengthen the administrative and legal framework. However, in some cases, martial law may allow for reforms and strengthening of the country's legal system (Levchenko, Lehenkyi, Bondarchuk, Borodin, Shved, 2020). Among other things, during the Spanish Civil War (1936-1939), rebels led by General Franco staged a coup d'état and declared martial law. After the rebels' victory, an authoritarian dictatorship was established. However, Franco also used martial law to strengthen the country's administrative and legal framework, including laws that ensured economic stability and industrial development. The example of Finland is no less interesting for researchers and legal scholars. It is known that during the Second World War, Finland fought off the Soviet Union's attack in an extremely difficult war, from which Finland emerged as the clear winner, as it was able to preserve its state sovereignty and most of its territory (Abakumova et al., 2020). However, as a result of this war, the country suffered great losses. After the war, the Finnish government imposed martial law to ensure order and restore the country's economy. During this period, the government took various measures, such as controlling citizens, strengthening discipline, providing security, etc. This helped the country recover from the war and strengthen its administrative and legal framework (Bezpalova et al., 2020).

Studying and carefully analyzing the example of Israel, we came to the conclusion that this country was also able to use a rather difficult period of active martial law to strengthen its society and state.

In 1948, Israel declared its independence and was almost immediately attacked by neighboring Arab countries, which carried out an armed illegal aggression against this sovereign state. In response, Israel declared martial law, which eventually strengthened the country's administrative and legal framework. During martial law, censorship was established, the activities of a number of political and military organizations were banned, and migration control was strengthened.

In the case of Turkey, we can also observe that sometimes martial law can have positive consequences for the administrative and legal system of a state. In 1980, Turkey experienced an economic crisis, clashes between conflicting political forces, and an aggravation of internal security. As a result, martial law was declared to ensure order and stability in the country. During this period, the Turkish government introduced a number of reforms, such as constitutional amendments, introduction of tough laws against corruption and crime, and reform of the judiciary and prosecution system. This helped to strengthen the country's

administrative and legal framework and increase public confidence in the government and legal system (Reshota et al., 2020). Thus, we must understand that administrative law plays an important role in ensuring accountability and transparency during the crisis and martial law. After all, administrative law is known to be a set of legal norms that regulate the actions of state bodies and officials, including military ones. It provides the basis for ensuring that the exercise of governmental power is lawful, reasonable and proportionate, even in emergency situations. One of the key aspects of administrative law in the context of martial law is the requirement for the military authorities to comply with legal standards when using force (Shapoval, Kolomoiets, Brusakova, Garayev, 2021).

The military authorities must adhere to the principles of proportionality and necessity in the use of force, as well as respect the human rights of civilians. In turn, administrative law provides the basis for holding military authorities accountable for any violations of these standards, including through administrative and judicial review (Ishchenko, Buhaichuk, Tokarchuk, Rudoi, Tsareva, 2022). Another important aspect of administrative law under martial law is transparency. The military authorities must clearly and timely inform the population about the scope of martial law and the reasons for its declaration. Administrative law provides the basis for ensuring transparency of the actions and decisions of the military authorities, including through the requirement of public reporting and disclosure of information (Luk'yanets, Markova, 2020). To summarize, the legal framework governing martial law involves a combination of constitutional, legislative and executive powers, and administrative law plays a crucial role in ensuring accountability and transparency during a crisis. By requiring military authorities to comply with legal standards in the use of force and ensuring transparency in their actions and decisions, administrative law helps to protect the rights and interests of civilians during an emergency.

Conclusions

To summarize, the declaration of martial law creates both challenges and opportunities for the administrative law science of every state, including Ukraine.

By applying the latest technologies, developing new approaches to public participation and accountability, and strengthening existing legal institutions, administrative law scholarship can help ensure that legal decision-making during martial law meets the needs of the public and is consistent with the principles of justice and human rights. Therefore, it is necessary to emphasize the importance of making legal decisions during martial law in accordance with the needs and requirements of the society of each state, taking into account various peculiarities. In addition, the need to strengthen the domestic legislative (administrative and legal) framework to ensure its ability to meet the challenges of the current situation is emphasized. It is also

necessary to emphasize the importance of many interdisciplinary studies in addressing the complex issues that arise during martial law.

To summarize, it should be noted that the development of administrative legal science under martial law requires a multifaceted approach on the part of the State, its officials, legislators and legal scholars, which should include such mandatory internal elements as strengthening the legal framework, improving administrative processes and promoting interdisciplinary research. Therefore, if all the above elements are well developed and duly observed by the state, together with its legal scholars and legislators, the country will make significant progress in the development of administrative legal science during the period of martial law.

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