

OPTIMIZATION OF PUBLIC AUTHORITIES FUNCTIONING DURING MARTIAL LAW: CHALLENGES AND SOLUTIONS

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Summary

This article focuses on identifying and analyzing the main challenges faced by Ukraine's public institutions under martial law, particularly addressing the balance between temporary concentration of power and state centralization versus preserving democratic principles. Following Russia's full-scale aggression, Ukraine has significantly strengthened its power vertical to ensure effective governance, safeguard sovereignty, and maintain public order. The state's operation under martial law involves restricting certain democratic rights and freedoms, a necessary security measure to protect the nation and its citizens. At the same time, Ukrainians, upholding democracy as a foundational value and as part of their European identity, are critically wary of a possible regression to autocratic governance, thus maintaining close oversight over public institutions even amidst war.

Drawing on S. Neskorodiev's «reverse transition» concept, the author justifies the objective necessity of a temporary shift toward autocracy under martial law as a compelled political-legal solution that allows state mechanisms and society to adapt to the existential challenges posed by war. The article explores the need to balance effective governance with adherence to democratic norms during martial law, highlighting the main challenges for public institutions and suggesting a range of strategic solutions.

Special attention is given to information security, which is critically important in the context of hybrid warfare. Ensuring effective communication between government and citizens, and countering disinformation, are seen as essential for sustaining trust in public institutions. The role of legislative reform, enabling quick adaptation of laws to wartime demands while ensuring transparency and expert consultation to minimize poor decision-making risks, is also discussed. Emphasis is placed on preserving citizens' rights and freedoms, even under an emergency regime, as a crucial element of democratic society that sustains public trust and the legitimacy of government actions. Strategic decisions should guarantee the preservation of democratic institutions, as democratic values are central to Ukraine's national identity. A key factor in supporting the national idea and rebuilding post-war Ukraine as a sovereign, democratic state capable of effectively responding to challenges and recovering after the crisis.

Key words: martial law, public institutions, «reverse transition», power concentration and centralization, democratic oversight.

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1. Introduction

The extreme conditions of wartime have marked a unique political test for Ukraine, revealing the institutional apparatus's capacity to ensure effective governance amidst a deep existential crisis. Since February 24, 2022, when Russia launched a new wave of aggression

against Ukraine, the country has been forced to quickly adapt its institutional system, not only to survive but also to strengthen its ability to counter Kremlin aggression. The introduction of martial law across Ukraine, as decreed by President V. Zelensky (*Ukaz Prezydenta Ukrainy, 2022*), has led to significant changes in the functioning of state institutions, which now must make tough decisions driven by the need to protect sovereignty and national security. For Ukrainian democracy, which has systematically pursued a European developmental path since 1991, enduring challenges like the Orange Revolution, the Revolution of Dignity, and resistance against Russian aggression since 2014 (following the annexation of Crimea and parts of the Donetsk and Luhansk regions), the threat of Russia's full-scale invasion represented a new kind of challenge—not only due to the need to confront the enemy in a hybrid war but also because of the justified necessity of temporarily suspending the democratic practices that have been standard for Ukraine in peacetime, in favor of an intensified centralization of power, which is more characteristic of autocratic regimes.

O. Kosilova and I. Fedirko note that political rights and freedoms are the foundation of a democratic society, and their restriction is permissible only in exceptional cases when it comes to protecting national security and public order: «The realization of political rights and freedoms» is a crucial aspect of democracy, as it enables citizens to express their views, influence political decisions, and hold the government accountable. The restriction and violation of political rights and freedoms signify an authoritarian and totalitarian state regime (except in legally defined and normatively specified cases in the interests of national security and public order). The value of political rights and freedoms lies in allowing citizens to be active participants in socio-political life and ensuring the protection of their individual rights. These rights are fundamental to any society aspiring to democratic status» (*Kosilova, Fedirko, 2024*). However, it is precisely on these legal grounds that the Ukrainian state has had to impose limitations on the democratic rights and freedoms of citizens, as noted in Point 3 of the Presidential Decree «On the Introduction of Martial Law in Ukraine»: «In connection with the imposition of martial law in Ukraine, the constitutional rights and freedoms of individuals and citizens provided in Articles 30–34, 38, 39, 41–44, 53 of the Constitution of Ukraine, as well as the rights and legitimate interests of legal entities, may be temporarily restricted within the scope necessary for implementing measures under the legal regime of martial law as outlined in Article 8, paragraph 1, of the Law of Ukraine «On the legal regime of martial law» (*Ukaz Prezydenta Ukrainy, 2022*).

According to the Law of Ukraine «On the legal regime of martial law» this regime grants the necessary powers to the relevant state authorities, military command, military administrations, and local self-government bodies to avert threats, repel armed aggression, and ensure national security, as well as temporary restrictions on the constitutional rights and freedoms of individuals and citizens and the rights and legitimate interests of legal entities, specifying the duration of these restrictions (*Pro pravovyi rehym voiennoho stanu, 2015*).

Such measures include increased administrative pressure by state institutions, as well as the use of coercive instruments aimed at ensuring citizen compliance with strategic decisions, such as national security and territorial integrity protection, public order maintenance, mobilization of economic and social resources for effective defense and state sustainability, effective coordination between authorities and security forces to respond promptly to challenges, control over the information space to minimize internal and external threats, and more.

Therefore, a key challenge for Ukraine under martial law is to maintain a balance between the temporary strengthening of the power vertical and preserving democratic values, which Ukrainians recognize as the foundation of their European identity. Under these circumstances, S. Neskorodiev proposes the scientific concept of «reverse transition» (analogous to

the «democratic transition,» or the shift from totalitarian-authoritarian governance forms to democratic ones), arguing that this will allow for an academic analysis of the shift from democratic forms of public governance to authoritarian ones: «It is reasonable to introduce a new concept – the reverse transition, which the governance system undergoes in a crisis period of military conflict. The reverse transitional shift is a move from democratic forms of public governance to authoritarian forms under controlled circumstances». (*Neskorodiev, 2022, p. 51*).

2. «Reverse transition» or main challenges for public authorities under martial law

For a modern democratic state facing unprovoked military aggression aimed at undermining its sovereignty, this existential crisis demands immediate response and strategic decision-making. This approach aligns with M. Dillon's concept: «There is no security without the state; there is no state without ensuring security». (*Dillon, 2013, p. 222*). In other words, during a crisis, there is a universal trend observable across all political systems: stable and flexible systems adapt quickly, aiding in their preservation, while unstable and fragile systems are generally destined for collapse.

Researchers like P. DiMaggio, O. Donnell, H. Linz, S.M. Lipset, D. North, M. Olson, W. Rostow, T. Skocpol, A. Stepan, S. Huntington, O. Schlumberger, and others propose various approaches to studying political system transformations, emphasizing the necessity for adaptation to radical changes characteristic of the contemporary world. At the same time, they highlight that during such periods, states may find themselves trapped in a «gray zone» between authoritarianism and democracy. Political systems unable to handle crises are more prone to revert toward autocracy (*Schlumberger, 2015*).

The authors of *The Logic of Political Survival*, B.B. de Mesquita, A. Smith, R.M. Siverson, and J.D. Morrow, explore how war impacts political stability and the survival ability of states, political leaders, and societies in times of crisis. They argue that a political system's capacity to adapt is critical for the survival of both democratic and authoritarian regimes. Political leaders must actively respond to external threats, such as military dangers, economic crises, and international pressure, by implementing changes that ensure stability and prevent systemic collapse (*De Mesquita, Smith, ..., 2005*).

Large-scale and prolonged crises, like war and the necessity of establishing martial law, expose weaknesses in public administration mechanisms and in the ability of political leaders to respond effectively to these challenges. Such resilience is a decisive factor for maintaining regime stability and legitimacy. Successful adaptation not only helps to retain power but also strengthens public trust, ensuring the long-term stability of the system and preserving the democratic development trajectory. Consequently, researchers conclude that the survival of political systems and their leaders depends on the ability to swiftly adapt to changes, meet the needs of the state and society, and effectively counter crisis challenges (*De Mesquita, Smith, et al., 2005*).

Given the contemporary trends of crisis escalation, continued scholarly examination of these challenges, especially in the context of 21st-century hybrid threats, is essential. Accordingly, considering the specifics of martial law in Ukraine and the need for rapid adaptation by public institutions, it is appropriate to outline the main challenges these institutions face in such critical conditions.

Concentration of power and centralization of governance. In the context of a full-scale military invasion, implementing martial law becomes an obligation for the ruling elite and a critical requirement for safeguarding the state and its citizens. Exceptional circumstances of war justify the concentration of power and centralized governance, as decision-making speed

is crucial for security and enables better coordination across all levels of state administration in times of crisis (*Nordlinger, 1981*).

However, this concentration of power must be accompanied by mechanisms of oversight and limitation to avoid the risks of autocracy. At the onset of Russia's full-scale aggression, Ukrainian society, recognizing the fundamental importance of democratic principles, accepted the necessity of increased centralization and the temporary limitation of democratic rights and freedoms. These measures were considered essential to ensure national security and enhance decision-making efficiency in emergency conditions. Yet, Ukrainians remain critically aware of public institutions' actions, stressing the need for oversight and adherence to democratic ideals (*Stohova, 2024*).

The expansion of executive powers for public institutions during a crisis can lead to excessive power concentration, weakening the checks and balances vital for a democratic state. In *How Democracies Die*, S. Levitsky and D. Ziblatt (2018) analyze how democracies can gradually degrade into authoritarianism when key institutions, such as the executive branch, begin to centralize power, disregarding checks, and balances principles. Therefore, in crisis situations—such as the declaration of martial law—the risk of state institutions becoming excessively powerful becomes particularly relevant. Aware that the existential struggle against Russian aggression is not only about protecting territorial integrity but also about ensuring democratic development, Ukrainians seek to maintain a balance between executive efficiency and democratic accountability.

Ensuring the effectiveness of management decisions. Martial law demands swift and decisive management decisions, often limiting opportunities for public discussions, expert involvement, and outcome forecasting. This urgency can create risks of short-term decision-making that may not fully account for long-term consequences. For Ukrainian society, one of the most pressing and sensitive issues has been decisions on population evacuation or the establishment of temporary resettlement centers. These measures have saved thousands of lives but have often overlooked long-term needs, such as securing permanent housing and employment.

Legislative reform and adaptation. In wartime, the need for rapid legislative changes to adapt to new conditions becomes critical. In Ukraine, laws have been enacted, for example, to seize assets linked to the aggressor state and to impose harsher penalties for collaboration. However, it is crucial to ensure these changes comply with fundamental legal principles and avoid violating citizens' constitutional rights. Additionally, legal adaptations must remain flexible to enable a return to more democratic norms after the war, facilitating a smooth transition to peacetime governance, particularly in areas like the economy and social welfare.

Observance of citizens' rights and freedoms. Under martial law, restrictions on citizens' rights, such as freedom of movement and the right to protest, are common practices aimed at maintaining security. For instance, curfews and movement restrictions in frontline areas have been implemented in Ukraine to reduce the risk of terrorist acts and preserve public order. However, it is essential that such restrictions remain proportional and temporary, and that the government ensures effective mechanisms to protect the rights of individuals who may disagree with these measures. During evacuations, for example, while population control is necessary, there must be clear mechanisms to protect the rights of individuals who might decline to evacuate for personal reasons.

Information security and communication. Amidst Russian aggression, protecting the information space and combating disinformation are of critical importance. Ukraine faces constant information attacks aimed at undermining trust in the government and the military. Public institutions, such as the Ministry of Digital Transformation, are actively blocking hostile

resources, running information campaigns to counter falsehoods, and creating unified platforms like «Diia» for official information and services. However, ensuring transparency in communication also requires effective interaction with the media and civil society to prevent distrust arising from limited information flow.

Operating under resource constraints. Martial law places immense pressure on the financial and material resources of the state, necessitating efficient optimization. Ukraine faces considerable defense expenditures, often resulting in the reallocation of funds from social programs. For instance, increased defense sector funding requires cuts in other areas, such as healthcare and education, creating challenges for public authorities in maintaining essential services. Organizing humanitarian aid and securing international support become crucial tools for mitigating resource shortages, but also require robust management to prevent corruption and misuse.

The outlined challenges highlight the high level of flexibility, responsiveness, and effective interaction required from Ukraine’s public institutions both within government structures and with society. This will help maintain a balance between centralized power and adherence to democratic norms, preventing a shift toward authoritarianism. Preserving democracy, even in the face of war, remains vital since democratic values are deeply embedded in Ukraine’s national identity. Ukrainians view democracy not only as a model of governance but also as a foundation for their existence and freedom. Sustaining democratic institutions, even under martial law, is essential to ensure that Ukraine can return to normalcy with respect for human rights and rule of law after the war, securing government legitimacy and the further development of society. Ultimately, democracy is not only an institutional arrangement but a collective social choice that defines our identity, distinguishes us from the aggressor, and reinforces the strength of our national spirit.

3. Strategies to enhance the effectiveness and stability of public institutions during wartime

Table 1

Building Resilient Public Institutions in Wartime: Challenges and Solutions

Primary challenges to the functioning of public institutions under martial law	Strategic solutions to increase the effectiveness and stability of public institutions during wartime
<p>– <i>Concentration of power and centralization of governance</i></p> <p>During martial law, the powers of executive bodies expand, leading to a strengthening of the power vertical. This can risk excessive power concentration in the hands of certain individuals or institutions, which may limit the checks and balances crucial to democracies.</p> <p>At the same time, centralization is necessary for rapid decision-making, especially in crisis situations, but it can reduce civil society participation in governance and disrupt the balance among the executive, legislative, and judicial branches, significantly impacting democratic freedoms.</p>	<p>– Balancing centralization and democratic oversight</p> <p><i>Flexible centralization</i> involves creating management centralization mechanisms that enable a swift crisis response while ensuring democratic oversight by engaging parliamentary and civic institutions in supervising the executive.</p> <p>A clearly defined, regulated, and temporary nature of centralized powers is essential, meaning power concentration must be time-limited, with clear mechanisms for returning to democratic procedures after martial law ends. It is necessary to enshrine the obligation in law to restore the balance of power among branches of government after stabilization and to reinstate all rights and freedoms that form the basis of democratic standards.</p>

Continuation of table 1

<p>– Ensuring the effectiveness of management decisions</p> <p>Effective public administration during martial law requires prompt decision-making, which may limit opportunities for discussion and consultation with specialists and the public. The high uncertainty of wartime conditions complicates strategic planning and demands flexibility and adaptability from management structures to respond to rapidly changing circumstances.</p>	<p>– Enhancing management efficiency</p> <p><i>Institutional adaptation</i> involves reforming executive structures to improve flexibility and crisis adaptability. Specifically, developing rapid-response scenarios and crisis management teams with clear functions. Digital transformation of governance is crucial, with continued investment in digital technology development to accelerate decision-making processes and information exchange across management levels.</p>
<p>– Legislative reform and adaptation</p> <p>Public institutions face the need for rapid legislative changes that address new wartime challenges. However, this creates a risk of enacting hasty or poorly crafted regulations that may conflict with democratic principles and the rule of law.</p>	<p>– Updating the legislative framework</p> <p><i>Adaptation of legislation</i> involves the prompt development and implementation of legislative changes that meet the needs of martial law, while ensuring transparency and engaging expert communities to minimize the risks of poor or unfinished decision-making. <i>Temporary norms</i> should be introduced, applicable only during martial law, with a mandatory and clearly defined mechanism for returning to the previous legislative framework after the crisis ends.</p>
<p>– Observance of citizens’ rights and freedoms</p> <p>Martial law entails temporary restrictions on citizens’ constitutional rights and freedoms, including freedom of speech, assembly, and movement. The challenge lies in ensuring these restrictions do not become excessive or violate the principles of the rule of law.</p>	<p>– Protection of citizens’ rights and freedoms</p> <p><i>Minimizing restrictions on rights</i> involves avoiding excessive limitations on citizens’ rights and freedoms even during martial law, with an emphasis on the temporary nature of such measures. Clear mechanisms must be established to control rights restrictions to prevent abuses by authorities. <i>Strengthening human rights institutions</i> is essential to ensure the effective functioning of the ombudsman, judiciary, and civil oversight institutions, which monitor the protection of rights and freedoms during states of emergency.</p>
<p>– Information security and communication</p> <p>The role of information warfare and the need for protection against propaganda and disinformation are significantly heightened in times of war. Public institutions must ensure effective communication with the public and international partners, providing timely, reliable information and coordinating efforts to counter information threats. At the same time, maintaining citizens’ trust in public institutions may be challenging due to stringent measures, such as censorship or restricted access to information.</p>	<p>– Ensuring information security and transparency</p> <p><i>Strategic communication</i> requires establishing an effective system of strategic communication with citizens that promptly informs them of the situation and government decisions. This reduces the room for disinformation and enhances trust in the government. <i>Protection against disinformation</i> should include implementing mechanisms to counter information attacks while ensuring transparency in government actions and preserving access to independent sources of information.</p>

Continuation of table 1

<p>– <i>Operating under resource constraints</i></p> <p>Wartime significantly limits access to resources: human, financial, and material. Public institutions must adapt their strategies to provide a minimum level of services and support infrastructure functioning. A key challenge is mobilizing resources for defense while maintaining the functioning of critical infrastructure, including humanitarian assistance and social support for the population.</p>	<p>– <i>Resource mobilization and rational management</i></p> <p><i>Resource optimization</i> requires setting clear priorities for distributing limited resources during wartime, including implementing savings programs and efficient budget management to ensure the state’s most essential functions.</p> <p><i>Mobilizing additional resources</i> through increased international support, including financial and humanitarian resources, and utilizing internal reserves through public initiatives and volunteer movements.</p>
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4. Conclusions

The strategic solutions proposed here highlight that ensuring stability and effectiveness of public institutions under martial law necessitates a comprehensive approach that combines centralization and power concentration with democratic oversight, legislative adaptation, and enhanced management processes.

Firstly, balancing power centralization with democratic oversight is essential. Centralization should remain a temporary measure aimed at improving governance efficiency through the involvement of state and civic institutions in oversight during martial law. Emphasizing that centralization is temporary, with the intention to revert to democratic governance after martial law, is crucial. The reverse transition back to a democratic system of governance must align with democratic norms established during peacetime, enabling a seamless transition to democratic management (Neskorodiev, 2022, pp. 51-52). This will help prevent autocratic tendencies and preserve the democratic foundation of governance post-martial law.

Secondly, improving management efficiency requires institutional adaptation, including reforming the executive branch and advancing digital technologies. This will accelerate decision-making and improve information sharing, both critical during crises.

Thirdly, updating the legislative framework to adapt norms to new conditions, with temporary legal provisions and a defined mechanism for returning to the pre-crisis legislative framework after the crisis ends, is essential.

Preserving citizens’ rights and freedoms, minimizing restrictions, and ensuring the operation of human rights protection institutions will enhance public trust in the government. Strategic communication and disinformation protection play crucial roles in maintaining societal morale and information security, reducing the impact of hostile information attacks. Resource mobilization, including international support, will ensure an effective response to the country’s threats.

In conclusion, these measures are not only important for Ukraine but could be beneficial for other countries facing the challenges of martial law in today’s crisis-prone world. They can help prepare for emergency situations, and despite the temporary «reverse transition», ensure that democratic principles remain intact. Recent survey results reveal the sacrifice and determination of Ukrainians, particularly their commitment to democratic values and Euro-Atlantic integration: in all six waves of surveys (2022-2024) since the start of the invasion, 93% of respondents expressed a strong desire and readiness to strive for Ukraine to remain a fully democratic state (NDI Survey, 2024).

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