

<https://zakon.rada.gov.ua/laws/show/272-2023-%D1%80#Text>. [in Ukr.].

21. Pro Kompleksnyy stratehichnyy plan reformuvannya orhaniv pravoporyadku yak chastyny sektoru bezpeky i oborony Ukrainy na 2023–2027 roky. Ukaz Prezydenta Ukrainy № 273 vid 11.05.2023 r. [About the Comprehensive Strategic Plan for the Reform of Law and Order Bodies as a Part of the Security and Defense Sector of Ukraine for 2023–2027. Decree of the President of Ukraine No. 273 of May 11, 2023]. URL : <https://www.president.gov.ua/documents/2732023-46733>. [in Ukr.].

ABSTRACT

The article examines the legal regulation of national security in Ukraine. The author analyzed the concept of national security and its components. The article examines the system of normative legal acts in the field of ensuring national security, identifies the main shortcomings of legislation in this field. It was found that the legislation in the field of ensuring national security in Ukraine does not meet modern challenges and threats related to national security. It is argued that normative legal acts in the field of national security are not properly coordinated among themselves and contain a number of shortcomings, which negatively affects the level of ensuring national security. Based on the results of the research, conclusions were formulated and suggestions were made regarding the improvement of the legal regulation of national security in the conditions of martial law. It is suggested that in order to achieve a state of improvement and increase the effectiveness of the legal provision of national security in Ukraine, it is necessary to develop a systematized, logically connected and interconnected regulatory framework in this area, to agree on terminological concepts among themselves, and the powers of subjects of national security provision. This will help solve the difficult challenges facing the national security system and create a legal basis for its effective development. It is substantiated that the main goal of legal regulation of national security is the creation of a coherent and comprehensive state policy in the field of national security, which should be calculated both for today and for the future. Legislation in the field of national security must reflect modern challenges and threats and contain clear measures to counteract them, as well as contain effective mechanisms for the implementation of legislative prescriptions that apply not only to the subjects of the security and defense system, but also to all subjects of public relations, who may be involved in tasks related to ensuring national security.

Keywords: *security, national security, state security, security under martial law, legal regulation, improvement.*

UDC 342.72

DOI 10.31733/2078-3566-2023-5-49-60



Andriy SAMOTUHA[©]
Ph.D. (Law),
Associate Professor
(*Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine*)



Ricardo FURFARO[©]
k

MEDIA BETWEEN STATE, LAW AND SOCIETY DURING INTERNATIONAL ARMED CONFLICTS. PART ONE: WORLD WAR I, THE ENTENTE

Андрій Самотуга. Рікардо Фурфаро. МЕДІА МІЖ ДЕРЖАВОЮ, ПРАВОМ ТА СУСПІЛЬСТВОМ ПІД ЧАС МІЖНАРОДНИХ ЗБРОЙНИХ КОНФЛІКТІВ. ЧАСТИНА І: ПЕРША СВІТОВА ВІЙНА, КРАЇНИ АНТАНТИ. Оскільки будь-які суспільні події, зокрема конфлікти, заслуговують на висвітлення, вони привертають велику увагу з боку медіа. Взаємодія між медіа (друкованими чи електронними) та збройними конфліктами набувала різноманітних

© Samotuha A., 2023

ORCID iD: <https://orcid.org/0000-0001-9802-0226>
samotuga@ua.fm

© Furfaro R., 2023

ORCID iD: <https://orcid.org/0000-0002-5054-129X>
ricardofurfaro@yahoo.com.ar

форм в історії, і різні журналісти чи інформаційні організації по-різному підходили до різних збройних конфліктів, і чим більший був їхній масштаб, тим більше суб'єктів інформаційно-правових відносин (суспільство (що набувало ознак інформаційного), медіа, держава, військовики, політики) були втягнуті в різноманітні процеси як взаємодії, так і протистояння.

На тлі постійних дебатів щодо співвідношення між мораллю та об'єктивністю в журналістиці, між дотриманням конституційного суб'єктивного права на інформацію (що включає такі похідні права, як свобода вираження поглядів і переконань, право отримувати, створювати, зберігати, поширювати, знищувати та спростовувати інформацію) автори досліджують еволюцію академічної дискусії навколо зв'язку медіа та збройних конфліктів, особливо у контексті появи та розвитку новітніх інформаційно-комунікаційних засобів і платформ.

Ця стаття започатковує цикл публікацій, що висвітлюють проблеми конституційного обмеження права на інформацію, протидії ворожій пропаганді та просування власних ідеологем і наративів як елементів контрпропаганди. Адже нинішні інформаційні війни як складові гібридних характеризуються битвою вже не стільки фактів, скільки сенсів і наративів, що майже не спростовуються протилежними сторонами, а отже, все менше підпадають під правове регулювання, а більше – під політичні кон'юнктури. Значну увагу приділено питанням медійної цензури під час війни. Часові межі постановки наукової проблеми охоплюють період від Першої світової війни як першого міжнародного збройного конфлікту за кількістю держав-учасників до наших днів – російсько-української війни як предтечі нового протистояння між авторитарними режимами і демократичним світом.

На прикладі країн Антанти (Велика Британія, Франція, Російська імперія) та її асоційованої держави-учасниці – США, авторами зроблено висновок, що Перша світова війна, за відсутності тоді міжнародно-правового обмеження суб'єктивного права на інформацію аж після закінчення Другої світової війни, започаткувала подальшу із наростанням участь державних і недержавних суб'єктів у реалізації інформаційної політики як у міжвоєнні періоди у формі гібридних війн, так і відкритих збройних конфліктів у контексті всіх етапів інформаційної революції.

Ключові слова: *медіа, Перша світова війна, Антанта, суспільство, законодавче регулювання, власність, цензура, пропаганда, обмеження права на інформацію.*

Relevance of the study. It has just so happened that when, in early 2014, Russia committed an act of aggression against Ukraine, annexing Crimea and starting hostilities in Donbas, the world at the same time remembered the 100th anniversary of the beginning of the first full-scale armed conflict in the history of mankind – the First World War. Society and the government learned about the course of frontline events primarily from military reporters – representatives of various press agencies, newspapers and magazines, which were then already the most developed media since the times of industrial capitalism and which successfully influenced public sentiment through their owners' interests. There were certain information consumers in society preferred to receive which was revealing exclusively the truth, which would either cheer the public up thanks to reports of victorious battles over the enemy, or, on the contrary, plunge into despair and panic due to losses and defeats. There was other information that users with real power supported by monopolistic and oligarchic capital, has been subject to limited dissemination in addition to revealing the truth. To protect themselves from public criticism, the ruling political class resorted to selecting or even inventing only positive content, which consisted of certain forms of information policy such as censorship and propaganda. The second one could also be turned into counter-propaganda aimed at demoralizing the enemy.

Today, under a full-scale Russian-Ukrainian war, proposals were made by some pro-government media officials to introduce censorship in all media during the war, which still does not stop both support and condemnation from the media community [10]. For its part, censorship is prohibited by the Constitution of Ukraine, which cannot be amended under martial law [2]. At the same time, according to representatives of the military authorities, Ukrainian society has become accustomed to a certain information culture, which enabled the authorities to avoid the introduction of information censorship in wartime [7].

However, we should not rely on the complete absence of censorship and propaganda instead of objective information at any time and in any country, because the State may not disclose to the public the counter-information measures taken by it for national security reasons. Moreover, the issue of censorship, disinformation and propaganda during war has existed for more than one century. After all, even in his work "The Art of War", the ancient Chinese strategist and thinker Sun Tzu called deception one of the means of defeating the enemy [4].

Recent publications review. In Ukraine, the topic of information policy in general covers mostly the fields of political and historical sciences. The legal field is represented by

works mainly on the theory and history of the state and law (K. Dolgoruchenko, I. Doronin, I. Mukomela, L. Pohorila, V. Politansky, V. Romashchenko), constitutional law (Yu. Bohdan, V. Seredyuk, I. Chyzh) and most of all – administrative and informational law. However, similar issues in the context of armed conflicts, in particular the First World War, have not been investigated by Ukrainian legal science, with the exception of some works on historical sciences (O. Kyriyenko, S. Kotova, R. Kutsyk). Similar topics are also covered in many social and political publications by authors from other countries, such as: R. Blank, M. Bourrie, J. Davidson, N. Fischer, O. Forcade, L. Gershon, I. Gillich, R. Greenslade, I. Hiltunen, R. Jolly, J. McEwen, A. Rai, M. Robbins, G. Stone, L. Tagg, M. Zohoor & N. Sadiq).

Considering the certain lack of coverage of the legal aspects of military information policy in Ukrainian science, it is the world developments of the analyzed topic that require additional use in our research.

The research paper's objective is to find out peculiarities on the implementation of information policy during World War I by the Entente countries using its restrictive measures, the legislative support of this policy with the definition of the range of its actors and its further impact on the development of the international security system.

Discussion. In the previous publication, we have indicated that such a form of state information policy as propaganda is primarily an information weapon of totalitarian states, aimed first at the internal audience to overcome resistance to the ruling regime, then at the external consumer to make a favorable international informational environment. [9, p. 260]. However, information policy, in general, and its elements such as propaganda and censorship, in particular, have become traditional for the Western legal system for more than a century. At the same time, in contrast to authoritarianism, in this article we will in a certain way avoid the concept of "democracy", since the constitutions of Western countries, mainly of the Anglo-Saxon system, do not use denominations such "democratic" for their description. Rather, democracy is not a characteristic (static), but a goal (dynamic) of the existence of these countries. That is why we will start our discussion with Great Britain as a classic representative that stood at the origins of this legal system and was also an active participant in the World War I.

With the beginning of the World War I, censorship was introduced in all European participating countries. Censorship departments were established in military institutions, various ministries, and even in local self-government bodies. In Germany, Austria, and Russia, the censors were mostly military officers, and in Britain, France, and Italy, they were mostly civil servants [8].

First, we should note that Great Britain is the birthplace of capitalism, which caused, along with industrialization and the liberation of the workforce, the emergence of mass media. Such media accompanied and influenced political and socio-economic processes, in particular, the course of military campaigns long before the First World War, for which the British were comparatively better prepared, in particular from an information point of view.

Anglo-Boer Wars (1880-81, 1899-1902), according to some researchers, was not just a disaster for the British army in terms of geopolitics and the perception of its power on the world stage. It was also a disaster in terms of public relations. Much of the European and American press had supported the Boers, casting these Dutch settlers as victims of brutal British colonialism (though very little ink was devoted to the dispossessed indigenous Africans who were colonized by the Boers and the British). Meanwhile, foreign press printed stories about the new British invention, the "concentration camp" where Boer civilians were herded, and of the boldness of the guerrilla campaigns waged by these farmers against the professional army of one of the world's strongest powers. So the British learned their lesson for their next war – the First World War, almost 12 years later – investing significant money and effort into developing a scientific censorship and propaganda system to manipulate world public opinion. The best minds in the British press and universities were co-opted to develop censorship and propaganda systems, and they learned that it only worked if the marketplace of ideas was cleansed of competing narratives [12].

According to other British contemporary authors, journalists, as ever, were prevented from informing the public by three powerful forces – the government, the military and their own proprietors. It is undeniable that newspapers began by demonizing the German enemy. They published fabricated stories of German barbarism, which were accepted as fact. Although Belgian and French citizens were executed as reprisals by the German army in the early months of the war, many unverifiable stories – later dubbed "atrocities propaganda" – were

wholly untrue. Editors and journalists were therefore guilty. Censorship was a different matter. It was imposed from the opening of hostilities and, although gradually relaxed, it remained sufficiently strict to constrain reporters from obtaining information or from publishing it, should they manage to get it. Rigid government control was exercised in conjunction with a complicit group of committed pro-war press proprietors [18]. In this regard, it is worth adding that the media industry, being owned by oligarchic capital, which was simultaneously involved in the military-industrial complex thanks to increased state orders during the war, also turns out to be an element of the state-military machine.

The information policy of the British government of that period received state regulation in the Defense of the Realm Act (DORA – the Defense of the Realm Act) of August 8, 1914, i.e. 5 days after the start of the war. DORA was originally issued as an ordinary law, and it was already amended many times during the war. It authorized the government to do almost anything it thought necessary to help the war effort and protect the country. It allowed the government to pass laws and avoid the drawn-out process of having bills proposed, voted on and ratified by Parliament. Laws were designed to protect sensitive information, maintain morale and maximize production: censorship of newspapers and correspondence to and from the trenches was introduced to maintain morale and keep troop movements secret; striking was outlawed to protect production of goods in the factories; the working day was extended in many sectors and wages were either lowered or kept at the same level, the aim was to increase production without increasing expense; pub opening times were limited, as was the strength of drinks, which were watered down; the buying of drinks for others was banned, this aimed to tackle lateness and loss of productivity at work. "We are fighting German, Austrians and drink", as Lloyd George put it. After all, it is clear that the state of intoxication, by unblocking the inhibitory processes of the psyche, contributes to the "excessive talkativeness" of a person. In addition, no-one was allowed to talk about naval or military matters in public places; spread rumors about military matters; buy binoculars; trespass on railway lines or bridges; melt down gold or silver; light bonfires or fireworks; give bread to horses or chickens; use invisible ink when writing abroad. At first, the public accepted the need for increased security and control over areas seen as vital to the war effort. However, as the war went on people objected to the way that DORA undermined their basic freedoms. Most people thought many of the rules were trivial and inconvenient [14, 20].

Censorship also prevented war correspondents from working. With the beginning of the war, the British government banned reporters from going to the front line. Then two correspondents, Philip Gibbs of the "Daily Chronicle" and Basil Clarke of the "Daily Mail", went to the front line illegally, at their own risk. After several articles, the journalists were caught and sent home, threatening to be shot if they returned. In a few months, the government allowed five correspondents to be accredited at the front line. But they worked under the strict supervision of escort officers.

Sometimes it reached the point of absurdity: journalists were required to tell about the soldier's exploits, but were forbidden to mention specific military victories. It was, of course, forbidden to write about defeats or the harsh conditions of trench life. In the case of the "Spanish flu", this led to tragic consequences on a global scale. In the countries participating in the war, reports about mass diseases on the front lines were not passed by censorship, so that the soldiers did not lose their fighting spirit. At the end, the "Spanish flu" epidemic turned into the most massive pandemic in human history, from which 50 to 100 million people died.

Postal censorship went even further and took up correspondence among civilians. In Britain, all mail was controlled by special censor departments. In 1918, about five thousand censors worked there. Special attention was paid to letters sent abroad, primarily to neutral countries. Later, censorship also reached private conversations. In Britain, people could be fined or imprisoned for "unsavory" speeches at conferences, for example, for calls promoting peace talks.

And, of course, censorship helped politicians win elections and eliminate competitors. David Lloyd George began the First World War as the Minister of Finance of Great Britain. Subsequently, he received the specially created position of Minister of Munitions, then became the State Secretary for War Affairs, that is, the head of the Military Department. And in December 1916, he replaced Henry Asquith as prime minister. Last but not least, Lloyd George owed his successful career to the British media magnate Alfred Harmsworth, Lord Northcliffe. He owned "The Times", "Daily Mail" and other smaller newspapers, and in total controlled more than 40 percent of the circulation in Britain. In fact, it was the Northcliffe papers that first

advocated the creation of the post of Minister of Munitions, which was filled by Lloyd George, and later criticized Asquith, destroying his public rating. A grateful Lloyd George offered Northcliffe a ministerial portfolio in his office. But the latter refused in favor of a more profitable position for himself as the director of the propaganda department [8].

In Britain, in September 1914, a secret organization was established – the military propaganda bureau "Wellington House", which called on journalists and newspaper editors to write and distribute articles sympathetic to Britain, countering hostile statements. In addition to placing positive reports on the press of neutral countries, WN printed its own newspapers for distribution around the world [22]. Illustrated news containing drawings or photographs were considered particularly effective. By the end of 1916, the newsreel "War Pictorial" was distributed in 500,000 copies in four editions in 11 languages. Along with attempts to influence public opinion in neutral countries, propaganda was also used directly against enemies. Since the beginning of the war, all sides have used airplanes and balloons to drop leaflets and posters over combat units and civilians [19].

The implementation of foreign information policy to gain international support and sympathy was an important goal for all states. It was one of the first successful actions made by Britain at the beginning of the war was to cut Germany's submarine communications cables, which gave Britain a monopoly on the fastest way to transmit news from Europe to the American press agencies, and therefore to induce the Americans to enter the war and provide military aid to the British.

Highlighting features of the US information policy during World War I, it should be noted that, although there was a great upsurge in propaganda during the Civil War (1861-1865), the issue of state propaganda remained fleeting for the rest of the XIX century, and continued to be associated almost exclusively with war. And the term "propaganda" itself had yet to acquire a pejorative meaning. First used in 1622, – by Pope Gregory XV when he formed the Office for the Propagation of the Faith to supervise missionary activity, "propaganda" had remained a neutral concept, deriving meaning from "its authors and their aim". The era of mass and continuing state propaganda, and of the associational evolution of the word propaganda into "a synonym for big black lies", began abruptly during the First World War [16, p. 54].

The "Great War," as it was soon named, was "the first war in history where both the ideology and the practical resources existed for governments to mobilize entire industrial societies for warfare". While the US did not enter the war for two and a half years, the administration of President Woodrow Wilson was perhaps uniquely prepared for a propaganda war. Within days of Congress's declaration of war on Germany on April 6, 1917, the federal government's propaganda agency, the Committee on Public Information (CPI), commenced operations. Until its dissolution in June 1919, the CPI issued a vast body of propaganda, in an unprecedented range of media. Its innovative use of the printed and spoken word, and of graphic images in poster and motion picture formats, won the admiration of contemporary and future observers, and helped usher in a new era of truly professional propaganda. And while there is some disagreement whether the propaganda of the British government or the CPI was most innovative and influential, the CPI's status as the first agency not only in the US but in the world to fully control a national government's propaganda policy and resources is universally accepted [11, p. 437].

Three months after the United States entered the war (at the same time, not wanting to dissolve into the Entente, they declared themselves an "associated country" of this grouping), the Congress, at the request of President W. Wilson, adopted the Espionage Act of July 15, 1917. This has criminalized transmission of information aimed at hindering military operations. The subsequent Sedition Act of May 16, 1918, expanded the Espionage Act and introduced severe penalties for a wide range of dissent, including insults to the US government, the Stars and Stripes, the Constitution, and the military. These laws were directed against socialists, pacifists and other anti-war activists. The Wilson administration argued that these laws were essential to the war effort and prosecuted thousands of anti-war activists under several provisions. While today scholars believe that these acts violate basic principles of free speech protection, the Supreme Court at the time affirmed these beliefs. In the decades that followed, the Supreme Court reversed rulings, increasingly protecting free speech, building on a series of landmark judges' opinions in the 1910s and 1920s.

For example, the wording of the rules of Section III of the Espionage Act and Section III of the Sedition Act were almost identical, stating: "Whoever, when the United States is at

war, shall willfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States, or to promote the success of its enemies, or shall willfully make or convey false reports, or false statements, ... or incite insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or shall willfully obstruct ... the recruiting or enlistment service of the United States, or ... shall willfully utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language about the form of government of the United States, or the Constitution of the United States, or the military or naval forces of the United States ... or shall willfully display the flag of any foreign enemy, or shall willfully ... urge, incite, or advocate any curtailment of production ... or advocate, teach, defend, or suggest the doing of any of the acts or things in this section enumerated and whoever shall by word or act support or favor the cause of any country with which the United States is at war or by word or act oppose the cause of the United States therein, shall be punished by a fine of not more than \$ 10,000 or imprisonment for not more than 20 years, or both... " [15].

Summarizing the regulatory and institutional component of the legal support of the US information policy during the First World War, some researchers claim that nearly a century after it was formed, the CPI should be recognized for having revolutionized the role and production of state propaganda, and for beginning the manufacture and distribution of state "soft" power. The CPI's innovative use of media, professional communicators, community leaders and public volunteers was crucial in professionalizing both its communications techniques and products, enabling the US to promote its war policies and aims with far greater effectiveness than Germany and arguably Great Britain. Its example was followed not only by successive federal governments, but also by civil associations and especially corporations, as they strove to harness mass communications to win political support and consumer loyalty [16, p. 74].

On this occasion, some of the so-called progressives sincerely hoped that CPI would enlighten millions of citizens not only of the US but also of other nations, by showing them the virtues of American democracy and industry. Yet his efforts led directly to the promotion of crass consumerism and to equally crass political crusades, often with tremendously bloody consequences. The CPI also demonstrated, as no other organization had before, how citizens in a mass polity could be mobilized and coaxed into censoring thought and conduct. In this way, the CPI subverted "the contrivances of state and society that the liberal imagination prizes and recommends as an antidote" to state exploitation of civil society. It also demonstrated, with hitherto unparalleled success, the paradoxical capacity of propaganda to seduce "even those whom it most horrifies" [13, p. 30].

Equally important for our research is the information policy of other Entente states, in particular France as one of the birthplaces of democracy and republicanism, where state censorship, propaganda and disinformation turned out to be much stricter. There, in general, they introduced an unspoken ban on the word "peace" in articles. The fate of the French newspaper "*Le bonnet rouge*" and its socialist editor Miguel Almereyda was the worst. In July 1917, the newspaper was closed on the suspicion that it was financed by the Germans. Almereyda was arrested, and a month later he was found dead in a cell hanging by shoelaces. And although almost no one believed in the version of suicide, the case was closed [8].

As some French authors now point out, the establishment of censorship presented contemporary examples with a dilemma. The controls it imposes limit the exercise of civil liberties, especially freedom of the press, which is at the heart of the republican compact. This contradicts the historical process of democratization of society, initiated by the French Revolution, the achievement of which was guaranteed by the Republic. However, censorship is considered important by the government in view of the disastrous experience of September 1870 (the Battle of Sedan during the Franco-Prussian War, which ended in the complete defeat of the French army and the capture of Napoleon III) and when the press revealed to public opinion, and at the same time to the Germans, plans for the concentration of the French army. We must prevent the spread of strategic military information and protect the morale of both the rear and combatants. There is a pause between the patriotic imperative and republican freedom, which politicians, journalists and writers must resolve. In addition, on August 4, 1914, two laws established preventive control over information. From October 1914, it became a social and moral factor and imposed, in connection with propaganda, the supervision of public opinion, which was maintained until the lifting of the state of siege in October 1919.

According to the analysis of O. Forcade, censorship is divided into three types of state bodies: first, those that carry out censorship strict sense (on the one hand, the press service that

has national competence, and on the other – censors of the Paris police prefecture). Secondly, civilian or military propaganda organizations (including the Grand Quartier Général and the House of the Press on the Quai d'Orsay), and thirdly, the postal control established at the end of 1915 to control the combatants' correspondence. It is on the first organization that the work is focused due to a quantitative and qualitative approach to its activities (1,100 instructions recorded in journals stored in the Library of Modern International Documentary Studies) and its staff (400 censors). As for censored topics, military failures (the battles of Verdun and the Somme, which O. Forcade spoke of as "the height of lies about combat losses"), the strikes of 1917 and 1918, the uprising of 1917, the condemnation of soldiers are noted, in particular councils of war and, in general, pacifism and the spread of positive images of Germany or negative images of France, but also, less expectedly, the issue of German atrocities. No less than complete suppression of information, censorship carries out its distortion: "there is nothing that the French do not know, except for information that is postponed, fragmented, metamorphosed by the propaganda game of the warring parties" [17, p. 296, 355].

However, as other French researchers claim, the terrible truth is difficult to contain... If censorship silences cry of despair as much as it can, certain letters still arrive safely, soldiers on leave testify to what they are experiencing, broken faces return from front, the countryside is becoming depopulated... We can then wonder to what extent civilians believed in "skull stuffing" (an expression popularized in 1914 by A. Londres, then war correspondent for "Le Matin"). The rear was certainly no fool. A missive from a civilian, contained in an army report dated June 30, states: "We no longer believe the newspapers, but news like that which you (the poilus) give us is believed to the letter". However, even when discredited, newspapers sell like hotcakes. The daily "Le Petit Parisien", the highest circulation on the eve of the war (1.45 million copies in 1914) shattered all records in 1916 with 2.18 million units sold each day. "Who reads newspapers in 1916? They are the brothers, the wives, the mothers, the children of those who are at the front, recalls S. Ambit. The press responds to a need: to reassure a terrified public who fear not seeing their loved ones return". Finally, the media will not be subject to any substantive criticism. With France emerging victorious from the war, their lies are tolerated. It was only in the 1920s, when the press was shaken by financial scandals, that its detractors remembered the "bobbies" of the Great War [21].

In another member of the Entente – the Russian empire – censorship during the war was not so strict. Initially, only articles related to military secrets were subject to the ban. Thanks to this, extremely critical articles on political topics were published in the press. When the Minister of Defense A. Polivanov was reprimanded for this reason, he just threw up his hands and said that his censor officers were acting according to instructions and were not involved in politics. Since 1916, the authorities tried to extend censorship to political articles and even to the speeches of Duma deputies. However, it was not possible to suppress dissatisfaction with the authorities. The political crisis, which began even after the lost "small victorious war" with Japan in 1905, only grew.

According to some Ukrainian researchers, in terms of organization, the propaganda measures of the Russian government were less organized and less effective compared not only to the enemy Germany, but also to the ally Great Britain. The humanitarian discourse on the formation of the image of the "enemy" has moved mainly to the field of journalism, as well as to academic humanities and education. Russian scientists, who tried to declare their own patriotism through collective appeals from universities, actively joined the "war of manifestos". However, even among them, the tonality of responses was different – from openly chauvinistic to restrained ones. Russian historians, like their German colleagues, were influenced by the national-state narrative and worked for the political legitimation of the Romanov empire [3, p. 14]. In our opinion, the government of the Russian empire received a double profit from the absence of an information policy as such: first, the illiteracy and ignorance of the vast majority of the population (while Western industrial capital needed a skilled and educated labor force, which provided an impetus for the development of the media industry), which was not capable of critically rethinking, but even receiving information and knowledge mainly from printed sources, and therefore did not pose, as hoped, a serious threat to the regime; secondly, the lack of information policy did not require huge public funds.

At the same time, the war conditions required the Russian government to intensify military censorship, aimed primarily at the western outskirts of the empire – the Ukrainian provinces and the occupied lands of Galicia and Bukovina, where, on the one hand, hostilities were taking place, on the other – the local population was more developed in terms of socio-

culture, and therefore easily perceived information, in particular through print media. The basis of the military censorship legislation of the Russian Empire was the regulation of the organization and functioning of military censorship bodies, in particular the "Temporary Regulation on Military Censorship dated 20.07.1914", "Lists of information and visual information regarding the external security of Russia and its naval defense, prohibited until disclosure by means of information or in speeches or reports announced publicly" (editions dated July 26, 1914 and July 29, 1915). For the practical implementation of certain rules of current legislation in the field of military censorship, optimization of some areas of activity of specialized bodies in the territories subordinated to the command of the South-Western Front (most of the governorates of the Kyiv and Odessa military districts), the "Rules on the Organization and Implementation of Military Censorship of July 23" were developed in 1914. In general, the Russian military censorship provided effective control over the general political situation in the country, influenced the formation of public opinion, and its bodies tried to protect the interests of the army in the conditions of growing dissatisfaction with the war, protect the command, central and local authorities from criticism and discrediting information [1, p. 17]. Despite these and other informational and counter-propaganda measures, in the future, it was not possible to avoid the revolutionization of soldiers and other proletarianized social strata, as well as the intensification of the national liberation struggle of the enslaved peoples of the Austro-Hungarian, Russian, and Ottoman empires, which accelerated their disintegration.

Other Ukrainian researchers also pay attention to the weakness of military propaganda in the Russian army and the rapid depletion of patriotic sentiments that were characteristic of the summer of 1914. After the defeat in the fall of 1914 in the East Prussian battle, Russian propaganda spread the information that the two Russian armies, which were defeated in East Prussia, saved the Allies in the Battle of the Marne. However, such military propaganda only convinced the rank-and-file soldiers of the Russian army and the rest of the population that it was fighting for Russia's foreign interests, which indirectly prepared the revolution of 1917. Therefore, any propaganda is a double-edged sword [5, p. 409-410]. Moreover, in our opinion, the nutrient environment for the effectiveness of propaganda is mostly victorious relations, and in their absence, and vice versa, when the war acquires a positional-trench character, that is, reaches a dead end, propaganda, as well as censorship, cease to fulfill their main function – mobilization, which are then tried to be carried out exclusively by administrative and punitive measures.

Along with the media, literature and art were also influenced by state regulation. After all, literature served the war from a long time ago, and the war became a source for compiling poetic and historical chronicles, which, in turn, became a source for the development of national languages, e.g. "Strasbourg Oath", "A word about Ihor's regiment" and others. Over time, everything became more complicated – both the war and literature. Since the beginning of the 20th century, telegraph agencies have distributed worldwide reports of their correspondents about certain military actions from different parts of the planet. Literature with the development of communications was already on the back burner – it needed several years to be understood. The First World War and the literature about it can be considered as an illustrative situation. Initially, it was written about by its members – the lost generation, who were eighteen or twenty years old at the time of the beginning. Then it became the object of observation of those who did not participate, and later also of subsequent generations of writers. Both poets, and writers, and philosophers, and dramatists alike hated war and served in the army not out of will, but out of duty, which any state declares sacred and threatens deserters and defectors with imprisonment or the death penalty. For example, the biography of the French poet Guillaume Apollinaire, who, being at the front, was wounded in the head by a shell fragment on March 17, 1916, underwent skull trepanation in May, was weakened by the operation, and died on November 9, 1918 from the Spanish flu epidemic.

The semantics of war are the same: it includes economic, psychological, and demographic components; various contradictions of a social nature, territorial encroachments; the desire to capture, possess, enrich, hiding behind propaganda slogans specially prepared for such cases. In general, the First World War, after its declaration and with the beginning of hostilities in Europe, naturally divided the intellectuals of that time – writers and philosophers – into opposite camps: those who, for patriotic reasons, glorified the power of national weapons, and those who added anti-humane absurdity to the next worldwide bloodshed [6].

The epic artistic understanding of war is characteristic of the large-scale novels-

chronicles of French writers Roger Martin du Gard, Romain Rolland, and others. Books about the war show it in very different ways: from the depiction of its revolutionary influence in the novel "Fire" by Henri Barbusse (1916) to the pessimism and despair caused by it in the books of writers of the "lost generation".

If literary works about the war were mostly published after its end (E. Hemingway "Farewell to Arms!", 1929; R. Aldington "Death of a Hero", 1929), i.e. after the easing of censorship, then more effective for a mass audience in time works – films, theater plays, and even circus performances came under censorship. First of all, the works of authors from enemy countries were banned. The plays had to be edited so that there were no plots about adultery, scenes with a hint of sex, vulgar and abusive expressions. It was forbidden to make fun of the military and policemen, and the characters of "criminals" and "whores" were deleted from the plays plots. In Paris, the Special Commission at the Police Prefecture censored more than 4,500 performances. France also had one of the harshest film censors. In 1916, 145 films were banned there, and in the following year – already 198 [8].

From what has been stated, it can even be seen that every state participating in the war, without exception, but relying on its own resources, tried to surpass its opponents in the means and results of military information policy, also hindering the absence of any supranational, international and regional organizational and legal boundaries.

Conclusions. Coverage of the information policy of the First World War of the Entente countries allows us to state the following:

1) information policy during the war is characterized by a significant expansion of the circle of its actors – the state, media, society; in particular, the legislative regulation of this area is strengthened by introducing such forms of restriction of the right to information as propaganda, disinformation and censorship; the latter included almost the entire humanitarian and cultural-artistic area. In addition, each state participating in the war was extremely free to choose means and methods of conducting military information policy due to the lack of international legal regulation of this area at the time;

2) the experience of organizing military censorship in some countries of the Entente (Great Britain, France, the USA) proved that the implemented legal and censorship measures contributed to the strengthening of the information security of the states, strengthened the foundations of the defense capabilities of the countries, allowed timely detection and liquidation of enemy agents on their territories, to neutralize its ideological and propaganda influence on military personnel and the civilian population, to carry out current monitoring of the socio-political attitudes of the population and the military during warfare confrontation;

3) in another country of the Entente – Russia, the collapse of the empire occurred due to the weakness of the information policy and the information vacuum, which was quickly filled by radical political forces through external assistance. They especially manifested themselves in another conflicting side – the Central Powers, with what a separate publication should be dealt;

4) thanks to the development of media and means of communication, the First World War led to revolutions and counter-revolutions all over the world. On the one hand, it marked the fall of monarchies and the birth of parliamentarism, on the other, it paved the way for the tyranny of Hitler and Stalin and the even greater global carnage, World War II, a generation later;

5) the experience gained during the First World War in organizing the activities of military censorship bodies was used and developed in the following years due to new information and communication technologies and the ever-growing accessibility of the media to ordinary information recipients.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

References

1. Кирієнко О. Ю. Військова цензура в Україні (липень 1914 р. – лютий 1917 р.) : автореф. дис. ... канд. іст. наук : 07.00.01 / Ін-т історії НАН України. Київ, 2011. 20 с.
2. Конституція України : прийнята на 5-й сесії Верховної Ради України 28 червня 1996 р. *Відомості Верховної Ради України*. 1996. № 30. С. 141.
3. Когова С. В. «Образ ворога» в соціогуманітарному дискурсі Великої Британії, Німеччини та Росії періоду Першої світової війни (1914–1918 рр.) : автореф. дис. ... канд. іст. наук : 07.00.06 / Дніпровський національний університет імені Олеся Гончара. Дніпро, 2019. 20 с.

4. Лесняк С. Війна – це мистецтво обману: якщо перехитриш, то виграєш (25.02.2016). URL: <https://life.pravda.com.ua/columns/2016/02/25/208653/>.
5. Мартинов А. Перша світова війна у сучасній німецькомовній історіографії: теми й концептуальні ідеї досліджень. *Міжнародні зв'язки України: наукові пошуки і знахідки*. 2016. № 25. С. 397-423.
6. Махно В. Література і війна. URL: <https://zbruc.eu/node/102615>.
7. Печенюк А. Цензура під час війни: в Міноборони розповіли, як вдалося уникнути жорстких заходів (04.07.2023). URL: https://www.unian.ua/politics/cenzura-v-ukrajini-pid-chas-viyni-stalo-vidomo-chomu-jiji-ne-zaprovadili-12317118.html?_gl=1*5afvm1*_ga*.
8. Пивоваров С., Коберник К. Досі обурені, що голова Мінкультури не проти цензорів у ЗМІ? І правильно, бо далі цензуру поширять на театр, кіно і думки. Так уже було під час Першої світової війни – історичний екскурс «Бабеля» (29.03.2023). URL: <https://babel.ua/texts/92130-dosi-obureni-shcho-golova-minkulturi-ne-proti-cenzoriv-u-zmi-i-pravilno-bo-dali-cenzuru-poshiryat-na-teatr-kino-i-dumki-tak-uzhe-bulo-pid-chas-pershoji-svitovoji-viyni-istorichnij-ekskurs-babelya>.
9. Самогуга А. В. Пропаганда та конституційне право на інформацію під час війни на тлі зіткнень тоталітарних практик і демократичних цінностей. *Науковий вісник Дніпропетровського державного університету внутрішніх справ*. 2022. Спеціальний випуск № 2 «Держава і право України в умовах воєнного стану». С. 249-264.
10. Чорна О. Баланс між свободою слова та інфобезпекою має складатися з правди і мовчання, а не з правди і брехні (16.10.2023). URL : <https://detector.media/infospace/article/218112/2023-10-16-balans-mizh-svobodoyu-slova-ta-infobezpekoju-maie-skladatysya-z-pravdy-i-movchannya-a-ne-z-pravdy-i-brekhni/>.
11. Badsey S. World War I (1914–1918). *Propaganda and Mass Persuasion. A Historical Encyclopedia, 1500 to the Present* / N. J. Cull, D. Culbert, D. Welch. Santa Barbara, California ; Denver, Colorado; Oxford, England : ABC CLIO. 1950. 480 p.
12. Bourrie M. How censorship became deadly during the First World War (05.11.2018). URL : <https://macleans.ca/opinion/how-censorship-became-deadly-during-the-first-world-war/#:~:text=Journalists%20were%20banned%20by%20law,was%20legal%20until%20late%201917>.
13. Corey R. The History of a Political Idea. Oxford University Press, USA, 2004. 316 p.
14. Domestic impact of World War One – society and culture. Defense of the Realm Act (DORA). URL: <https://www.bbc.co.uk/bitesize/guides/ztx66sg/revision/3>.
15. Espionage Act of 1917 and Sedition Act of 1918 (1917-1918). URL: <https://constitutioncenter.org/the-constitution/historic-document-library/detail/espionage-act-of-1917-and-sedition-act-of-1918-1917-1918>.
16. Fischer N. The Committee on Public Information and the Birth of US State Propaganda. *Australasian Journal of American Studies*, Vol. 35, No. 1, The State and US Culture Industries (July 2016). Pp. 51-78.
17. Forcade O. La censure en France pendant la Grande guerre, Paris, Fayard, coll. Histoire, 2016. 474 p.
18. Greenslade R. First world war: how state and press kept truth off the front page (27.07.2014). URL : <https://www.theguardian.com/media/2014/jul/27/first-world-war-state-press-reporting>.
19. Jablonski E. A Pictorial History of the World War I (One) Years. New-York: Doubleday, 1979. 317 p.
20. Liquor up. Alcohol consumption. URL: <https://www.parliament.uk/business/publications/research/olympic-britain/leisure-and-lifestyles/liquor-up/>.
21. Pajon L. Première Guerre mondiale: la censure pour masquer la réalité des combats (11.05.2016). URL: <https://www.geo.fr/histoire/premiere-guerre-mondiale-la-censure-pour-masquer-la-realite-des-combats-160983>.
22. Sanders M. L. Wellington House and British Propaganda During the First World War. *Historical Journal*. 1975. №18. P. 119-146.

Submitted 07.12.2023

1. Kyriyenko, O. Yu. (2011). Viys'kova tsenzura v Ukraini (lypen' 1914 r. – lyuty 1917 r.) [Military censorship in Ukraine (July 1914 – February 1917)] : avtoref. dys. ... kand. ist. nauk : 07.00.01 / In-t istoriyi NAN Ukrainy. Kyiv, 20 p. [in Ukr.].

2. Konstytutsiya Ukrainy : pryynyata na 5-y sesiyi Verkhovnoyi Rady Ukrainy 28 chervnya 1996 r. [Constitution of Ukraine: adopted at the 5th session of the Verkhovna Rada of Ukraine on June 28, 1996]. *Vidomosti Verkhovnoyi Rady Ukrainy*. 1996. № 30. Art. 141. [in Ukr.].

3. Kotova, S. V. (2019). "Obraz voroha" v sotsiohumanitarnomu dyskursi Velykoyi Brytaniyi, Nimechchyny ta Rosiyi periodu Pershoji svitovoyi viyny (1914–1918 rr.) ["The image of the enemy" in the socio-humanitarian discourse of Great Britain, Germany and Russia during the First World War (1914–1918)] : avtoref. dys. ... kand. ist. nauk : 07.00.06 / Dniprovskyy natsional'nyy universytet imeni Olesya Honchara. Dnipro. 20 p. [in Ukr.].

4. Lesnyak, S. (2016). Viyna – tse mystetstvo obmanu: yakshcho perekhytrysh, to vyhrayesh [War is the art of deception: if you outwit, you'll win]. URL : <https://life.pravda.com.ua/columns/2016/02/25/208653/>. [in Ukr.].

5. Martynov, A. (2016). Persha svitova viyna u suchasny nimets'komovny istoriohrafii: temy y kontseptual'ni ideyi doslidzhen' [The First World War in modern German-language historiography: themes and conceptual ideas of research]. *Mizhnarodni zv'yazky Ukrainy: naukovy poshuky i znakhidky*. № 25. Pp. 397-423. [in Ukr.].
6. Makhno, V. Literatura i viyna [Literature and war]. URL : <https://zbruc.eu/node/102615>. [in Ukr.].
7. Pechenyuk, A. (2023). Tsenzura pid chas viyny: v Minoborony rozpovily, yak vdalosya unyknuty zhorstkykh zakhodiv [Censorship during the war: the Ministry of Defense told how it was possible to avoid harsh measures]. URL : https://www.unian.ua/politics/cenzura-v-ukrajini-pid-chas-viyny-stalo-vidomo-chomu-jiji-ne-zaprovadili-12317118.html?_gl=1*_5afvm1*_ga*. [in Ukr.].
8. Pyvovarov, S. & Kobernyk, K. (2023). Dosi obureni, shcho holova Minkul'tury ne proty tsenzoriv u ZMI? I pravyl'no, bo dali tsenzuru poshyryat' na teatr, kino i dumky. Tak uzhe bulo pid chas Pershoyi svitovoyi viyny — istorychny ekskurs "Babelya" [Still outraged that the head of the Ministry of Culture is not against censors in the mass media? And rightly so, because in the future censorship will be extended to theater, cinema and thoughts. This was already the case during the First World War – a historical tour of "Babel"]. URL : <https://babel.ua/texts/92130-dosi-obureni-shcho-golova-minkulturi-ne-proti-cenzoriv-u-zmi-i-pravilno-bo-dali-cenzuru-poshyryat-na-teatr-kino-i-dumki-tak-uzhe-bulo-pid-chas-pershoji-svitovoyi-viyny-istorichnyi-ekskurs-babelya>. [in Ukr.].
9. Samotuha, A. V. (2022). Propahanda ta konstytutsiynne pravo na informatsiyu pid chas viyny na tli zitknen' totalitarnykh praktyk i demokratychnykh tsinnostey [Propaganda and constitutional right to information during wartime on the background of clashes between totalitarian practices and democratic values]. *Naukovyy visnyk Dnipropetrovs'koho derzhavnoho universytetu vnutrishnikh sprav*. Spetsial'nyy vypusk № 2 «Derzhava i pravo Ukrainy v Umovakh voyennoho stanu». Pp. 249-264. [in Ukr.].
10. Chorna, O. (2023). Balans mizh svobodoyu slova ta infobezpekoju maye skladatsya z pravdy i movchannya, a ne z pravdy i brekhni [The balance between freedom of speech and information security should consist of truth and silence, not truth and lies]. URL : <https://detector.media/infospace/article/218112/2023-10-16-balans-mizh-svobodoyu-slova-ta-infobezpekoju-maie-skladatsya-z-pravdy-i-movchannya-a-ne-z-pravdy-i-brekhni/>. [in Ukr.].
11. Badsey S. World War I (1914–1918). (1950). *Propaganda and Mass Persuasion. A Historical Encyclopedia, 1500 to the Present* / N. J. Cull, D. Culbert, D. Welch. Santa Barbara, California ; Denver, Colorado; Oxford, England : ABC CLIO. 480 p.
12. Bourrie, M. (2018). How censorship became deadly during the First World War. URL : <https://macleans.ca/opinion/how-censorship-became-deadly-during-the-first-world-war/#:~:text=Journalists%20were%20banned%20by%20law,was%20legal%20until%20late%201917>.
13. Corey, R. (2004). *The History of a Political Idea*. Oxford University Press, USA, 316 p.
14. Domestic impact of World War One – society and culture. *Defense of the Realm Act (DORA)*. URL: <https://www.bbc.co.uk/bitesize/guides/ztx66sg/revision/3>.
15. Espionage Act of 1917 and Sedition Act of 1918 (1917-1918). URL : <https://constitutioncenter.org/the-constitution/historic-document-library/detail/espionage-act-of-1917-and-sedition-act-of-1918-1917-1918>.
16. Fischer, N. (2016). The Committee on Public Information and the Birth of US State Propaganda. *Australasian Journal of American Studies*, Vol. 35, No. 1, The State and US Culture Industries, pp. 51-78.
17. Forcade, O. (2016). La censure en France pendant la Grande guerre [Censorship in France during the Great War], Paris, Fayard, coll. «Histoire», 474 p. [in Fr.].
18. Greenslade, R. First world war: how state and press kept truth off the front page (27.07.2014). URL: <https://www.theguardian.com/media/2014/jul/27/first-world-war-state-press-reporting>.
19. Jablonski, E. A (1979). *Pictorial History of the World War I (One) Years*. New-York: Doubleday, 317 p.
20. Liquor up. Alcohol consumption. URL : <https://www.parliament.uk/business/publications/research/olympic-britain/leisure-and-lifestyles/liquor-up/>.
21. Pajon, L. Première Guerre mondiale: la censure pour masquer la réalité des combats [First World War: censorship to hide the reality of combat] (11.05.2016). URL: <https://www.geo.fr/histoire/premiere-guerre-mondiale-la-censure-pour-masquer-la-realite-des-combats-160983>. [in Fr.].
22. Sanders, M. L. (1975). Wellington House and British Propaganda During the First World War. *Historical Journal*. № 18. P. 119-146.

ABSTRACT

This article starts a cycle of publications highlighting problems of constitutional restriction of the right to information, countering enemy propaganda and promoting one's own ideologues and narratives as elements of counter-propaganda. After all, the current information wars, as components of hybrid ones, are characterized by a battle not so much of facts, but of senses and narratives, which are almost not refuted by the opposing parties, and therefore, fall less and less under legal regulation, and more under political conjunctures. Considerable attention has been paid to the issue of media censorship during the war. The time limits of setting the scientific problem cover the period from the First World War as the

first international armed conflict in terms of the number of participating states to the present day – the Russian-Ukrainian war as the forerunner of a new confrontation between authoritarian regimes and the democratic world.

On the example of the Entente countries (Great Britain, France, the Russian Empire) and its associated state-participant – the USA, the authors have concluded, that in the absence of then international legal restrictions on the subjective right to information even after the end of the Second World War, initiated the further and increasing participation of state and non-state actors in the implementation of information policy as in the interwar periods in the form of hybrid wars, as well as open armed confrontations in the context of all stages of the information revolution.

Keywords: *media, World War I, the Entente, society, legislative regulation, property, censorship, propaganda, restrictions on the right to information.*

UDC 349.3 : 342.7 : 341.231

DOI 10.31733/2078-3566-2023-5-60-66



Ihor NALYVAIKO©

Assistant Lecturer

(Dnipro University of Technology,
Dnipro, Ukraine)

THE ROLE OF CONSTITUTIONAL NORMS IN THE FORMATION OF SOCIAL STANDARDS: ASPECTS OF AMERICAN, EUROPEAN AND UKRAINIAN LAW

Ігор Наливайко. РОЛЬ КОНСТИТУЦІЙНИХ НОРМ У ФОРМУВАННІ СОЦІАЛЬНИХ СТАНДАРТІВ: АСПЕКТИ АМЕРИКАНСЬКОГО, ЄВРОПЕЙСЬКОГО ТА УКРАЇНСЬКОГО ПРАВА. У науковій статті досліджено роль конституційних норм у формуванні соціальних стандартів у США, країнах Європейського Союзу та Україні. У статті розглядаються теоретико-правові аспекти, визначення та огляд конституційних положень, їх порівняння з міжнародними стандартами. Звертається увага на взаємодію міжнародного та національного права, імплементацію міжнародних норм у конституційні положення країн, можливі перспективи розвитку соціальних норм, заснованих на конституційних принципах. У статті ретельно аналізується роль міжнародних договорів у формуванні соціальних стандартів та їх імплементація в конституційне поле, розглядається вплив цього процесу на правове середовище. Перспективи розвитку соціальних норм, побудованих на конституційних засадах, визначаються через розширення соціальних прав, адаптацію до сучасних викликів, гармонізацію з міжнародними стандартами. Висновки статті вказують на важливість конституційних норм у забезпеченні соціальних стандартів та вказують потенційні напрямки подальшого розвитку, такі як розширення соціальних прав, адаптація до сучасних викликів та взаємодія з міжнародними стандартами для створення більш справедливого та інклюзивного суспільства. Відзначено можливості для більшого захисту прав громадян та необхідність врахування сучасних викликів для розвитку справедливого та інклюзивного суспільства, заснованого на конституційних принципах.

Ключові слова: *конституційні норми, соціальні стандарти, міжнародне право, Європейський Союз, міжнародні договори, правове забезпечення, розвиток соціальних норм.*

Relevance of the study. In the modern world, constitutional norms not only determine the basic principles of the functioning of the legal space but also play an essential role in forming social standards. The Constitution, as the country's fundamental law, not only defines the rights and duties of citizens but also provides the basic framework for developing social

© Nalyvaiko I., 2023

ORCID iD: <https://orcid.org/0000-0003-1532-2996>

uf.dekanat@gmail.com