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INTERNATIONAL LAW AND INTERNATIONAL RELATIONS

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PRINCIPLE OF THE RULE OF LAW IN INTERNATIONAL LAW: NATURE AND CHARACTERISTICS

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Abstract

The article analyzes the principle of the rule of law in international law considering ontological and epistemological aspects of its nature and interrelation with national law. Given the modern understanding of the tasks, purpose and nature of law, both domestic and international, the paper substantiates the view of the rule of law as a moral and volitional basis for the legitimacy of international law. The advantages of this comprehension and perception of the rule of law in the formation of international relations on the basis of anthropocentrism and ethicalcentrism in contrast to the positivist view of international law are considered. The perception of international law throughout the history of its development reveals the immanent characteristics that form an integral understanding of the rule of law in international law as a general principle and as one of its sources, along with international treaties and international customs, general principles, and a judicial precedent. Axiological, anthropological, phenomenological, comparative-historical, dialectical, comparative-legal, systemic-structural, hermeneutic and formal-legal methods were used for the research. The article makes a conclusion that due to the humanistic and valuable principles of the doctrine of natural law, which permeates the principle of the rule of law and is its core, the rule of law becomes capable of serving as the moral and volitional basis of the legitimacy of international law, which gives international law a humanitarian, human-centric and ethical-centric sound and becomes a means of overcoming purely formal, positivist vision of international law, turns it into an important regulator of international relations, an instrument of struggle for human rights and fair relations between states.

Keywords: rule of law, human rights, general principles of law, basic principles of international law, international courts, implementation, international organizations, natural law, international treaty, international custom, history of international law.

Introduction

Modern studies of the genesis of the rule of law focus mainly on its national roots. This is quite understandable given the determining influence of the idea of the rule of law in the formation of the most important social and legal values of a functioning democratic state, the center of which is a person and human rights. As for the international law, studies of the legal nature of the rule of law have spread mainly in recent

decades and often through the efforts of comparativists who sincerely seek to transfer the national legal understanding of the principle of the rule of law to international law and in this way justify the place of the rule of law in the system of international legal relations. This was also facilitated by the formation in international law from the second half of the 20th century of the doctrine of the rule of law for the purposes of application in domestic relations, the expression and characteristics of which were comprehensively reflected in the Universal Declaration of Human Rights with the proclaiming of obligations by states to contribute to the implementation of the requirements for the recognition of human dignity, equality before the law, natural human rights, the prohibition of discrimination, etc. (United Nations, 1948). As a result, for international law, the rule of law often looks like a completely borrowed idea. And in this context, the attempts to equate international legal and domestic relations based on a hypothetical "international legal state" are obvious (Fassbender, 2018).

This article solves the following tasks:

– analyzes the emergence of the idea of the rule of law as a general civilizational heritage in the historical conditions of the lack of separation of law into domestic and international;
– analyzes the idea of natural and volitional international law;
– defines the particularities of the rule of law in international law.

Literature Review

The principle of the rule of law is increasingly widely applied in international relations. It is becoming more common to apply it to international trade relations (Frensch et al, 2021) and international economic law (Peng, 2019), activities in the field of space (Kealotswe-Matlou, 2021), the role of universities in establishing the rule of law (Leyh, 2021), the contribution of the International Criminal Court to the establishment of the principle of the rule of law in international law (Tiehi, 2021) and international courts in general (Reinold, 2019), its influence on international organizations (Meerssche, 2019) etc.

Discussions about the legal nature of the rule of law in international law, the search for its content in basic international legal documents (Fassbender, 2018) are growing, gathering around both supporters (Arajärvi, 2021) and opponents who deny the possibility of any parallels of the rule of law with international law (Gorobets, 2020). Therefore, such increasingly frequent references in the most authoritative international acts to the importance of the rule of law for the development of "international law and relations between states" (Unuted Nations, 1970) force us to give an answer to the question of its functional dimension, namely, in what way the rule of law can be normatively ensured, and hence its influence on the international legal system.

Methodology

The conducted research is based on the modern philosophical and worldview understanding of law, its relationship with the state and role in society, which contributed to the correct choice of methodological tools and determined the way of learning the researched issues. Carrying out the research on a rationalistic basis made it possible to correctly assess the limits of knowledge of the principle of the rule of law in international law, which served as the subject of the study, to make the most of the positive achievements of the rational approach in its research, to avoid scholastic or purely empirical conclusions.

Such components of the methodology as the legal paradigm, theoretical concepts (state, law and their interrelation) and doctrines (natural human rights, rule of law), general scientific and special scientific research methods were chosen as methodological tools.

The research is based on an understanding of the modern paradigm of international law, which is based on open methodological diversity, the need to recognize the international legal personality of a person, the rejection of closed statism, the fight against anthropological and axiological nihilism, and not connected with a purely positivist point of view on its sources or a purely formalized and dogmatic perception of theoretical and methodological approaches, which ultimately brings together the understanding of the concepts of the rule of law in national legal systems and international law.

One of the components of the methodology was the doctrine of natural law, which recognizes the conditioning of law by the level of cultural development, the view of morality and justice as the closest basis of law, the nature of human rights, their inalienability and inviolability, the connection of state power with human rights, the recognition of a person, her\his life and health, integrity and safety as the highest value. This made it possible to substantiate the understanding of the rule of law as the moral and volitional basis of its legitimacy.

The work uses such general research methods as axiological, anthropological, phenomenological, comparative-historical, dialectical, comparative-legal, systemic-structural, and hermeneutic. The formal-legal special-scientific method was also used.

Axiological, anthropological and phenomenological methods applied in the research were used to substantiate the human-centric and ethical-centric perception of the rule of law as a scientific idea and its practical application, understanding the value aspect of the rule of law not only in national law, but also in international law, because precisely such values as freedom, justice, dignity, equality, human life, serve as the basis for the formation of tasks and functions of the state and determine the direction of its activities.

Comparative-historical and comparative-legal methods were used to reveal the process of formation of international law, the historical process of substantiating its division into natural and legalized (necessary and conditional), the process of formation and development of the idea of the rule of law in international law, and the historical change of views on its essence.

The dialectical method, as a general scientific method of knowledge, made it possible to show the complex and contradictory process of establishing the rule of law in international law, to reveal the contradictory trends in the formation of the modern vision of the principle of the rule of law in international law and its individual characteristics.

The hermeneutic method and its tools made it possible to reveal the concept of the rule of law in international law, to interpret it taking into account the specifics of modern international law. Cognitive and semiotic aspects of hermeneutics, as well as used hermeneutic canons (immanence of hermeneutic scale, totality of hermeneutic consideration, semantic adequacy and relevance of understanding) served this purpose.

The systemic-structural method was used for the systematic understanding and adoption of not only law as a holistic phenomenon that has a complex structure, where each element is in interaction with other elements, as well as elemental and structural analysis of the concept and its characteristics in national and international law.

The formal legal method was used for an in-depth legal comparison and analysis of the concept and characteristics of the rule of law in the national and international dimensions.

Results and Discussion

The emergence of the idea of the rule of law as a general civilization heritage in the historical conditions of the lack of separation of law into domestic and international

The idea of the rule of law arose in those times when the law did not have and could not be divided into domestic and international, since it itself was still at the stage of transforming ideas into legal meanings, when the basic generally accepted postulates of freedom and justice were still determined spontaneously in ancient human communities, which in the most general form created the basis of the understanding of law. As a unique socio-cultural phenomenon, it absorbed worldview values common to humanity, which currently ensured civilizational pluralism of the sources of formation of ideas about the law: "in every civilization, humanity sought to develop within itself a community of political units, the relationships of which were regulated by a number of norms and practices based on customs, and not to be one country with one authority and one legal system" (Horokhovska, 2014, p. 163). Once F.Martens, referring to J. Bacon, wrote that "international law has the same sources from which other departments of law originate" (Martens, 1882, p. 13-14). It is not by chance that legal historians quite often turn to the same monuments of the ancient world to explain the origin of the norms of domestic and international law, although traditionally they are not always ready to see the common socio-cultural nature of many legal concepts (Butkevych, 2019, p. 6). Another view of the origin of the idea of the rule of law simply cuts off a huge layer of human history, simplifies the origin and understanding of many international legal norms, institutions and principles.

The concept of the rule of law underwent a long process of crystallization from the emergence of the idea itself to the formation of doctrine and practical requirements for the legal regulation of social relations. Initially, this idea was perceived as the need to live according to rules common to all, based on a historically achieved understanding of social and personal values, ideas about proper behavior, and a set of appropriate requirements for the legal regulation of this behavior.

In this sense, it is worth mentioning the Torah, as the oldest of the known texts, which already contains the idea of the rule of law, which is translated through the obligation of the ruler (authority) to obey the highest source of truth and justice (the Holy Scriptures). And here we are observing not only the national-state context. In the states of the ancient world, religion, power, and law were strongly connected, and the

legitimization of power orders by appeals to divine power, as the highest truth, was equally important both for making internal decisions and for external relations. The march of Roman legionaries past the open doors of the temple of Two-Faced Janus was nothing less than the highest legitimization of the right to war. It is worth mentioning the oldest texts of international treaties with an appeal to the gods as the personification of the highest power and justice, in support of the parties' compliance with the terms of the agreement. Recognition of the sacred power of the law gave it a special social value and made one understand that the law cannot be arbitrarily changed. This created a historical basis for the perception and awareness of the idea of the rule of law as one of the most important tools for the functioning of society, provided the necessary historical potential for preserving the idea and strengthening it in the future. One can only agree with the opinion that "the content of the principle of the rule of law can be better understood through its strong continuous connection with its own past" (Palombella, 2013, p. 362).

Differentiation of norms of domestic and international law. The idea of natural and volitional international law

Early ideas about distinguishing the norms of domestic law and rules in international relations already existed in Ancient Greece (Plato in the "State" spoke about the inadmissibility of turning captured Greeks into slaves and condemned looting on the battlefield) and in Ancient Rome. In Ancient Rome, they existed alongside the understanding and distinction between the different statuses of Roman citizens and foreigners, which existed in Ancient Rome until 212 (according to the Caracalla law, all residents of Rome were equal in rights as citizens of the Roman state). And although these ideas did not develop into an understanding of international law (this happened only after the reception of Roman law in Europe), there was a stable idea in Ancient Rome about the nature of the norms of many relationships between nations. Cicero in the treatise "De officiis" called war "the last resort", since people can resolve disputes through negotiations, and therefore wars should be started with the aim of not committing illegality; after the victory one must preserve the life of those who during the war were not cruel and that the obligations given to the enemy must be observed (XII, 38; XIII, 39) (Cicero, 1913).

From the 13th century, the formation of the components of the doctrine and practice of implementing the principle of the rule of law were mainly related to the internal needs of individual states. Regarding international law, in the conditions of the dominance of politics and force in international relations, the idea of the rule of law could hardly have wide application for a long time, but it was undeniably preserved (it is enough to mention the development of the idea of "eternal peace", which was mostly built on the basis of international law, and numerous projects included some components of the ideology of the rule of law recognized by modern legal science) (Yanovskii et al, 1990), and not only in a general way. International law is a complex regulatory system and can not but have internal mechanisms that preserve its function as a social regulator. The rule of law is one of the most important of them. Therefore, the rule of law is not something that was invented or introduced, but something that must be explained by the nature of international law, which immanently belongs to it.

Following Aristotle, who divided the right into natural and legal, established by will, many of the classics of the science of international law saw in such a division a necessary tool for its legitimation, which was important in itself in view of the recognition of the possibility of "external" control of internal legal processes. In its general form, this idea was already present by H. Grotius, who considered this division of law to be the best (Grotsii, 1956, para. 9.2).

The division of international law and domestic law was justified by H. Grotius precisely from the standpoint of natural law (Zaiets, 2017), which is extremely important, as we will see later, for understanding the relationship between natural law and the rule of law. International law, which determines the relations between many peoples or their rulers, has its source in nature itself or is established by the laws of God (although the understanding of the divine nature of law weighed on Grotius, and even here Grotius did not dispute the divine revelation and the giving of the law by God, but he believed that this divine revelation cannot be the basis of international law, since it is not recognized by all nations, in contrast to international law, which is binding on all nations (Grotsii, 1956), or entered by a tacit agreement. Investigating the issue of war and peace from the point of view of natural law, Grotius resolved the question of whether war can be just and whether war is sometimes allowed. Grotius proposed to derive this question from nature itself, which meant that the natural does not reject war, because the primary motivations of nature are a sense of self-preservation, one's own good, avoiding death, preserving one's being, observing everything that is in agreement with nature, and avoiding what is contrary to it. Therefore, the purpose of war is the preservation

of physical integrity and life, the preservation of things useful for life, which corresponds to these motives. They are also responsible for the use of force if necessary to achieve these goals. Then there should be the knowledge of the correspondence of things with the mind itself, which is the most important property of a living being. It is the cognition of conformity, in which dignity consists, and which should be valued above all else, that attracts the direct aspiration of the soul (Grotsii, 1956).

Ch. Wolff also proposed dividing international law into necessary law *(necessaire)* and conditional law *(volontaire)*, where necessaire would be considered an immutable law (Proudhon, 1864, p. 109). J. Kluber, thinking at the beginning of the 19th century about the importance of natural law for international law, went a little further and expressed an opinion about the importance of natural-law "general principles" (Klüber, 1828, p. IX-X), which should be the criteria for the legitimacy of international law. Without excluding the possibility of the development of events under the influence of the majority of states or due to circumstances, J. Kluber insisted on the need to evaluate such events exclusively based on general principles of law: "... what is fair will inevitably be recognized as such over time" (Klüber, 1828, p. IX-X) "... no one can overshadow the dignity of the people's law with arbitrary assumptions. Honoring injustice ... is a crime against humanity" (Klüber, 1828, p. XI-XII). Summarizing the views of Vattel, Ch. Wolf and their contemporaries, P.-J. Proudhon wrote that "for peoples, in addition to the rules that follow directly from conscience, there are other rules that appear as a result of their antagonism, which are difficult for them, but which compel them to obey their own interest, correctly understood by them, and such rules become for them by principle or material, like law" (Proudhon, 1864, p. 110).

Such considerations of prominent representatives of international legal science over the centuries actually prove that "the reason for the emergence of the rule of law as a principle and ideal in our legal civilization is related to the maintenance of legality, its autonomy, its non-utilitarian function and its conceptual separation from even the legitimate exercise of the highest normative authority" (Palombella, 2013, p. 353).

The rule of law as the moral and volitional basis of the legitimacy of international law.

Perhaps the most significant result of using the doctrine of the rule of law in international law is the disclosure of the role of legitimacy in international law. The modern understanding of many concepts of law, which have been known since ancient times, is the result of their formation as legal and meaningful content in accordance with modern needs. The rule of law belongs to such ideas that have gone a long way to exerting a fundamental influence in many national legal systems and to acquire extraordinary importance for international law.

Emphasis on the importance of building a model of international legal relations similar to models of human interpersonal relations was quite common in international legal science. For example, L.A. Kamarovskii and V.A. Ulyanitskii insisted that "the internal, rational necessity of international law stems, like all law in general, from the social nature of a person" (Kamarovskii, Ulyanitskii, 1908, p. 5).

Therefore, it is not surprising to introduce a moral component to the understanding of international law. The search for sources of legitimacy criteria of international law usually led to the suggestion of involving moral principles in this capacity. A.N. Stoyanov, referring to James Kent, said that in the absence of legal norms, "relations between peoples can be determined on the basis of morality" (Stoyanov, 1875, p. 27). L. Kamarovskii and V. Ulyanytskii, reflecting on "necessary law" as one of the unchanging sources of international law, drew attention to the fact that at its base "there always remains one and the same ... the moral order of the universe" (Kamarovskii, Ulyanitskii, 1908, p. 15). The positivist views of those who "carefully separate positive law from impurities of morality and politics" (Kamarovskii, Ulyanitskii, 1908, p. 24) had many supporters in international legal science.

An appeal to the "legal consciousness of nations" is nothing more than a search for the moral basis of international law. V.P. Danevskii called the legal consciousness of nations "the internal source of international law" (Ivanovskii, 1892, p. 5). Similarly, L. A. Kamarovskii and V. A. Ulyanitskii directed the search for "necessary and reasonable international law in the legal consciousness of peoples" (Kamarovskii, Ulyanitskii, 1908, p. 15).

Legal consciousness, as the idea of what the law is and what it should be, is nothing more than a voice for the collective idea of good and evil, which is the core of morality. L. I. Petrazhitskii, bringing law as close as possible to legal consciousness, considered any emotional experiences related to ideas about mutual rights and obligations to be legal (Petrazhitskii, 1908). There is a widespread opinion that law has a moral meaning because legal awareness is oriented towards moral evaluations. This is true because there

are no social relations that are not subject to such evaluations, and therefore, due to such evaluations, the need for legal norms appears.

Establishing a moral context in international legal relations is decisive for establishing the place and role of the rule of law in international law. This brings it to the humanitarian plane, to the plane of competition between human-centrism and ethicalcentrism in international law with a purely positivist vision of international law. Therefore, it is important to observe the trends that testify to the strategic direction of the development of international law. A certain breakthrough here is connected with the formation and development of international humanitarian law, which determines the priority of the value of human life and health in the conditions of armed conflict. The consequence of such approaches was the establishment of international criminal justice, which under certain circumstances gives the International Criminal Court the power to overcome national jurisdiction (Gutnyk at al, 2021, p. 141), that is not at all typical for the international legal system. And this is evidence of international law's rejection of acts of massive gross violations of human rights, which was reflected in the approaches of the UN Security Council regarding the interpretation of the concept of "threat to international peace" in the UN Charter (Pickard, 1998, p. 3; Buromenskyi & Gutnyk, 2019, p. 189). It is also worth paying attention to the authority of the UN Human Rights Council to prepare national reports on the state of human rights compliance, including on states that do not participate in international human rights treaties (Asirian, 2016). It is worth mentioning the recognition in international law of the general principle according to which human rights issues do not belong to the sphere of exclusive internal competence of the state. The advisory opinion "Interpretation of peace treaties with Bulgaria, Hungary, Romania" (first stage) of March 30, 1950, was of decisive importance for the recognition of the statutory authority of the UN General Assembly to discuss human rights issues in member states (International Court of Justice, 1950). Subsequently, the relevant practice began to be interpreted as the lack of exclusive internal competence of states to respect and observe human rights (Arechaga, 1983, p. 265).

It is worth agreeing that the possibilities of the international legal system to act independently in the field of human rights are still significantly limited by the recognition of the state as the main responsible for the observance of human rights actors. However, one cannot underestimate the importance of the intervention of international law in this system of relations, including from the point of view of determining the place of the rule of law in international law as its source.

The recognition of international law as such, which is based on universal morality, which becomes the heart of the legitimacy of international law itself, makes it possible to look at its nature differently and to carry out a radical reassessment of its will-determined character, which many scientists have habitually claimed since the time of H. Grotius, not taking into account the fact that a significant part of the norms of international law (we emphasize that we are not talking here about the entire array of norms of international law) has a deep natural-legal character, was formed in ancient times, corresponds to high humanistic standards and universal human values. Since the doctrine of the rule of law is organically connected with the recognition of natural law, is based on it, therefore, at the conceptual level, it is possible to assert an organic connection between international law and the principle of the rule of law, which consists in the fact that due to these qualitative immanent characteristics of the norms of international law, international law fully deserves elevation, dominance, supremacy among all existing regulators of relations between states. Even the declaration of the principle of the rule of law in international law has a huge impact on the content of international legal norms, since it is inseparable from the recognition of human dignity, the recognition of people as free and equal from birth, the recognition of natural human rights and their guarantees by the state, fair justice. This is exactly what unites the understanding of the rule of law in both domestic and international law. It is really appropriate to look first of all for coincidences of these manifestations, and not for differences that are significant, which scientists talk about in almost every publication, paying attention to the difference in power structures, the presence in domestic law, as opposed to international law, of officials who are functionally and institutionally differentiated from subjects of law, the horizontal nature of international law. These circumstances cannot be ignored, but it is also true that the rule of law is really not a virtue of the legal system, but "the moral and political ideal that embraces principles and values which form an image of a better society" and it must be furthered "not only for the motives of legal certainty and predictability but also for the motives of higher values, such as human dignity, democracy, equality, justice, liberty, etc. (Gorobets, 2020, p. 230-231). Reducing the rule of law to formal aspects, emasculating the moral and natural legal content reduces it to a positivist and formal perception, and in this case, the search for its rule in international law loses its true value and meaning in general.

Conclusions

The idea of the rule of law emerged before the division of law into domestic and international law as a necessity for the coexistence of people on the basis of historically achieved social moral institutions and values, which can be clearly traced already in the oldest written sources. With the differentiation of domestic and international law, the latter incorporates more and more signs of the rule of law due to the gradual loss of the dominance of politics and power, and a significant part of it is formed on the basis of natural law, observance of the principles of human dignity, humanistic principles of justice, respect to a man, and mercy.

Due to the humanistic and valuable principles of the doctrine of natural law, which permeates the principle of the rule of law and is its core, the rule of law becomes capable of serving as the moral and volitional basis of the legitimacy of international law, which gives international law a humanitarian, human-centric and ethical-centric sound and becomes a means of overcoming purely formal, positivist vision of international law, turns it into an important regulator of international relations, an instrument of struggle for human rights and fair relations between states.

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TRANSITIONAL JUSTICE AS AN EFFICIENT MECHANISM FOR OVERCOMING THE CONSEQUENCES OF ARMED CONFLICTS: WORLD EXPERIENCE

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Abstract

Transitional justice mechanisms can take many forms, including truth commissions, local courts and traditional methods of justice, as well as the creation of a Special Tribunal for the Crime of Aggression against Ukraine. International tribunals and special courts for past crimes are neglected because of their less significant role at the moment. A feature of modern armed conflicts is their cross-border nature, and the regional and global character of the displacement of population fleeing the Russian-Ukrainian conflict vividly demonstrates this tendency. Attempts to introduce a regional approach to restorative transitional justice, which takes the form of extrajudicial mechanisms such as truth commissions, should be acknowledged. Considering the experience of five countries, it is important to ensure the active participation of victims in the process, strengthen reparations measures, ensure the implementation of recommendations and increase the transparency and accountability of commissions. Amnesty laws can also play an important role in restoring public confidence in the justice system. National legislation should be improved as much as possible in the conditions of armed conflict and meet the expectations of victims and civil society. The approach to transitional justice in Ukraine includes various mechanisms aimed at ensuring justice, reconciliation and restoration. It is appropriate to borrow the experience of Colombia, where special amnesty conditions were created for criminals after the conflict. They rebuilt schools, hospitals and other infrastructure facilities, substituting criminal liability for participation in the restoration of what they themselves had destroyed. Amnesty can be applied to persons who have committed minor offences, but in the case of serious crimes, amnesty cannot be considered as a possible option and the opinion of the affected persons must be taken into account. The lack of jurisdiction of the ICC over the crime of aggression in the case of Russia's invasion of Ukraine and the impossibility of bringing the military and political leadership of the aggressors to justice exclusively through national mechanisms prompted the establishment of the Special Tribunal. The use of national, hybrid and international institutions will contribute to the formation of national narratives and the strengthening of the rule of law. The implementation of these mechanisms will ensure the inevitability of punishment, help in the reintegration of the occupied territories and the restoration of the sovereignty of Ukraine. The dynamics of public opinion in Ukraine demonstrate growing support for international and national justice mechanisms for prosecution of war crimes, as well as skepticism about the possibility of receiving

reparations from Russia. These processes have a significant impact on the political system of Ukraine and the world order, contributing to stability and peaceful resolution of conflicts.
Keywords: transitional justice, Transitional Justice Models, war crimes, armed conflicts, international law, public opinion, justice, world order, political process, world political system.

Introduction

Transitional justice plays a critical role in post-conflict recovery processes, enabling societies to transition from war to peace. In today's world, when numerous armed conflicts and their devastating consequences constantly challenge the international community and the world order, the importance of effective mechanisms for overcoming these consequences is becoming more and more urgent. Transitional justice encompasses a wide range of interventions aimed at restoring justice, reconciliation and social order, including war crimes trials, truth-seeking, reparations and institutional reforms. World experience shows that transitional justice can be an effective tool for overcoming the consequences of armed conflicts, contributing to the stabilization of the situation and ensuring lasting peace. The research of successful cases from different countries such as South Africa, Rwanda, Colombia and others provides valuable lessons and models that can be adapted to the specific conditions of each country.

Various studies have highlighted the diverse mechanisms and their effectiveness in different contexts. Kiss (2008) explores the reconstruction of memory in post-communist countries, emphasizing the importance of addressing historical injustices to build a democratic future. The process of transitional justice in these regions often involves confronting deeply entrenched memories and narratives that shape national identity and collective memory (Kiss, 2008). Szablewska and Bachmann (2015) provide a comprehensive overview of current issues and future challenges in transitional justice. They argue that while significant progress has been made, the field faces ongoing challenges such as the need for context-specific approaches and the integration of international standards with local practices (Szablewska & Bachmann, 2015). Ceva and Murphy (2022) introduce a dynamic framework for interactive justice within transitional justice, highlighting the importance of dialogue and participation of affected communities in the justice process. This approach aims to create more inclusive and effective mechanisms by incorporating the perspectives and needs of victims (Ceva & Murphy, 2022). David (2017) presents a survey and experimental evidence on what is known about transitional justice, underscoring the complexity of measuring its effectiveness. The study suggests that while transitional justice mechanisms can lead to positive outcomes, they must be carefully designed and implemented to address specific local contexts and challenges (David, 2017). Kovalko (2022) examines the state and fundamental principles of peacebuilding in the context of the Russian-Ukrainian war, emphasizing the role of transitional justice in addressing the consequences of ongoing conflicts. The study highlights the need for comprehensive strategies that include legal, social, and political dimensions to achieve lasting peace (Kovalko, 2022). Kuzmenko & Kuzmenko (2024) discuss the harmonization process of Ukrainian law with EU law, focusing on protecting the rights of violent crime victims. They argue that aligning national laws with international standards is crucial for the effective implementation of transitional justice mechanisms (Kuzmenko & Kuzmenko, 2024). Gissel (2022) addresses the standardization of transitional justice, cautioning against a one-size-fits-all approach. The study advocates for flexibility and adaptation to local contexts to ensure the effectiveness and legitimacy of transitional justice processes (Gissel, 2022). Krotoszynski (2014) explores different models of transitional justice and the justifications for various means of dealing with past atrocities. The study provides a critical analysis of the strengths and limitations of different approaches, emphasizing the importance of context-specific solutions (Krotoszynski, 2014). Villa-Vicencio and Doxtader (2004) compile key concepts on reconciliation and transitional justice, offering insights into the theoretical and practical aspects of the field. Their work serves as a valuable resource for understanding the multifaceted nature of transitional justice and its role in post-conflict societies (Villa-Vicencio & Doxtader, 2004). Cantú Rivera (2014) examines the restoration of Mexico's social fabric through transitional justice, focusing on human rights and the credibility of institutions. The study highlights the challenges and successes in rebuilding trust and legitimacy in a society marked by violence and corruption (Cantú Rivera, 2014). De Assis (2023) discusses the failures in institutional reforms within the context of Brazil's transitional justice, particularly in military and public security sectors. The study underscores the need for comprehensive and effective reforms to prevent the recurrence of abuses and ensure sustainable peace (De Assis, 2023). Revkin, Alrababah, and Myrick (2024) emphasize the importance of incorporating public opinion into transitional justice processes. Their study on Iraq and Ukraine demonstrates how evidence-

based approaches that consider public sentiments can enhance the legitimacy and effectiveness of transitional justice mechanisms (Revkin et al., 2024). Kasapas (2008) provides an introduction to the concept of transitional justice in the Western Balkans and its linkage to EU conditionality. The study highlights the role of international actors in shaping transitional justice processes and the importance of aligning domestic practices with international norms (Kasapas, 2008). Robins et al. (2022) explore collective reparations and Tunisia's Truth and Dignity Commission, illustrating how marginalized communities can benefit from targeted transitional justice measures. The study highlights the significance of addressing collective harms and providing reparations to foster national reconciliation (Robins et al., 2022). Suh (2023) reviews transitional justice experiences from the Philippines, South Korea, and Indonesia, focusing on human rights and corruption. The study examines how different countries address past abuses and the role of transitional justice in promoting accountability and reform (Suh, 2023). Horne (2023) discusses the gender dimensions of transitional justice in Ukraine, advocating for the inclusion of gender perspectives to ensure comprehensive and inclusive justice processes. The study highlights the unique impacts of conflicts on women and the importance of addressing these issues in transitional justice frameworks (Horne, 2023). Asaala and Dicker (2013) examine transitional justice in Kenya, emphasizing the role of the UN Special Rapporteur on Truth and Justice. The study highlights the challenges and opportunities in implementing transitional justice measures in Kenya, underscoring the importance of international support (Asaala & Dicker, 2013). Finally, Avocats Sans Frontières (2021) discuss the challenge of providing reparations to victims of international crimes in the Democratic Republic of Congo. The study emphasizes the need for effective mechanisms to address impunity and support victims in their recovery process (Avocats Sans Frontières, 2021). The literature on transitional justice underscores the importance of context-specific approaches, inclusive processes, and the integration of international standards with local practices. The diverse experiences and challenges highlighted in these studies provide valuable insights into the complex and multifaceted nature of transitional justice.

In the modern conditions of geopolitical confrontation, which has intensified after the full-scale invasion of Russia into Ukraine, as well as the exacerbation of armed conflicts in the Middle East, the decrease in the effectiveness of international legal norms and mechanisms established after the Second World War, more and more researchers pay attention to the study of experience and improvement of approaches to transitional justice.

The experience of countries where transitional justice was implemented allows us to identify four mechanisms of activity: 1) it is criminal prosecution, which includes the effective prosecution of persons guilty of war crimes and gross violations of human rights, ensuring legal protection of victims of armed conflicts, as well as improving legislation, judicial and investigative practice; 2) compensation, which involves the creation of national mechanisms to compensate victims, pay compensation for physical and mental damage, restore the violated rights of victims, as well as provide them with medical, psychological, legal and social assistance; 3) establishing the truth, which includes objective and impartial documentary reconstruction of events, declassification of archives and creation of a national archive of photo and video documents of conflict events, as well as investigation of cases of disappearance of persons; 4) institutional reforms as a guarantee of non-repetition, which provide for the verification of civil servants for involvement in human rights violations during the conflict, reform of the security sector, law enforcement and judicial bodies, as well as the education sector and mass media (Martynenko & Semorkina, 2020, p. 8-9).

Kiss notes that “transitional justice generally focuses on the dilemma between the administration of justice, on the one hand, and potential conflicts with the principles of democracy and the rule of law, on the other” (Kiss, 2008, p. 2). Krotoszynski (2014) proposes to distinguish three main models of transitional justice. The first model is the retribution model, with sanctions, without disclosing the connections of persons with the enemy. The second model is the historical clarification model, which involves revealing the nature of the conflict without applying formal sanctions. The third model is the "thick line" model, which involves neither formal sanctions nor disclosure (Krotoszynski, 2014, p. 589). We believe that this classification for the conflicts of the 21st century is extremely narrow, and the models proposed by the author do not reveal and do not ensure the protection of human rights and the rule of law, the protection of victims of armed conflict. Note that this classification is based on such areas of transitional justice as: criminal responsibility; amnesty and pardon; administrative mechanisms; mechanisms of truth telling (Laplante, 2009). We remind you that the purpose of our research is to study the experience of transitional justice as overcoming the consequences of armed conflicts. Transitional justice mechanisms can take many forms, including “international criminal courts, international tribunals, special courts, truth commissions, local courts,

and traditional methods of justice" (Mobekk, p. 261-262). The article will examine truth commissions, local courts and traditional methods of justice, as well as the establishment of the Special Tribunal for the Crime of Aggression against Ukraine, while international tribunals and special courts for past crimes will be left out of the spotlight due to their less significant role at this time.

Methodology

In the study of transitional justice as an effective mechanism for overcoming the consequences of armed conflicts, a methodology focused on the analysis of global experience was applied. The study was based on qualitative and quantitative data from various sources, including secondary data analysis. First, a comprehensive literature review is conducted to identify and synthesize existing research on transitional justice mechanisms such as prosecution, reparations, truth commissions, and institutional reforms. The review covered successful country examples and their relevance to the Ukrainian context.

The next step is to analyze cases from countries where transitional justice mechanisms have been implemented, including the National Commission on Disappeared Persons (CONADEP) in Argentina, the National Truth and Reconciliation Commission in Chile, the Truth and Reconciliation Commission in South Africa, and the Special Jurisdiction for Peace in Colombia. For each case, the goals and mandates of transitional justice mechanisms, implementation processes and challenges, outcomes and impacts on justice, reconciliation and societal healing are reviewed.

Comparative analysis helped to compare the results of the cases with the data collected in Ukraine. This will allow identification of common challenges and effective strategies that can be adapted to the Ukrainian context. The importance of studying world experience and taking into account the unique challenges arising in connection with the current conflict with Russia was emphasized.

Following this methodology, the study aims to provide a comprehensive and contextually relevant approach to transitional justice, drawing on global lessons and adapting them to specific country needs and conditions.

Global Case Studies of Transitional Justice

A feature of modern armed conflicts is their cross-border nature (Kostovicova, 2018) – the mass movement of the population both within states and across borders to neighboring states, as well as to "third" states and the creation of conflict-generated diasporas around the world. The regional and global nature of population displacement from the Russian-Ukrainian conflict clearly demonstrates this trend. Moving beyond the site of violence can also affect the bodies of victims (not just living refugees). The case of Serbian authorities using refrigerated trucks to transport the corpses of ethnic Albanians from Kosovo to Serbian territory to cover up their crimes during the 1999 conflict is particularly infamous (Thorpe, 2001). Mass expulsions and displacements of civilians result in the physical, spatial and legal separation of victims and evidence from the sites of crimes and human rights violations. Meanwhile, criminals often avoided accountability by simply crossing borders (Kostovicova, 2018).

Attempts to implement a regional approach to restorative transitional justice in practice, which takes the form of extrajudicial mechanisms such as truth commissions, should be recognized. As noted by Cuevas, Ortiz Rojas, and Baeza (2002), truth commissions have played a significant role in establishing the truth, restoring justice, and promoting reconciliation in societies emerging from periods of violence and repression. Ortiz Rojas and Baeza (2002) analyzed the experience of truth commissions in Argentina, Chile, El Salvador, Guatemala and South Africa and their contribution to transitional justice processes.

The truth commissions in Argentina, Chile, El Salvador, Guatemala and South Africa had a common goal – to establish the truth about past human rights violations, to acknowledge the suffering of the victims and to promote national reconciliation. Despite the different contexts in which they worked, these commissions faced similar challenges and achieved significant results in their respective countries (Cuevas, Ortiz Rojas & Baeza, 2002). The National Commission on Missing Persons (CONADEP) in Argentina was created in 1983 after the fall of the military dictatorship. The main task of the commission was to investigate the cases of forced disappearances, kidnappings, torture and murders that took place between 1976 and 1983. The commission collected more than 50,000 testimonies and identified about 9,000 cases of enforced disappearances (Cuevas, Ortiz Rojas & Baeza, 2002). The National Truth and Reconciliation Commission in Chile was created in 1990 after the fall of the Pinochet regime. Its task was to investigate cases of kidnappings, torture, murders and enforced disappearances that took place between 1973 and 1990. The commission collected testimony from thousands of victims and their relatives and produced a detailed report on human

rights violations in the country (Cuevas, Ortiz Rojas & Baeza, 2002). Also, one of the key mechanisms for ensuring transitional justice is reparation for victims of armed conflict, which is one of the fundamental elements of achieving justice in a period of crisis. A successful international example in this context is the Republic of Chile. According to public sources, the Chilean government has invested approximately US$3.2 billion in reparations programs. These programs covered, among others, 3,225 victims of enforced disappearances, 114,225 victims of political dismissals from public service, and 38,254 victims of political imprisonment and torture (International Centre for Transitional Justice, 2013).

The Truth Commission in El Salvador was established in 1992 after the signing of a peace agreement that ended the civil war. The commission was tasked with investigating cases of human rights violations committed during the conflict. The commission collected testimony from thousands of victims and produced a report that included recommendations for reparations and non-repetition measures (Cuevas, Ortiz Rojas & Baeza, 2002). The Commission for Clarification of Historical Facts in Guatemala was created in 1994 after the signing of a peace agreement between the government and guerrilla forces. Its task was to investigate human rights violations committed during the 36-year conflict. The commission collected testimony from victims and produced a report that included recommendations for reparations and reconciliation efforts (Cuevas, Ortiz Rojas & Baeza, 2002). The South African Truth and Reconciliation Commission was established in 1995 after the end of apartheid. Its task was to investigate human rights violations committed between 1960 and 1994. The commission collected testimony from thousands of victims and their relatives, held public hearings, and produced a report that included recommendations for reparations, amnesty, and reconciliation efforts (Cuevas, Ortiz Rojas & Baeza, 2002).

Victims and their relatives generally praised the work of the truth commissions, recognizing their important contribution to establishing the truth and facilitating the reconciliation process. However, some victims expressed frustration with the limited implementation of the commissions' recommendations and insufficient support from the government (Cuevas, Ortiz Rojas & Baeza, 2002).

Reparations include both material and non-material measures aimed at restoring justice to victims and their relatives. All commissions recommended various forms of reparations, including financial compensation, medical and psychological assistance, educational programs, and measures to perpetuate the memory of the victims through the creation of memorials and museum exhibits (Cuevas, Ortiz Rojas & Baeza, 2002).

Thus, based on the experience of the five countries, it is important to ensure the active participation of victims in the process, strengthen reparations measures, ensure the implementation of recommendations and increase the transparency and accountability of commissions. This may include consultation at all stages of the commission's work, financial assistance, medical and psychological support, educational programs, publication of reports and recommendations, and ensuring access to information for all stakeholders (Cuevas, Ortiz Rojas & Baeza, 2002).

Truth commissions have played an important role in the process of establishing the truth and promoting reconciliation in many countries. Despite the serious limitations and challenges they faced, their work was an important step towards restoring justice for victims of human rights violations. Building on the experience of the five countries, it is important to ensure the active participation of victims in the process, strengthen reparations measures, ensure the implementation of recommendations and increase the transparency and accountability of commissions (Cuevas, Ortiz Rojas & Baeza, 2002).

The experience of Bosnia and Herzegovina on the way to establishing truth and reconciliation demonstrates a combination of national and international bodies whose work was aimed at a comprehensive and systematic investigation of war crimes (Lutsenko, 2023, p. 279). Obviously, assessments of such work vary over time, but in general "The work of the Chamber for the Investigation of War Crimes and the relevant Department of the Prosecutor's Office – together with the work of the ICTY – undoubtedly influenced the judicial and political system and Bosnian society in general and, at least in theory, paved the way for the establishment of truth and reconciliation." (Open Society Justice Initiative, 2019).

The criminal justice system also plays an important role in addressing past injustices and transforming potentially violent conflict into a peaceful settlement. There is a growing international consensus, supported by international law, on the need to investigate and punish gross violations of human rights, genocide, war crimes and crimes against humanity. However, sometimes criminal prosecutions cannot be carried out immediately, or they can provoke renewed violence or new injustices if procedural standards are not met. It should also be recognized that the impact of criminal prosecution on truth-telling and conflict transformation is likely to be limited (Osiel, 1997).

Due to the inability or unwillingness of national criminal justice systems to prosecute for genocide, war crimes and crimes against humanity, the UN Security Council established the International Criminal Tribunals for the former Yugoslavia and Rwanda (Theissen), and hybrid courts such as the Special Court for Sierra Leone, the Extraordinary Court Chambers of Cambodia, etc. In addition, significant progress has been made in establishing a permanent International Criminal Court to try the most heinous crimes (Cassese, 1999). For example, the experience of Sudan shows that the prosecution of war criminals is hampered by political instability and a weak judicial system. Reforming the civil courts is a long-term goal, but they currently lack the institutional capacity to properly prosecute. The Juba Peace Agreement proposes the use of traditional courts to resolve conflicts, particularly in Darfur, but the application of customary law to crimes such as sexual violence may conflict with international women's rights. Three conditions are necessary for the successful prosecution of war criminals: the presence of demands for justice, the political will to prosecute, and independent and competent courts. Currently in Sudan, there are only demands for justice. The political situation remains divided, and the courts do not have sufficient institutional strength to properly perform their functions.

Amnesty laws can also play an important role in restoring public confidence in the justice system (Theissen). However, the approach we actually agree with today hints at "a growing tendency in international law to consider amnesty unacceptable ... certain concessions to justice are no longer acceptable, even if they are accepted to ensure peace and prevent new atrocities" (Freeman, 2022). We believe that national legislation should be maximally improved in the conditions of armed conflict and meet the expectations of victims and civil society.

Ukrainian "Scenario" of Transitional Justice

Transitional justice in Ukraine is a complex process aimed at overcoming the consequences of the armed conflict with Russia, which began in 2014 and continues to this day. The approach to transitional justice in Ukraine includes various mechanisms aimed at ensuring justice, reconciliation and restoration.

Ukraine is not the first country to face issues of amnesty and forgiveness as part of transitional justice after the end of an armed conflict. We should start discussing these issues now, develop relevant legislation, analyze the experience of other countries and adopt the best practices for implementation in the Ukrainian context.

First of all, we should note that since the Russian-Ukrainian war is ongoing, it is worth laying the foundation for greater effectiveness of transitional justice after the end of the armed conflict. For example, in our opinion, it is appropriate to borrow the experience of Colombia – after the conflict, special conditions for amnesty were created for criminals. They restored schools, hospitals, and other infrastructure facilities. That is, criminal liability was replaced by participation in the restoration of what they destroyed (JustTalk, 2022). In our opinion, it is necessary to differentiate crimes according to the degree of severity. Amnesty can be applied to persons who have committed minor offenses. However, in the case of serious crimes, amnesty cannot be considered as a possible option, and special conditions and consideration of the opinion of the victims are required. The main categories of crimes, in relation to which it will be necessary to decide on the applicability of amnesty, and which are particularly dangerous and sensitive for amnesty are genocide; crimes against humanity; war crimes; crime of aggression; high treason; collaborative activity; assistance to the aggressor state; sabotage; espionage; premeditated murder; torture; rape and sexual violence; desertion; looting (Ukrainian Helsinki Union for Human Rights, 2023), etc.; Truth and Reconciliation Commission of South Africa (the Commission collected testimony and recommended what compensation the victims should receive) (JustTalk, 2022).

The institutional component of transitional justice in Ukraine involves the creation of new mechanisms. This is due to the need to replace the functions of the state in the sphere of justice due to the corruption and weakness of the political power of the transitional regimes. Non-judicial mechanisms, such as truth commissions, can contribute to the creation of national narratives about past events by recording the testimonies of victims and producing a national version of memory that will take into account different perspectives on the conflict (Bahinskyi, 2019, p. 74). The Kampala amendments (Amendments on the crime of aggression..., 2010) to the Rome Statute made the International Criminal Court's jurisdiction over the crime of aggression real. The lack of jurisdiction of the ICC over the crime of aggression in the case of Russia's invasion of Ukraine and the impossibility of bringing the military and political leadership of the aggressors to justice exclusively through national mechanisms prompted the establishment of the Special Tribunal. This decision is an important prerequisite for the responsibility of the aggressor at the international level.

The idea of creating a special international tribunal for the Russian Federation for crimes of aggression against Ukraine is based on the fact that the tribunal is the highest form of international justice in the modern world. It ensures public and inevitable punishment and guarantees the inviolability of the international legal order. The creation of such a tribunal for Russia stimulates new approaches to expanding the jurisdiction of the International Criminal Court to prosecute acts of aggression. The process of establishing an international tribunal is complex and requires new solutions to many legal and practical problems, creating the basis for universally applicable jurisdiction in the future (Koruts, 2023). We believe that, on the one hand, taking into account public opinion, the expectations of Ukrainian society and the peculiarities of transitional justice in Ukraine in the conditions of the existing armed conflict, the creation of a Special Tribunal is an appropriate transitional justice mechanism, and on the other hand, the model of a special tribunal for crimes of aggression can become a precedent that objectivity and legitimacy of judgments can be applied in any situation, even in authoritarian states, then the mixed tribunal model can become an effective solution. This will allow to achieve fairness and justice in different jurisdictions. Therefore, transitional justice in Ukraine, aimed at overcoming the consequences of the armed conflict with Russia, requires the creation of effective mechanisms for ensuring justice and restoration. The application of international practices, such as amnesty for low-level criminals and the establishment of a special tribunal for crimes of aggression, are important components of this process. The use of national, hybrid and international institutions will contribute to the formation of national narratives and the strengthening of the rule of law. The implementation of these mechanisms will ensure the inevitability of punishment, help in the reintegration of the occupied territories and the restoration of the sovereignty of Ukraine.

Public Opinion on Transitional Justice in Ukraine

Revkin et al. (2024) in a scientific article considered transitional justice taking into account public opinion in this area with new data from Ukraine.

Researchers collaborated with the Kyiv International Institute of Sociology to conduct a public opinion poll on transitional justice in the Donbas region, which borders Russia and has been controlled by pro-Russian separatists since 2014 (Revkin et al., 2024). The survey, conducted in 2017, covered a random sample of 1,621 respondents in two administrative districts of eastern Ukraine, Donetsk and Luhansk. The sample was divided into two parts: territories occupied by pro-Russian separatists (873 respondents) and territories remaining under the control of the Ukrainian government (748 respondents) (Revkin et al., 2024).

At the beginning of the survey, respondents were asked about their attitude towards the separatist movement in eastern Ukraine. They then reviewed a hypothetical end-of-conflict scenario and evaluated three transitional justice mechanisms relevant to Ukraine. In all options, the outcome of the conflict was described as a stalemate, reflecting the status quo at the time of the survey in 2017. This was done to prevent the introduction of new power dynamics that could influence respondents' attitudes toward transitional justice options (Revkin et al., 2024).

Hypothetical scenarios attributed most war crimes to separatists, pro-Russian forces or both sides equally. Three mechanisms of transitional justice have been proposed: international courts, national courts, and an amnesty policy that would exclude the possibility of bringing alleged perpetrators of war crimes to justice. The results of the survey showed that Ukrainians generally trust international law more. In particular, they believed that international law would lead to justice and peace more quickly than amnesty policies or Ukrainian law. The exception was separatist territories, where respondents believed that amnesty policies would bring peace more quickly than international law (Revkin et al., 2024). The study also found that people who had lost family members during the conflict in eastern Ukraine exhibited more "war fatigue" and were more likely to support amnesty policies compared to other respondents (Revkin et al., 2024).

However, we considered public opinion after 2017 and highlighted the specifics of society's expectations of transitional justice. Public opinion in 2020 was divided almost in half regarding the option of restoring control over the occupied territories in accordance with the text of the Minsk agreements (special status, amnesty, elections to restore control). For 38.8% of respondents, this option looks desirable (13.4%) or acceptable (25.4%). At the same time, 43.9% consider this option unacceptable. There is a noticeable difference in the evaluations of this option by residents of the South and East of Ukraine, where more than 50% of respondents agreed with it (Razumkov Center, 2020).

A sociological study conducted by the Kyiv International Institute of Sociology with the support of UNDP, highlighting the attitude of Ukrainians to transitional justice in the context of the Russian-

Ukrainian conflict in 2021, showed that 49% of respondents strongly feel the war, and more than 50% support the transitional justice plan before deoccupation. 74% of respondents are in favor of maintaining relations with the residents of the occupied territories, and the majority believe that the president should be the initiator of the plan. Also, 75% support the access of residents of the occupied territories to public services. Evaluating the steps taken after the liberation of the territories, 37% of respondents consider it important to bring perpetrators to justice for serious crimes (Myrnyi, 2021).

In June 2023, the Democratic Initiatives Foundation named after Ilko Kucheriv, together with the Center for Political Sociology, conducted a face-to-face survey that revealed key findings regarding the attitude of Ukrainians to war, peace and the future. According to the survey, 70% of Ukrainians consider the liberation of all territories from the enemy an important condition for victory, 60% – the return of all prisoners and deportees, and 51% – the punishment of Russian war criminals. The majority of citizens, 78%, consider that all Russians are responsible for aggression, and 57% want to see all those involved in war crimes punished. At the same time, 68% support the prosecution of criminals within the framework of national and international law, although 25% consider it necessary to punish them extrajudicially. 16% of Ukrainians witnessed war crimes, and 5% may have witnessed such actions, but only 50% of them are ready to testify in court. 95% of respondents expect that the state will seek compensation from Russia for the damage caused, but only 40% believe in the possibility of real reparations (Opora, 2023).

The results of the survey by the Razumkov Center, which was conducted from January 19 to 25, 2024 on the topic: "Citizens' assessment of the government's foreign policy, the effectiveness of international support and the influence of foreign policy factors on Ukraine", indicate a wide and deep negative attitude towards Russia among the population of Ukraine, which is distributed practically throughout the country. This attitude is explained by the long conflict between Russia and Ukraine, which affected a large part of Ukrainian society. The high level of negative attitude in the western regions (98.5%) can be explained by historical, cultural and linguistic factors that traditionally support Ukrainian identity. On the other hand, even in the eastern regions, where greater proximity to Russia and a higher share of the Russian-speaking population have historically existed, the level of negative attitude is also very high (91%), which indicates a significant impact of recent events on public opinion (Razumkov Center, 2024). Such attitudes in society (accordingly, war crimes committed by the Russian Federation) significantly reduce the effectiveness of the proposed reconciliation in the traditional sense.

A study conducted by the Kharkiv Institute of Social Research "Human rights in the process of overcoming the consequences of war: the results of the 2024 survey" revealed that more than 80% of respondents support criminal responsibility for cooperation with Russians in the occupied territories, although opinions differ on the punishment of teachers, doctors and utility workers. Regarding reparations, 61% of respondents do not believe in the possibility of receiving them from Russia, 26% believe it is possible in the long term, and only 6% believe that reparations will be made in the coming years (Ukrainian Helsinki Human Rights Union, 2024).

The dynamics of public opinion in Ukraine demonstrate growing support for international and national justice mechanisms for prosecution of war crimes, as well as skepticism about the possibility of receiving reparations from Russia. These results highlight the importance of institutional support and the implementation of international standards and expectations of civil society in the process of transitional justice during and after armed conflict.

Conclusions

Summarizing the above, it is possible to come to a conclusion about the uniqueness and inimitability as of the conflicts so the ways of their resolution. The study of the evolution of transitional justice and the practice of its application will serve as a theoretical basis for building one's own model of transitional justice from war to peace. Analysis of successful cases in other countries will help to develop effective mechanisms for Ukraine. It is also important to take into account the specifics of the Ukrainian conflict and the peculiarities of the national legal system. The use of institutional mechanisms such as truth commissions, special tribunals and reparations programs will promote justice and reconstruction. The implementation of individual measures of international experience in the context of the de-occupation of the territory of Ukraine will ensure national security, the restoration of the country's sovereignty and territorial integrity, as well as the reintegration of temporarily occupied territories. The role of civil society and public opinion is extremely important, as they can become the driving force behind the implementation of these processes, providing legitimacy and support among broad sections of the population. Civil society

can contribute to monitoring the transparency of processes and protecting the rights of victims, and taking into account public opinion will help to better understand the needs and expectations of society, making transitional justice processes more inclusive and effective.

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INFORMAL HIERARCHIES IN MODERN PRISONS: NATURE, MANIFESTATIONS, AND THREATS TO HUMAN RIGHTS

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Abstract

The modern discourse of informal prison hierarchies, which is limited only to classic categories like 'violence', 'ill-treatment', and 'inter-prisoner violence', is not sufficient for the complex analysis of contemporary person landscapes in prisons. For the purposes of preventing ill-treatment and inter-prison violence, it is necessary to have a broader look at the nature of these phenomena, where such a broader approach demands considering the economic and political aspects of informal hierarchies in modern prisons, as well as the issues of corruption.

From the European perspective, there is a sharp distinction between prison landscapes in post-Soviet and other states. In many European states, prison violence is a sphere of personal relations and personal habits of individual prisoners. In contrast, post-Soviet prisons have hierarchical and well-organised violence based on illegal economic activities, black markets, and extortion of money from prisoners. The latter situation is typical for post-Soviet states. Here, following our conclusions, we can take the pessimistic approach that in most post-Soviet jurisdictions, the State lost control over the prison system as it must be controlled according to contemporary international human rights standards. There is no doubt that such a State controls its prison system but does it for the aims of legitimized criminality, increasing the level of restrictions for prisoners. Finally, informal prison hierarchies undermine totally the main feature of the criminal law, namely the aims of criminal punishment. Instead of rehabilitation, incapacitation, protection of society and deterrence, we have only deterrence, but not the deterrence of potential offenders but the illegal deterrence of prisoners aimed at forcing them to join or at least to support informal prison hierarchies. The amalgamation of criminal and prison subcultures creates a very dangerous trend that also undermines basic principles of the protection of society, which are declared to be protected by the criminal justice system. The views expressed in this paper are those of the author and should not be interpreted as necessarily representing the official position of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) or any other organizations with which the author is affiliated.

Keywords: prison, prison system, torture, ill-treatment, informal prison hierarchies, organised crime, prison rituals, total institutions, prison gangs.

Nature of prison subculture and informal prison hierarchies

In the XXI century, informal prison hierarchies are one of the main problems in prison systems across the world. Prison gangs and other forms of criminal organisations retain control in prisons to varying degrees in a significant number of countries (Penal Reform International, 2023, p. 9). Informal prison hierarchies are *a fact* recognised by the authorities of almost all states. As a result, prison subcultures become significant and have serious impact even on free society and taxpayers (not to mention the prison system itself, prison staff, prisoners, and their families).

The phenomenon of informal prison hierarchies and corresponding prison (prison-criminal) subcultures is *global* and *universal* but has distinct political and geographical features. As far as Europe is concerned, organised violence among prisoners is most common in the post-Soviet countries. At the same time, states of Latin America, the USA, and South Africa are among the countries most influenced with informal prison hierarchies and the highest concentration of prison violence.

Despite the anti-state nature of informal prison hierarchies and the declared '*war on torture*', the simulacrum of prison subculture and the corresponding caste systems do not exist in a vacuum apart from states and their agents. In most cases, they are the result of tacit agreements between the upper castes of informal prison hierarchies and state agents where the upper echelons of the inmate world come to be occupied by those whose past behavior best symbolizes that which society rejects and who have most fully repudiated institutional norms (Irwin & Cressey, 1962, p. 144).

The external symbols of the prison-subcultural simulacrum *("argo", "codes of conduct", "definitions", "principles", nicknames, tattoos, "registration" procedures, slogans, etc.)* only mask the true economic, social and political nature of this phenomenon, which is aimed at the organised and permanent extortion of material assets from prisoners and other persons by representatives of the upper castes and/or obtaining financial or other material benefits from the organisation or support of criminal activities, with the direct or indirect assistance of agents of the state, which, in turn, is the ultimate beneficiary of such illegal distribution of material resources.

Even from this position, the classic views on the prisoner's informal code of conduct with the emphasis on directives such as "*don't interfere with inmate interests*", "*don't lose your head*", "*don't exploit inmates*", "*don't weaken*", and "*don't be a sucker*" in contemporary prisons are replaced with more detailed and complicated informal codes based on the illegal distribution of material resources and black markets in prisons (Irwin & Cressey, 1962, p. 144).

The simplified cinema-shaped figure of an informal prison leader as a violent, but at the same time independent '*right guy'* with his reference group, that consists of elite, sophisticated, career-type criminals, seems to have gone into the past (Irwin & Cressey, 1962, p. 144). As usually, as the ECtHR stresses in *Ashlarba v. Georgia*, the prison-criminal hierarchy has to fulfil four basic functions in order to maintain effective leadership in the criminal underworld: (1) an informational function (that is, the collection, analysis and evaluation of information on a wide range of topics, including those regarding specific individuals and events); (2) an organisational function (that is, planning of various specific activities and delegation of responsibilities to other members of the criminal underworld); (3) a normative-regulatory function (that is, dissemination of criminal ideology, romanticising of criminal life, recruitment of youth, maintenance of the Thieves' Code within the criminal community); and (4) a decision-making function (directing and coordinating the activities of other affiliated organised criminal group, such as housebreakers, racketeers, robbers, pickpockets, vehicle hijackers, kidnappers) (*Ashlarba v. Georgia*, 2014, para 23).

In many countries, members of prison gangs and other forms of informal prison hierarchies are engaged in a wide range of criminal activities, such as smuggling, murder, extortion, kidnapping, drug, and arms trafficking even outside the prison walls, creating an image of a modern-day Robin Hood and, as a result, using different tools for gaining political influence, including classic lobbying. Financially oriented criminal organisations claim the political power or, if they have it, the expansion of political power. As the ECtHR declares in *Ashlarba v. Georgia*, informal hierarchies have a particularly well-organised power structure, a strict system of subordination and control over its (criminal) members, but sometimes also over various sectors of society (*Ashlarba v. Georgia*, 2014, para 22).

In some countries, paramilitary groups are the strongest 'gangs' inside prison and outside prison (McEvoy, 2001; Butler, Slade, & Dias, 2018, p. 433). The paramilitaries groups are primarily delineated on political and religious lines. These groups were exported from the community into the prison system and their influence on the prison system waxed and waned depending on the wider political, social and economic

climate (Butler, Slade & Dias, 2018, p. 429). Therefore, it is not reasonable to analyse the problem of informal prison hierarchies and prison subcultures beyond the politics and broader political relations.

The mentioned above applies not only to Northern Ireland, but also to other countries in Europe and the world. In Brazil, political prisoners taught the ordinary prisoners how to organise to promote solidarity and use collective action to achieve their goals (Butler, Slade, & Dias, 2018, p. 435). As a result, using the 'Robin Hood' model in confronting the State, the main Brazilian gangs created a discourse of unity among criminals to 'confront the oppressive state through the unity of disadvantaged but equal and free people'.

Being hidden from the public agenda in many states, informal prison hierarchies undermine and sometimes even destroy efforts of the police, prosecutors, courts, prison administrations and taxpayers to control criminality and return prisoners to the society as law-abiding individuals.

Informal prison hierarchies and corresponding prison subcultures have gained *normative* significance in the UN reports, the ECtHR judgments, and the CPT reports. The mentioned above international actors have emphasised the explicit simulacrisation of this phenomenon and the existence of special power relations in the formation and implementation of local, regional and/or national prison subcultural norms.

For the aims of this paper, considering its European focus and the CPT mandate, it should be stressed that the CPT is, first and foremost, a mechanism designed to prevent ill-treatment effectively (*Report to the Government of Cyprus*…, 1997, p. 6; *Report to the Government of Cyprus*…, 2018, para 18, p. 16; *Report to the Government of Bosnia and Herzegovina…,* 2013, para 24, p. 18). The problem of violence and intimidation of prisoners in prisons in Europe because of the informal prison hierarchies has long been a matter of serious concern to the CPT (*Report to the Government of the Republic of Moldova*…, 2020, para 48, p. 27). Considering that violence and other forms of ill-treatment in prisons cannot be separated from the organised criminal activities, it is a part of the CPT mandate to develop the most effective measures how to make a safe environment in prisons and to prevent inter-prisoner violence.

For the needs of prevention and combatting ill-treatment in prisons, it is necessary to accept *the fact* that any total institution is a place with its unique subculture and power relations. In the rapidly growing literature on the social organisation of prisons, it has become common to discuss prison subcultures in terms suggesting that the behavior systems of various types of prisoners stem from the conditions of imprisonment themselves (Irwin & Cressey, 1962, p. 142).

According to the classic Goffman's definition of a total institution, the latter is defined as a place of residence and work where many like-situated individuals, cut off from the wider society for an appreciable period, together lead an enclosed, formally administered round of life (Goffman, 1961, p. 13). Of course, the prison subculture itself is both nurtured and diffused in different prisons of the state (Irwin & Cressey, 1962, p. 147). Here, a prison serves as the most obvious and socially accepted example of a total institution with a corresponding subculture, which can have a local, regional, national, or even international character. Therefore, the CPT accepts that informal hierarchy (or hierarchies), or the caste system, is still a key element of the prison life in many European prisons (Report to the Lithuanian Government…, 2023, para 39, p. 20).

The phenomenon of informal prison hierarchies must be addressed from different points and perspectives, considering the multidisciplinary nature of such a phenomenon. In its reports, the CPT considers numerous manifestations of prison subculture in European prisons – from the most obvious and dramatic examples of violence to less violent manifestations like informal distribution or self-distribution of prisoners in different units or cells in prisons (*Report to the Government of the Republic of Moldova*…, 2020, para 49, p. 28). In the latter example, the CPT makes a stress that in many prisons, informal leaders play a role in meeting requests for segregation from the general prison population (*Report to the Moldovan Government*…, 2023, para 26, p. 15).

Often, informal prison hierarchies and corresponding simulacrums of prison subculture are mostly of artificial nature, made or at least stimulated by the agents of the states. Informal hierarchies are created and supported within unofficial public policies aimed at controlling big masses of prisoners and related social groups. In its 2018 Report on Moldova, the CPT states that, Moldova's prisons have suffered for decades from an informal hierarchy of prisoners as a key feature of the prison subculture and the related problem of prison violence (*Report to the Government of the Republic of Moldova*…, 2018, para 13, p. 7). The definition of '*suffering'* reflects obviously the seriousness of the problem of informal prison hierarchy and the failure of the public policy to deal with it. In the 2022 Report on Moldova, the CPT also made a stress on well-established informal hierarchy in the national prison system (*Report to the Moldovan Government*…, 2023, para 2, p. 5).

Now, Russia is not a member of the Council of Europe. However, the Russian prison-subcultural complex demonstrates how it is possible to use massive groups of prisoners in the War against Ukraine. Moreover, during the Russian invasion of Ukraine, military regiments of Russian prisoners were shaped strictly based on prison subcultural norms. Corresponding military regimens were composed purely from the 'normal' informal castes, without 'untouchables'. Even more, the commanders of the Wagner Private Military Company openly declared that special and separate military regiments would be composed only of 'untouchables' according to the subcultural laws not to mix 'higher' and 'middle' castes with 'untouchables'.

Additionally, it is critically important to say that in the Russian case, the post-Soviet prison subculture has been used as a channel of pushing forward Russian imperialistic narratives through formal borders to other post-Soviet States since 1991. Such a channel was not stopped on February 24, 2002. Moreover, considering the war between Russia and Ukraine, the channel is enhanced for purely military and political needs of the Russian criminal regime.

Arguing about criminal subculture in general, it is urgently important to make the point that prison violence is mostly a hidden economic representation of organised crime activities in and outside prisons. In several reports, the CPT highlights the problem of racketeering by informal leaders or their inner circle (*Report to the Government of the Republic of Moldova*…, 2018, para 17, p. 8). A share of this money is distributed among prison officers in many jurisdictions across the world, including Europe.

Therefore, one of the basic points here is the factor of corruption among prison officers, which will be discussed below. As a concept, prison subculture is a simulacrum created to hide corruption in prisons and bad prison management, where violence and the atmosphere of all-encompassing fear are widely and regularly used to extort money from prisoners by prison officials and representatives of the highest informal castes in line with tacit agreements between staff and representatives of the criminal world.

Moreover, an atmosphere of prison violence is indirectly supported by many states, which makes every person in front of the prison gates to believe that he/she will be harmed (tortured, murdered, raped, humiliated) if he/she is not ready to pay 'black' money to prison staff or informal prison leaders for his/her safety.

Methodology

The study employs a qualitative research design to explore the nature, manifestations, and threats to human rights posed by informal hierarchies in modern prisons. This approach allows for an in-depth understanding of the complex and multifaceted issues surrounding prison subcultures and their impacts on both inmates and the broader societal context. Data was collected through a combination of document analysis and expert interviews. The primary sources of data included reports from international bodies such as the European Committee for the Prevention of Torture (CPT), the United Nations, and the European Court of Human Rights (ECtHR); scholarly articles and books focusing on prison subcultures, criminal organizations, and human rights violations in the prison system; and national and international legislation, policy documents, and reform plans related to prison management and human rights. Expert interviews were conducted with professionals and scholars in the fields of political science, public administration, and criminal justice, as well as with members of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Confederation of European Probation (CEP), and the Howard League for Penal Reform.

Aims of organised criminal activities in the context of informal prison hierarchies

Prison subculture should be analysed as a form, sphere, and manifestation of criminal activities. In all prisons, criminal subculture is linked to organised crime (Penal Reform International, 2023, p. 9). Moreover, prison subculture is always about organised crimes. Prison subcultures exist within organised criminal activity and because of organised criminal activities.

Academic studies should be considered concerning the links between violence and gangs. According to academic research, in three of the five studies, there was a clear association between gang membership and the likelihood of engaging in prison violence in British prisons. However, the differences between core gang members, suspected gang members, and gang associates should be considered (McGuire, 2018).

Considering the economic nature of any informal prison hierarchy, it must be stated that the aim of a criminal association is to shape a parallel vertical of power in prison or even in the national prison system. Then, the aims could be different – from symbiotic existence together with formal prison

authorities to domination over formal prison authorities. In any case, as the CPT found, the traditions of the caste system dictate internal order and take precedence over official rules (Report to the Lithuanian Government…, 2023, para 39, p. 20). Accordingly, the prison administrations are not only aware of the existing informal hierarchical systems but are complicit in it, which makes any complaints by prisoners to the prison administration not only ineffective, but also dangerous in many jurisdictions (*S.P. and Others v. Russia*, 2023, para 22).

As far as the national governments are concerned, they often occupy a mostly passive position like it was shaped by the ECtHR in the iconic case of *S.P. and Others v. Russia*: "The Government neither confirmed nor denied the applicants' assertions regarding the existence of an informal hierarchy of prisoners and their place in it" (*S.P. and Others v. Russia*, 2023, para 81).

However, the exclusions can take place. For example, in the light of a real danger of transportation of the Russian prison and criminal subculture to Ukraine, the Ukrainian Strategy on the Reform of the Prison System for the period until 2026 and the approval of the operational plan for its implementation in 2022-2024 recognizes the existence of prison subculture and informal prison leaders in the Ukrainian prison system as one of the threats for the national criminal justice system (Verkhovna Rada of Ukraine, 2022).

Self-governance in prisons

Self-governance in prison is a key definition for the analysis of informal prison hierarchies and corresponding simulacrums of prison subculture. Self-governance can range from self-organisation within a dormitory to total control of the prison by certain detainees, including disciplinary measures, with the authorities only controlling the outer perimeter of the prison. It can take a form of distribution of drinking water and food (*Report to the Government of the Republic of Moldova*…, 2020, para 68, p. 34). In any case, it leads to the gradual loss of control by authorities, which represents a major risk of violence among prisoners (Association for the Prevention of Torture, 2024). Here, we can also recall the classic example from the Soviet and post-Soviet 'experience' of the divisions of all prisons into '*black zones'* and '*red zones'* or well-known bloody wars between '*thieves'* and '*bitches'* in Soviet prisons.

On the other hand, the absence of visible evidence of self-government cannot prevent *lesser* forms of informal hierarchies and corresponding subculture (subcultures). It is no accident Mandela Rules state that no prisoner shall be employed, in the service of the prison, in any disciplinary capacity. Therefore, irrespective of declarations of prison administrations, any form of '*shared management'* based on the tacit agreements between the informal prison leaders and prison administration is evidence that the State has lost control over a concrete prison or even the entire national prison system.

The CPT also demands that any practices of delegating authority to informal prisoner leaders and using them to maintain order and security among prisoners must be stopped. All informal leaders and their close circle should be deprived of privileges not enjoyed by other prisoners, including in terms of material conditions; in this context, the separation of informal leaders and their inner circle from the rest of the prison population can be considered, based on an individual assessment of risks and needs (*Report to the Georgian Government*…, 2019, para 53, p. 29).

Ritualisation in the context of prison subculture

The CPT has its legal standards that apply to different spheres covered by the CPT mandate. It is one of the most challenging tasks to shape standards in the sphere of prevention of violence in prisons created by prison subculture. The issues of prison subculture and informal hierarchies are some of the most difficult to identify and react to by the CPT.

Every total institution has its subculture and corresponding rituals, where the definition of 'rituals' is *not* of an exclusively academic nature. Penal Reform International and the Thailand Institute of Justice also argue that criminal organisations in and outside prisons have *highly ritualized codes of conduct* (Penal Reform International, 2023, p. 35).

In *Ashlarba v. Georgia,* the ECtHR stresses on the fact that the professional criminal underworld *elaborates initiation rituals* and *a code of conduct* (*Ashlarba v. Georgia,* 2014, para 22). In *S.P. and Others,* the ECtHR directly notes the ritualistic and symbolically humiliating treatment of 'untouchables' by other prisoners (*S.P. and Others v. Russia*, 2023, para 82).

The CPT mandate covers the manifestations of prison subculture, which demonstrate the pro-violent and aggressive nature of the subculture (emblems, flags, etc.). In the 2021 Report on Georgia, the CPT found obvious signs of the presence of an informal hierarchy, such as the typical symbols (in particular, the eight-

pointed stars of the '*thieves world'* and snarling wolves, also known as '*snarls'*), placed on the doors and walls of the cells are evidence of the violent atmosphere in the prison (*Report to the Georgian Government*…, 2022, para 12, p. 7).

The danger of the violent subcultural symbols is important for consideration from the point of creating and supporting an artificial mythologization of the prison subculture and enrolling of young people in the unofficial prison-criminal 'academies'.

Here it could be mentioned a very demonstrative ritual can be still found in post-Soviet prisons, namely '*a chifir drinking'* ritual, that means a ritual drinking of the strongest tea by many prisoners from the same cup, which can be considered as a legacy of Soviet prison subcultural norms. Such a ritual demonstrates that only '*equal*' men are sitting together. Furthermore, what is important to say, such a ritual demonstrates that there are no 'untouchables' among them and every person is trusted enough.

In addition to conditionally 'positive' subcultural symbols (from the point of view of representatives of subcultural circles), it is possible to point out conditionally 'negative' symbols and rituals.

For example, in many prisons visited, the prisoners' fear of 'downing the status' to the level of 'untouchables' is so great that upper caste prisoners are not even allowed to share a floor with the 'untouchables'.

Providing 'untouchables' with kitchen utensils of a different colour and/or with special informal markings is so well-known and typical for the prison systems of Georgia, Ukraine, Lithuania, Moldova, and other post-Soviet states. What needs attention is that in the XXI century, all these things still exist.

Moreover, in some jurisdictions, the CPT observed how 'untouchables' 'lowered' other prisoners from higher castes to a lower level, using bottles or spays with human or cat urine and faeces. Here, it is neither about disgust nor only about consequences for a prisoner. It is about a special ritual established and accepted by most of the prison population that occupies a special place in the structure of informal relations in prison. Such rituals need to be analysed for full understanding of the nature of violence in contemporary prisons.

'Hierarchy' and 'hierarchies'

The definition of a prison hierarchy must be used in *singular* or *plural* forms in relation to the concrete State.

It is obvious that in Moldova, Ukraine, and other Eastern European states, one should avoid using the definition of '*hierarchies'* because of the corresponding prison subculture of post-Soviet origin, the only vertical of informal power in every prison. Even in American literature, it is stated that "leadership [in Soviet prisons] is vested in "*toughs*" to a greater extent than is the case in American prisons because the orientation is more that of a prison subculture than of a criminal subculture in which men are bound together with a '*criminalistic ideology*'" (Irwin & Cressey, 1962, p. 145).

The most brutal and disgusting manifestations of prison subculture can be found in Russia, which has conserved the whole massive of the Soviet informal prison laws and regulations. As the ECtHR stated in the iconic case *S.P. and Others v. Russia*, the hierarchical system, the existence, and treatment of 'rogue' prisoners as a widespread practice in Russian prisons that has existed for decades and affected a significant number of prisoners (*S.P. and Others v. Russia*, 2023, para 85).

Some differences could be found in the Lithuanian prison system, where several verticals could be identified. Such a situation reflects two important features: 1) a more and more distance from Russia and the Russian political influence; 2) the presence of numerous drug-oriented gangs which control the drug market in and outside prisons and try to keep peace in prisons. At the same time, they share the same, a single prison subculture based on the Soviet prison-subcultural '*backbone'*.

In contrast, in other states which never experienced the membership of the USSR, the situation is different. Multinational prison population and informal prison leaders from different states make it impossible to develop a single prison subculture and a single informal vertical of power.

However, it does not exclude attempts of national-based or ethnic-based verticals to obtain more power over different prisoners of other nationalities. It is supported with open manifestations of their power. The Nicosia Prisons on Cyprus can be an example where the Georgian informal prison leaders openly declare their presence and power over all prisoners from the former USSR through their informal flag and emblems of the Georgian prison community.

Therefore, using of the appropriate form of the word – *'hierarchy'* or '*hierarchies'* is not the matter of theoretical or academic discussions but an issue of practically oriented approaches in combatting organised crime and violence in prisons.

Physical violence

Physical violence – assaults on prisoners or staff or inter-prisoner violence – has long presented a worrying problem in prisons. Although many people probably expect prisons to be unruly places, for them to serve their purpose in society it is important that they remain as safe and orderly as possible (McGuire, 2018).

In every prison, violence is a basis for the existence of informal prison hierarchies and simulacrums of corresponding prison subcultures.

Penal Reform International and Thailand Institute of Justice argue that where gangs or subcultures are dominant, violence rates in prisons are high (Penal Reform International, 2023, p. 35). However, prison subculture cannot in any case be narrowed to prison violence, as it was mentioned in the 2015 CPT visit to Moldova (*Report to the Government of the Republic of Moldova*…, 2018, para 13, p. 7). As the ECtHR, found in *Ashlarba v. Georgia, physical* presence is by no means a determining factor in the power and authority of criminal bosses (*Ashlarba v. Georgia*, 2014, para 23).

In contrast to many stereotypes, violent manifestations of prison subculture do not always have the form of torture.

Indeed, violence in the context of prison subculture can take the most brutal forms, like serious beating, rape or sexual violence. However, in the iconic case on prison subculture *(S.P. v. Russia)*, the ECtHR found that the most brutal violations of the Article 3 of the ECHR were associated with continuous ill-treatment, not with torture. As the ECtHR states, the situation in which the applicants had been for years, because of being classified as '*outcasts'*, constituted inhuman and degrading treatment within the meaning of Article 3 of the Convention (*S.P. and Others v. Russia*, 2023, para 89).

In its reports, the CPT states that in many European prisons, prisoners regularly demonstrate injuries indicative of inter-prisoner violence, such as bruises around the eyes, as well as, to a lesser extent, more serious injuries. Virtually all cases of violence go unreported due to the atmosphere of fear and intimidation created in the facilities by prisoners at the top of the informal prison hierarchy, as well as a general lack of trust in the ability of staff to ensure the safety of prisoners (*Report to the Government of the Republic of Moldova*…, 2020, para 49, p. 28).

However, not only prisons in post-Soviet states are notable in the context of prison violence. In its 2021 Report on the UK, the CPT found that inter-prisoner violence remains a worrying phenomenon in English prisons (*Report to the United Kingdom Government*…, 2022, para 38, p. 23). Given the persistence of such episodes in prisons and their seriousness, the CPT recommended that the UK authorities would step up their efforts to combat the phenomenon of violence in prisons (*Report to the United Kingdom Government*…, 2022, para 38, p. 23). In its 32nd General Report, the CPT stated that most prisons in Greece still did not provide a safe environment for inmates (Council of Europe, 2023). In 2019, the CPT also found the same problem in Ireland.

Sexual violence

In any total institution, forced sexual submission can be a method that is employed without rationalization as a means of bringing the activities of another into one's own line of action (Goffman, 1961, p. 264).

In its 2018 Report on Moldova, the CPT delegation learned of three cases of alleged rape of young males in Chisinau prison (*Report to the Government of the Republic of Moldova*…, 2018, para 19, p. 8). In 2020, the CPT delegation found that some prisoners in Moldova even feared that they would be raped as punishment for the crimes of which they had been accused or convicted (*Report to the Government of the Republic of Moldova*…, 2020, para 51, p. 28).

For example, in its 2017 Report on Cyprus, the CPT declared that regarding the alleged attempted rape and the incident of sexual violence, the delegation demanded immediate measures to be taken for the relevant investigation. By communication dated 31 March 2017, the Cypriot authorities informed the CPT that the prisoner had been referred to a general hospital for examination (which found no evidence to support the allegations) and that the prison and the police were conducting separate investigations into the alleged incident. An internal investigation at the prison was completed, which resulted in a meeting with the prisoner, who concluded that because the prisoner was in good spirits and had no recollection of the incident, the case was closed. The CPT was not convinced of the thoroughness of such an internal investigation methodology. Furthermore, given the type of sexual assault alleged, the lack of forensic evidence in these circumstances did not disprove the allegation (*Report to the Government of Cyprus…*, 2018, para 77, p. 42).

Verbal abuse and slaps

Prison subculture is not only about the most brutal acts of physical violence. It is also about verbal abuse, slaps, and punches.

For example, in the 2021 Report on Georgia, the CPT stated that several prisoners mentioned verbal abuse and threats (of physical violence and/or death against themselves and their families) by fellow prisoners in the three prisons visited, usually in the context of the prisoner's inability (due to lack of money or any relatives able to pay instead of him) or unwillingness to contribute to the informal collective prison fund (*Report to the Georgian Government*…, 2022, para 13, p. 7).

The example can also be found in the 2021 Report on Georgia, where the CPT stated that many prisoners were clearly afraid to speak to the delegation. In this context, it is not surprising that there was only one open statement of physical violence among prisoners, which took the form of punches in the face (*Report to the Georgian Government*…, 2022, para 13, p. 7).

Another example can be found in the 2017 Report on Slovenia, where the CPT states that slaps and punches are the forms of manifestations of domination in within the informal prison hierarchy (*Report to the Slovenian Government*…, 2017, para 37, p. 20).

Humiliation and intimidation

Prison subculture is concerned with the permanent atmosphere of fear and intimidation that accompanies the life of the most prisoners in the 24/7 format. As the CPT stated concerning the situation in Moldova in 2020, prisoners considered 'untouchables' by the informal hierarchy continued to live in a state of constant fear and humiliation (*Report to the Government of the Republic of Moldova*…, 2020, para 51, p. 28).

In some jurisdictions, the CPT found that violence and intimidation between adult male prisoners constituted a single phenomenon shaping a largely unaddressed problem (*Report to the Moldovan Government*…, 2023, para 18, p. 12). As the CPT stated in the 2018 Report on Moldova, the root causes of the problem of violence among prisoners were far from being addressed and the institutions still largely failed to provide a safe environment, a fundamental requirement of prisoners (*Report to the Government of the Republic of Moldova*…, 2018, para 17, p. 8).

The humiliation practices are directly concerned with the presence of the informal caste of '*untouchables'*. The CPT states that the prisoners, who belong to the lowest caste in the prison hierarchy, were often subjected to physical and verbal abuse by other prisoners and forced to clean all premises, including common sanitary facilities. An informal '*code of conduct'* required them to avoid contact with other prisoners (and even their belongings) and to eat only at specially designated tables in the dining room. Some prisoners met by the delegation, including juveniles, indicated that they had to face constant humiliation due to being called 'untouchables' (*Report to the Government of the Republic of Moldova*…, 2018, para 18, p. 8).

Exploitation

Prison violence and intimidation cannot be separated from *exploitation* of prisoners, where exploitation is a direct consequence of the existence of informal power structures (*Report to the Government of the Republic of Moldova*…, 2018, para 17, p. 8).

As the CPT found, prisoners are frequently forced to do '*dirty'* work (e.g. cleaning toilets and collecting garbage), and informal hierarchical rules require them to avoid any physical contact with other prisoners (*Report to the Government of the Republic of Moldova*…, 2020, para 51, p. 28). The ECtHR also places a special stress on the issues of exploitation of '*outcasts'* because of their status in the informal hierarchy of prisoners (*S.P. and Others v. Russia*, 2023, para 82).

In 2020, the CPT found that the prison subculture was not eradicated in Goyan Juvenile Prison, and a distinction can still be made between the caste of informal leaders and the 'untouchables' (*Report to the Government of the Republic of Moldova*…, 2020, para 59, p. 31). Prisoners of the latter category mostly worked cleaning communal toilets and corridors, and were only allowed to distribute food to other untouchables. Furthermore, like their adult counterparts, juvenile prison leaders used other prisoners to clean their cells and demanded a share of their food parcels in exchange for protection from other prisoners (*Report to the Government of the Republic of Moldova*…, 2020, para 59, p. 31).

Therefore, the CPT strongly recommends that persons convicted for the first time be kept separately from those who have previously served a prison sentence. However, this rule is not observed in many prisons.

Prisoners with no previous experience of imprisonment were the main target for exploitation, extortion, and manipulation by informal leaders (*Report to the Government of the Republic of Moldova*…, 2020, para 54, p. 29).

New crimes

Prison subculture should also be analysed in different ways as a form, sphere, and application of criminal activities. Moreover, prison subculture is always about organised criminal activity. Person subculture exists within organised criminal activity and because of organised criminal activity. Therefore, person subculture cannot be analysed beyond producing new crimes in and beyond prisons.

As far as new crimes after release are concerned, "violence between prisoners or against staff can cause considerable physical and psychological harm, and, furthermore, violent indiscipline has been associated with increases in re-offending after release" (McGuire, 2018).

Victimization

A safe prison environment is one of the main CPT standards (*Report to the Government of Cyprus…*, 2018, para 78, p. 42). Every prison in any democratic state has the task of eradicating the phenomenon of inter-prisoner violence (*Report to the Hungarian Government*…, 2020, para 48, p. 26). The lowest-caste prisoners suffer the most from this, as most of the reports of violence among inmates come from them. Being 'untouchable' meant significantly higher risks of becoming a victim of violence ((*Report to the Lithuanian Government*…, 2023, para 39, p. 20; *Report to the Government of Cyprus…*, 2018, para 77, p. 42). The 'untouchables' must follow the orders of the upper caste inmates, whether it is committing new crimes, breaking prison rules, or buying drugs or other things. Furthermore, when they are hit, they are not allowed to hit back (*Report to the Lithuanian Government*…, 2023, para 39, p. 20).

Therefore, the duty of prison administration of care to prisoners under their control includes the responsibility to protect them from other prisoners who may intend to harm their needs (*Report to the Georgian Government*…, 2019, para 52, p. 29).

Groups in situations of vulnerability are minors, persons with disabilities, LGBTI persons, foreigners, minorities and indigenous people and women.

Minors are particularly exposed to risks of violence, especially in the form of bullying by their cellmates, and can be more prone to trying to manage their conflicts with the use of force. Minors in detention are also exposed to the risk of gang involvement prisoners (Association for the Prevention of Torture, 2024).

Persons with physical or mental disabilities are at high risk of abuse and violence by their fellow inmates. They are also at higher risk of sexual abuse, including rape (Association for the Prevention of Torture, 2024).

LGBTI persons are extremely vulnerable to the risk of abuse by their fellow inmates. Often marginalised in prison, where macho attitudes are predominant, LGBTI individuals may be subject to humiliation, extortion, psychological and physical abuse, and rape, particularly in areas where detention staff is low, such as dormitories, showers or during walks in the yard prisoners (Association for the Prevention of Torture, 2024).

Foreign prisoners and prisoners belonging to minorities or indigenous peoples may become victims of violence because of their difference, whether it is their minority status, ethnicity, religion, skin colour, etc. (Association for the Prevention of Torture, 2024). In Ireland, for example, although members of the *Travellers* community only account for 0.6% of the overall population, they account for 22% of the female prison population and 15% of the male prison population. The disproportionate representation of *Travellers* in the prison system is not a situation that is unique to Ireland.

Female prisoners face the risk of being victims of violence committed by their fellow inmates. Before being incarcerated, they are often victims of domestic violence and sometimes belong to a gang prisoners (Association for the Prevention of Torture, 2024).

The CPT recommends that the management of the prison system must review the policy on the prevention of violence among prisoners to implement measures for more adequate and accurate detection, response, investigation, and implementation of measures to prevent violence. This should include the adoption of a comprehensive anti-bullying policy and a systematic risk assessment of the allocation and placement of prisoners. This should also include training staff to take proactive measures to detect signs of any risk of violence among prisoners, as well as regular monitoring of CCTV cameras and ensuring they are properly maintained (*Report to the Government of Cyprus…*, 2018, para 78, p. 42).

However, in many jurisdictions, the simulacrum of a prison subculture is a sphere of permanent organised criminal activities that fails to provide a safe environment for prisoners (*Report to the Moldovan Government*…, 2023, para 18, p. 12). Prisoners who are from a minority, for reasons of ethnicity, nationality, age and sexual orientation etc., find themselves in situations of extreme vulnerability. In these circumstances, it cannot reasonably be expected that all prisoners who have been victims of inter-prisoner violence (as well as any prisoner witnesses) will choose to come forward to expose the perpetrators (*Report to the Government of the Republic of Moldova*…, 2018, para 23, p. 10).

Moreover, informal prison hierarchies create an atmosphere of permanent and long-standing fear and victimization. As the CPT states in the 2022 Report on Moldova, several persons whom the CPT delegation tried to interview in the visited prisons were visibly frightened, asked to interrupt the interview or even refused to be interviewed altogether. They stated that this was due to the fear of reprisals they would surely face from representatives of the prisoners' informal hierarchy for speaking to the delegation (*Report to the Moldovan Government*…, 2023, para 21, p. 12).

In Georgia, the CPT found that the influence of the informal hierarchy of prisoners was extremely high. Among the signs of this influence, the CPT delegation mentioned the fact that many prisoners were clearly unwilling and even afraid to talk to the delegation needs (*Report to the Georgian Government*…, 2019, para 50, p. 28).

Due to the atmosphere of total fear created by the informal leaders and their close entourage, as well as the lack of trust in the staff's ability to ensure safety, individuals found by staff with injuries refused to provide explanations for the origin of their injuries or gave reasons that clearly did not correspond to the injuries found (e.g., "*fell out of bed*", "*fell on the stairs*", "*slipped in the bathroom*" or "*slipped in the toilet and fell on the wall*"). Other prisoners who may have witnessed the incident systematically claimed to have seen nothing (*Report to the Moldovan Government*…, 2023, para 21, p. 13).

Here, it should be noted that victimization in prisons due to the activities of informal prison hierarchies is of a prospective nature. Victimization of prisoners, where the central place is occupied with a loss or a danger of losing the status of a '*normal prisoner'*, contains a long-life stigma. A prisoner, downed to the status of an 'untouchable' meets the real danger of being killed, tortured, raped, or humiliated even in a free society, considering his informal status received in prison previously. Here, the main 'guilt' of the prison system is that victimization received during imprisonment continues permanently after imprisonment.

No less important aspect of the victimisation in those prisons that are under the control of gangs or other forms of criminal organisations. The fear of victimisation that exists in prisons force people to join prison gangs (Butler, Slade, & Dias, 2018, p. 429). This aspect of the subcultural prisons world should be considered by prison administrations. Every failure of the State to protect a prisoner from violence and to take perpetrators of prison violence to the criminal liability stimulates prisoners to join the informal hierarchy, to seek their protection or at least to orient not on the prison administration but on the informal prison leaders.

It should also be pointed at another important link between victimization in prisons and informal hierarchies. Prisoners join or support informal hierarchies not only because they need protection from violence by the prison leaders. They join or support informal hierarchies because they choose *the best manager* in their obviously hard conditions. They choose *the best* actor who can effectively and efficiently solve all problems appeared in a prison.

For example, in the USA, David Skarbek found that a rapidly growing US prison population, combined with increasing numbers of younger and drug using prisoners, led to a breakdown in the inmate code and a growing demand for self-governance among prisoners (Butler, Slade, & Dias, 2018, p. 429; Skarbek, 2011; 2014; 2016).

A practical example can be found in the CPT practices. In 2020, in Moldova, the CPT found control of informal prison leaders over drinking water. In Taraklia prison, the supply of drinking water was paid for by the heads of the prison hierarchy (from the '*collective fund'*), who apparently also controlled the prisoners' access to drinking water (*Report to the Government of the Republic of Moldova*…, 2020, para 68, p. 34). Therefore, a question arises who *the best manager* is – an informal leader or the group of informal leaders or the State. If the State failed even with the supply of drinking water, why the prisoners should not seek *an alternative supplier*, accepting the informal rules as a result.

The absence of ideal victims

The ECtHR has shaped a prominent and massive case law that indicates clearly that the victim's behaviour before torture plays no role in justifying the perpetrator's behaviour.

Considering an issue of victims of prison violence, it must be sorted that there is a basic idea that a victim of torture always remains a victim of torture, irrespective of her/his previous behaviour *(97 members of the Gldani Congregation… v. Georgia, para 95; A. and Others v. the UK [GC], para 126; A.V. v. Ukraine, para 47; Aleksakhin v. Ukraine, para 49; Bekos and Koutropoulos v. Greece, para 45; Buglov v. Ukraine, para 68; Chember v. Russia, para 48; Cobzaru v. Romania, para 60; Davydov and Others v. Ukraine, para 262; Đorđević v. Croatia, para 137; Dybeku v. Albania, para 35; Egmez v. Cyprus, para 77; Enea v. Italy [GC], para 55; Feilazoo v. Malta, para 80; Gorbatenko v. Ukraine, para 105; Idalov v. Russia [GC], para 91; Iwańczuk v. Poland, para 49; Jalloh v. Germany [GC], para 99; Karabet and Others v. Ukraine, para 297; Khachaturov v. Armenia, para 81; Khokhlich v. Ukraine, para 162; Kobets v. Ukraine, para 40; Korobov v. Ukraine, para 63; Krastanov v. Bulgaria, para 51; Kucheruk v. Ukraine, para 131; Kudła v. Poland [GC], para 90; Lorsé and Others v. the Netherlands, para 58; Lunev v. Ukraine, para 90; Lutsenko v. Ukraine (№ 2), para 115; Mehmet Eren v. Turkey, para 33; Moiseyev v. Russia, para 121; Muršić v. Croatia, para 48; Naumenko v. Ukraine, para 108; Nazarenko v. Ukraine, para 124; Neshkov and Others v. Bulgaria, para 226; Nicolae Virgiliu Tănase v. Romania [GC], para 116; O'Keeffe v. Ireland [GC], para 144; Ogorodnik v. Ukraine, para 74; Oleksiy Mykhaylovych Zakharkin v. Ukraine, para 54; Ostrovar v. Moldova, para 76; Piruzyan v. Armenia, para 105; Pomilyayko v. Ukraine, para 45; Riad and Idiab v. Belgium, para 96; Rodic and Others v. Bosnia and Herzegovina, para 66; Sergey Antonov v. Ukraine, para 70; Sergey Savenko v. Ukraine, para 34; Serikov v. Ukraine, para 56; S.P. and Others v. Russia, para 78; Sylenok and «Tekhnoservis-Plus» v. Ukraine, para 66; Tarasov v. Ukraine, para 61; Teslenko v. Ukraine, para 83; Tymoshenko v. Ukraine, para 196; Ushakov and Ushakova v. Ukraine, para 77; Varga and Others v. Hungary, para 69; Vasiliy Ivashchenko v. Ukraine, para 76; Vladimir Romanov v. Russia, para 55; Wiktorko v. Poland, para 44; X. and Others v. Bulgaria, para 176; Yaremenko v. Ukraine, para 57; Z. and Others v. the UK, para 73; Zelenin v. Russia, para 38; Zhyzitskyy v. Ukraine, para 38).*

On the other hand, nothing forbids to analyse such behaviour for the aims of the prevention of ill-treatment.

The stereotypical '*ideal victim'* is innocent, helpless, not complicit in the offence and has no personal direct or indirect connections to the crime or its perpetrators. As developed by Nils Christie, the stereotype has the following six attributes: the victim is (1) weak (female, sick, old or young): (2) reputable; (3) blameless; (4) controlled by an evil perpetrator; (5) not acquainted nor related to perpetrator; and (6) self-identified as a victim. In sum, the ideal victim needs to be innocent and as vulnerable as possible (Christie, 1986; Walklate, 2007, p. 28; Smolej, 2010; *quoited in* Haverkamp, 2019, p. 55). Here, one of the main points could be that a *classic* scheme of short interactions between a perpetrator and a victim cannot apply to prison violence and prison subculture. We argue about informal hierarchies, where informal statuses and positions are *not* permanent. Prisoners can fly up and be downed in the context of informal relations in prisons. As the CPT practices demonstrate, several subgroups of 'untouchables' can exist in the prison. For the top-level prisoners, all of them are 'untouchable'. At the same time, 'higher' 'untouchables' can humiliate 'lower' ones the same way.

In some post-Soviet prisons, practices exist when an 'untouchable' prisoner 'jump' up from the lower caste. Such informal social lifts mean in no case that the former 'untouchable' would ignore subcultural norms.

Moreover, in many countries, even those prisoners who declare themselves free of prison subculture and are settled in separate '*free-of-subculture'* units adopt the same subcultural norms and use violence against 'untouchables' or other categories of prisoners.

Therefore, any analysis of the issues of prison subculture and informal prison hierarchies is *not* of a complex nature without mentioned above issues. Any policies and practical steps in the sphere of torture prevention is prisons based on the concept of an ideal victim could be ineffective from the beginning and even harmful for such steps and policies.

Manifestations in other spheres

Prison subculture has many faces and manifestations, what makes it difficult to combat this phenomenon. No wonder that the CPT focuses on the numerous negative consequences that prison subculture has (*Report to the Government of the Republic of Moldova*…, 2018, para 13, p. 7).

A basic social arrangement in modern society is that "the individual tends to sleep, play, and work in different places, with different co-participants, under different authorities, and without an over-all rational plan" (Goffman, 1961, p. 5). In contrast, among other things, in total institutions, "all phases of the day's

activities are tightly scheduled, with one activity leading at a prearranged time into the next, the whole sequence of activities being imposed from above by a system of explicit formal rulings and a body of officials" (Goffman, 1961, p. 6).

There is no doubt that factors contributing to the establishment and persistence of prison subculture include lack of access to basic needs (Penal Reform International, 2023, p. 9). At the same time, regime restrictions in prisons create preconditions to avoid them and to bring to the prison life as many features of the life in the free society as possible. Informal prison leaders use these opportunities to spread influence and power over other prisoners.

Informal prison hierarchies always seek any opportunities to find any possible spheres where they can 'play' on difficulties of prison life and create alternatives for satisfaction of the prisoners' basic needs. Therefore, more restrictions imposed on prisoners by the state mean more channels of subcultural interactions, which, in its turn, mean more dependencies and debts. Consequently, more dependencies and debts create a more violent atmosphere.

The obligation to request permission or supplies for minor activities that one can execute on one's own on the outside, such as smoking, shaving, going to the toilet, telephoning, spending money, or mailing letters not only puts the individual in a submissive or suppliant role 'unnatural' for an adult but also opens his line of action to interceptions by staff (Goffman, 1961, p. 41). Instead of having his request immediately and automatically granted, the prisoner may be teased, denied, questioned at length, not noticed (Goffman, 1961, p. 41).

Highly controlling regimes can heighten tensions and induce stresses, potentially giving rise to conflict and assault (McGuire, 2018). This idea is critical to explaining the necessity of maintaining the balance in prisons. In general, the mentioned '*other spheres*' are directly concerned with formal restrictions: more restrictions have prisoners, more attempts and policies are used to counter them. Consequently, more opportunities are created to involve masses of prisoners into informal relations (for example, differences in prison regimes concerned with food supply and possibilities to cook food are used by informal leaders to impact the prison life).

As it was mentioned earlier, in some cases, even basic human needs are used within these channels of spreading of prison subculture. In Moldova, the CPT found control of informal prison leaders over drinking water. There were problems with the supply of drinking water in Taraklia prison, and that drinking water had to be transported by tankers and stored in a tank. However, it appeared that this process as managed, and the supply of water was paid for by the heads of the prison hierarchy (from the '*collective fund'*), who apparently also controlled the prisoners' access to drinking water. Indeed, many prisoners with whom the delegation talked complained about the lack of drinking water (*Report to the Government of the Republic of Moldova*…, 2020, para 68, p. 34).

Staff and corruption

In the light of the classic Goffman's view, in total institutions there is a basic split between a large managed group (prisoners) and a small supervisory staff. Each grouping tends to conceive of the other in terms of narrow hostile stereotypes, staff often seeing prisoners as bitter, secretive, and untrustworthy, while prisoners often see staff as condescending, high-handed, and mean. Staff tend to feel superior and righteous; prisoners tend, in some ways at least, to feel inferior, weak, blameworthy, and guilty (Goffman, 1961, p. 7).

On the other hand, we have an important point: "We have no doubt that the total set of relationships called 'prisoner society' is a response to problems of imprisonment (Irwin & Cressey, 1962, p. 145). Therefore, it is not reasonable to blame the prison community for the existence of the informal codes, rules and rituals. The responsibility for any manifestations of the prison subculture, at least those that amount to the level of ill-treatment, is the responsibility of the State.

For the last decades, prison systems in Europe took a step from such state of things, trying to build the relations between staff and prisoners on the concept of dynamic security. The latter is permanently considered by the CPT as an effective tool of decreasing in the concentration of prison subculture and violence. Nevertheless, prison administrations must face the reality and recognize that the problems of relations between the staff and prisoners are a crucial one in shaping any recommendations to combat or to minimize the simulacrum of prison subculture.

With no doubt, every total institution has its unique subculture – sometimes local one, sometimes national or even transnational (e.g. post-Soviet states). The ideas of Erving Goffman, Philip Zimbardo and other researchers will not lose their importance until a contemporary 'rehabilitative' prison exists.

Nevertheless, prison subculture is of the simulacrative nature, and a simulacrum of prison subculture exists due to the activities of the staff. Therefore, it is impossible to discuss any issue of prison subculture beyond the role of the staff in prison life.

A simulacrum of prison subculture and *the privilege system* always run together. It is always a matter of how prison staff are involved in '*schemes'* in prison. The presence of a concentrated subculture in a concrete prison indicates a wide support for this phenomenon among prison staff. Correspondingly, an issue of prison subculture and a populist '*war on torture'* relate to the level of interest of prison officers in the existence of this phenomenon, in contrast to the declared efforts of the prison administration to counteract the influence of the hierarchy (*Report to the Government of the Republic of Moldova*…, 2018, para 14, p. 7).

In other words, prison subculture is not about prison subculture. Prison subculture is always about power relations shaped around corruption and black markets. As the ECtHR declares in *Ashlarba v. Georgia*, informal hierarchies of the post-Soviet states are based on purely materialistic interests (*Ashlarba v. Georgia*, 2014, para 22). In the 2017 Report on Slovenia, the CPT indicated clearly that incidents of inter-prisoner violence are almost exclusively linked to the existence of a black market for illicit substances, prescription drugs (especially substitution therapy drugs) and mobile phones, and the resulting debt of some prisoners (*Report to the Slovenian Government*…, 2017, para 37, p. 20). Therefore, it is not surprising that the CPT states that the informal hierarchy is an established element of the system ((*Report to the Government of the Republic of Moldova*…, 2018, para 21, p. 9; *Report to the Georgian Government*…, 2022, para 12, 13, p. 7; *Report to the Government of the Republic of Moldova*…, 2020, para 49, p. 28; *Report to the Moldovan Government*…, 2023, para 19, p. 12).

Even those acts of ill-treatment, committed by private individuals in prisons, are the results of corruption. In its reports, the CPT analyse corruption in a broader context of torture prevention, focusing attention on the normalization of relations between prisoners and the prison staff and underlying the need for taking prisoners away from the 'umbrella' of prison subculture: "Real efforts are being made to develop positive relationships between staff and prisoners and to ensure that no prisoner can exercise power over other prisoners" (*Report to the Government of the Republic of Moldova*…, 2018, para 14, p. 7).

The simulacrum of prison subculture is used by the prison staff to control the general prison population. However, prison subculture and corruption are of symbiotic nature. Prison subculture grows using the atmosphere of corruption in prison. At the same time, corruption stimulates the growth of subculture. Corruption also creates the atmosphere of impunity, when informal leaders have social grounds to say that activities of prison administration to keep order in prison have zero effect.

The states should change their attitude to corruption in prisons. A focus should be made not only on the 'economic' aspect of corruption and a negative impact on prison management. Corruption must be considered firstly as an instrument of building of subcultural relations in prisons.

Considering that any act of corruption builds a new level of informal 'dark' relations between prison staff and mostly representatives of higher castes, it makes impossible an effective system of complaints and creates a full circle of prison violence.

Corruption in the broader context of prison subculture can also serve as evidence of the weakness of the State. Powerful informal prison hierarchy or hierarchies emerge as the result of *tacit agreements* between informal prison leaders and the agents of the State, which was also highlighted by the CPT in its reports.

For example, in its 2018 Report on Moldova, that CPT states that a particularly striking example of such 'co-operation' between the prison authorities and the informal hierarchy was observed by the delegation in Soroca prison. During the interviews with prisoners, the CPT delegation met with a prisoner who was responsible for keeping records of all persons held in the prison. In particular, he had a register containing the names, dates of birth, length of sentence (together with the relevant articles of the Moldovan Criminal Code) and cell numbers of all prisoners held in Soroca prison since 1999. It quickly became apparent that this data was available not only to the prison authorities, but also to informal bosses of the prison hierarchy, who could immediately obtain basic information about each newly arrived prisoner, including the offences for which the person had been convicted. This, of course, greatly facilitated the immediate identification of prisoners who, due to their criminal past, fell into the category of 'untouchables' (*Report to the Government of the Republic of Moldova*…, 2018, para 20, p. 9).

In other post-Soviet prisons, the CPT also found examples of tacit cooperation between the prison administration and the informal prison hierarchy to maintain '*order'* among prisoners and ensure the '*smooth running'* of the institutions (*Report to the Government of the Republic of Moldova*…, 2020, para 49, p. 28).

In this respect, the CPT states that tacit co-operation between administrators and informal leaders in prisons has serious erosive consequences for the entire criminal justice system (*Report to the Government of the Republic of Moldova*…, 2018, para 21, p. 9).

Such arrangements inevitably undermine the respect of prisoners for the administration. In this context, it should also be noted that prisoners belonging to the highest echelons of the informal hierarchy continued to live extremely comfortable lives in prison with all possible amenities. It is again about a striking difference in conditions (mainly in terms of repair and equipment, but also in terms of occupancy rates) between the different areas of accommodation (*Report to the Government of the Republic of Moldova*…, 2018, para 21, p. 9).

Corruption among prison officers who support even the obvious features of prison subculture has long-standing consequences for the rest of the prison population, who loses the last hope for prison staff and fully accepts subcultural norms. It should also be borne in mind that for other prisoners, in particular juveniles, seeing 'bosses' living a luxurious life with all possible privileges and exclusive powers is a powerful incentive to join the criminal subculture and move up the informal career ladder through violence against others (*Report to the Government of the Republic of Moldova*…, 2018, para 21, p. 9).

Therefore, the CPT focuses enough attention on the issues of prevention of corruption in prisons.

For example, concerning Bulgaria and Armenia, the CPT reiterated its call on the authorities to continue their efforts to combat corruption in prisons (*Report to the Bulgarian Government*…, 2022, para 68, p. 39; *Report to the Armenian Government*…, 2021, para 58, p. 35). Prison staff and public officials involved in the prison system should be clearly informed that seeking undue advantage from prisoners or their relatives is illegal and will be severely punished; this message should be repeated in an appropriate form at appropriate intervals (*Report to the Bulgarian Government*…, 2022, para 68, p. 39).

Concerning Romania, the CPT focused on the issues of measures taken to combat corruption in prisons, including details of any measures of whistle-blower protection (*Report to the Romanian Government…*, 2019, para 128, p. 76).

Concerning Cyprus, the CPT declared that particular attention should be paid to the potential involvement of prison staff in the smuggling of prohibited items into prisons and illegal trade in prisons. In this regard, consideration could also be given to replacing cash payments in prisons with the introduction of internal 'bank' accounts for prisoners and electronic payments (*Report to the Slovenian Government*…, 2017, para 37, p. 20).

Complaints

The CPT has a well-established position and a corresponding approach that all reports of inter-prisoner violence (regardless of whether the report takes the form of a formal complaint) must be thoroughly investigated by independent actors (*Report on the visit to Cyprus*…, 2008, para 61, p. 27). The CPT states that a failure to respond appropriately to complaints by prison authorities can foster an atmosphere in which those who wish to abuse prisoners can quickly believe – and with excellent reason – that they can do so with impunity *Report on the visit to Cyprus*…, 2008, para 61, p. 27).

As the ECtHR stated in *S.P. and Others v. Russia*, due to involvement of the prison administration into '*plays'* with informal prison leaders, the prison administration is not only aware of the existing informal hierarchical system, but was complicit in it, which made any complaints to the prison administration not only ineffective, but also dangerous (*S.P. and Others v. Russia*, 2023, para 22).

Consequently, the CPT points out that in such situation it is very typical that the staff 'earns' money received from top-level representatives of informal hierarchies and allegedly advised prisoners not to bring complaints to the delegation and that staff attempted to 'hear' prisoners interviewed by the delegation (*Report to the Government of the Republic of Moldova*…, 2020, para 8, p. 11).

Corruption, prison violence and impunity of acts of torture must be analysed together as a broader context. Any act of corruption – irrespective of the sum of a bribe – is *an investment* into informal hierarchies and violence. Corrupted staff is not only about black money. First, it is about violence because any informal relations between staff and higher castes means granting the latter *the indulgence* for future acts of violence.

Prison subculture and the aims of the punishments

The simulacrum of the prison subculture, informal prison hierarchies and related caste relations fundamentally change the orientation of national prison systems from rehabilitative to punitive, undermining the already weak "*rehabilitative ideal*" (Yagunov, et al., 2023).

Prison subculture creates strategically negative consequences which more than seriously harms the prison system in general and the trust of the society in the criminal justice system. As a result, any idea of rehabilitation loses its importance and significance (*Report to the Government of the Republic of Moldova*…, 2018, Para 21, p. 9).

In the same way, the deterrent effect of imprisonment is virtually lost (*Report to the Government of the Republic of Moldova*…, 2018, Para 21, p. 9; *Report to the Georgian Government*…, 2022, para 12, p. 7).

In addition to contributing to the creation of an unsafe environment in places of detention, this situation distorts the purpose of imprisonment and the role of the prison system (*Report to the Government of the Republic of Moldova*…, 2018, Para 21, p. 9).

Prison subculture as a permanent danger to human rights

The main danger of the prison subculture is its ability to self-reproduce, considering especially that young people are much more at risk of being 'enrolled' (voluntarily or otherwise) in an unofficial '*criminal academy'* (*Report to the Georgian Government*…, 2022, para 12, p. 7).

Therefore, any attempts and actions to combat the local prison subculture cannot be implemented beyond the corresponding national prison policy. Otherwise, it would not only effective but also create new risks for the lives and health of prisoners in a concrete national prison system.

The example could be found in the 2018 CPT Report on Georgia, where the CPT states that the re-emergence of this phenomenon in Prison № 15 is a worrying sign, and significant efforts are needed to ensure that it does not spread throughout the prison system needs (*Report to the Georgian Government*…, 2019, para 51, p. 29).

With this aim, the national prison administrations must act *proactively* to prevent inter-prisoner violence needs (*Report to the Georgian Government*…, 2019, para 52, p. 29).

Conclusions

Trying to shape a complex view of modern prisons and prison systems, it is impossible to avoid prison hierarchies and violence produced by informal prison hierarchies.

In modern prisons, informal prison hierarchies of numerous types occupy a special place from the point of view of prison managers and international actors in the sphere of the prevention of torture and ill-treatment.

The modern discourse of informal prison hierarchies, which is limited only to classic categories like '*violence'*, '*ill-treatment'*, and '*inter-prisoner violence'*, is not sufficient for the complex analysis of contemporary person landscapes in prisons. For the purposes of preventing ill-treatment and inter-prison violence, it is necessary to have a broader look at the nature of these phenomena, where such a broader approach demands considering the economic and political aspects of informal hierarchies in modern prisons, as well as the issues of corruption.

From the European perspective, there is a sharp distinction between prison landscapes in post-Soviet and other states. In many European states, prison violence is a sphere of personal relations and the personal habits of individual prisoners. In contrast, post-Soviet prisons have hierarchical and well-organised violence based on illegal economic activities, black markets, and extortion of money from prisoners.

Prison violence has many faces and manifestations. However, as soon as an independent reviewer finds evidence of any ritual codes of conduct in a particular prison system, one can be sure that the State has lost control over the concrete prison or even the national prison system. The existence of violent-based or violent-oriented rituals in prison means that such rituals have been implemented in prison with the aim of hiding the organised violence based on the permanent extortion of money and corruption.

The latter situation is typical for post-Soviet states. Here, following our conclusions, we can take the pessimistic approach that in most post-Soviet jurisdictions, the State has lost control over the prison system as it must be controlled according to contemporary international human rights standards. There is no doubt that such a State controls its prison system but does it for the aims of legitimized criminality, increasing the level of restrictions for prisoners.

Finally, informal prison hierarchies undermine totally the main feature of the criminal law, namely the aims of criminal punishment. Instead of rehabilitation, incapacitation, protection of society and deterrence, we have only deterrence, but not the deterrence of potential offenders but the illegal deterrence of prisoners aimed at forcing them to join or at least to support informal prison hierarchies.

The amalgamation of criminal and prison subcultures creates a very dangerous trend that also undermines basic principles of the protection of society, which are declared to be protected by the criminal

justice system. Informal prison hierarchies shape a very dangerous stereotypic view of prisons as useless places run under the control of professional organised criminals with international roots and connections, which, in turn, undermine the trust of taxpayers in the police, prosecution services and courts.

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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

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. Lazariev (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. Chernezhenko, 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 & Chernezhenko, 2017).

Results and Discussion

There are numerous approaches to the definition of local self-government, however, the political science dictionary edited by M. Holovatyi, 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 (Holovatyi & 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 issued 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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MEDIA DIMENSIONS OF SOCIAL AND POLITICAL DISCOURSE

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INFORMATION HYGIENE DURING THE ARMED AGGRESSION OF THE RUSSIAN FEDERATION AGAINST UKRAINE

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Abstract

The article reveals the concept and essence of information hygiene as a system of knowledge that studies the patterns of information influence on the formation, functioning, and state of mental, physical and social well-being of a person and society, which develops measures to improve the information environment. The main function of information hygiene at the state level is to protect the national information space from the interference and influence of the information policy of foreign countries, from imposing other, atypical behavior patterns (political, social, ideological) on citizens. The article analyzes the key tools and means of informational and psychological influence on the consciousness of Ukrainian citizens by the Russian Federation during the armed aggression of the Russian Federation against Ukraine. The Russian Federation uses all available communication channels against Ukraine and its population to destabilize the situation and spread disinformation: television, the Internet, radio, press, rumors, diplomacy, expert community, etc. The main object of defeat is a person, subjected to a covert influence through his/her nervous system and psyche, mostly at the subconscious level.

According to the rules of information hygiene, citizens of Ukraine should not trust anonymous sources in Telegram, they should read official sources and independent media. People in Ukraine need to give up reading breaking news and only headlines. Much of the information that pops up in every social media user's news feed comes from their environment. Everyone's infohygiene also depends on the hygiene of those around us. Information hygiene during the war is a filtration of the flow of received information, which helps not to clog the head with fakes, resist the enemy's IPSO and minimize the impact of information viruses on people.

Keywords: information hygiene, armed aggression, Russian-Ukrainian war, information-psychological special operation, fake, misinformation.

Introduction

In the new digital age, access to information has become much easier, but it also brings some challenges. The development of information and communication technology has provided people with various conveniences to connect without the barriers of distance or time. Modern society has become

easier to communicate and quickly access all information from different regions and parts of the world. The Internet and social media are the result of the development of information and communication technologies, which have changed aspects of social life and media culture. But these processes also bring certain challenges. The information space is full of misinformation, fake news and manipulation. Information hygiene helps people distinguish between true and false information, develop critical thinking and avoid falling into the trap of manipulation. The issue of information hygiene is especially relevant in times of crisis, be it a pandemic or a war.

Information hygiene is the subject of study by many researchers, such as A. Boston, M. Caulfield, D. Grimes, D. Wilson. It is worth highlighting the work of the group of authors G. Loukas, S. Murugesan, S. J. Andriole, which revealed the essence of information hygiene. In particular, the importance of information hygiene in the conditions of the Russian-Ukrainian war is noted by H. Borovko, S. Chernetska and others. Scientist S. Albul reveals information hygiene in detail as a means of countering disinformation during martial law.

The purpose of our research is to highlight the peculiarities of the informational influence on the consciousness of people during the armed aggression of the Russian Federation against Ukraine and to reveal the rules of informational hygiene in these conditions in order to ensure the informational security of society and the state as a whole.

Research methods

The methodological basis of the research was the principles of scientific knowledge – objectivity, systematicity, multifactoriality and determinism. The methods of system and structural analysis were used in the systematization of scientific information according to the topic of the work and in the study of the essence of the main concepts of the study. The application of the system approach provided a theoretical generalization of the scientific views of scientists devoted to the study of information hygiene. In addition, general scientific methods of analysis and synthesis, induction and deduction were applied in this study.

The experimental study was conducted on the basis of the Petro Mohyla Black Sea National University (Mykolayiv, Ukraine), a total sample was 74 persons (full-time students of different specialties of the faculty of political sciences aged 18-24). The study was conducted in January 2024. Of course, the research is irrelevant. Because it does not include youth representatives from other regions of Ukraine.

The distant individual questionnaire was used. The questionnaire contained eight questions: age of the respondent; which channels of receiving the information he/she uses; which channel he/she prefers; whether he/she checks the information received through the preferred channel; whether he/she compares information messages read in various print media; whether he/she compares information messages presented on various Internet portals; whether he/she compares information messages presented by different television channels; whether the respondent considers himself/herself protected from the destructive influence of information.

The criterion for evaluation was the respondents' ranking by the level of frequency of use and verification by them one or another channel of obtaining information. The unit of analysis is the place of the information channel in the system of obtaining information. The research was conducted in order to identify the most popular channel for obtaining information among students and to determine the degree of readiness to check the information by the representatives of student youth.

Research results

Hygiene (from the Greek «hygieinos» – one that brings health) is a science that studies the patterns of the environment influence on the human body and the health of society in order to justify hygienic standards, sanitary rules and measures, the implementation of which provides optimal conditions for life, health promotion and disease prevention.

Information hygiene can be defined as a system of knowledge that studies the patterns of influence of information on the formation, functioning, state of mental, physical and social well-being of a person and society, which develops measures to improve the information environment (Khalamendyk, 2008, p. 87).

M. Caulfield defines informational hygiene as «metaphorical handwashing you engage in to prevent the spread of misinformation» (Caulfield, 2018).

This idea has gained prominence in recent years, and particularly during the COVID-19 pandemic, as we have witnessed a massive outbreak of misinformation, disinformation, hoaxes, and conspiracies surrounding this coronavirus. The World Health Organization (WHO) and other experts have even

referred to the COVID-19 pandemic as an «infodemic» – an epidemic of information. In their February 2020 Novel Coronavirus Situation Report, the WHO noted that the COVID-19 outbreak and response «has been accompanied by a massive «infodemic» – an over-abundance of information – some accurate and some not – that makes it hard for people to find trustworthy sources and reliable guidance when they need it» (Wilson, 2024).

The purpose of information hygiene is:

– prevention of the negative impact of information on the mental, physical and social well-being of an individual, social groups, and the population as a whole;

– prevention of public diseases associated with information (Habovych, 1984, p. 6).

The tasks of information hygiene are the development of the foundations of hygienic information behavior, scientific substantiation of sanitary measures for the organization of information networks and processes, hygienically justified production, distribution, consumption, storage and reproduction of information, scientific substantiation of hygienic standards of information, information environment, information networks and processes (Bauman, 2016).

Information hygiene is filtering the flow of received information, which helps not to clutter a head with fakes, to resist fraud and not to make unnecessary mistakes in a moment of panic. The main function of information hygiene is to protect the national information space from the interference and influence of the information policy of foreign countries, from the imposition of other, atypical patterns of behavior (political, social, ideological) on citizens (Mazur & Kryzhanovskyi, 2022).

At the state level, information hygiene makes it possible to implement an effective and balanced information policy, increase the nation's spiritual culture, and preserve its health. It is about the principles of information and psychological security. In order to protect a person and society from negative informational and psychological influences, the information space must be protected from the penetration of information that promotes cruelty, violence, pornography, occultism, etc. The main function of information hygiene at this level is the protection of the national information space from interference and influences of the information policy of foreign countries, from the imposition on citizens of other, atypical behavior patterns (political, social, ideological) (Khalamendyk, 2008, p. 89).

On February 24, 2022, a full-scale armed aggression of the Russian Federation against Ukraine began. However, the hybrid war has been going on for a long time. This is a war where the aggressor intends to achieve political goals by using disinformation methods (overt, such as propaganda through state media and diplomats, and covert, such as through trolls, bots and fakes), and other active measures, such as cyber-attacks, agents of influence, blackmail, military deception, provocations and others in combination with traditional methods of war.

It should be noted that, in general, a large number of methods and means are used in hybrid wars, among which disinformation, which has become an integral part of our information space, takes a special place. Experts define disinformation as false, manipulative and/or misleading information that is purposefully disseminated to achieve a certain political goal (Albul, 2022). For Ukraine, disinformation was a serious threat during the stage of the hybrid war and remains so in the conditions of a full-scale invasion, because it is disinformation that is one of the main tools of the Russian Federation.

The Russian Federation uses all available communication channels against Ukraine and its population to destabilize the situation and spread disinformation: television, the Internet, radio, press, rumors, diplomacy, expert community, etc. The main object of defeat remains a person, a covert influence on whom is carried out through his/her nervous system and psyche, mostly at the subconscious level.

Russia creates and spreads narratives and fakes in order to influence the world community, the Ukrainian people and the domestic audience, applies IPSO.

A narrative (from the Latin «nararre», to explain) is an interpretation of events that is not based on facts or accurate data. The best example of a narrative is a myth or legend. As a rule, fakes are used to «confirm» narratives. Fake («forgery») is deliberately perverted or completely invented news (Albul, 2022).

Russia spreads fake news from the front for its own audience. These news stories present the «heroic exploits» of the russian army in Ukraine, and provide false information about the victories and seizures (in the russian interpretation they are called «liberation») of the Ukrainian territories. In the Russian Federation, a propaganda machine has been created for the generation and transmission of such fake news to the masses. For the domestic consumer, propagandists of the Russian Federation use the technique of recurrent repetition of false information, which is presented by so-called experts in the military, economic, and political spheres.

The main narratives for the world community and the Ukrainian people are: Ukraine is a «Nazi» state; Ukraine is a «non-state» (failed state); distortion and non-recognition of the history of Ukraine; discrediting of the Ukrainian army; territorial disintegration of Ukraine; «territorial claims» of neighboring states; «legitimization» of the temporary occupation of certain territories of Ukraine; NATO troops are fighting in Ukraine; the West is tired of Ukraine; manipulation of international organizations and Ukraine's relations with the EU; the presence of laboratories for creating biological weapons in Ukraine, etc.

Today, fakes are one of the most common forms of media manipulation. Not all fakes are obviously absurd. Often manipulation is difficult to notice at first glance. Such fakes are created in order to gradually, step by step, achieve the desired effect – a change in attitude and the formation of a relationship to a certain phenomenon, social or ethnic group, etc. It is the accumulative effect which is characteristic of fakes. At the same time, in addition to textual fakes, visual fakes are also distinguished (photos, videos, including deepfakes created using artificial intelligence).

Fakes have certain characteristics:

– increased over-emotionality of the content and sensationalism of the headlines (for example, «Crucified Boy», «Shock!», «Sensation!»), which makes critical analysis impossible. It is not a journalist's job to give an emotional coloring to an event. They are unlikely to use such words. As a rule, an emotional headline does not correspond to the content of the article. The more emotional the headline is, the greater the probability that the reader will follow this link, that is, the number of views and earnings of the propagandist will increase.

– categorical judgments and presentation (for example, «everyone knows that...»).

– the drama of the «news».

– reference to a «pseudo-source» (for example, «as emphasized by experts», «according to the results of surveys», etc.).

– speed of distribution (as experts emphasize, fakes spread 70% faster than reliable information and verified news).

– the depth of distribution (a wide range of consumers).

– primitivism (a mass product is always created in a rather simplified form, without which it cannot be quickly distributed).

– fakes never have a continuation, they are designed for operational manipulation of public opinion only now, in the short term.

– errors in publications. Pay attention to misspelled words, inaccurate photos and videos (for example, check if such photos exist at all).

– publication date and time are invalid. Pay attention to whether the publication date is indicated, whether the news is reliable at the moment, or whether it is republished data.

The information-psychological special operation (IPSO) is a very old tool used by special services and intelligence agencies of countries of the world in order to influence the public mood of the enemy country, decision-making by the government of the enemy country. The enemy wants these decisions and moods to help win the war, because psychological operations or IPSO are one of the tools for conducting war not by military, but by informational means.

Today, the toolkit is much wider than even in the last century, because there is the Internet and social networks, where moderation is quite relative. Currently, social networks are very actively used, and there are still radio stations that are available both in the occupied territories and the frontline ones. Even far behind the front line, a radio station can be caught, where they talk about how well it is under occupation, how Ukrainian soldiers are leaving their positions and deserting.

Psychological war uses propaganda and various types of information to influence the thoughts, emotions, attitudes, and behavior of an opposition group. For example, in all its reports, the Russian Federation claims that Crimea was not occupied, it allegedly «was returned home».

Psychological war is based on the fact that people live by emotions and are influenced by each other in society. If we look at the information space, we can see that when your idea wins, people follow you – soldiers, civilians, observers or voters, who will share your vision of reality. If your ideas fail, you may lose the battle before it even begins.

The Russian Federation lost the war in Ukraine back in February. As the American political scientist Peter Singer writes, in terms of information operations, Russia was feared the most, because it waged an information war on democracy, interfered in the course of more than 30 national elections (from Hungary,

Poland and to Brexit or the US presidential election in 2016), supported conspiracy theories (from Q-Anon to the lies against coronavirus vaccine) and justified military action from Georgia to Syria.

Today, this term appears in the information space very often. Although this does not mean that there was no IPSO in Ukraine until February 24. Prior to the full-scale invasion, the term was not widely used, moreover, for 5 years its use was consistently limited.

Until the beginning of 2022, the term «IPSO» was found mainly on specialized resources (for example, ArmiyaInform). Already in February 2022, at the beginning of the war, professional Ukrainian circles started talking about IPSO against Ukraine (for example, CERT-UA, the Cyber Police Department of the National Police of Ukraine). At the same time, hostile russian resources also began to accuse Ukraine of carrying out IPSO (for example, they wrote about the shelling of a kindergarten in the Luhansk region that it was allegedly IPSO from Ukraine).

Psychological war expert Paul Linebarger said that in fact, war always begins long before hostilities begin and continues for some time after they cease. Unlike traditional war, when an army fights only against an enemy's army, psychological war is waged against millions of civilians who cannot fight back (Borovko, 2022).

Russia has been waging a psychological war against Ukraine for many years, trying to remain unrecognizable.

The IPSO methods today should also include simulated missile launches or aviation activity without shelling. In Ukraine, because of regular air raids, plans are failed, tasks of the Ukrainians are canceled. All these things greatly affect the psychological state. And this is done deliberately to shake us from the inside.

Russia wants to play the long game and invests huge resources in things that may not bear fruit for years. Eventually, the accumulation of these operations over a long period of time will give the desired result. But this approach is effective when there are doubts about who is evil. Now there are none, so hidden tools come into play. For example, discussing the «news» that Putin has cancer. Such news causes positive emotions among the Ukrainians. However, if that were true, he should have already died several times. The first information that the dictator was terminally ill appeared back in 2003. Afterwards, each worsening of relations with the Russian Federation causes a new illness to appear.

There are two peaks of media diagnosis of oncology in the dictator – 2014 and 2022. In both cases, there was a theory that the tyrant started the war against Ukraine in order to «have time to go down in history». In October 2014, the New York Post published an article that Putin had pancreatic cancer. The publication reported that he was allegedly being treated by a doctor whom Putin met while he was serving in Dresden. The material emphasized that Putin had three years left to live.

In the spring of 2022, several sources at once published information about another cancer. The anonymous resource General SVR actively spoke about this. It was reported that Putin would soon have an operation, and the reason for it was an unspecified form of cancer. In April, the publication New Lines received an audio recording of an oligarch close to the Kremlin, in which he claims that Putin had blood cancer.

Firstly, Putin may be ill, and this information is being hidden. A healthy tyrant is one of the pillars on which the Russian dictatorship rests. Besides, Putin’s image is built precisely on masculinity. How to interrupt information about diseases? To discredit regularly. This is how endless system «stuffings» appear. And they believe less in each subsequent one.

Secondly, this is a magical way to solve all problems. If Putin dies, the war will end. Relaxing and drinking lavender latte instead of helping the army.

Thirdly, it is hype: Putin’s illnesses always attract attention (Moroz, 2022).

Most citizens encounter psychological operations in various publics and chat rooms. Among the topics most often manipulated by the enemy are blackouts and mobilization.

During the war, Ukrainian citizens spend a lot of time on reading news on the Telegram channel, not always understanding who is the author of this channel, and draw information from social networks, in particular, from Facebook.

Telegram, an instant messaging application, has become one of the key platforms where the Ukrainians search for news after Russia’s full-scale invasion of Ukraine. The war dramatically increased people's demand for quick news and simple solutions. It was on this wave that Telegram became extremely popular. It is through this resource that 66% of the Ukrainians currently receive information.

However, the Russians use this messenger to misinform the population. After February 24, 2022, the Russians significantly increased their hostile informational influence precisely through Telegram, as much as possible passing off Russian channels as Ukrainian ones, which pretend to be pro-Ukrainian, but nevertheless spread conspiracies aimed at undermining Ukrainians' trust in the authorities, belief in victory and the moral spirit of the Ukrainians in general. The very first indicator which reveals the Russian Telegram channel is a specific language. On such channels, they constantly share gossip, information that the country's leadership or the media will allegedly not tell the Ukrainians. The Russians often use such rather strange and unusual words as «hearing», «inside» build their entire work on the outpouring of allegedly secret information, and also try to assure readers that they have sources from Washington, the White House, and to Beijing (Chernetska, 2022).

Telegram has spawned many «scavengers» and news aggregators which do not check the accuracy of their publications. A person who lacks information hygiene skills can become a distributor of fakes, which, by the way, spread 6 times faster than their refutation.

Russia uses foreign journalists, analysts, retired military personnel, and politicians for conducting IPSO and creating rail news. Thus, the driving force for the Russian manipulation of the «colossal» losses of the Ukrainians was the Trumpist and Colonel Douglas McGregor, who, on the air of the YouTube channel Judging Freedom announced the information that had been discussed during the meeting between Lloyd Austin and Valery Zaluzhny. The Commander-in-Chief of the Armed Forces of Ukraine allegedly informed his American colleague that the losses of the Armed Forces amounted to 257 thousand people, and only 18 million people remained in Ukraine.

Douglas McGregor is a «colonel» who in 2014 openly supported the occupation of Crimea by the Russian Federation. He stated this on the air of the Russian RT. At the beginning of the full-scale invasion of Ukraine, he stated that the Armed Forces of Ukraine were defeated, and the victory of the Russian Federation was understandable. In addition, on the air of the program of the well-known liar and manipulator Tucker Carlson in September, McGregor said that the Armed Forces were once again defeated, etc. Thus, the Kremlin involved its «six» 100% for manipulation, which failed the attack at its very beginning.

In addition to Douglas McGregor, a message published by the Turkish mass media Hurseda appeared in the information field, which, in turn, refers to a leak from Israeli intelligence agency that the Ukrainian troops allegedly have about 157 thousand dead and 234 thousand wounded. There are also thousands of dead foreigners, including those from the USA, Poland, Lithuania, etc. But the same publication notes with reference to Israeli «intelligence agency» that the Russian troops lost only 18,480 people. It is not entirely clear then why the Russians fled so actively from the Chernihiv, Kyiv, Sumy, Kharkiv, Mykolaiv and part of the Kherson regions and even announced mobilization in their country, planning to recruit at least 300,000 more people into the army.

Thus, within a day, two very unverified and unreliable sources in the form of a Turkish publication and propagandist McGregor issued radically different information about the huge losses of the Ukrainians, which was instantly picked up by propagandists in the Kremlin. It can be concluded that, probably, law enforcement agencies simultaneously received the task of spreading a fake on this topic, but they did not agree on it with each other, so they failed. However, this is not the funniest either. This information attack should have been a response to the posts of Western publications that the Russians had already lost from 180,000 to 200,000 soldiers in the war. It is quite possible to assume that Russian propaganda not only dishonored itself with such a failed IPSO, but also exposed the true information about its own losses (Kovalenko, 2023).

Therefore, according to the rules of information hygiene, citizens of Ukraine should not trust anonymous sources in Telegram, they should read official sources and independent media. Telegram actually has many official channels of representatives of local or national authorities. In Ukraine, it is necessary to pay more attention to the problem of information hygiene in social networks and messengers. Perhaps the development of The EUNOMIA project should be taken into account.

The EUNOMIA project, funded by the European Union's Horizon 2020 research and innovation program, has developed information hygiene guidelines for social media users. Social media users must adopt what we call «information hygiene procedure» to protect themselves and their network from the rapidly spreading «infodemic» of misinformation. The EUNOMIA project defines the information hygiene procedure as the practice of evaluating information on the Internet in order to minimize the risk of consumption and spread of misinformation in its network. This practice differs significantly from fact-checking and fake news detection, focusing on the active detection and identification of "pathogens" rather than the daily routine of avoiding «contagion» (Troullinou, 2020).

Information hygiene rules such as «verify the source», «verify the account is a bot» and «flag false information for the benefit of others» are routinely recommended by fact-checkers, journalists, and media literacy experts to help limit the spread of misinformation. Undoubtedly, such recommendations are very important, but they are often too time-consuming or too complex and difficult for users to adopt as part of their daily routine. The EUNOMIA project will develop a decentralised, intermediary-free and open-source platform to evaluate the credibility of social media posts. EUNOMIA users can see how a piece of information might have changed when shared or re-shared by different users and/or in different periods of time. So, the user can see all the different versions of the same piece of information and the «journey» of potential modification conducted (Troullinou, 2020).

Such an automated platform is useful in the conditions of war in Ukraine to ensure the informational hygiene of people in Ukraine. Utilizing tools that help filter out false information, such as fact-checking services and browser extensions designed to detect fake news, can be highly effective.

People in Ukraine need to give up reading breaking news and only headlines. Much of the information that pops up in every social media user's news feed comes from their environment. Everyone's infohygiene also depends on the hygiene of those around us. To protect yourself and your loved ones, you should clean up your information field – unsubscribe from news aggregators and suspicious resources, ask yourself the questions «Why do I see this?», «What are the consequences of my likes?», «Does my post or repost harm the person next to me?».

Reading news in high-quality media 1–2 times a day and minimizing time spent on social networks should also be mentioned among useful habits.

A. Boston, analyzing the opinions of leading experts in the field of information hygiene M. Caulfield, E. Austin, P. Borahnotes that people who reflect or think about the information they see are less likely to be susceptible to misinformation. It takes courage to say, «That's not true», but it is really helpful for us to take that step and stop the spread. We don't need to look down on someone who is spreading misinformation without realizing it, just give them a gentle reminder that everything they see might not be true (Boston, 2020).

Nothing minimizes the impact of information viruses on people like a correctly formed and regularly used information template. To create it, you need to select three to five media from the «White List» of the Institute of Mass Information. First of all, a person should read news and analytics in them. Only after understanding the objective reality, you may switch to other information channels where there are no standards and information filtration.

It is worth noting that today the level of critical evaluation of information messages received by Ukrainian citizens has increased significantly compared to the period before the full-scale invasion of the Russian Federation into Ukraine. Especially young people. In 2019, a survey of student youth of the Black Sea National University named after Petro Mohyla was conducted regarding the channels of obtaining information by them and checking this information (results of the study are presented in Table 1).

Table 1

Channels of receiving information and their checking (based on survey of respondents, 2019)

Channel of obtaining information that is preferred	Number of respondents (in %)	
	Do not scrutinize information messages	Constantly check the information received
Internet resources (53% of all respondents)	86%	14%
TV (41% of all respondents)	82%	18%
Printed media (6% of all respondents)	96%	4%

In 2024, we repeated such a survey and saw that the percentage of students checking information obtained from different sources increased. The results of the study are presented in Table 2.

Table 2

Channels of receiving information and their checking (based on survey of respondents, 2024)

Channel of obtaining information that is preferred	Number of respondents (in %)	
	Do not scrutinize information messages	Constantly check the information received
Internet resources (53% of all respondents)	74%	26%
TV (41% of all respondents)	79%	21%
Printed media (6% of all respondents)	92%	8%

For young people, especially students, it is important to implement educational programs that teach information literacy. This includes integrating information hygiene into curricula and offering media literacy workshops to the general public.

Now Russia monitors the information field – finds all the pain points of the Ukrainians and creates cracks in society based on them. Pain points are discussion topics that are important to us now. By supporting such content and discussing these topics in social networks, in fact, everyone is working to split the state, supporting another information operation of the enemy. To prevent this from happening or to reduce the harm when it has already happened, it is worth:

– complaining about such videos and posts on social networks («You see material that touches you. About language, rudeness, other controversial topic...»);

– thinking about the possible harm that such a post or video can bring to the people and the state and refusing to publish it;

– if a malicious post or video was published, the author can delete it. If the author notices quarrels in the comments and the unusual involvement of the audience, this is a reason to answer the question once again «Is this not harming the country now?».

In the conditions of war, it is possible to recognize a fake by paying attention to the emotion caused by the information. If a person sees information that he/she wants to hear, or that all citizens of Ukraine are afraid to hear, a person should be alert and carefully check it.

Media literacy is critical for navigating misinformation during throughout our lives. There's so much information out there from so many different sources, and we have to figure out shortcuts to sift through it. A lot of these messages are trying to manipulate emotions of people. If it's making you feel a certain way, then you should stop and think about it (Boston, 2020).

Conclusions

The danger of informational and psychological influence on the consciousness of the citizens of the country, especially in conditions of crisis (war), is that such influence changes the normal behavior of a person, her\his reactions to the surrounding world, makes the person's psyche vulnerable and encourages the individual to destructive actions against society. This is a danger not only for the psychological state of an individual member of society, but also for the whole country.

Information hygiene during the war is a filtration of the flow of received information, which helps not to clog the head with fakes, resist the enemy's IPSO and minimize the impact of information viruses on people. Information hygiene is closely related to information literacy and is also a key element of critical thinking and active citizenship. While information literacy means knowing how to deal with information, information hygiene also means understanding when and how to take care of yourself in the digital environment, including taking a necessary break from it, even in times of war.

It should be noted that active research into the term "information hygiene" surged during the COVID-19 outbreak. In Ukraine, this term began to be actively explored with the onset of the full-scale Russian invasion on February 24, 2022. However, scientific publications from 2023 and 2024 addressing the essence

and significance of information hygiene in contemporary society during crises (such as war) have become increasingly scarce. This leaves ample room for further scientific investigations into this issue.

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Časopis vychází šestkrát ročně.

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Vědecký časopis « Evropský politický a právní diskurz» zve k spolupráci k publikaci vědeckých článků doktory věd, PhD, mladé vědce (postgraduální studenty, doktorandy a uchazeče o magisterský titul), kteří se specializují na různé obory právní a politické vědy, sociálních komunikací, mezinárodních vztahů a sociologie.

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Tato sekce zdůrazňuje aktuální stav studovaného problému na globální úrovni, analyzuje nejnovější výzkumy a publikace s odkazy na vědecké publikace za poslední 3-5 let. Relevance, cíl, úkoly a novost studie jsou odůvodněny. Odkazy na literaturu musí být uvedeny v kulatých závorkách. Tato sekce je nepovinná a měla by obsahovat výsledky výzkumu vědců, kteří analyzovali určité aspekty tématu. Každé jméno výzkumníka musí být doprovázeno příslušným odkazem ze seznamu referencí.

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Acknowledgements

The section is for expression of gratitude to individuals or organisations for all possible technical assistance, ideas, financial (material) aid, which made the research possible, etc.

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