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LOCAL SELF-GOVERNMENT IN UKRAINE IN THE CONTEXT OF A FULL-SCALE INVASION

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Abstract

This article is devoted to the study of the local self-government in the context of Russia's full-scale invasion of Ukraine. The purpose of the article is to study the local self-government after the completion of the decentralization reform and under the influence of a full-scale invasion. In the context of the study, the status of local self-government bodies during the full-scale invasion was examined. The newest regulatory framework governing the functions and powers of local authorities during the Russian invasion was studied. The status of military administrations and the powers of community heads were defined. The territorial communities prove that expanding the competencies of local self-government by delegating some state powers to its bodies is a justified and reasonable step.

A comparative analysis of sociological studies conducted by the Kyiv International Institute of Sociology in 2021-2023 to determine the level of public trust in local self-government was carried out. In the course of the analysis, persisting positive support of Ukrainian citizens for the activities of local authorities was noted. This indicates a positive attitude of citizens towards the decentralization reform, although during the military invasion, certain processes of constitutionalization of the decentralization results were suspended.

It was proved that local self-government in Ukraine is capable and performs various functions to overcome the consequences of a full-scale invasion. Under martial law, local authorities work, provide services to the public and help the army. Territorial communities have become an essential link ensuring the stability of the home front in times of war. By their joint efforts, communities not only strengthen their own potential, but also play an important role in strengthening the economic potential of the country.

The study also identified a number of issues related to the lack of a strategic dialogue between the central government, local self-government, and citizens, and highlighted a need to ensure effective interaction between state-level and local authorities.

Keywords: local self-government, decentralization, community, full-scale invasion, military aggression, legislation.

Introduction

The study of the institution of local self-government has a long history and is closely associated with the study of democracy at the local level. Local self-government is the framework for the exercising of power by the people at a local level. The source of local democracy and power in general is the local

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community. Local self-government was revived with the launch of the decentralization reform in 2014. In the context of the decentralization reform, local authorities in Ukraine have undergone significant changes in their functioning and responsibilities. This reform aimed to enhance the capacity of local self-government bodies to effectively manage public affairs and provide services to the local population (Polovyi & Polukhina, 2020, p. 128).

A feature of the local self-government reform was the implementation of the provisions of the European Charter of Local Self-Government, which contains real practices of organizing public authorities at three levels: central (national), local, and intermediate (regional).

The main principles of the Charter of Local Self-Government are reflected in the following:

1. Recognition of local self-government in national legislation and, if possible, in the Constitution.
2. The reality of local self-government, which is manifested in the emphasis on the essential (and not any arbitrarily determined by the state) scope of public affairs, the regulation and management of which are vested on local self-government bodies.
3. Subordination of local self-government as the ability of relevant bodies to regulate and manage local affairs – exclusively within the framework of state legislation.
4. Defining the nature of local self-government as a public authority that, on the one hand, acts in the best interests of the local population (territorial community), and on the other hand, is derived from sovereign state power, since the key powers and functions of local self-government are determined by the Constitution or law (Council of Europe, 2016, art. 2-4).

According to the Constitution of Ukraine, local self-government is exercised by a territorial community in the manner established by law, both directly and through local self-government bodies: village, town and city councils and their executive bodies, i.e. through a certain structural and organizational mechanism called the local self-government system (Verkhovna Rada of Ukraine, 1996, Art. 140).

The purpose of the article is to study the functioning of the local self-government after the completion of the decentralization reform and under the influence of the full-scale invasion. The objectives are subordinate to the topic and are aimed at determining the status of local self-government, the key changes that have occurred under the influence of Russia's military aggression and determining the level of public confidence in local self-government.

Numerous scholars from various fields are studying local self-government in Ukraine. For example, political scientists A. Tkachuk and Y. Tretiak study the role of local self-government and regional development after the war (Tretiak & Tkachuk, 2022). In their research, O. Krutiy and K. Bilous focus on how the decentralization reform has changed the organization of local elections in modern Ukraine (Krutiy & Bilous, 2020). From the legal standpoint, the formation of local self-government was studied by Y. Zahumenna and V. Lazarev (2020). Their work is devoted to the genesis of local self-government development in Ukraine, taking into account well-known European concepts of territory management development.

Materials and Methods

The achievement of the goal and solution of these tasks was facilitated by the methods and techniques of scientific research, namely:

- systematic and structural-functional methods helped systematize the interdisciplinary research experience of studying the subject and identify the peculiarities of the local self-government functioning;
- the use of the modeling methodology and the management effectiveness formula from decision-making theory resulted in the formation of integral indicators of the effectiveness of the state regional policy and a “bottom-up politics” model on the way to participatory democracy in Ukraine.

In the course of the study of international and domestic practices of local self-government, indicators were selected for a comparative analysis of local self-government activities “before” and “after” the full-scale invasion. When creating a model of effective local self-government and overcoming the conflict between the state and society in Ukraine, the theories of participatory democracy, synergy and managerialism were taken as a basis.

The methodological basis for the study of local self-government is created by the views of the French historian and philosopher A. de Tocqueville who was the first to study the theoretical aspects of local self-government and to propose the theory of a free community. In his monograph *Democracy in America*, he wrote that the community is the only association that corresponds to human nature, “for wherever people gather, a community arises spontaneously” (Tocqueville, 1992, p. 65).

Self-government, in his opinion, exists among all nations. "If states are created by man, the community comes directly from the hands of God," A. de Tocqueville argued. "Self-government institutions play the same role in establishing independence as elementary schools do in science; they open the way to freedom and teach people to exercise this freedom and to enjoy its peaceful character. Without self-governing institutions, a nation can form a government, but it will never experience the true spirit of freedom. Transient passions, temporary interests, and accidental circumstances can only create the appearance of independence, but despotism, driven into the interior of the social system, will sooner or later reappear on the surface," the French researcher noted (Tocqueville, 1992, p. 67).

In the course of adapting the theory of free communities to the real-life circumstances, the economic theory was born. Its supporters also viewed local self-government as a non-state entity. "Local self-government is non-state by nature and has its own competence in the field of non-political relations to which the state is indifferent, namely, in local public and economic affairs. The state does not interfere in these local affairs, and they are addressed by the territorial communities themselves. Political issues, on the other hand, fall within the competence of the state authorities." (Krush, 2011, p. 88).

According to Ukrainian researchers V. Fedorenko and O. Chernenchenko, a significant contribution to the development of the theory of local self-government was made by the German legal school represented by L. Stein and R. Gneist, who proposed a state theory of self-government in the 19th century. According to its main provisions, self-government is a form of public administration. All powers of local self-government are granted to it by the state. However, unlike central government, local self-government functions are exercised not by civil servants, but by local residents who are directly interested in the results of its operations. Therefore, according to the researchers, it cannot be argued that the issues addressed by local authorities are of a different nature and origin as compared to state issues. From the point of view of state theory, the delegation of certain functions of public administration to territorial communities is determined by the need to ensure effective addressing of these issues at the local level. In a centralized public administration based on the principles of strict subordination, civil servants are deprived of initiative and independence (Fedorenko & Chernenchenko, 2017).

Results and Discussion

There are numerous approaches to the definition of local self-government, however, the political science dictionary edited by M. Holovaty, and O. Antoniuk (2005) reveals the content and functionality of this concept in the most accurate way whereby local self-government is defined as a complex mechanism consisting of local self-government bodies and local state executive authorities in a certain territory. These bodies, in turn, are part of the state governance mechanism. The social purpose of power is that it helps to achieve certain goals, enables the performance of certain functions in favor of the social system, and establishes appropriate relations between people and their groups. Power enables the expression of people's interests – social, group and individual (Holovaty & Antoniuk, 2005).

Since the decentralization reform, local authorities have been rather skeptical of administrative and territorial changes. The attitude of citizens towards local self-government in the context of the reforms can best be reflected through sociological surveys. For the comparative analysis, we analyzed the surveys conducted by the Kyiv International Institute of Sociology (hereinafter KIIS) in 2021-2023.

Specifically, in the fall of 2021, KIIS conducted a survey of Ukrainian citizens living in 152 settlements in support of decentralization. It was determined that 63% of citizens support decentralization (which is 4% more than last year). The level of awareness of the administrative and territorial reform process is 83%. The assessment of the work of local government representatives has also improved over the year under review.

- 41% of respondents assess the work of the community head positively, while 15% give a negative assessment;
- The respondents are somewhat more critical of the local council's performance: 33% assess its work positively, and 16% – negatively;
- In settlements that are not community centers, the question of assessing the performance of headmen was also asked: overall, 51% of respondents assessed the performance of headmen positively, while 9% negatively (KIIS, 2021).

The surveys of the seventh wave of the all-Ukrainian sociological research on local self-government conducted by KIIS in October-November 2022 show that 76.5% of Ukrainians believe that the reform of local self-government and territorial organization of power (decentralization) should be continued and that it has played a positive role in resisting the large-scale Russian invasion. The study was conducted with the support

of the Council of Europe Program Decentralization and Public Administration Reform in Ukraine in cooperation with the Ministry of Communities and Territories Development of Ukraine and in coordination with the Ministry of Reintegration of the Temporarily Occupied Territories (KIIS, 2022).

In the context of a full-scale invasion, sociologists often note a drop in the Ukrainians' trust in central authorities. However, in 2022-2024, local authorities continue to maintain stable public trust despite significant changes in their powers. According to the KIIS survey, trust in local authorities remained almost at the same level – as in May 2022, 50% of respondents trust local authorities, while 46% do not trust them.

On the one hand, such a level of trust indicates that local authorities are fulfilling their functions and providing for the lives of their communities. On the other hand, local authorities are actively involved in helping the military and, separately, civilians affected by the war. In particular, local authorities initiate the resettlement of internally displaced persons, treatment and support for members of the Armed Forces of Ukraine, as well as promotion of relocated businesses and the economy.

These processes in society increase the level of trust of the state in the population and communities, which are becoming crucial in building mutual trust in society. Such a trust is now creating a strong foundation for the unity of the regions of our country. Communities at the home front ensure the socio-economic basis for Ukraine's victory, and communities under temporary occupation have demonstrated high resilience in the face of war, retaining the potential for resistance and the ability to recover after liberation.

Local self-government bodies (village, town, city councils; their executive bodies and heads) continue exercising their powers stipulated by the Law of Ukraine on Local Self-Government in Ukraine (Verkhovna Rada of Ukraine, 1997). In addition to this Law, the powers of local self-government bodies are regulated by the Law of Ukraine on the Legal Regime of Martial Law (Verkhovna Rada of Ukraine, 2024).

Where local self-government bodies (village, town, city councils and/or their executive bodies) do not exercise or are unable to exercise the powers vested thereon by the Constitution and laws of Ukraine, then temporary state bodies, i.e. military administrations of settlements within the territorial communities, are established in accordance with the Law on the Legal Regime of Martial Law (Verkhovna Rada of Ukraine, 2024). In the context of armed aggression, they exercise the delegated powers of local self-government bodies in accordance with the Law of Ukraine on Local Self-Government in Ukraine (Verkhovna Rada of Ukraine, 1997).

Territorial communities prove that expanding the competence of local self-government by delegating some state powers to its bodies is a justified and reasonable step. On February 24, 2022, Presidential Decree No. 68/2022 established regional and district military administrations on the basis of local state administrations across Ukraine, which shall operate for the period of martial law to ensure the effect of the Constitution and laws of Ukraine (President of Ukraine, 2022).

According to Article 17 of the Law of Ukraine on the Legal Regime of Martial Law, local authorities shall assist military administrations with the introduction and implementation of measures of the legal regime of martial law. Local government in cooperation with the state authorities represented by military administrations provides for three modes of cooperation:

- 1) replacement of local authorities with military administration;
- 2) joint community management;
- 3) expanded powers of local authorities subject to partial subordination to the higher-level military administration (Verkhovna Rada of Ukraine, 2024).

Another important step was the adoption of the Law on Amendments to Certain Laws of Ukraine on the Functioning of the Civil Service and Local Self-Government During Martial Law dated May 12, 2022, which significantly expanded the powers of community heads. In particular, they can make decisions on the following issues: transfer of funds from the local budget for the needs of the Armed Forces; establishment of institutions to provide free primary legal aid; combating of acts of God and epidemics; hazardous waste management; clearance of communal land plots from illegally placed temporary structures; inspection of buildings and structures damaged as a result of hostilities; dismantling of buildings and structures assessed as dangerous and endangering human life (Verkhovna Rada of Ukraine, 2022).

The said law allowed communities to allocate recovery budgets themselves. This was made possible with the support of the government and international partners, who proposed a methodology for planning future recovery. On May 16, 2023, representatives of the USAID DOBRE Program presented the Action Plan for the Development of Comprehensive Recovery Programs for Regions or Territories of Territorial Communities (Parts Thereof) to the Parliamentary Committee for the Organization of State Power, Local Self-Government, Regional Development and Urban Planning. The said plan includes clear algorithms

for developing such programs, but it is up to the communities to fill them with specific content (Cabinet of Ministers of Ukraine, 2023). It is their activity that will determine the priority of implementing projects to meet the needs of communities in specific areas.

In general, we can state the fact of an active lawmaking process around the regulation of local self-government issues. For example, from April to August 2023 alone, numerous legislative acts concerning the functioning of local self-government in an unstable environment were adopted. First of all, the changes relate to tax legislation, service in local self-government bodies, technogenic and fire safety, lease of state and municipal property, housing and communal, security and educational issues, post-war recovery and reconstruction of Ukraine.

Local self-government in Ukraine has proven its viability. Under martial law, local authorities are working, providing services to the population and helping the army. Territorial communities have become the basic link ensuring the stability of the home front in times of war. Through their joint work, communities not only strengthen their own potential, but also play an important role in strengthening the country's economic potential. At the initial stage of the large-scale Russian aggression, territorial communities provided support to the Armed Forces and some of their functions, ensuring the life of the community (often affected by hostilities); facilitated the evacuation and accommodation of the population in relatively safe communities; contributed to the relocation of enterprises, and most importantly, maintaining stability in society.

The need for local authorities to involve citizens in certain elements of municipal governance is explicitly stated in the constitutions, laws and regulations of European countries, as well as decisions of local authorities. The entire Chapter XI (Articles 140-146) of the Constitution of Ukraine is devoted to local self-government. It enshrines the right of a territorial community to local self-government, which it can exercise directly or through local self-government bodies: village, town, city councils and their executive agencies (Verkhovna Rada of Ukraine, 1996).

The involvement of citizens in local self-government provides for accommodation of community members' local initiatives on any issue within the jurisdiction of local self-government. Definitely, a local initiative cannot contradict the Constitution of Ukraine and applicable laws. Thus, local authorities will be able to make the required management decisions to address the priority needs of communities. In particular, they will be able to finance the improvement of settlements, ensure the continuous operation of critical infrastructure, national electronic information resources, as well as state information and communication systems.

Besides positive public sentiment in support of local government, there are numerous issues in the context of local government functions and the establishment of a dialogue with the authorities and communities. According to the Ukrainian political scientist A. Kruhlashov, a number of fundamental problems associated with the functionality of local self-government and public governance bodies have arisen in the current activity of the local self-government system. The scholar emphasizes the status of the deputy corps. Some deputies went to war, others are actively engaged in volunteer work, trying to combine their representative functions, ensure communication with voters, perform functions in session halls, committees, etc. Some deputies have found themselves abroad, not to mention those who are in the temporarily occupied territories contrarily to their will. There are also those who have found themselves in a specific situation, as a number of political parties that participated in the recent local elections have been banned (Kruhlashov, 2023).

It is also worth noting that in the context of a full-scale invasion, there is a problem of public dialog between citizens within the community and with the authorities. This problem has arisen due to the lack of a unified strategic vision for local authorities' activities.

When studying the issue of local self-government in the context of a full-scale invasion, the status of communities and the changes that come with the processes of occupation and de-occupation must be taken into account. Since the beginning of the full-scale aggression and as of April 27, 2024, almost 4 thousand settlements in 231 territorial communities have been temporarily occupied. This process covered 11 regions of Ukraine: Donetsk, Luhansk, Zhytomyr, Zaporizhzhia, Kyiv, Mykolaiv, Kharkiv, Kherson, Chernihiv, Sumy, and Odesa.

According to the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine, in 2022-2023, the Armed Forces of Ukraine de-occupied about 2,800 settlements in more than 160 territorial communities in Donetsk, Luhansk, Zhytomyr, Zaporizhzhia, Kyiv, Mykolaiv, Kharkiv, Kherson, Chernihiv, Sumy, and Odesa regions. The de-occupied territories have been affected by varying degrees of destruction and humanitarian problems, depending on the length of time they have been under occupation

and the intensity of hostilities. Most of them are characterized by problems related to the departure of residents, including local council members, and their political position (in some local councils, it was not possible to ensure a quorum and/or adopt pro-Ukrainian decisions). The above posed risks to the security of the territories and required urgent measures on the part of the state (Ministry of Reintegration..., 2024).

Since the full-scale invasion, communities have fought the aggressor's troops in different ways. For example, in Chernihiv and Sumy regions, they immediately began to organize a partisan movement. There were instances of collaboration by those in positions of power who enthusiastically welcomed the invaders. Therefore, some frontline communities lost a significant part of their local government administration. Mass protests and consolidation of civil society took place in Zaporizhzhia and Kherson regions.

D. Barynova, an expert in local self-government and regional development, attributes an important role to the creation of military administrations. She argues that military administrations of settlements were established in 184 territorial communities in 12 regions of Ukraine to ensure operational management in some of the frontline and de-occupied territories. Some of the appointed heads of military administrations were the current heads of local councils, who were elected in 2020 during the first local elections on a new administrative-territorial basis. This factor, in her opinion, will significantly contribute to the restoration process and involvement of residents therein, as these leaders supported their communities in the most difficult times (Barynova, 2024).

In his turn, Y. Tretiak argues that we need to focus our efforts not only on the front, but also in the rear. If we can use the rear's capabilities to help the front and preserve the national economy, we will be able to restore the regions and territories that are heavily affected by the hostilities, which have suffered and are still suffering the most significant destruction much faster. This requires mobilization of all human, financial, technological and organizational resources aimed at rapid economic growth in these territories in the current conditions. The territory that serves as the country's "deep rear" provides assistance to displaced businesses; develops employment programs for displaced persons; provides transportation corridors for the supply of humanitarian aid, as well as imports and exports; implements housing construction for internally displaced persons and preserves the economic potential of the region to the maximum extent possible. At the same time, communities in the rear provide assistance to the frontline regions and those fighting on the front line. This is primarily humanitarian aid (food, fuel, medicines), technical assistance with the evacuation of production facilities, and logistical support to ensure that these regions are connected to the rest of the country. In the context of martial law, local authorities in the rear also carry out measures of national resistance, anti-terrorism, and the proper functioning of warning systems and shelters. The prolongation of the war, large-scale destruction of infrastructure by missile strikes, and occupation pose major risks to the rear regions (Tretiak & Tkachuk, 2022).

It is worth noting that the level of functioning of local authorities is varying extensively depending on the distance from the front line. However, the formation of a personnel reserve is already underway to organize management and provide basic services in the de-occupied territories, restore the management system there and ensure its sustainability, restore basic municipal and administrative services in the de-occupied territories, and implement priority measures for their economic and social rehabilitation.

Conclusions. When studying the functioning of local self-government during the full-scale invasion, we focused on new legislative acts that were adopted during the period of military aggression, the status of communities affected by the hostilities and the establishment of military administrations as urgent measures to regulate community life.

In general, the study analyzed data from public opinion surveys conducted in 2021-2023, which demonstrate relatively stable public support for local authorities. Thus, the majority of survey participants believe that the decentralization reform has had a positive impact on the status of local authorities in the context of resistance to the large-scale Russian invasion.

According to the survey, it can be concluded that the indicators of support for the reform and optimistic expectations of people, even in such difficult times, demonstrate a high level of maturity of the people of Ukraine and encourage further changes. Community residents actively demonstrate mutual understanding, respect, and cohesion in the context of the fight against the aggressor, but there is a tendency for imperfections in the dialogue between the central government and local administrations. However, it is noticeable that the population of Ukraine is ready for emergency measures during the war, such as the creation of military administrations in some territories. However, they perceive these measures as short-term, not as a return to centralization, as Ukrainians remain committed to the idea of strong local government and expect the reform to continue.

The subsequent research on this topic will take place in the context of the study of local self-government in the period of post-war reconstruction. As of today, in 2024, some state programs with foreign assistance to determine the degree of destruction and the losses of economic and human potential of communities have already been launched. Currently, it is important to explore the cooperation of the government, community, business, experts, and the military to develop a comprehensive reconstruction scenario.

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