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## THE EXPERIENCE OF ADMINISTRATIVE REGULATORY FRAMEWORK FOR ACTIVITIES OF PUBLIC ADMINISTRATION BODIES OF CIVIL-MILITARY NATURE IN ISRAEL

**Abstract. Purpose.** The purpose of the article is to analyse the experience of the administrative regulatory framework for the activities of public administration bodies of a civil-military nature in Israel. **Results.** Israel's policy and similar measures to introduce Civil Administration, but under the full control of the Military Command, have led to the desired consequences for Israel. Despite the fact that the new Civil Administration was proclaimed as an autonomous body, as if taking away the management of civilian affairs from the military, the Israelis de facto increased the influence of their military on the management of Palestinian society. In Israel, the first experience of using military administrations was in the 1940s. In his monograph on power and politics in Israel, Benjamin Neuberger, a professor at the Open University of Israel, describes the military administration. He argues that the main purpose of establishing such institutions is the administrative management by citizens living in the respective territories (which were occupied). In addition to domestic law, international law should be applied here. However, according to the professor, the Israeli military administration, established in 1948, did not meet these characteristics. This was due to the fact that the Arab population that fell under the jurisdiction of the military administration lived in territories that were actually part of the state of Israel. In general, this type of administration operated in accordance with the provisions of the Defence (Emergency) Regulations of 1945. **Conclusions.** It is concluded that although the situation in Israel is still quite turbulent and many problems in relations with the Palestinians have not been resolved, the administrative experience of Israelis should be studied and applied, since, unlike us, they have been implementing military and civil-military administrations for decades. Moreover, Israel's approaches to dividing the problem territory into three areas with different levels of autonomy and powers of the Israeli executive authority deserves to be studied.

**Key words:** civilian control, military-police control, national administration, territory.

### 1. Introduction

If we consider the international experience of functioning of civil-military administrations, we should focus on the system of the administrative regulatory framework for the administrations of Israel, which had to create military administrations almost from the very beginning of its statehood. In 2017, O. Sikorskyi's article "Civil-military administrations as a way to ensure safety and normalise the population's life in the area of anti-terrorist operation" was published. Describing the already innovative Ukrainian legal framework for the existence of civil-military administrations, he argues that: "The Israelis were among the first to use a similar administrative system" (Sikorskyi, 2017, p. 160). That is why it is appropriate to analyse the Israeli experience in the application of civil-military administrations.

### 2. Administrative and territorial structure of military administrations in Israel

In Israel, the first experience of using military administrations was in the 1940s. In his monograph on power and politics in Israel, Benjamin Neuberger, a professor at the Open University of Israel, describes the military administration. He argues that the main purpose of establishing such institutions is the administrative management by citizens living in the respective territories (which were occupied). In addition to domestic law, international law should be applied here. However, according to the professor, the Israeli military administration, established in 1948, did not meet these characteristics. This was due to the fact that the Arab population that fell under the jurisdiction of the military administration lived in territories that were

actually part of the state of Israel. In general, this type of administration operated in accordance with the provisions of the Defence (Emergency) Regulations of 1945. The main task of this administration was to control the movement of the Arab population across the country (for this purpose, they needed special permits) (Neuberger, 1998, p. 444).

Initially, during 1948–1949, the main duties of the administration, in addition to monitoring the movement of Arabs, were: to strengthen the control of the Israeli authorities over the territories where Arabs constituted the majority of the population (Galilee, the “small triangle”, the Northern Negev, which constituted the border areas); in the event of armed aggression by neighbouring states, to prevent attempts by the local Arab population to contribute to it (an extremely important function in the Ukrainian context); to prevent the creation of Arab nationalist organisations ideological postulates thereof include anti-Israeli rhetoric; to swiftly implement punishment for criminals who have committed crimes against the state (Neuberger, 1998, p. 15).

Benjamin Neuberger quotes a statement by one of the military governors of the administration regarding his own tasks. He noted that his functions were not directly related to defence, as the latter was the responsibility of the field gendarmerie and the Jewish settlements along the border. The governor had to introduce control over the Arab population of the district: “... We know that some of them are loyal to us; but we also know that the rest are not loyal. Hence checks, surveillance, control are required” (Neuberger, 1998, p. 15).

The military administration was divided into districts (Northern, Central and Southern). The district was headed by a military governor with a wide range of powers. According to the Defence Regulations, he was given the right to impose house arrest or administrative detention, deportation, to order the demolition of a house or to confiscate property on any resident of the territory entrusted to him, to close down a newspaper, to liquidate a non-governmental organisation or prohibit its establishment, to restrict freedom of movement, to declare a certain zone a closed area, to impose curfews, to impose restrictions on employment, etc. (Neuberger, 1998, p. 16).

Some political figures opposed the existence of the military administration, as it contradicted the principles of a democratic state, and the granting of special permits to the Arab population was an instrument of pressure on disloyal elements (Neuberger, 1998, p. 444). Subsequently, the administration was liquidated in 1966.

Moreover, the introduction of the 1945 Defence Regulations was justified by the need to ensure Israel's national security. It restricted not only the departure abroad of representatives of national minorities from border areas where they constituted the majority of the population, but also the Jewish population (Vorobiev and Chaiko, 2006, p. 23). In addition, this act allowed the executive to carry out administrative arrests, restrict freedom of movement, issue decrees on compulsory attendance at workplaces, impose curfews, etc. (Vorobiev and Chaiko, 2006, p. 74).

However, already in 1967, Israel experienced historic and significant events that largely guided the state's further development. Under an arms embargo on Israel, at a time when the Soviet Union was actively supplying arms to Arab states, this state found itself in a situation where it was forced to confront almost all of its Arab neighbours virtually alone. The Israelis were once again faced with the possibility of losing their own statehood. However, thanks to the effective actions of the Israeli military, the situation turned out to be quite unexpected from the point of view of Arab countries. As a result of the Six-Day War, the armies of Egypt, Jordan, and Syria were defeated, and Israel took control of a large area from the Golan Plateau to Sharm el-Sheikh and from the Suez Canal to the Jordan River. Therefore, the State of Israel faced the problem of establishing its own administration in the territories of the Sinai Peninsula, East Jerusalem, the Golan Heights, the Gaza Strip, and the West Bank.

In the newly captured territories of the West Bank and Gaza Strip, after the cessation of active hostilities, the authority was concentrated in the hands of the Israeli military administration with “interspersed” elements of local self-government (Gorodilov and Kulikov, 2018, p. 434). Local governments retained control over only religious matters, healthcare, civil matters and some other general local governance issues. The jurisdiction of the Israeli military courts was limited to cases related to national security.

In 1981, these territories underwent significant changes in terms of administrative structure. As a result of Military Order regarding the Establishment of the Civil Administration (No. 947), a new type of administration was introduced, subordinated to the Coordinator of Government Activities in the Territories (COGAT). The Civil Administration had the character of a temporary state administrative authority and operated from 1981 to 1994, when it was replaced in a number of territories by the Palestinian Authority. As of today, the Coordination Centre for Government

Activities in the Territories (COGAT) implements the government's civilian policy within the territories of Judea and Samaria and towards the Gaza Strip.

The Administration governed civilian affairs, provided a range of administrative services, and was in charge of public order. In addition, the administration dealt with the movement of people through the designated territories. It was also responsible for the demarcation between these areas and other territories of Israel (Sikorskyi, 2017, p. 161).

In addition, the Civil Administration of Judea and Samaria, as a civilian-military body responsible for the implementation of Israel's civilian policy in some Palestinian territories, is still in place today. Although it is considered a civilian authority, it operates under the authority of the military Administration of Judea and Samaria. The administration includes not only civilians, but also officers and soldiers of the Israeli armed forces to ensure effective policy coordination. In modern conditions, this Civil Administration is responsible for a wide range of issues ranging from infrastructure and transport to water supply for the population and agricultural entities, electricity in the region, healthcare, and the economy.

The Administration consists of 22 government offices located in the northern and southern regions, as well as 8 Coordination and Liaison Centres located throughout the Judea and Samaria Area. They work to maintain constant communication and interaction between local Palestinians, representatives of Israeli settlements, international organisations, the Palestinian Authority and relevant security agencies (The Civil Administration of Judea and Samaria, 2019).

It should be noted that at that time, according to Military Order No. 947 regarding the Establishment of the Civil Administration, the Civil Administration was managed by the Head of the Civil Administration, appointed by the local Military Commander. In order to enact the Head's powers, the third article of the order established a list of his powers (Israel Military Order No. 947 regarding the Establishment of a Civil Administration, 1981). This order was intended to fulfil a number of tasks. First, to legally regulate the existing separation of civilian and military functions and powers from the existing Military Command by establishing a formally civilian new administration that would have the scope of competence only within the limits established by law (Kuttāb and Shehadeh, 1982, p. 8).

Second, to establish the preconditions for raising the general status of a large volume

of military orders and other acts produced by the local military leadership from the status of temporary security acts to the level of permanent acts that would have a completely different status in the region (Kuttāb and Shehadeh, 1982, p. 8).

According to the order, the Civil Administration was entirely determined and established by the Military Command. The head of the Civil Administration acted on behalf of the Military Command of the region. Accordingly, the scope of powers was increased or decreased at the will of the command. The established relationship between the Civil Administration and the Military Command was in line with the Israeli government's interpretation of the Camp David Accords of the time, which, in the government's view, provided for the withdrawal, but not the complete abolition, of military power in the region. Despite the establishment of a supposedly Civil Administration, the Military Command remained at the top of the administrative hierarchy in the region (Kuttāb and Shehadeh, 1982, p. 9).

According to Order No. 947, the Civil Administration and its head were granted a significant amount of authority to regulate and control the economic life of the region (to monitor imports, exports, pricing, finance and banking, setting taxes and customs duties); control over the supply of electricity, water, telephone and postal services to the entrusted territory; facilitate the incorporation of certain areas into the Israeli tourism system, roads and other routes, insurance, etc.; and the appointment of officials).

Following scholar E. Titko, the Civil Administration was supposed to signal the beginning of a gradual process of transition of the territory to an autonomous system. However, it appeared as the then Israeli Defence Minister A. Sharon's policy of "iron fist". E. Titko suggests that A. Sharon, although he took office only three months before the creation of the Civil Administration, had a clear vision of the new administration as a tool to strengthen the administrative influence of the Israeli authorities in the region (E. Titko herself comments: "...strangely enough, this scheme was represented by the separation of the civil administration from the military one") (Titko, 2017, p. 182).

### **3. The impact of Israeli policy on the activities of civil-military administrations**

Israel's policy and similar measures to introduce Civil Administration, but under the full control of the Military Command, have led to the desired consequences for Israel. Despite the fact that the new Civil Administration was proclaimed as an autonomous body, as if taking away the management of civilian affairs

from the military, the Israelis de facto increased the influence of their military on the management of Palestinian society (Titko, 2017, p. 182).

As mentioned above, the Civil Administration in this form lasted until 1994. After 1994, a new stage in the construction of administrative governance in the region began, marked by the Oslo Accords (the "Declaration of Principles on Interim Self-Government Arrangements"), i.e. bilateral negotiations, which were secret, between the Israeli authorities and the Palestine Liberation Organisation. The negotiations resulted in the creation of the Palestinian Authority (which received a part of the West Bank), as well as an increase in autonomous rights to local self-government of the Judea and Samaria (the Palestinian Council was created there). It should be noted that it is on this territory that the Civil Administration continues to operate under the aforementioned COGAT. This administration regulates the issue of the Palestinian population in the Area C. One of the consequences of the Oslo Accords was the division of the region into three areas A, B, C, which depended on the level of autonomy and influence of Israel and its government institutions (Israel has implemented the principle of "divide and rule" through this division, as discussed below) (Titko, 2017, p. 182).

Therefore, the entire West Bank is divided into three areas. Area A was transferred under full civilian and military police control of the Palestinian Authority, which included most of the settlements inhabited by Arabs. In Area B, joint military control by the Palestinian Authority and Israel was envisaged, with civilian affairs under full Palestinian control. Area C was supposed to be completely dominated by Israeli civilian and military authorities. As of 1995, the distribution of the proportion of the area's territory to the entire region and the number of Palestinians living there was not in favour of the Palestinians. In 1995, Area A accounted for only 3% of the West Bank, and 26% of all Palestinians lived there (thus, only a small piece of territory was under the full control of the Palestinian Authority). Area B comprised 24% of the land and 70% of the population. In contrast, Area C, which was under Israeli control, had 73% of the total area and only 4% of the Palestinian population (9, p. 35–36).

Through a series of agreements, the situation changed somewhat by 2000, with Area A accounting for 18%, Area B for 22% and Area C for 64%. Meanwhile, the areas in which the Palestinians had full control were like an archipelago, while the areas controlled by Israel were strategic corridors that interrupted the territorial contiguity of the West Bank.

By the way, according to the Israeli professor and academician N. Gordon, a fundamental change in the 1990s in the models of administrative governance in the designated territories led to a radically new approach of the Israeli authorities to the Palestinian population: "... the transfer of authority over civil institutions to the PA reflects the beginning of a transformation from the principle of colonisation to the principle of separation, where the latter does not mean the termination of control but rather its alteration from a system based on managing the lives of the occupied inhabitants to a system which is no longer interested in the lives of the Palestinian residents" (Gordon, 2008, p. 37). It is significant that after that, Israel no longer kept "records" of the conditions under which the Palestinians lived, and that the Israeli Bureau of Statistics stopped monitoring any development concerning the Palestinian population in the occupied territories.

V. Shevchenko's dissertation focuses on the current state of management of Areas B and C by the Israeli military leadership. The Central Military District has in subordination the Territorial Command Centre of the Israeli Armed Forces, which is responsible for building the line of territorial defence of the state in the West Bank. It is in the hands of this territorial Command Centre that the administrative powers over Areas B and C are concentrated. V. Shevchenko describes the hierarchy of management: "The district commander also performs the function of the Commander of the Israeli Defence Forces in the Judea and Samaria Area", the supreme body of the Israeli Military Administration in the West Bank..." (Shevchenko, 2015, p. 155).

A person with the rank of major general has the right to hold the position of district commander, and accordingly, such a person is subordinate to the head of the district headquarters. In general, despite the existence of certain Civil Administrations (titled as such, they were essentially civil-military), in reality, all administrative power in the areas is exercised by the Military Command, i.e. representatives of the Israeli army (Shevchenko, 2015, p. 156).

#### 4. Conclusions

Although the situation in Israel is still quite turbulent and many problems in relations with the Palestinians have not been resolved, the administrative experience of Israelis should be studied and applied, since, unlike us, they have been implementing military and civil-military administrations for decades. Moreover, Israel's approaches to dividing the problem territory into three areas with different levels of autonomy and powers of the Israeli executive authority deserves to be studied.

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## ДОСВІД АДМІНІСТРАТИВНО-ПРАВОВОГО РЕГУЛЮВАННЯ ДІЯЛЬНОСТІ ОРГАНІВ ПУБЛІЧНОЇ АДМІНІСТРАЦІЇ ВІЙСЬКОВО-ЦИВІЛЬНОГО ХАРАКТЕРУ В ІЗРАЇЛІ

**Анотація. Мета.** Метою статті є аналіз досвіду адміністративно-правового регулювання діяльності органів публічної адміністрації військово-цивільного характеру в Ізраїлі. **Результати.** Політика Ізраїлю та подібні заходи із запровадження цивільної адміністрації, однак під повним контролем військового командування, призвели до бажаних для Ізраїлю наслідків. Незважаючи на той факт, що нова цивільна адміністрація проголошувалась як автономний орган, немов відбираючи у військових управління справами цивільними, де-факто ізраїльтяни посилити вплив власних військових на управління справами палестинського суспільства. Перший досвід застосування військових адміністрацій в Ізраїлі був використаний ще в 1940-х роках. Професор Відкритого університету Ізраїлю Беніамін Нойбергер у своїй монографії про владу та політику в Ізраїлі наводить характеристику військової адміністрації. Він вказує, що здебільшого метою створення подібних інстанцій постає здійснення адміністративного управління проживаючими на відповідних територіях (що були окуповані) відання громадянами. А крім внутрішнього законодавства тут повинно використовуватися міжнародне право. Однак, як зауважує професор, створена в 1948 році військова адміністрація Ізраїлю не відповідала подібним характеристикам. Причиною цього став той факт, що арабське населення, яке підпадало під юрисдикцію військової адміністрації, проживало на територіях, які були, власне, частиною держави Ізраїль. Загалом цей тип адміністрації діяв відповідно до норм Уложення про оборону (надзвичайні обставини) 1945 року. **Висновки.** Зроблено висновок, що хоча й на сьогодні в Ізраїлі зберігається досить неспокійна ситуація, а багато проблем у відносинах із палестинцями не вирішено, усе ж управлінський адміністративний досвід ізраїльтян потрібно досліджувати й використовувати, оскільки, на відміну від нас, вони мають досвід впровадження військових, військово-цивільних адміністрацій, який нараховує багато десятиліть. Водночас заслуговують

на вивчення підходи Ізраїлю щодо розділення проблемної території на три зони з різним рівнем автономії та повноважень виконавчої влади Ізраїлю.

**Ключові слова:** цивільний контроль, військово-поліцейський контроль, національна адміністрація, територія.

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