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**States of Exception:
Emergency Government and 'Enemies
Within' in Britain and Germany during
the First World War**

A Keil

PhD

2014

**States of Exception:
Emergency Government and 'Enemies
Within' in Britain and Germany during
the First World War**

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A thesis submitted in partial fulfilment
of the requirements of the
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for the degree of
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Abstract

This thesis examines the First World War's impact on the exercise of state authority in both Britain and Germany. The project shows the extent to which expansive and intrusive domestic policies triggered a reconfiguration of the relationship between the state and its citizens. These processes are studied through a focus on the 'state of exception' and the wartime systems of emergency government in both countries. Legislation such as the Defence of the Realm Act in Britain and the German 'state of siege' laws served as major instruments of emergency rule and thus shaped the policies on the home front. Yet, despite its historical significance, historians have broadly neglected this aspect of the First World War.

In order to address this gap in literature, the thesis examines how the emerging systems of emergency government in Britain and Germany were entangled with political, legal and social developments in both countries. Moreover, it shows how categories of 'enemies within' influenced the exercise of emergency powers by the police, the military and the courts. The thesis also considers how dissenting activists reacted to repressive emergency measures and how these experiences provided stimuli for civil liberties activism.

Based on extensive research in German and British archives, this study offers an insight into policy-making on the home front and into the inner workings of the institutions entrusted with enforcing emergency measures. By adopting a comparative approach, it identifies national specificities, yet it also notes striking similarities in the British and German state responses to a totalising war. Despite

the different political traditions and institutions in the two countries, the application of emergency powers produced comparable results in several respects.

Overall, this thesis offers a fresh perspective on the ways in which European societies experienced the First World War on their home fronts. It shows how emergency measures sought to enforce endurance and support for the war effort in Britain and Germany. Moreover, it intervenes in the current debates about the legitimate limits of state power in the face of prolonged crisis. This study thus contributes to the understanding of the phenomenon of the state of exception in modern Europe.

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André Keil

Newcastle, November 2014

Declaration

I declare that the work contained in this thesis has not been submitted for any other award and that it is all my own work. I also confirm that this work fully acknowledges opinions, ideas and contributions from the work of others.

Any ethical clearance for the research presented in this thesis has been approved.

Approval has been sought and granted by the Faculty Ethics Committee on 24 January 2012.

I declare that the Word Count of this Thesis is 86,654 words.

Name: André Keil

Signature:

Date: 26 November 2014

Introduction

In an article titled ‘The Rule of DORA’, written in 1919, the historian Sydney W. Clarke lamented that, ‘(...) of the phenomena exhibited during the four years of warfare, none is more remarkable than the docility with which the people of this country submitted to the abrogation of many of their most cherished rights.’ He went on to complain that under the Defence of the Realm Act of 1914 (DORA):

Such fundamental principles of the Constitution as those expressed by the phrases Government by Parliament, the Responsibility of the Executive to the Legislature, the Liberty of the Subject, Trial by Jury, Open Law Courts, Freedom of Speech, the Freedom of the Press, and An Englishman's House is his Castle, were attacked, whittled down, and in some cases reduced to mere shreds of their former consequence.¹

Two years earlier, in October 1916, the liberal German newspaper *Münchener Neueste Nachrichten* adopted a similar tone when it criticised the repressive regime under the *Belagerungszustand* (state of siege) in their country:

A system sufficiently characterised by catchwords such as detention without trial, postal censorship, suppression of the freedom of expression and newspaper bans, has haunted the German people like a nightmare for almost two years now. [...] It has become a constant feature of our daily life.

It then somewhat ironically concluded that, ‘if one day a historian will look at this aspect of the war, he will only be able to grasp the whole thing with a strong sense of humour. Terms such as *Burgfrieden* and *New Course* will appear in this history as merely satirical references.’²

¹ Sydney W. Clarke, ‘The Rule of DORA’, *Journal of Comparative Legislation and International Law*, 1, 1 (1919), pp. 36-41, p. 36.

² *Münchener Neueste Nachrichten*, 19 October 1916 [translation by the author].

The opinions expressed in these two articles illustrate the often critical contemporary perceptions of emergency government in Britain and Germany during the First World War. Yet, surprisingly most historians in Britain and to some extent also in Germany have failed to recognise the profound significance of emergency legislation during the Great War and its far-reaching cultural, political and social impacts on the history of the twentieth century.³ This is particularly remarkable if we take into account the multitudinous publications dealing with almost every aspect of the First World War. Nonetheless, only very few of them mention the problem of emergency government at all.⁴

The neglect of this issue in the historiography of the First World War does, however, not reflect the actual relevance of emergency laws such as the Defence of the Realm Act in Britain or the state of siege in the German Empire. These pieces of legislation provided the main legal and constitutional frameworks under which both countries were transformed into wartime societies. Moreover, they created the historical precedents for some of most problematic state practices in the twentieth century such as detention without trial, the large-scale internment of ethnic minorities and the prosecution of oppositional groups.⁵ It is almost impossible to understand these phenomena without taking their emergence during the First World War into account.

³ Charles Townshend, *Making the Peace: Public Order and Public Security in Modern Britain* (Oxford: Oxford University Press, 1993), pp. 56-57.

⁴ See for example: Annie Deperchin, 'The Laws of War', in Jay M. Winter (ed.), *The Cambridge History of the First World War. Vol. 1: Global War* (Cambridge: Cambridge University Press, 2013), pp. 615-638.

⁵ For a theoretical discussion of the emergence of the 'coercive state' and wartime experiences see Ted Robert Gurr, 'War, Revolution and the Growth of the Coercive State', *Comparative Political Studies*, 21, 1 (1988), pp. 45-65.

This study seeks to address this problem by highlighting the crucial importance of emergency measures for understanding home front politics in Britain and Germany during the Great War. It examines and compares those practices and discourses related to the Defence of the Realm Act (DORA) in Britain and the state of siege in the German Empire. These two pieces of emergency legislation have been interpreted as examples of ‘constitutional dictatorships’, which emerged during the First World War in all belligerent countries, albeit to different degrees.⁶ These emergency laws suspended essential elements of the existing constitutional arrangements, which had hitherto limited the powers of the state and protected the individual rights and liberties of its citizens. Moreover, they enabled government agencies to regulate, control, and intervene in nearly all aspects of daily life. As a result, the relationship between state and civil society was profoundly changed by the end of the war. Under the pressure of the emerging total war, a new concept of a corporatist and ‘total’ state emerged, which eventually became the blueprint for authoritarian rule in the twentieth century.⁷ Against this backdrop, the First World War had not only been a motor of social change but also a catalyst for the development of political thought concerning the legitimate scope of state intervention in moments of crisis, dictatorship and emergency measures.

⁶ The term ‘constitutional dictatorship’ was coined by the American political scientist Clinton L. Rossiter referring to a specific concept of crisis government in parliamentary systems: Clinton L. Rossiter, *Constitutional Dictatorship: Crisis Government in Modern Democracies*, (Princeton: Princeton University Press, 1948), pp. 3-14.

⁷ For the development of the term ‘total state’ in the context of Italian fascism see inter alia Jens Petersen, ‘The History of the Concept of Totalitarianism’, in: Hans Maier (ed.), *Totalitarianism and Political Religion. Volume I: Concepts for the Comparison of Dictatorships*, (New York: Routledge, 2004), pp. 3-20; Sigmund Neumann, *Permanent Revolution: The Total State in a World at War* (New York: Harper and Brothers, 1942); Richard Wolin, ‘Carl Schmitt, Political Existentialism, and the Total State’, *Theory and Society*, 19, 4 (1990), pp. 389-416.

Scholars such as the Italian philosopher Giorgio Agamben have claimed that the First World War was a laboratory for the state of exception.⁸ Many historians of the war would agree that it was a ‘testing ground for later radicalised practices’.⁹ And indeed, many tools and techniques were developed during this period, which would later become integral parts of the arsenal of authoritarian rule. Initially however, the state of exception during the First World War was not a clearly elaborated programme of measures. As this study will demonstrate, it was to a large extent a process of experimentation under unprecedented circumstances. The First World War should therefore also be understood as a historical period in which the complex relationship between the state and its individual citizens was reconfigured in the face of an exceptional crisis.

The new character of industrialised warfare demanded a high degree of economic mobilisation and commitment of the masses. Hence, a domestic policy on the home front solely based on coercion was not sustainable for the wartime governments.¹⁰ Wherever it was possible positive mobilisation of patriotism and commitment amongst the population were favoured over mere compulsion and bare force.¹¹ Harsh coercive measures remained, nevertheless, a distinct option within the system of emergency government in Britain and Germany. Where propaganda and self-mobilisation failed, more aggressive measures were applied without

⁸ Giorgio Agamben, *State of Exception* (Chicago: Chicago University Press, 2005), p.7.

⁹ Alan Kramer, ‘Recent Historiography of the First World War (Part I)’, *Journal of Modern European History*, 12, 1 (2014), pp. 5-27, p. 5.

¹⁰ Brock Millman, for example, affirms this approach for the United Kingdom and juxtaposes that with the allegedly more severe measures in the German Empire; Brock Millman, *Managing Dissent in First World War Britain* (London: Frank Cass, 2000), pp. 31-33.

¹¹ See for example John Horne, ‘Mobilising for Total War’, in idem, (ed.), *State, Society, and Mobilisation in Europe during the First World War* (Cambridge: Cambridge University Press, 1997), pp. 1-17; Anne Schmidt, *Belehrung – Propaganda – Vertrauensarbeit: Zum Wandel amtlicher Kommunikationspolitik in Deutschland 1914-1918* (Essen: Klartext, 2006), pp. 29-38.

hesitation. For the wartime governments in both countries, the question of repression and coercion was less a moral or normative issue, but a matter of utility. By 1918, most belligerent governments had developed sophisticated systems for positive mobilisation and mechanisms for the suppression of dissent. These systems were not completely abandoned after the war but deactivated and refined during the interwar years. The experiences of the First World War consequently influenced other pieces of emergency legislation such as the Emergency Powers Act of 1920 in the United Kingdom or in the infamous article 48 of the Weimar constitution in Germany.¹² In fact, the ideas of the state of exception and ‘constitutional dictatorship’ became an integral part of political discourse in the twentieth century. They remain a challenging issue for many societies today.¹³

Emergency Government and the Historiography of the First World War

The literature on emergency government during the First World War provides a contradictory picture: on the one hand, studies about the state of exception during the First World War scarcely exist. As has been pointed out earlier, there is, for

¹² For the debate about Article 48 of the Weimar Constitution in Germany see for example Marc de Wilde, ‘The State of Emergency in the Weimar Republic: Legal Disputes over Article 48 of the Weimar Constitution’, *The Legal History Review*, 78, 1, (2010), pp. 131-158; Rossiter, *Constitutional Dictatorship*, pp. 29-74; see also Ursula Büttner, *Weimar: Die überforderte Republik 1918-1933* (Stuttgart: Klett-Cotta, 2008), pp. 112-120; Rossiter, *Constitutional Dictatorship*, pp. 29-74.

¹³ Especially after 9/11 the question about the fragile relations between freedom and security, democracy and crisis government has re-emerged; see for example Kim Lane Scheppele, ‘Law in a Time of Emergency: States of Exception and the Temptations of 9/11’, *University of Pennsylvania Journal of Constitutional Law*, vol. 6, (2004), pp. 1001-1080; John E. Owens and Riccardo Pelizzo, ‘Rethinking Crises and the Accretion of Executive Power: The “War on Terror” and Conditionality Evidence From Seven Political Systems’, *Asian Politics & Policy*, 5, 3 (2013), pp. 321-336; Ellen Kennedy, ‘Emergency and Exception’ *Political Theory*, 39, 4 (2011), pp. 535-550, Keith Ewing, ‘The Political Constitution of Emergency Powers: A Comment’, *International Journal of Law in Context*, 3, 4 (2007), pp. 313-318; Mark Neocleous, ‘From Martial Law to Emergency Powers’, *New Criminal Law Review*, 10, 4 (2007), pp. 489-513.

example, no comprehensive study on DORA available as a monograph yet. On the other hand, the number of books covering topics that at least partially relate to this study are too numerous to be counted.

The assessment of the existing literature will show that the challenge of a historical study about the state of exception during the First World War lies exactly in striking a balance between theoretical assessments and providing an appropriate amount of historical evidence. The following literature review shall therefore firstly provide a very concise overview about general trends and new tendencies within the field of First World War studies. The second section introduces the widely ramified debates around the concept of the state of exception. Following on from this some existing case studies on certain aspects of emergency government during the First World War will briefly be discussed.

The Historiographical Development of First World War Studies

The historiography of the First World War has followed certain paradigms, which have undergone a number of changes over the last 40 years.¹⁴ The following short overview about general developments in First World War studies will help us understand why phenomena such as the state of exception have for a long time been widely neglected. The first attempts to shape the historical perception of the Great War already occurred during the conflict itself.¹⁵ Almost immediately after the

¹⁴ For a comprehensive overview of the most recent developments in the historiography of -the First World War see Heather Jones, 'As the Centenary Approaches: The Regeneration of First World War Historiography', *The Historical Journal*, 56, 3 (2013), pp. 857-878; Alan Kramer, 'Recent Historiography of the First World War (Part I)', op. cit.; Idem, 'Recent Historiography of the First World War (Part II)', *Journal of Modern European History*, 12, 2 (2014), pp. 155-174.

¹⁵ The sheer volume of literature produced during the war is illustrated by the German output of 1914-15. Until the end of 1915, over 235 volumes of war poetry had been published, containing the largest part of the c. 500,000 poems published during the war. German clerics published over 2,000

outbreak of the war the belligerent governments began to publish collections of official documents that were supposed to prove the responsibility of the enemies for the unfolding mass slaughter.¹⁶ Renowned historians, social scientists and intellectuals such as H. G. Wells in Britain, Émile Durkheim in France and Werner Sombardt in Germany published accounts and analyses of responsibility for the outbreak of the war, the righteousness of the respective national causes and war aims, and on the historic mission of their nations.¹⁷

German intellectuals tried to present the conflict as an epic struggle between the Western – and especially British – values of materialism and individualism and proclaimed intrinsically German values of community and collectivism.¹⁸ This view was exemplified by the *Manifesto of the 93*, also known as the *Call to the Cultured World*.¹⁹ In this document, famous German academics justified the illegal invasion of neutral Belgium and reaffirmed their support for the German war effort as a means of protecting their *Kultur*. The British discourse, on the other hand,

brochures and booklets with war sermons. And 8,000 volumes of general war literature flooded the market: Hans-Ulrich Wehler, *Deutsche Gesellschaftsgeschichte, Vol. 4: Vom Beginn des Ersten Weltkriegs bis zur Gründung der beiden deutschen Staaten 1914-1949*, p. 19.

¹⁶ See Annika Mombauer, *The Origins of the First World War: Controversies and Consensus* (London: Pearson, 2002), pp. 21-77; esp. pp. 57-77.

¹⁷ See for example Stuart Wallace, *War and the Image of Germany, British Academics 1914-1918* (Edinburgh: John Donald, 1988); Peter Hoeres, *Krieg der Philosophen: Die deutsche und britische Philosophie im Ersten Weltkrieg* (Paderborn: Schönigh, 2004); Wolfgang J. Mommsen, *Kultur und Krieg: Schriftsteller, Künstler und Intellektuelle im Ersten Weltkrieg* (Munich: Oldenbourg, 1996); Idem, 'German Artists, Writers and Intellectuals and the Meaning of War 1914-1918', in Horne (ed.), *State, Society and Mobilization*, pp. 21-38.

¹⁸ Prominent examples are Werner Sombart's *Händler und Helden* (Merchants and Heroes, 1915) and Johann Plenge's concept of the 'ideas of 1914' and his later conceptualisation of 'Volksgemeinschaft' and 'National Socialism'; Cf. Werner Sombart, *Händler und Helden: Patriotische Besinnungen*, (Leipzig. München: Duncker & Humblodt, 1915); Johann Plenge, *1789 und 1914: Die symbolischen Jahre in der Geschichte des politischen Geistes* (Berlin: Springer, 1916);

¹⁹ Jürgen von Ungern-Sternberg and Wolfgang von Ungern-Sternberg, *Der Aufruf 'An die Kulturwelt!': Das Manifest der 93 und die Anfänge der Kriegspropaganda im Ersten Weltkrieg* (Stuttgart: Steiner, 1996), pp. 144-148.

revolved around the claim that the conflict was a ‘war to end all wars’.²⁰ Historians and other intellectuals played an important role in making the First World War one of the first deeply ideologised propaganda wars. The fundamental ideologisation did not only have a profound impact on the actual conduct of the war, it also changed wartime politics.²¹

Immediately after the war, a flood of memoirs and official historiographies was brought onto the market. Through these publications politicians and military leaders sought to highlight their role and contribution to the victory or, in the German case, to exonerate themselves from responsibility for defeat and revolution.²² This established the framework for the traditional historiography of the war, which predominantly focussed on military and diplomatic aspects and the discussion of the responsibility for the outbreak of the war. There were, of course, notable exceptions to this trend such as the extensive publication series on the history of the Great War published by the Carnegie Endowment for Peace.²³ Yet, until the late 1960s major works on the war reflected mostly on its significance for the emergence of a new historical era in terms of politics, diplomacy, the military and technology.

²⁰ The slogan was coined by the writer and socialist intellectual H. G. Wells who formulated the idea in a number of newspaper articles which then were published as a book under the title ‘The war that will end all wars’ in October 1914; H. G. Wells, *The War That Will End All Wars* (London: Frank and Cecil Palmer Red Lion’s Court, 1914).

²¹ Audoin-Rouzeau and Becker argue that the perception of the war reached an almost religious level with an eschatological dimension: Audoin-Rouzeau and Becker, *14-18: Understanding the Great War*, 159-171. For an excellent collection of similar cultural historical approaches to understanding the war, see Heather Jones, Jennifer O’Brien and Christopher Schmidt Supprian (eds), *Untold War: New Perspectives in First World War Studies* (Leiden: Brill, 2008).

²² See for example Erich Ludendorff, *Ludendorff’s Own Story* (New York: Harper & Brothers, 1920); Paul von Hindenburg, *Out of my Live*, 2 vols (New York: Harper & Brothers, 1921); David Lloyd George, *The War Memoirs of David Lloyd George*, 2 vols (London: Ivor Nicholson and Watson, 1933).

²³ Kramer, ‘Recent Historiography of the First World War (Part I)’, p. 6.

It was a book by the (West-) German historian Fritz Fischer in 1961, and the ensuing controversy about it, which created renewed interest in the First World War.²⁴ Fischer argued that Germany had to take the main responsibility for the outbreak of the war as its military and civilian leadership had been determined to take the risk of global conflict to pursue their ambition of becoming a global power.²⁵ The subsequent debate amongst German and international scholars encouraged the search for new sources and materials to prove the opposing positions.²⁶ The renewed interest in the First World War was facilitated by the fact that a number of records became declassified during the 1960s in Britain, Germany and other former belligerents, allowing scholars to pursue new directions in their research on the war.²⁷

Consequently, the 1970s and 1980s saw the publication of a number of innovative studies on several aspects of the war, which had hitherto been neglected. This was also a time in which aspects of domestic policies and the situation on the home fronts received increased scholarly attention, opening up the way for innovative approaches to the history of the war. These new approaches reflected general historiographical trends such as gender history or the concept of history

²⁴ Fritz Fischer, *Der Griff nach der Weltmacht: Die Kriegszielpolitik des kaiserlichen Deutschland, 1914/18* (Düsseldorf: Droste, 1961).

²⁵ Fritz Fischer, *Krieg der Illusionen: Die deutsche Politik 1911-1914* (Düsseldorf: Droste, 1970).

²⁶ For a comprehensive overview over the impact on the historiography, see Annika Mombauer, 'The Fischer Controversy: 50 Years On', *Journal of Contemporary History*, 48, 2 (2013), pp. 231-241; Jonathan Steinberg, 'Old Knowledge and New Research: A Summary of the Conference on the Fischer Controversy 50 Years On', *ibid.*, pp. 241-250; Hartmut Pogge von Strandmann, 'The Political and Historical Significance of the Fischer Controversy', *ibid.*, pp. 251-270; see also Fritz Fischer, 'Twenty-Five Years Later: Looking Back at the "Fischer Controversy" and Its Consequences', *Central European History*, vol. 21, 3, (1988), pp. 207-223; John A. Moses, *The Politics of Illusion: The Fischer Controversy in German Historiography*, (London: Barnes & Noble, 1975); Matthew Stibbe, 'The Fischer Controversy over German War Aims in the First World War and its Reception by East German Historians', *The Historical Journal*, 46, 3, (2003), pp. 648-669.

²⁷ A large number of British records became declassified in 1966 and enabled the study of topics like domestic censorship or propaganda: Deian Hopkin, 'Domestic Censorship in the First World War', in: *Journal of Contemporary History*, 5, 4, (1970), pp. 151-166, p. 151.

from below.²⁸ The same tendencies could be observed in the German case where social history, gender history, and the political history of the home front became matters of scholarly interest.²⁹ Wilhelm Deist's work on the role of the German military in domestic policies during the war from 1970, for example, is still the only annotated edition of primary sources available on this topic.³⁰ With regards to the German historiography of the First World War, the contribution by East German scholars tends to be overlooked. Yet, despite the fact that publications on the war from the socialist GDR were strongly influenced by orthodox Marxist-Leninist ideology, they tackled issues such as the socialist opposition to the war, state repression, the precarious situation of the working class, or the November Revolution of 1918, which the West German historiography broadly neglected for a long time.³¹ Many of these studies used unpublished archival materials from East German and Eastern European archives for the first time. Although the general arguments of most of these studies have to be considered as outdated, they still serve their purpose as references for German archival sources very well.³²

The 80th anniversary of the end of the war in 1998 and the 90th anniversary of the beginning of the war in 2004 saw a number of comprehensive studies being

²⁸ To name a few examples for these trends: Jay M. Winter, *The Great War and the British People* (London: Routledge, 1985); Arthur Marwick, *The Deluge: British Society and the First World War*, (London: Palgrave MacMillan, 1965); Gail Braybon, *Women Workers in the First World War: The British Experience* (London: Routledge, 1981); Bernard Waites, *A Class Society at War: England 1914-1918*, Lemington Spa: Berg, 1987).

²⁹ Just to point out a few examples: Ute Daniel, *The War from Within: German Women in the First World War* (Lemington Spa: Berg, 1997; first published in German in 1989); Jürgen Kocka, *Klassengesellschaft im Krieg: Deutsche Sozialgeschichte 1914-1918* (Göttingen: Vandenhoeck und Rupprecht, 1973); Günter Mai (ed.), *Arbeiterschaft in Deutschland 1914-1918* (Düsseldorf: Droste, 1987).

³⁰ Deist, *Militär und Innenpolitik im Weltkrieg 1914-1918*, op. cit.

³¹ Fritz Klein et al. (eds), *Deutschland im Ersten Weltkrieg*, 3 vols (Leipzig: Leipziger Universitätsverlag, 1968-1970).

³² Fritz Klein, 'Der Erste Weltkrieg in der Geschichtswissenschaft der DDR', *Zeitschrift für Geschichtswissenschaft*, 42, 4, (1994), pp. 293-301.

published. This reflects a tendency in First World War studies to draw conclusions about the war and its place in twentieth century history on the one side, and to present very detailed studies on specialised topics on the other.³³ However, until today conclusive, extensive and comprehensive histories of the First World War are still comparatively scarce.³⁴ After nearly 100 years of historical research there are still blank spots and understudied areas within the field of First World War studies. Comparatively recent theoretical trends such as postcolonial studies, the history of mentalities, and transnational history, however, open up exciting new perspectives on the Great War. It is, for example, not completely understood how the war influenced the relations between colonial powers and their colonies after all sides had mobilised significant numbers of colonial subjects for their war efforts.³⁵ Due to the focus of the traditional historiography on the Western Front, the war at the other fronts such as the Balkans, the Alps, or the gigantic battles on the Eastern Front did not receive appropriate representation in popular memory or in comprehensive accounts of the war. Some historians speak of the ‘forgotten fronts’ of the war in the East and in the Balkans, which differed in many aspects from the

³³ Very critical towards Britain’s entry into the war: Niall Ferguson, *The Pity of War: Explaining World War I* (New York: Basic Books, 1999); Very good comprehensive study linking, economic, social and military aspect but with strong focus on Britain: David Stevenson, *1914-1918: The History of the First World War* (London: Allen Lane, 2004). Compact and with strong focus on military history: Sönke Neitzel, *Blut und Eisen: Deutschland und der Erste Weltkrieg* (Zurich: Pendo, 2003); integrating the First World War in *longue durée* narratives of modern German history but very comprehensive: Wehler, *Deutsche Gesellschaftsgeschichte*, op. cit.; Heinrich August Winkler, *Der lange Weg nach Westen*, Vol. 1: *Deutsche Geschichte vom Ende des Alten Reiches bis zum Untergang der Weimarer Republik* (Munich: C. H. Beck, 2000).

³⁴ To name a few notable exceptions: Hew Strachan, *The First World War*. Vol. I: *To Arms* (Oxford: Oxford University Press, 2002); Jay M. Winter (ed.), *The Cambridge History of the First World War*, 3 vols (Cambridge: Cambridge University Press, 2014), Herfried Münkler, *Der Große Krieg: Die Welt 1914-1918* (Berlin: Rowohlt, 2013); Jörn Leonhard, *Die Büchse der Pandora: Geschichte des Ersten Weltkriegs* (Munich: C. H. Beck, 2014).

³⁵ For a very recent example, exploring the situation of over 140,000 Chinese workers on the Western Front, see Gouqi Xu, *Strangers on the Western Front: Chinese Workers in the Great War*, (Cambridge, Mass.: Cambridge University Press, 2011); Bill Nasson, *Springboks on the Somme: South Africa and the Great War 1914-1925* (Johannesburg: Penguin, 2007); Michael Pesek, *Das Ende eines Kolonialreichs: Ostafrika im Ersten Weltkrieg* (Frankfurt et al.: Campus, 2010).

one in the West.³⁶ Whereas on the Western Front, civilian populations were predominantly not present in the actual conflict zone – with the exception of the first weeks of the war in Belgium – the Great War in the East was in large parts also a war against the civilian population and saw mass deportations as well as uncounted executions of alleged partisans and spies.³⁷ These experiences seem to have foreshadowed the violence that dominated the further history of Eastern Europe in the twentieth century.

The experiences of individual soldiers at the front, their daily life and the psychological impact of the war experience on their later lives are another area of intense debate. This question is indeed of crucial importance to understand the legacies of the conflict. It can also help us understand what motivated the soldiers to endure trench warfare and how these experiences influenced political culture in the interwar period. Historians such as George Mosse argued that the mass killing during the war and its trivialisation in post-war memory have caused a profound brutalisation of European societies, and thus made violence an accepted part of their political culture.³⁸ Others however rejected this generalisation by referring to the widespread pacifism of the interwar period.³⁹

³⁶ Gerhard P. Groß (ed.), *Die vergessene Front – Der Osten 1914/15. Ereignis, Wirkung, Nachwirkung* (Paderborn: Schönigh, 2006); Norman Stone, *The Eastern Front 1914-1917* (New York: Scribner and Sons, 1977); Gabriel Vejas Luilevecius, *War Land on the Eastern Front: Culture, National Identity and Occupation in World War I* (Cambridge: Cambridge University Press, 2004).

³⁷ Anton Holzer's study of war photography in the Balkans and on the Eastern Front presents a disturbing image about the violence against civilian populations during the war and the first notions of the emergence of 'war of extermination' in the east 25 years later; Anton Holzer, *Das Lächeln der Henker: Der unbekannte Krieg gegen die Zivilbevölkerung 1914-1918* (Darmstadt: Primus, 2008).

³⁸ George L. Mosse, *Fallen Soldiers: Reshaping the Memory of the World Wars*, op. cit.

³⁹ Jon Lawrence, for example, argues that the mere fear of such a brutalisation caused a turn towards pacifism in British society: Jon Lawrence, 'Forging a Peaceable Kingdom: War, Violence, and Fear of Brutalization in Post-First World War Britain', *The Journal of Modern History*, 75, 3, (2003), pp. 557-589. Stating the same tendency for the French society: Antoine Prost, 'The Impact of War on French and German Political Cultures', *The Historical Journal*, 37, 1, (1994), pp. 209-217.

Another problem which still contains a number of desirable avenues for research are the connections between the First World War, the era of European fascism, and the Second World War – especially the question how far it is possible to speak about a ‘second 30 Years War’ between 1914 and 1945.⁴⁰ This entails the question whether the First and Second World War have to be understood as a causally connected historical entity, or whether both conflicts have to be interpreted as separate from each other.⁴¹ Despite the vast amount of First World War literature, it can be expected that the conflict will remain a key field of interest for generations of historians to come.

The Concept of the State of Exception

As we have seen, the problem of the impact of emergency government on societies during the First World War has hitherto not received particular scholarly interest.⁴² Yet, some theoretical considerations will help us to understand how the concept of the state of exception opens up new perspectives on the history of the Great War and its impact on European political culture.

The idea of the state of exception as a key paradigm of rule in the twentieth century has been most prominently articulated by the Italian philosopher Giorgio

⁴⁰ See, inter alia, Gerd Krumeich (ed.), *Nationalsozialismus und Erster Weltkrieg* (Essen: Klartext, 2010); Alan Kramer, *Dynamics of Destruction: Culture and Mass Killing during the First World War* (Oxford: Oxford University Press, 2007), esp. pp. 196-210; Alexander Meschnig, *Der Wille zur Bewegung. Militärischer Traum und totalitäres Programm: Eine Mentalitätsgeschichte vom Ersten Weltkrieg zum Nationalsozialismus* (Bielefeld: Transkript, 2007), esp. pp. 275-286.

⁴¹ The phrase was coined by Winston Churchill and later adopted and popularised in Germany by Hans-Ulrich Wehler: Winston Churchill, *The Second World War. Volume I: The Gathering Storm* (London: Houghton Mifflin, 1948), p. III; Hans-Ulrich Wehler, ‘Die “Urkatastrophe des 20. Jahrhunderts – Der Erste Weltkrieg als Auftakt und Vorbild für den Zweiten Weltkrieg’, Idem, *Notizen zur Deutschen Geschichte* (Munich: C. H. Beck, 2003), pp. 28-40.

⁴² A notable exception is Brock Millman’s study the suppression of anti-war dissent in Britain. Brock Millman, *Managing Domestic Dissent in First World War Britain* (London: Frank Cass, 2000).

Agamben in his books *Homo Sacer* and *State of Exception*.⁴³ Agamben describes the state of exception as a paradigm of rule, an actual technology of governance which allows the ruling classes to control not only certain aspects of society but life itself.⁴⁴ Although forms of emergency government can be traced back as far as the Roman Republic and its institution of the legal or ‘constitutional dictatorship’, the state of exception only became a dominant political problem in the twentieth century.⁴⁵ Agamben describes the state of exception as the legal form of a phenomenon that actually cannot have a legal form:

[...] if exceptional measures are the result of periods of political crisis and, as such, [they] must be understood on political and not juridico-constitutional grounds, then they find themselves in the paradoxical position of being juridical measures that cannot be understood in legal terms, and the state of exception appears as the legal form of what cannot have legal form.⁴⁶

In this context, Agamben identifies two main ways in which European states dealt with the issue: firstly, those who tried to regulate and define the state of exception in the legal terms of their constitutions, and secondly, those states which had no explicit legal regulation of the issue whatsoever.⁴⁷ This argument is especially interesting for this study. The German Empire, for example, had a long and problematic tradition of emergency measures enshrined in its constitutional arrangements.⁴⁸ Early pieces of legislation regarding this issue dated back to 1851.

⁴³ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford: Stanford University Press, 1998); Idem, *State of Exception* (Chicago: University of Chicago Press, 2005).

⁴⁴ For a further reading on the key concepts of ‘bio politics’ and ‘bio power’ see inter alia Michel Foucault, *The Government of Self and Others: Lectures at the Collège de France 1982-1983* (Basingstoke: Picador, 2011).

⁴⁵ Agamben, *State of Exception*, pp. 67-69.

⁴⁶ Ibid., p. 1.

⁴⁷ Ibid., pp. 9-10.

⁴⁸ See, for example, Wolfgang J. Mommsen, *Imperial Germany: Politics, Culture, and Society in an Authoritarian State* (London: Hodder Arnold, 1995).

The so called *Gesetz über den Belagerungszustand* (Law regarding the State of Siege) of 1851 was consequently included into the constitution of the North German Federation of 1867 and formed part of the constitution of the newly formed German Empire in 1871.⁴⁹ This provided the basis for the exercise of emergency government in Germany during the First World War. Yet, it also influenced the various emergency laws during the Weimar Republic.

The United Kingdom had no comparable tradition of emergency government. Nonetheless, some specific pieces of legislation such as the Riot Act of 1714 served very similar purposes.⁵⁰ Against the backdrop of these different political cultures, the comparison between the German Empire and Britain during the First World War is not only a comparison between two belligerents but also between two modes of the state of exception in Agamben's terms. His concept remains, however, rather vague. Although his work is full of historical references, Agamben does not take much interest in locating exceptionality in concrete forms of historical agency. In *State of Exception*, Agamben primarily refers to European fascism and the Holocaust as examples for rule under the state of exception.⁵¹ Nevertheless, his definition the state of exception applies to a broader range of historical cases including those examined in this study.

⁴⁹ Christian Schudnagies, *Der Kriegs- oder Belagerungszustand im Deutschen Reich während des Ersten Weltkrieges. Eine Studie zur Entwicklung und Handhabung des deutschen Ausnahmestandsrechts bis 1918* (Frankfurt am Main et al: Peter Lang, 1994), pp. 30-31.

⁵⁰ See exemplary Richard Vogler, *Reading the Riot Act: Magistracy, the Police and the Army in Civil Disorder* (Bristol: Open University Press, 1991); For an analysis of the discourse around the Riot Act see Wilfried Nippel, 'Reading the Riot Act: The discourse of law-enforcement in 18th century England', *History and Anthropology*, 1, 2 (1985), pp. 399-426; For the developments of crowd control legislations and especially the role of the military see Martin Hinton, 'And the Riot Act was read!', *Adelaide Law Review*, 24,1 (2003), pp. 79-87.

⁵¹ Agamben, *State of Exception*, pp. 2-3.

The wartime experience of emergency government triggered scholarly debates about the fundamental nature of the state of exception. The conservative German theorist Carl Schmitt, for example, made the state of exception one of the key elements of his political philosophy.⁵² His definition of sovereignty as the ability to define public enemies and declare the state of exception has become commonplace in the paradigm of ‘political realism’. Together with his ‘concept of the political’, Schmitt’s reasoning underwent a renaissance in the context of the neo-conservative paradigm.⁵³ The problem of crisis and ‘constitutional dictatorship’ also became subject of debates in political science. The Swedish political scientist Herbert Tingsten assessed the various pieces of emergency legislation during the First World War and tried to establish typologies through comparative analysis.⁵⁴ Tingsten was very sceptical about the reconcilability of democracy and state of exception. In his view the potential permanence of crises and therefore of the state of emergency posed a severe threat to democracy.

Theorists such as the American Clinton L. Rossiter have, however, argued that the manifold conflicts and domestic as well as external threats will make moments of exceptional rule necessary in modern democracies. His idea of a ‘constitutional dictatorship’ therefore seeks to define the limits of exceptional rule rather than to prevent it in general.⁵⁵ From his analysis of emergency government

⁵² For Schmitt’s concept of the state of exception as the actual criteria for sovereignty see Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago: University of Chicago Press, 2007).

⁵³ For Carl Schmitt’s influence on one of the most influential thought leaders of American neo-conservatism, Leo Strauss see Heinrich Maier, *Carl Schmitt and Leo Strauss: The Hidden Dialogue* (Chicago: University of Chicago Press, 1995).

⁵⁴ Herbert Tingsten, *Les Pleins Pouvoirs: L’Expansion des Pouvoirs Gouvernementaux Pendant et Après la Grande Guerre* (Paris: Librairie Stock, 1934).

⁵⁵ Clinton L. Rossiter, *Constitutional Dictatorship: Crisis Government in Modern Democracies*, (Princeton: Princeton University Press, 1948).

during the First World War he concluded that: ‘The more complex the constitutional structure and the more assured the rights of the people, the more necessary and severe the practice of constitutional dictatorship has been.’⁵⁶

Furthermore:

(...) a great emergency in the life of a constitutional democracy will be more easily mastered by the government if dictatorial forms are to some degree substituted for democratic, and if the executive branch is empowered to take strong action without an excess of deliberation and compromise.⁵⁷

This affirmative view of emergency government has, however, been challenged by other theorists. The rise of fascism in Europe – and to some extent also of Stalinism in the Soviet Union – influenced the formulation of more radical critiques of the state and its potentially unrestricted power. German émigrés such as Ernst Fraenkel, Franz Neumann, and Hannah Arendt applied concepts of exceptionality to analyse the structures of the fascist state. Ernst Fraenkel’s *The Dual State* (1941) defined fascist rule as a permanent state of exception.⁵⁸ This ‘dual state’, however, is characterised by a twofold division of the executive into a ‘normative state’ which ensured the functioning of capitalist production and commerce and allowed conformist citizens to continue life as usual, and a ‘prerogative state’ where emergency powers and violence were used to suppress dissent.⁵⁹ Fraenkel’s concept is particularly relevant for the understanding of the concept of exception in general as it reflects on the complex relationship between exception and normality. It raises

⁵⁶ Ibid., p. 288.

⁵⁷ Ibid.

⁵⁸ Ernst Fraenkel, *The Dual State: A Contribution to the Theory of Dictatorship* (New York et al.: Oxford University Press, 1941).

⁵⁹ Ibid., pp. 46-70.

questions about the extent to which emergency measures are segmented and targeted at certain groups.

Franz Neumann's *Behemoth* (1944) explained the structure of the fascist state also as a permanent state of exception and pointed out the transition to independence of the executive branch.⁶⁰ The complete submission of judiciary and legislature under the interests of the executive are presented in *Behemoth* as features of a modern absolutism. In a direct reference to Thomas Hobbes' allegorical figure of the Leviathan, Neumann calls this new absolutist state the 'Behemoth'. Neumann analyses the structures of the Nazi-state by pointing out the chaotic and polycratic nature of the political system under a permanent state of exception. In it, the ambition to exercise total control clashes with the fragmentation of the state into several power centres (the tripartite state) thus making this permanent exception a combination of extremely intrusive but also extremely arbitrary rule.⁶¹ Hannah Arendt's work *The Origins of Totalitarianism* came to a similar conclusion. Yet, her emphasis was put on the mentalities of those exercising totalitarian rule.⁶² Totalitarian rule in her view is the perpetuation of the state of exception maintained by an ideologised state apparatus.⁶³ As we will see, the nature and extent of emergency government can indeed only be understood if the actors, their mentalities and motivations are taken into account as well.

These concepts and analyses are the result of concrete historical experiences in the first half of the twentieth century. Against this backdrop, the First World War

⁶⁰ Franz Neumann, *Behemoth: The Structure and Practice of National Socialism, 1933 – 1944* (New York: Harper, 1944).

⁶¹ *Ibid.*, pp. 41-61.

⁶² Hannah Arendt, *The Origins of Totalitarianism* (Cleveland: Meridian, 1958 [first published 1951]).

⁶³ *Ibid.*, pp. 186-224; pp. 389-418.

represents a ‘seminal catastrophe’ of exceptional rule and has been a genuine ‘laboratory of the state of exception’ as Agamben points out.⁶⁴ It is therefore astonishing that this aspect of the First World War has received so little attention within the existing scholarship.

The Politics of the Home Fronts and the State of Exception during the First World War

It has been pointed out that the history of political culture on the home fronts has long been neglected by historians. The questions of protest, dissent, conflict, and resistance in particular have not received as much attention as other aspects of the war. Nevertheless, almost all recent studies about the First World War deal with the home fronts although not always extensively.

For the German case the political history of the war has primarily been a narrative of the struggle for political reform and its role as a catalyst for social change.⁶⁵ The two key works on modern German history, Hans-Ulrich Wehler’s *Deutsche Gesellschaftsgeschichte* and Heinrich August Winkler’s *The Long Way West* both reserved prominent space for an account of the First World War although with different aims. Whereas Wehler describes the war as a crisis of the German class society that the old elites could not cope with, Winkler emphasises parliamentary history and the transformation of German politics during the war.⁶⁶

⁶⁴ Agamben, *State of Exception*, p. 7.

⁶⁵ See for example Benjamin Ziemann, ‘Total War as a Catalyst for Social Change’, in Helmut Walser Smith (ed.), *The Oxford Handbook of Modern German History*, (Oxford: Oxford University Press, 2011), pp. 379-399; Roger Chickering and Stig Förster, *Great War – Total War: Combat and Mobilisation on the Western Front 1914-1918* (Cambridge: Cambridge University Press, 2000).

⁶⁶ Wehler, *Deutsche Gesellschaftsgeschichte*, pp. 3-7; Winkler, *Der lange Weg nach Westen*, pp. 330-366.

To some extent, Winkler describes a process of forced reform, whereas Wehler narrates the story of a profound political rupture that marked the end of the 'bourgeois era' in Germany. Both, however, recognise the exceptional circumstances of the war although only Wehler explicitly refers to the state of siege as a political problem.⁶⁷ Winkler remains within the rather traditional framework of political history with a strong parliamentary focus. Both works, nevertheless, have the undeniable merit of providing an excellent contextualisation of the political events in Germany during the First World War. They broaden perspectives on the conflict and facilitate understanding of the deep impact the conflict had on German society.

Similarly, comprehensive accounts do exist for the United Kingdom, although often within the framework of general survey and handbook literature.⁶⁸ There have, nevertheless, been some specific case studies about certain political aspects of the home fronts. Jay Winter's study about British Labour theorists and the impact of the Great War on their political thought from 1974 is one prominent example.⁶⁹ A similar study on the Conservative Party during the First World War by Nigel Keohane has recently been published.⁷⁰ Despite writing from different perspectives, both authors come to similar conclusions. Labour as well as the Conservative Party profoundly transformed their conceptions of the state during and immediately after the war. The experience of the corporatist management of

⁶⁷ Wehler, *Deutsche Gesellschaftsgeschichte*, pp. 39-46.

⁶⁸ To name one of the most recent examples: John Horne (ed.), *A Companion to World War I*, (Oxford: Wiley-Blackwell, 2012).

⁶⁹ Jay M. Winter, *Socialism and the Challenge of War: Ideas and Politics in Britain 1912-1918* (London and Boston: Routledge, 1974).

⁷⁰ Nigel Keohane, *The Party of Patriotism: The Conservative Party and the First World War*, (Farnham: Ashgate, 2010).

the wartime state led to a growing acceptance of state intervention and regulations in both camps. Whereas Winter concludes that leading Labour theorists abandoned their radical critique of the state as a mere agent of capitalist class interests and began to see it as potential tool for transformation, Keohane emphasises that Conservative leaders acknowledged the legitimacy of state regulation of the economy. The First World War thereby narrowed the gap between the two formerly hostile political camps and provided the foundations from which British politics would evolve in the further course of the twentieth century. The actual domestic policies during the war itself do, nevertheless, only play a minor role in both arguments. Neither Winter nor Keohane give a clear picture about the positions of each party towards the emergency legislations and decrees under DORA. It is, in fact, surprising that DORA is widely neglected by most British accounts of the Great War. Brock Millman's study *Managing Dissent in First World War Britain* explicitly tries to fill this gap.⁷¹ Millman argues that the British government under Herbert Asquith initially sought to maintain the liberal manner of domestic policies during the First World War.⁷² With the emerging necessities of total societal mobilisation and the introduction of conscription, however, this practice could not be upheld. After the advent of the Lloyd George government, the powers granted under DORA were increasingly used to combat growing dissent against the war within the British population. Millman concludes that by 1918 a sophisticated and efficient system of surveillance and repression had been established. Similar arguments about the establishment of a surveillance and censorship system in Britain can be found in Taylor and Sanders' work on British propaganda as well as

⁷¹ Brock Millman, *Managing Dissent in First World War Britain* (London: Frank Cass, 2000).

⁷² *Ibid.*, pp. 25-34.

in Deian Hopkins' work on British censorship during the war.⁷³ Although Millman gives a comprehensive account of the rather repressive domestic policies during the war in Britain, his account seems to be a bit too static at some points and sometimes reads like a battle report. In particular, his juxtaposition of dissenters on one side of the battle and government and 'patriots' on the other does not entirely capture the complex nature of the political and social conflicts during the First World War.

The legal and political problems related to the state of exception in Britain have also been analysed in depth by Charles Townshend.⁷⁴ His focus on the experiences and discourses about martial law provide a valuable foundation for understanding the emergence of DORA. His work has furthermore the merit of contextualising the legal developments within the broader framework of security policies in Britain. Similarly, Bernard Porter's work on the Special Branch of the Metropolitan Police and Richard Thurlow's discussion of the emergence of the 'secret state' in Britain provide valuable insights into the changing nature of the relationship between state and individual in Britain before, during and after the First World War.⁷⁵

Rachel Vorspan has presented an enlightening study about the legal aspects of British domestic policies under the circumstances of DORA.⁷⁶ She examines the

⁷³ Michael Sanders and Phillip M. Taylor, *British Propaganda during the First World War. 1914-1918* (London. Basingstoke: Macmillan, 1982); Deian Hopkin, 'Domestic Censorship in the First World War', *Journal of Contemporary History*, 5, 4, (1970), pp. 151-169.

⁷⁴ Charles Townshend, 'Martial Law: Legal and Administrative Problems of Civil Emergency in Britain and the Empire, 1800-1940', *The Historical Journal*, 25, 1 (1982), pp. 167-195; idem, *Making the Peace: Public Order and Public Security in Modern Britain*, op. cit.

⁷⁵ Bernard Porter, *The Origins of the Vigilant State: The London Metropolitan Police Special Branch before the First World War* (London: Weidenfeld and Nicolson, 1987); idem, *Plots and Paranoia: History of Political Espionage in Britain, 1790-1988* (London: Routledge, 1989); Richard Thurlow, *The Secret State: British Internal Security in the Twentieth Century* (Oxford: Blackwell, 1994).

⁷⁶ Rachel Vorspan, 'Law and War: Individual Rights, Executive Authority, and Judicial Power in England during World War I', *Vanderbilt Journal of Transnational Law*, 38, 2, (2005), pp. 261-343.

role of courts and judges within the system of emergency governance under DORA. She points out that the judges sought to preserve their privileges and prerogatives and acted as self-willed actors within the framework of DORA.⁷⁷ In fact, they became active policymakers with their court decisions often aggravating repressive measures by harsh verdicts. Vorspan points out that those concepts of domestic enemies had a profound impact on court rulings.⁷⁸ Civil liberties were barely protected by British courts whereas property rights received far-reaching protection against government actions such as expropriations or the confiscation of goods and land. Keith Ewing and Conor Gearty follow a similar path in their analysis of British law-making and the rule of law in the first half of the twentieth century.⁷⁹ Their focus on the role of courts and individual judges in the protection or infringement of civil liberties offers a valuable insight into the complex entanglements between high politics, the judiciary and individual actors in domestic politics.

Andrew G. Bone's unpublished 1994 PhD thesis on DORA offers an interesting perspective on certain aspects of DORA such as its use to regulate to prevent the spreading of venereal disease and censorship.⁸⁰ Although his study offers a good discussion of certain aspects of emergency government in Britain, the appreciation of the entangled political, social and cultural factors that shaped the British approach to emergency government remains underdeveloped. As we shall see, particularly the problem of the regulation of sexuality and the use of emergency

⁷⁷ Ibid., pp. 274-276.

⁷⁸ Ibid., pp. 329-330.

⁷⁹ Keith D. Ewing and Conor Gearty, *The Struggle for Civil Liberties: Political Freedom and the Rule of Law in Britain, 1914-1945* (Oxford: Oxford University Press, 2001).

⁸⁰ Andrew G. Bone, *Beyond the Rule of Law: Aspects of the Defence of the Realm Acts and Regulation 1914-1918*, PhD Thesis McGill University, 1994.

powers to do so can only be fully understood when we take into account the conceptions of decency and moral quality of the wartime nation that informed the actions of the authorities.

The institution of the *Belagerungszustand* in the German Empire has been examined in several legal studies. The most relevant work in this context is certainly Hans Boldt's legal-historical study on the development of the state of siege legislation in Germany of 1967.⁸¹ Despite its age, this work has still to be considered as the standard reference work on the issue. Christian Schudnagies' more recent study about the state of siege summarises the law making processes and debates of the German experts in constitutional law during that era.⁸² He emphasises the conflicting character of exceptional rule and points out the numerous inconsistencies of the 'state of siege' system which led in consequence to a polycratic structure of governance.⁸³ In fact, this was an ineffective system that could not cope with challenges of a total war. Schudnagies' focus on legal aspects leaves gaps regarding the political discourses and general perceptions of the regime under the state of siege. Nevertheless, this study is a crucial reading for a comprehensive understanding of the legal nature of the German state of siege concept.

A similar approach has been taken by Christine Richstein in her study on the 'besieged' criminal law in the German Empire.⁸⁴ The study connects the application

⁸¹ Hans Boldt, *Rechtsstaat und Ausnahmezustand: Eine Studie über den Belagerungszustand als Ausnahmezustand des bürgerlichen Rechtsstaates im 19. Jahrhundert* (Berlin: Duncker und Humblodt, 1967).

⁸² Schudnagies, Christian, *Der Kriegs- oder Belagerungszustand im Deutschen Reich während des Ersten Weltkrieges. Eine Studie zur Entwicklung und Handhabung des deutschen Ausnahmezustandsrechts bis 1918* (Frankfurt am Main et al: Peter Lang, 1994).

⁸³ *Ibid.*, pp. 55-56.

⁸⁴ Christine Richstein, *Das 'belagerte Strafrecht' im Deutschen Reich während des Ersten Weltkriegs* (Münster: LIT, 2000).

and development of the criminal law as a political tool on one side and the use of emergency legislation on the other side. Richstein examines the emergence of an explicitly political jurisdiction during the Socialist Laws in the 1880s and combines this with the use of law as a weapon during the First World War. She then reflects on the infamous article 48 of the Weimar constitution. It is a major merit of Richstein's study that it contextualises the institution of the state of siege within the broader legal history of the German Empire. It does, however, miss some crucial questions regarding the actual practices outside the legal system, and thus of the political dimension of the state of siege. An interesting attempt to tackle the challenge of a comparative social and cultural history of the British and German home fronts during First World War has been presented by Florian Altenhöner.⁸⁵ His analysis of publicity, rumours, and the role of censorship and control of public opinion in wartime London and Berlin provides a fruitful example of how comparative and theoretical approaches can be combined in a lively account of daily life under exceptional circumstances. His work is one of the few available that enquire into the actual effectiveness and perception of repressive practices during the war. He points out that the attempts to curtail certain information and to censor news were often counterproductive. Where reliable information was no longer available, rumours spread sometimes leading to outright waves of protest and unrest. Yet, Altenhöner's study primarily focusses on the role rumours about the course of the war played within the German and British public. The actual impact of emergency measures on wartime societies as a whole and the transformation of their political cultures remains underdeveloped.

⁸⁵ Florian Altenhöner, *Kommunikation und Kontrolle. Gerüchte und städtische Öffentlichkeiten in Berlin und London 1914/1918* (Munich: R. Oldenbourg Verlag, 2008).

Research Questions and Methodology

Research Questions

The First World War was the first time that modern governments used the instruments of emergency government over an extended period of time.⁸⁶ The comparative analysis of this phenomenon thus bears great potential for the deeper understanding of the historical and theoretical dimensions of the concept of the state of exception. Yet, the analysis of the wartime frameworks of domestic policies in Britain and Germany also contributes to our understanding how European societies endured more than four years of totalising war and the hardships it brought with it. It is indeed necessary to emphasise that the First World War was not ‘total’ from the outset.⁸⁷ What we find instead is a radicalisation of the mobilisation of societal resources, an unprecedented expansion of the wartime state and a waning distinction between combatants and civilians.⁸⁸ The longer the war continued the more radical policies were enacted to enforce endurance on the home fronts, which increasingly bore features of a ‘total war’. This ‘totalising logic’ of the war is not least reflected by the phenomenon of emergency government.⁸⁹ Like no other feature of wartime politics it represented the radical transformation of conceptions

⁸⁶ For an overview of precedents, for example during the French Revolution, see Oren Gross and Fionnuala Ni Aolain, *Law in Times of Crisis: Emergency Powers in Theory and Practice* (Cambridge: Cambridge University Press, 2006), pp. 17-34; Rossiter, *Constitutional Dictatorship*, pp. 79-90.

⁸⁷ Stig Förster, ‘Introduction’, in Roger Chickering and Stig Förster (eds), *Great War, Total War: Combat and Mobilization on the Western Front* (Cambridge: Cambridge University Press, 2000), pp. 1-18; Hew Strachan, ‘From Cabinet War to Total War: The Perspective of Military Doctrine, 1861-1918’, in *ibid.*, pp. 19-34; Wilhelm Deist, ‘The German Army, the Authoritarian Nation-State and Total War’, in John Horne (ed), *State, Society and Mobilization in Europe during the First World War* (Cambridge: Cambridge University Press, 1997), pp. 160-172.

⁸⁸ Purseigle, ‘Introduction’, pp. 1-38; Horne, ‘Introduction: Mobilizing for “Total War”’, pp. 1-18.

⁸⁹ Horne, ‘Introduction’, p. 3-5.

of the state, citizenship and national belonging that emerged in response to the changing nature of warfare in this period.

The topic of this study is thus located within two main contextual frameworks, which both open up their own sets of questions. The first framework is shaped by theoretical considerations. It concerns the nature of state authority in times of crisis and the relation between societal mobilisation and coercion, between active commitment and mere endurance. John Horne and Pierre Purseigle amongst others have convincingly argued that the understanding of the relationship between coercion and consent during the war is crucial to our understanding of wartime societies as a whole.⁹⁰ The dispute about the use of coercion to enforce endurance at the home fronts has been particularly fierce in France, where proponents and opponents of the ‘war culture’ paradigm struggled over the characterisation of the wartime state.⁹¹ Yet, the problem of coercion and consent was present in all belligerent societies. The analysis and comparison of different systems of emergency government during the war offers a unique perspective on the process of political, social and cultural transformation that European societies underwent during the war.

The vague character of the emergency powers granted by the legislative frameworks of DORA or *Belagerungszustand* allowed the authorities to regulate nearly all aspects of social life. It is therefore of central interest for this study to

⁹⁰ Cf. Purseigle, ‘Introduction’, pp. 22-27; Horne, ‘Introduction: Mobilizing for “Total War”’, pp. 1-18. Julien and Bauerkämper identify this question as the key to the historical understanding of World War I home fronts: See Arnd Bauerkämper and Elise Julien, ‘Durchhalten! Kriegskulturen und Handlungspraktiken im Ersten Weltkrieg’, in idem (eds), *Durchhalten! Krieg und Gesellschaft im Vergleich. 1914-1918* (Göttingen: Vandenhoeck & Rupprecht, 2010), pp. 7-28, esp. pp. 9-12.

⁹¹ For the impact of the ‘war culture’ or ‘culture de guerre’ concept on First World War historiography see Leonard V. Smith, ‘The “Culture de Guerre” and French Historiography of the Great War of 1914-1918’, *History Compass*, 5, 6 (2007), pp. 1967-1979.

identify and examine those areas in which these powers were exercised as well as those where governments did not interfere.

This, of course, also raises questions about the groups that were most affected by these regulations and practices: how did these measures influence their perceptions of the conflict? How were the lives of people affected by emergency measures? Were these forms of rule accepted, or protested against? The examination of the agents of emergency government is closely tied to this set of questions. Which agencies exercised emergency powers and at what levels? Did a system of checks and balances exist within the system of the state of exception? And, what impact did dominant ideas about the state, governance and citizenship in Britain and Germany have on the exercise of emergency government?

In addition to this broader framework of research questions regarding the nature of the state of exception, the second line of enquiry relates to the historical particularities of societal mobilisation and the home fronts during the First World War. There are a number of scholarly debates surrounding these issues to which this study seeks to contribute. For example, the question about the importance of coercive measures for the maintenance of the war efforts will be of paramount interest.⁹² Was it a specific ‘war culture’, a shared perception and hatred of the enemy, which fuelled societal mobilisation during Great War?⁹³ Or were the coercive measures enacted under the state of exception crucial for enforcing

⁹² In France an intense scholarly debate about the role of patriotism and coercion emerged in the last decade. For an short overview, see Pierre Purseigle, ‘A Very French Debate: The 1914-1918 ‘War Culture’, *Journal of War and Culture Studies*, 1, 1 (2008), pp. 9-14.

⁹³ Audoin-Rouzeau and Becker state this as a crucial factor for the endurance of soldiers and civilians during the war. For them, the escalation of the war on front and home front was a result of nationalistic self-mobilisation fuelled by hatred of the enemy. See Stéphane Audoin-Rouzeau and Annette Becker, *14-18: Understanding the Great War* (New York: Hill & Wang, 2002), pp. 113-158.

endurance on the home fronts?⁹⁴ Were there significant differences between Britain and the German Empire in this respect? And if so, how can these differences be explained?

The question of common experiences and significant differences has become especially important concerning the interpretation of the aftermath of the Great War and its impact on European political cultures.⁹⁵ Whereas scholars such as Georg L. Mosse emphasised the central role of the common war experience for the ‘brutalisation’ of the European societies and the rise of fascism, other scholars pointed out the differences in war experiences and the different political cultures of the interwar period.⁹⁶ The diversity of interpretations, however, highlights that this complex phenomenon is far from being completely understood. In fact, a comprehensive history of the political culture of the home fronts remains to be published. This study will seek to narrow this gap by examining some aspects of home front policies in Britain and Germany.

The focus on the political and to some extent social and cultural history of the state of exception during World War I must necessarily lead to a neglect of other important aspects. The spatial restraints mean that this study will only focus on the respective mainland. For the British case only the developments in England, Wales, and Scotland will be taken into account. For example, the discussion of emergency

⁹⁴ In opposition to the war culture concept, the French *Collectif de Recherche Internationale et de Débat sur la Guerre de 1914-1918* emphasises the coercive nature state and military played in order to enforce endurance. For a comprehensive account of their positions in this debate see François Buton et al., ‘1914-1918: Understanding the Controversy’, available online: <http://www.laviedesidees.fr/1914-1918-Understanding-the.html?lang=fr> (last retrieved 5 July 2012).

⁹⁵ Jon Lawrence, ‘Forging a Peaceable Kingdom: War, Violence, and Fear of Brutalization in Post-First World War Britain’, *The Journal of Modern History*, 75, 3, (2003), pp. 557-589.

⁹⁶ George L. Mosse, *Fallen Soldiers: Reshaping the Memory of the World Wars*, (Oxford. New York: Oxford University Press, 1991). Rejecting this idea with regards to France: Antoine Prost, ‘The Impact of War on French and German Political Cultures’, *The Historical Journal*, 37, 1, (1994), pp. 209-217.

government in Ireland under DORA that emerged after the Easter Rising 1916 would necessarily expand the scope of this study beyond any reasonable size.⁹⁷ Similarly, the role of emergency legislation in the British colonies and dominions cannot be taken into consideration.⁹⁸ The same considerations apply to the German Empire. The German colonies cannot be taken into account and neither can the system of rule in the German occupied territories such as Belgium or the vast areas in Eastern Europe.⁹⁹

Methodology of Comparison

A historical study of the state of exception during World War I poses a number of methodological challenges. Depending on how the phenomenon is framed theoretically, different questions arise, especially when a comparative approach is chosen. First and foremost, there are always the dangers connected to applying generic concepts such as the state of exception to historical phenomena,

⁹⁷ For a good overview about the Irish uprising in 1916 and the harsh responses by the British government and military see Charles Townshend, *Easter 1916: The Irish Rebellion* (London: Allen Lane, 2005); see also Stephen Morton, *States of Emergency: Colonialism, Literature and Law* (Liverpool: Liverpool University Press, 2013), pp. 35-60; Colm Campbell, *Emergency Law in Ireland 1918-1925* (Oxford: Clarendon, 1996), pp. 1-27.

⁹⁸ See for example Bohdan S. Kordan, *Enemy Aliens, Prisoners of War: Internment in Canada during the Great War* (Québec and Kingston: McGill University Press, 1999); Gerhard Fischer, *Enemy Aliens: Internment and the Home Front Experience in Australia, 1914-1920* (Brisbane: University of Queensland Press, 1989); Panikos Panayi (ed.), *Germans as Minorities during the First World War: A Global Comparative Perspective* (Farnham: Ashgate, 2014).

⁹⁹ For the German occupation policy in Belgium, see Jens Thiel, 'Forced Labour, Deportation, and Recruitment: The German Reich and Belgian Labourers during the First World War', in Serge Jaumain et al. (eds), *Une Guerre Totale? La Belgique dans la Première Guerre mondiale. Nouvelles tendances de la recherche historique* (Bruxelles: Archives générales du Royaume, 2005), pp. 235-245; Jens Thiel, *Menschenbassin Belgien: Anwerbung, Deportation, Zwangsarbeit* (Essen: Klartext, 2007). For a comprehensive account of the German occupation policies in Eastern Europe see Christian Westerhoff, *Zwangsarbeit im Ersten Weltkrieg: Deutsche Arbeitskräfte im besetzten Polen und Litauen 1914-1918* (Paderborn: Schöningh, 2011).

which can level particularities instead of revealing them. It is, nevertheless, the analytical dimension provided by theories that enables us to make sense of the past.

Comparative approaches to understanding the history of the First World War have flourished in the recent years.¹⁰⁰ A growing number of studies such as Heather Jones' study on the treatment of prisoners of war in Britain, France and Germany or Adam Seipp's comparison of demobilisation after the war in Munich and Manchester help to understand the general impact of the conflict on European societies.¹⁰¹ Depending on the subject of enquiry, the scope of such studies range from the comparison of local entities such as specific cities or regions to the comparison of entire states and their policies.¹⁰² For this study, the emphasis is deliberately put on the comparison of Britain and Germany on a national level. This allows us to analyse the different systems of emergency government in both countries more thoroughly. There are, however, also a number of case studies and comparisons based on local developments in cities such as Berlin, Glasgow and London. This way the more conceptual level of comparison and analysis can be linked with the discussion of concrete examples and case studies.

The framing of domestic wartime policies and practices within the concept of the state of exception allows us to compare different countries and to integrate them into the general history of the twentieth century. Otherwise, this study would be at risk of merely offering parallel accounts of loosely connected events in Britain and the German Empire during the Great War. Depending on the chosen categories and

¹⁰⁰ Pierre Purseigle, 'Introduction', in Idem (ed.), *Warfare and Belligerence: Perspectives in First World War Studies* (Leiden: Brill, 2005), pp. 1-38, p. 4.

¹⁰¹ Heather Jones, *Violence against Prisoners of War in the First World War: Britain, France and Germany* (Cambridge: Cambridge University Press, 2011); Adam R. Seipp, *The Ordeal of Peace: Demobilization and the Urban Experience in Britain and Germany, 1917-1921* (Farnham: Ashgate, 2009).

¹⁰² Purseigle, 'Introduction', pp. 14-18.

dimensions of comparison, a certain degree of generalisation is unavoidable.¹⁰³ This must not lead to a total neglect of national particularities but it allows the study to transcend the still dominant framework of national historiographies.¹⁰⁴ Fundamentally, comparative approaches to history enable us to discover both the *essential* and the *particular* in certain developments but also interdependencies and entanglements.¹⁰⁵ They also help us to understand how common or unique the experiences on the different home fronts were during the First World War.

In order to uncover both dimensions of the state of exception during the First World War, the methodology of this study follows two patterns of comparison: firstly, a chronological examination of the individual developments in Britain and Germany with regards to the politics on the home fronts and the emerging systems of emergency government is provided. The comparison between the developments in both countries aims at establishing certain patterns in the formation of the state of exception during the war. In this context, the focus is placed on the impact of the military situation and on emerging protests against the war. This will help to understand how the mobilisation of both societies influenced the exercise of emergency powers and what role the respective systems of emergency government played in their wartime societies. This diachronic approach to the problem is

¹⁰³ For a critical discussion of the limitations of synchronous comparison, see Michael Werner and Bénédicte Zimmermann, 'Beyond Comparison: Histoire Croisée and the Challenge of Reflexivity', *History and Theory*, 45, 1 (2006), pp. 30-50.

¹⁰⁴ Jay M. Winter, 'Capital Cities at War: Paris, London, Berlin, 1914-1919', in idem and Jean-Louis Robert (eds), *Capital Cities at War: Paris, London, Berlin, 1914-1919* (Cambridge: Cambridge University Press, 1997), pp. 3-24; idem, 'Research Report: Paris, London, Berlin: Capital Cities at War, 1914-1920', *International Labor and Working-Class History*, 44 (1993), pp. 106-118.

¹⁰⁵ Cf. John Breuilly, *Labour and Liberalism in Nineteenth Century Europe: Essays in Comparative History* (Manchester: Manchester University Press, 1994), p. 16; Johannes Paulmann, 'Internationaler Vergleich und interkultureller Transfer: Zwei Forschungsansätze zur europäischen Geschichte des 18. Bis 20. Jahrhunderts', *Historische Zeitschrift*, 267 (1998), pp. 649-685. See also: Hans-Gerhard Haupt and Jürgen Kocka, 'Comparative History: Methods, Aims and Problems', in Deborah Cohen and Maura O'Connor (eds), *Comparison and History: Europe in Cross-National Perspective* (London: Routledge, 2004), pp. 23-40.

complemented by a more systematic comparison of the agents of emergency government in Britain and Germany. This second comparative approach allows an examination of some of the relevant dimensions and institutions of the state of exception during the war. It highlights the structural changes within the German and British state during the First World War with regard to their domestic policies. Finally, the comparison of wartime peace activism in Britain and Germany in the last part of this study helps to establish certain patterns in the reactions of those affected by repressive emergency measures. It also sheds light on the question of how political cultures shaped the perceptions of emergency government and how these perceptions triggered the emergence of new forms of activism.

Sources of the Study

The First World War produced a gargantuan paper trail and this is also reflected in the overabundance of available primary sources on the topics of this study. The evidence base for this study is mainly drawn from archival research in German and British repositories such as the *Bundesarchiv* in Berlin and the National Archives in Kew. The records of the *Reichsamt des Inneren* (Imperial Home Office), the political archive of the *Auswärtiges Amt* (Foreign Office) and the records of the *Reichskanzlei* (Imperial Chancellery) provide a rich basis for this study. Until 1990, many of these documents were rarely available to Western scholars as they were kept at the Central Archives of the German Democratic Republic in Potsdam. In addition to the German government records, the archives of the Social Democratic Party of Germany (SPD), the Independent Social Democratic Party of Germany

(USPD) and those of the radical Spartacus Group (the later Communist Party of Germany, KPD) have also been assessed in order to reconstruct the perspective of those groups most affected by the state of siege. In addition, the available files relating to pacifist organisations such as the German Peace Society (*Deutsche Friedensgesellschaft*) have also been consulted. Unfortunately however, most of the German military sources about the First World War were destroyed in February 1945, when the Imperial Archives in Potsdam burned down after an air raid. Therefore, almost all German military sources quoted in this study are either taken from transcripts kept in other government offices, or they were already edited for Wilhelm Deist's formidable two-volume source collection on the military and domestic policies in Germany during the Great War.¹⁰⁶

In addition, a number of local archives such as the *Landesarchiv Berlin* (Berlin State Archives) were consulted to collect material for the case studies. In particular the records of the Royal Police Presidency (*Königliches Polizeipräsidium*) in Berlin with its Criminal Investigation Division (*Abteilung III*) and the Prussian political police (*Abteilung VII*), which are kept at the Berlin State Archives, provided invaluable primary sources. Apart from the assessment of unpublished sources, a number of edited source collections and books were used, for example Ingo Materna and Hans Joachim Schreckebach's excellent edition of the reports of the Berlin Police Presidency during the war.¹⁰⁷ The reconstruction of the discourses about the state of siege builds predominantly on the records of

¹⁰⁶ Wilhelm Deist (ed.), *Militär und Innenpolitik im Weltkrieg 1914-1918*, 2 vols (Düsseldorf: Droste, 1970).

¹⁰⁷ Ingo Materna and Hans Joachim Schreckebach (eds), *Berichte der Berliner Polizeipräsidenten zur Stimmung und Lage der Bevölkerung in Berlin 1914-1918* (Weimar: Böhlau, 1988).

Reichstag debates and printed sources such as newspaper articles and contemporary books.

For the sections of this study dealing with Britain, the files held at the National Archives in Kew including the records of the Home Office, the cabinet papers, War Office files, the files of the Ministry of Munitions and the Ministry of Labour as well as the records of the Committee of Imperial Defence have been accessed. In addition, the relevant wartime records of the Secret Intelligence Service (SIS) and its successor MI5 have been consulted. The records of the Metropolitan Police and its Criminal Investigation Division and Special Branch complement the government sources from the National Archives. The majority of these files have been available to researchers for some years, yet some of the files used for this study were accessed for the first time.

The records of the Labour Party and other labour organisations held at the Labour History Research and Study Centre (LHRSC) in Manchester as well as the archives of the Union of Democratic Control at Hull History Centre were used to reconstruct the effects of DORA on activist organisations. In order to analyse the contemporary discourses about emergency government in Britain, the records of the House of Commons and the House of Lords, newspaper articles, pamphlets, magazines and books were used.

Structure of the Study

The structure of this study reflects the aforementioned methodological approach: In the first section, consisting of chapters one to three, the concept of the state of exception and its historical roots will be located within the context of the First

World War. Chapter one discusses the developments and experiences of emergency government in Britain and Germany before the First World War. Special focus is placed on the evolving practices of political policing and surveillance during the period of the Socialist Laws (1878-1890) in the German Empire and the so-called Great Labour Unrest of 1911-13 in Britain. With the help of a number of case studies, it will discuss how far these events can be seen as historical precedents for the development of emergency government during the First World War. Chapters two and three present a chronological overview of the evolution of emergency government in both countries during the war against the backdrop of the economic, political and social developments on the home fronts. The chronological design of these chapters aims at pointing out the dynamics of emergency government and its dialectic relationship with emerging anti-war protest and strike movements. Furthermore, by focussing on the higher levels of political and military decision-making, these chapters provide an insight into the character of domestic policies in Britain and Germany during the war.

The second part of the study offers a more actor-centred discussion of the actual experiences of emergency government on the ground in both countries. It examines how the emerging conceptions of domestic enmity influenced and shaped the exercise of emergency powers. For this purpose, chapter four will analyse the role of the military, police and courts as agents of emergency government, looking at the ways in which they interpreted their functions at the home front. The final chapter then deals with the impact of repressive emergency measures on activist organisations in both countries. It demonstrates that the experiences of confrontation with the state triggered a wave of civil liberties activism and left a lasting mark on Europe's cultures of activism.

Conclusion

The existing scholarship has hitherto neglected the problem of emergency government during the First World War. Neither the available scholarly literature nor collective memories of the war seem to reserve a prominent place for this phenomenon despite the fact that literally millions of people were affected by it. This is underlined by the comparatively small number of studies on the topic in German or English. Yet, recent enquiries have suggested that the First World War was crucial for the formation of the state of exception as a paradigm of rule. In order to capture the rise of the state of exception, approaches are required that transcend traditional national frameworks. The methodology chosen for this study sheds light on these phenomena not only in their institutional dimensions but also on the different perspectives of those people acting in them, and of those who were affected by it. Emergency legislation must not only be understood as a legal phenomenon but also a social and political issue. For these reasons, a history of the state of exception during the First World War must necessarily combine social, legal and political approaches to understanding the past.

Chapter One

The Rise of a Paradigm: Experiences of the State of Exception in Britain and Germany before 1914

State, Society and the State of Exception in the Nineteenth Century

The phenomenon of emergency government during the First World War was largely the result of long-term developments during the nineteenth century. In order to understand its emergence after 1914, it is necessary to analyse its roots in the period before the First World War.

The emergence of new social and political conflicts in the industrial age and the aggravation of already existing struggles created new challenges for the European states and their ruling classes. Ever-growing numbers of people demanded political rights and authentic representation of their interests. They began to question their status as subjects to absolute monarchs, demanding rights and political participation as citizens. The second half of the nineteenth century then saw the growth of the labour movement as a reaction to the immense social inequalities created by industrialisation and the virtual exclusion of the working classes from political representation.¹⁰⁸ In the period between 1880 and 1914, social conflicts increasingly amalgamated with political struggles, generating a critical test for the state and its institutions.

This short sketch of these general conditions is important for understanding the emergence of the specific concept of the state of exception during the nineteenth

¹⁰⁸ See for example Eric J. Hobsbawm, *The Age of Capital: 1848-1875* (London: Abacus, 1975); Idem, *The Age of Empire: 1875-1914* (London: Weidenfels and Nicholson, 1987); Karl Polanyi's *The Great Transformation* is still an enlightening contribution to the understanding of the political and social challenges created by the industrialisation; Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time* (Boston: Beacon Press, 1944).

century. The notion that constitutional arrangements and civil liberties could be subject to temporary suspension in order to cope with an exceptional crisis could only emerge against the backdrop of a universally shared belief that these rights and arrangements actually existed. This fact may seem patently obvious, but it elucidates the contrast between absolutistic reign and a constitutional system under a state of exception.

The liberal concept of the constitutional state also implied that the state and its agencies ought to be held accountable for their acts, and that they were bound to operate in accordance with the established laws. The autonomy of the executive authority was increasingly hedged within a system of public control and laws. The liberal concept of the rule of law became the hegemonic concept of European political culture.¹⁰⁹ In Britain, this dominant line of thought was epitomised by the work of Albert Venn Dicey. In his *Introduction to the Study of the Law of the Constitution* of 1888, Dicey characterised the British model of the rule of law as being marked by three basic principles: firstly, by the fact that: ‘No man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary Courts of the land’; secondly, by the principle that everyone – except for the monarch – was equal before the law; and, thirdly by the prevalence of case law in Britain, which in Dicey’s opinion limited the arbitrary use of legislative powers.¹¹⁰ He went

¹⁰⁹ For a general introduction to the history of the rule of law: Pietro Costa, ‘The Rule of Law: A Historical Introduction’, in idem and Danilo Zolo (eds), *The Rule of Law: History, Theory and Criticism*, (Springer: New York et al, 2007), pp. 73-149. For the British case see Ewing and Gearty, *The Struggle for Civil Liberties*, pp. 3-35. For the Prussian case see Albrecht Funk, *Polizei und Rechtsstaat: Die Entwicklung des staatlichen Gewaltmonopols in Preußen 1848-1918* (Frankfurt am Main and New York: Campus, 1986), esp. pp. 195-204.

¹¹⁰ Albert Venn Dicey, *Introduction to the Study of the Law of the Constitution*, 5th Ed. (London: MacMillan, 1897), p. 179.

on to emphasise that the idea of the rule of law was irreconcilable with every form of unchecked and unrestrained government: ‘In this sense the rule of law is contrasted with every system of government based on the exercise by persons in authority of wide, arbitrary, or discretionary powers of constraint.’¹¹¹ Dicey’s interpretation of the rule of law as a specifically English invention in contrast to the allegedly less liberal and less free constitutions elsewhere in Europe shaped British identity and political culture during the late nineteenth and early twentieth century.¹¹² Yet, despite Dicey’s emphasis on the Anglo-Saxon origins of the rule of law, similar ideas and concepts emerged all over Europe. In Germany, the legal scholar and political scientist Robert von Mohl coined the term *Rechtsstaat*, which entailed principles of legality and responsible government that resembled those Dicey had laid out.¹¹³ However, although the idea of the *Rechtsstaat* became an established part of German political thinking by the end of the nineteenth century, it was never part of the collective identity of the German Empire in the same way the concept of the rule of law was in Britain. Yet, the existence of similar ideals of good governance also points to some similarities in the political culture of both countries. The idea of the rule of law was not as exceptionally Anglo-Saxon as scholars such as Dicey had claimed, and the German Empire did feature more liberal elements in its political culture than its characterisation by historians as an authoritarian state would suggest.

¹¹¹ Ibid., pp. 179-180.

¹¹² Donald M. MacRaild, Sylvia Ellis and Stephen Bowman, ‘Independence Day and Magna Carta: James Hamilton’s Public Diplomacy in the Anglo-World, 1907-1940s’, *Journal of Transatlantic Studies*, 12, 2 (2012), pp. 140-162.

¹¹³ Rainer Grote, ‘Rule of Law, Rechtsstaat and “État du droit”’, in Christian Starck (ed.), *Constitutionalism, Universalism and Democracy: A Comparative Analysis* (Baden-Baden: Nomos, 1999), pp. 270-306.

Nonetheless, the liberal conception of responsible government and constitutionalism was not uncontested. The emergence of different forms of emergency legislation in almost all European countries during the second half of the nineteenth century indicates a certain continuity of authoritarian and absolutist concepts of governance. Emergency powers were regularly employed throughout the nineteenth century to cope with protest movements and industrial unrest. Their use reached a first peak a short time before the outbreak of the First World War.¹¹⁴ A consideration of these developments in the nineteenth century does not only enable us to trace back the political discourses about emergency government and to understand the ‘strange death of liberalism’ on the eve of the Great War.¹¹⁵ It also allows us to understand the emergence of what Richard Thurlow called the ‘secret state’ – those agencies and institutions that would enforce emergency measures during war and that continue to exist until today.¹¹⁶ As this chapter suggests, the experiences of protest and the state of exception in the nineteenth century led political and military leaders in Europe to include domestic policies and contingency plans in their pre-1914 war planning.

¹¹⁴ Anja Johansen, *Soldiers as Police: The Army and Protest Policing in France and Germany, 1889-1914* (Aldershot: Ashgate, 2005), pp. 1-33.

¹¹⁵ Although merely analysing Britain, Dangerfield’s conclusion describes a general tendency in Europe where the formerly dominant liberal movements of the nineteenth century could not find answers to the challenges of the industrial mass society — so in Britain but also in Germany, France, or Italy: George Dangerfield, *The Strange Death of Liberal England* (Stanford, Ca.: Stanford University Press, 1998 [orig. 1935]).

¹¹⁶ Richard Thurlow, *The Secret State*, pp. 3-6.

The Legal Frameworks of the State of Exception in the Nineteenth Century

The legal and constitutional developments during the nineteenth century regarding the state of exception varied in Britain and Germany. The concept of emergency legislation in Germany was enshrined in the Prussian Law about the State of Siege of 4 June. Although officially created for the circumstances of a war, it was also applied domestically to suppress protest movements and industrial unrest. In Britain, by contrast, no explicit pieces of emergency legislation apart from the institution of martial law and a number of repressive laws for Ireland existed before 1914.¹¹⁷ This was merely an expression of its very different constitutional traditions with its rather underdeveloped central state and the absence of a written constitution. The Riot Act of 1714, however, represented to a certain extent the equivalent to legal institutions like the German *Gesetz über den Belagerungszustand*. Nevertheless, both pieces of legislation enabled the authorities to declare a state of exception and to use the full range of the available means of coercion at their disposal.

The Prussian Law about the State of Siege of 4 June 1851

The German state of siege legislation of 1851 was a direct consequence of the revolutionary uprisings in 1848 and 1849. In Prussia, the king was forced to accept the demand for a liberal constitution. However, in the course of the restoration after 1849, this first constitution was eventually repealed and replaced by an imposed

¹¹⁷ Cf. Townshend, *Making the Peace*, pp. 45-50.

constitutional charter on 31 January 1850.¹¹⁸ Nevertheless, even this revised and imposed constitutional charter featured significant concessions to the liberal demands for greater political participation and for limitations of the absolute powers of the King.¹¹⁹ Although simultaneously introducing a socially exclusive three-class franchise, it also guaranteed certain civil liberties for all Prussian citizens such as freedom of the person (article 5), the inviolability of the home (article 6), the right to a fair trial and open courts of law, the prohibition of unlawful detention (article 7), freedom of expression (article 27), the freedom of the press (Article 28), freedom of assembly (article 29), and the right to free association (article 30).¹²⁰

However, only one year later the Prussian authorities acquired the legal powers to curtail these newly-won freedoms. The so-called Law about the State of Siege came into force on 4 June 1851.¹²¹ This piece of legislation was later incorporated as article 68 into the constitution of the German Empire of 1871 and influenced the exceptional powers of the Imperial President enshrined in article 48 of the Weimar constitution.¹²² The Law about the State of Siege incorporated many aspects of the French legislation regarding the *état de siège* which dated back to the

¹¹⁸ John Breuilly, *Austria, Prussia and the Making of Germany 1806-1871* (New York: Routledge, 2002), pp. 36-54; Winkler, *Der Lange Weg nach Westen*, pp. 131-146.

¹¹⁹ For general constitutional developments in Prussia and the German Federation see Martin Kitchen, *A History of Modern Germany, 1800-2000*, (Oxford: Blackwell, 2006) pp. 59-89. Still a key reading on the political history of Germany in the nineteenth century: Ernst Rudolf Huber, *Deutsche Verfassungsgeschichte seit 1789. Vol. 2: Der Kampf um Einheit und Freiheit 1830-1850* (Stuttgart: Kohlhammer, 1966), esp. pp. 579-652. See also Christopher Clark, *Iron Kingdom: The Rise and Fall of Prussia, 1600-1947* (Cambridge, MA: Harvard University Press, 2006), pp. 468-509; Winkler, *Der Lange Weg nach Westen*, pp. 100-130.

¹²⁰ 'Revidierte Verfassungsurkunde für den Preußischen Staat, 31. Januar 1850', in: *Preußische Gesetz-Sammlung 1850*, p. 17.

¹²¹ 'Preußisches Gesetz über den Belagerungszustand, 4. Juni 1851', in: *Preußische Gesetz-Sammlung 1851*, p. 451.

¹²² 'Gesetz, betreffend die Verfassung des Deutschen Reichs, 16. April 1871', in *Deutsches Reichsgesetzblatt Band 1871*, Nr. 16, p. 82.

days of the French Revolution and the following Restoration Era.¹²³ There is a certain irony in the fact that a Prussian government took inspiration for its essentially anti-revolutionary emergency legislation from revolutionary France.

In essence, the law enabled commanding officers of fortresses and the commanding generals of army corps districts to suspend the guaranteed rights of articles 5, 6, 7, 27, 28, 29, 30, and 36 of the Prussian constitution. This was originally designed to assist defensive efforts in those provinces already seized, or threatened to be seized by the enemy.¹²⁴ The crucial point was, however, that it also provided the King and his government with the right to declare a state of siege in cases of ‘unrest and urgent danger for public security’ in peacetime.¹²⁵ Nonetheless, the law did not provide any clear description of what exactly constituted unrest or an urgent danger for public security, therefore leaving it open to definition by the Prussian authorities themselves. In cases of ‘exigent circumstances’ (*Gefahr im Verzuge*) local military commanders were even allowed to declare a state of siege on their own authority. With the declaration of a state of siege, the command over all civilian authorities was transferred to the respective military commanders and civil servants were obliged to obey their orders.¹²⁶ This included the local police forces as well as all other civil servants in the respective districts.

¹²³ The surviving correspondence between the French Minister of War and the Prussian Foreign Office gives a valuable insight into the transfer of legal knowledge in Europe at the time. The orientation on the French example of emergency government may help to understand the resemblance of many pieces of emergency legislation in Germany and other European states during the nineteenth century. Bundesarchiv (henceforth BArch) R901/32484 pp. 6-7, *Letter by the French Minister of War to the Prussian to the Foreign Office* [without date]; see also Boldt, *Rechtsstaat und Ausnahmezustand*, pp. 25-32.

¹²⁴ *Preußisches Gesetz über den Belagerungszustand*, article 1.

¹²⁵ German original: ‘Auch für den Fall eines Aufruhrs kann, bei dringender Gefahr für die öffentliche Sicherheit, der Belagerungszustand sowohl in Kriegs- als in Friedenszeiten erklärt werden.’; *ibid.*, article 2.

¹²⁶ *Ibid.*, article 4.

The declaration of a state of siege also aggravated the punishment for certain felonies. Article 8 of the law demanded the death penalty for arson, bringing about of a flood, and for obstructing an officer or civil servant in the performance of his duty by force of arms. For minor offences such as spreading wrong and misleading information, the law demanded prison sentences of up to one year. All trials related to offences against the state of siege were to be held before extraordinary courts martial (*Außerordentliche Kriegsgerichte*), which consisted of five senior military officers.¹²⁷ Sentences – including the death penalty – had to be executed within 24 hours after they had been confirmed by the commanding general of the district. Military officers and subordinated civil servants were, according to the law, only personally accountable to the King (later the Emperor) and could not be prosecuted for their actions by regular courts. This suspension of the rule of law was additionally aggravated by article 9 of the law which allowed the local commanding officers to issue decrees on all possible aspects of daily life. Failing to obey these decrees could result in prosecution and prison sentences of up to one year. Article 9 effectively bypassed the constitutional law-making process, allowing the military commanders to rule and administer as de facto dictators in their army corps districts.¹²⁸

The significance of the Law about the State of Siege resides in its constitutional rank as article 68 of the imperial constitution and in its potential to overthrow the constitutional system, and in consequence to establish the King – later the Emperor – as heads of a de facto military dictatorship. It was – to use Agamben's terms – a law to abolish the rule of law at the free disposal of the head

¹²⁷ Ibid., articles 10 to 14.

¹²⁸ See Schudnagies, *Kriegs- und Belagerungszustand*, pp. 92-107.

of state.¹²⁹ This must certainly be seen as a clear symptom of the shortcomings of the German constitutional system and the authoritarian tendencies within the Empire.¹³⁰ But the law also highlights the central position of the military within the German political arrangements as a safeguard of the monarchic reign. The social structure of the officer corps and its exclusive allegiance to the person of the Emperor were regarded as the most reliable pillars of imperial reign and as bulwarks against liberalism and Social Democracy.¹³¹

The concept of the state of exception gained particular relevance as a means of political repression during the time of the so-called *Socialist Laws* between 1878 and 1890. After two failed assassination attempts against Emperor Wilhelm I in the summer of 1878, Imperial Chancellor Bismarck introduced a number of laws against the constantly growing influence of the labour movement in Germany. The assassination attempts were a welcome justification for a long planned attack on Bismarck's new 'enemies of the realm' (*Reichsfeinde*) – the Social Democrats. The cornerstone of the Socialist Laws was the Law against the Public Danger of the Social Democracy of 19 October 1878.¹³² The law banned all socialist and communist associations that 'aimed at subverting the existing state and social order'.¹³³ It also curtailed all publications that promoted socialism, and prohibited

¹²⁹ Agamben, *State of Exception*, pp. 28-32.

¹³⁰ Wolfgang Mommsen is very critical about the authoritarian tendencies in the German Empire which he interprets mainly as inherited Prussian features: Wolfgang J. Mommsen, *Imperial Germany*, pp. 41-56. Volker Berghahn gives a comprehensive account of the ambiguity of the 'interventionist' German state during the Empire appraising the positive aspects but also pointing out the obvious shortcomings: Volker Berghahn, *Imperial Germany 1871-1918. Economy Society, Culture and Politics*, (Providence: Berghahn Books, 1994), pp. 253-281.

¹³¹ Cf. Wilhelm Deist, *Militär, Staat und Gesellschaft: Studien zur preußisch-deutschen Militärgeschichte* (Munich: Oldenbourg Verlag, 1991), pp. 19-42, pp. 83-102, pp. 103-152.

¹³² 'Gesetz gegen die gemeingefährlichen Bestrebungen der Sozialdemokratie, 21. Oktober 1878', *Deutsches Reichsgesetzblatt 1878*, Nr. 34, pp. 351-358.

¹³³ German original: '(...) sozialdemokratische, sozialistische und kommunistische Bestrebungen [betreffend] den Umsturz der bestehenden Staats- oder Gesellschaftsordnung (...)', *ibid.*, Article 1.

all public meetings in which the socialist or communist cause could be advertised. The banning of socialist organisations was accompanied by a number of restrictive and repressive measures that were enforced by the police authorities.¹³⁴ Article 22 of the law, for example, allowed the issue of exclusion orders against ‘known agitators’. Particularly relevant for our enquiry is article 28 of the Socialist Laws. It enabled state authorities to put certain areas (cities, counties), which were under ‘imminent threat of socialist subversion’ under a so-called minor state of siege (*Kleiner Belagerungszustand*). Following the example of the state of siege under military command, it enabled senior civil servants and police authorities to suspend civil liberties such as the freedom of assembly, freedom of the press, and the right to possess and bear arms for a period of up to 1 year. In addition, local police authorities could issue exclusion orders against social democratic agitators for the same duration. However, in public acts of civil disobedience prominent leaders of the SPD ignored such decrees and bans on public meetings, and were consequently sentenced to prison sentences.¹³⁵ The minor state of siege was declared on several occasions in socialist strongholds such as Frankfurt am Main, Dresden, Leipzig, Berlin, Hamburg and Altona with the particular aim of preventing socialist candidates from campaigning for the Reichstag elections. The attempts to contain the SPD eventually proved futile. Despite being severely obstructed as party, individual social democratic candidates could stand for the Reichstag elections.

¹³⁴ Already on 21 October 1878, the day of the coming into force of the Socialist Laws, the President of the Berlin Police, Guido von Madai, declared that he had seized the power to issue exclusion orders and bans on newspapers for the cities of Berlin, Charlottenburg, Pankow, Potsdam, and the counties of Niederbarnim and Havelland. This is an indicator that the Socialist Laws were a long planned crackdown on the SPD in which the police authorities were involved from an early stage; BArch R901/32484, p. 55, *Proclamation by the Berlin Police President about the Possible Declaration of the State of Siege in Berlin and the Province of Brandenburg*, 21 October 1878.

¹³⁵ A prominent example is Wilhelm Liebknecht, leading social democrat and father of Karl, who served several prison sentences for breaches of exclusion orders between 1878 and 1884.

Regardless of the severe repression, the SPD was able to quintuple its vote from 311,961 in 1881 to 1.45 million votes in 1890.¹³⁶

The expiry of the Socialist Laws marked the end of the first attempt to establish a form of permanent state of exception. Although initially supported by some of the liberal factions in the Reichstag, it soon became obvious that the anti-socialist measures were targeting any attempt to push for political reform and democratisation. Against the backdrop of the increasing violence used against striking workers and protesters since the 1880s, this eventually undermined support for the prolongation of the Socialist Laws. Nevertheless, the experience of massive and often brutal repression had a traumatic effect on German Social Democracy. The term *Belagerungszustand* became a symbol of unrestricted state power and left a lasting mark in the collective memory of the German labour movement. The leading Social Democrat August Bebel expressed this view in his memoirs when reflecting on the personal impact of state repression under the Socialist Laws:

The fact that we were banished like vagabonds and criminals and forcibly separated from our women and children without trial I experienced as a mortal insult for which I would have sought retribution had I had the power. No trial, no condemnation ever aroused in me such feelings of hatred and bitterness as those expulsions that were renewed year after year until at last the overthrow of what had become an untenable law put an end to that cruel game with human lives.¹³⁷

The experiences of the Socialist Laws and their impact on the collective conscience of the German labour movement may also help to understand the reactions of the SPD leadership in August 1914. The threat of the violent suppression of the party

¹³⁶ Cf. Udo Sautter, *Deutsche Geschichte seit 1815: Daten, Fakten, Dokumente. Band 1: Daten und Fakten* (Tübingen: A. Francke, 2004), pp. 108-110.

¹³⁷ Cited in Susanne Miller and Heinrich Potthoff, *A History of German Social Democracy: From 1848 to the Present* (Lemington Spa: Berg, 1986), pp. 35-36.

and its attached organisations certainly contributed just as much to the acceptance of the *Burgfrieden* policy as the promise of national integration.¹³⁸

Reading the Riot Act: The British Example of Decentralised Emergency Government

It is often argued that Britain did not have a tradition of martial law or emergency government before the First World War.¹³⁹ While this is to a certain extent true, it neglects the fact that other pieces of legislation served the same purpose as the German *Belagerungszustand*.¹⁴⁰ The Riot Act of 1714 featured some characteristics of other pieces of emergency legislation: the suspension of civil liberties, namely the freedom of assembly and in consequence to a certain extent also freedom of association and freedom of speech; the barely restricted use of (military) force against protestors; and the lack of proper legal safeguards against misuse of

¹³⁸ Christhard Hoffmann defines the *Burgfrieden* as something '(...) which required all citizens to unite in combating the external enemy – thus including minorities and previously disadvantaged classes (...)', c.f. Christhard Hoffmann, 'Between Integration and Rejection: The Jewish Community in Germany, 1914-1918', in John Horne (ed.), *State, Society and Mobilization in Europe during the First World War* (Cambridge: Cambridge University Press, 1997), pp. 89-89-104. For the general German debate about the *Burgfrieden*, see Wolfgang Kruse, 'Burgfrieden 1914: Der „Verrat“ schlechthin?', in Simone Barck and Ulla Plenner (eds), *Verrat: Die Arbeiterbewegung zwischen Trauma und Trauer* (Berlin: Dietz, 2009), pp. 18-35; idem, *Krieg und nationale Integration: Eine Neuinterpretation des sozialdemokratischen Burgfriedenschlusses 1914/15* (Essen: Westfälisches Dampfboot, 1994); Susanne Miller, *Burgfrieden und Klassenkampf: Die Deutsche Sozialdemokratie im Ersten Weltkrieg 1914-1918* (Düsseldorf: Droste, 1974).

¹³⁹ See for example Millman, *Managing Dissent*, pp. 31. For a similar argument regarding the non-existence of a British notion of a *Notrecht*: Richard Vogler, *Reading the Riot Act: The Magistracy, the Police and the Army in Civil Disorder* (Milton Keynes: The Open University Press, 1991), p. 83.

¹⁴⁰ In fact, England featured a long tradition of anti-riot acts and martial law during the late medieval and early-modern period. See for a comprehensive account C. V. Capua, 'The Early History of Martial Law in England from the Fourteenth Century to the Petition of Rights', *The Historical Journal*, 36, 1 (1977), pp. 152-177.

authority.¹⁴¹ Richard Vogler noted the character of the Riot Act as a form of a state of exception by accentuating the fact that ‘rioters were, by proclamation, transformed into felons and moreover into traitors who were put outside the law, outside the King’s peace and therefore seen as outside the laws’.¹⁴² The Riot Act, however, was situational and could only be applied to comparatively small spaces such as counties, towns or fields where assemblies took place.¹⁴³ Yet, within these limitations the Riot Act constituted a state of exception when it was read. The Riot Act remained in force until 1967 when it was replaced by Schedule 3, Part III of the Criminal Justice Act, which was finally repealed in 1973.¹⁴⁴ It was first read in 1715 and for the last time in Liverpool in 1919.¹⁴⁵

The Riot Act was among the first pieces of legislation issued by the new Hanoverian King George I in 1714.¹⁴⁶ Confronted with a number of riotous unrests and uprisings especially in the North East of England, the Riot Act introduced elements of martial law into domestic policies. Originally, the Petition of Right of 1628 prohibited the King and his government from declaring martial law in England during peacetime, rendering the use of the military for domestic affairs illegal and

¹⁴¹ ‘Riot Act 1714’ (1 Geo. 1, c. 5).

¹⁴² Vogler, *Reading the Riot Act*, p. 2.

¹⁴³ Later proceedings regarding the application of the Riot Acts highlight the vague character of the provisions of the act. It was often unclear whether the reading of the act only affected those who could hear it, or those people within the bailiwick of the reading magistrate, or those who were assembled within a certain space. This shortcoming added additional potential of abuse to the already problematic act.

¹⁴⁴ Vogler, *Reading the Riot Act*, p. 3.

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.*, p. 1.

unconstitutional.¹⁴⁷ The Riot Act, however, bypassed this ban by giving local magistrates the power to call-in military assistance to disperse assembled crowds.¹⁴⁸

Wherever groups larger than twelve persons assembled in open field ‘unlawfully, riotously and tumultuously’, the Riot Act could be read by local magistrates. The proverbial ‘reading the Riot Act’ required all assembled persons to disperse within an hour after the reading, otherwise they could be ‘killed, maimed or hurt’ by the aides of the local authorities. In such cases the military was obliged to provide ‘military assistance to the civil authority’ when requested by the local magistrates. The act stated further that:

[...] if the persons so unlawfully, riotously and tumultuously assembled, or any of them, shall happen to be killed, maimed or hurt, in the dispersing, seizing or apprehending, or endeavouring to disperse, seize or apprehend them (...), that then every such justice of the peace (...) [and] all and singular persons, being aiding and assisting to them, or any of them, shall be free, discharged and indemnified, as well against the King's Majesty, his heirs and successors, as against all and every other person and persons, of, for, or concerning the killing, maiming, or hurting of any such person or persons so unlawfully, riotously and tumultuously assembled, that shall happen to be so killed, maimed or hurt, as aforesaid.¹⁴⁹

The Riot Act was subject to several amendments during the early nineteenth century, extending the powers of local magistrates to an almost absolutist level.¹⁵⁰

In its final form after 1831, the Riot Act enabled local magistrates to ban the holding of meetings; to call upon the assistance of the militia, military, yeomanry, or the constabulary to command any of these against rioters; to use the *posse comitatus* to

¹⁴⁷ Lindsay Boynton, ‘Martial Law and the Petition of Right’, *English Historical Review*, 79, 311 (1964), pp. 255-284; Paul Christianson, ‘Arguments on Billeting and Martial Law in the Parliament of 1628’, *The Historical Journal*, 37, 3 (1994), pp. 539-567.

¹⁴⁸ The act defined local authorities as ‘every mayor, justice of the peace, sheriff, bailiff, and other head-officer, high or petty constable, and other peace-officer of any city or town corporate where such assembly shall be’. Riot Act 1714 (1 Geo. 1, c. 5), III.

¹⁴⁹ Ibid.

¹⁵⁰ Vogler, *Reading the Riot Act*, p. 13.

suppress riots; to swear in special constables; to arrest rioters and keep them in bail; to read the Riot Act; and to convict and sentence rioters for a range of summary offences.¹⁵¹ Nevertheless, no precise definition of what constituted an ‘unlawful’ or ‘tumultuous’ assembly was given, making potentially every public political meeting or picket line a case for the reading of the Riot Act. This opened up possibilities for the arbitrary use of the act by local magistrates, who were themselves often representatives of the local oligarchy, consisting of the landed gentry and owners of mines and factories, and therefore themselves part of the industrial and political conflicts. The central state only played a minor role in the policing of public order and this would not change until the beginning of the twentieth century. The fact that local magistrates could call upon the assistance of the military on their own authority without consulting Parliament or the Home Office is – in comparison to Germany – very remarkable. This decentralisation of emergency powers under the Riot Act was designed to prevent the misuse of powers by the central state. Yet, as the subsequent discussion will show, the prominent position of the local magistrates was hardly controlled and checked, as incidents such as the Peterloo Massacre in 1819 or the deployment of the military to deal with strikes throughout the nineteenth century illustrate. Particularly the indemnifying clauses of the Riot Act could hardly be reconciled with the liberal ideals of the rule of law and responsible government.

Until the beginning of the First World War, the Riot Act remained the only explicit piece of legislation that enabled the application of emergency measures in Britain. The discourses about the application of the Riot Act and the use of the military in the interior did however shape notions of emergency government by the

¹⁵¹ Ibid.

central state. This would have a profound impact on domestic policies during the First World War in Britain and the related pieces of legislation such as the Defence of the Realm Act and the subsequent Emergency Powers Act of 1920.

Comparison

The legal framework of the state of exception developed along very different lines in Britain and Germany during the nineteenth century. Whereas the Law Regarding the State of Siege from 1851 emerged as reactionary response to revolution and constitutionalism, the Riot Act evolved as an instrument to keep public order. The *Belagerungszustand* was a drafted piece of legislation with clear political implications. It was designed as an instrument to preserve the established political order against the threat of revolution. The Riot Act gave local authorities spatially and temporally limited emergency powers to assume command over the military and to order the application of lethal violence against rioters and protesters. The act, however, was not in any way designed to change the political order as a whole. Its political significance derived from its potential to enable authorities to suppress even legitimate assemblies and protest. The constitutional arrangements in Britain implied that civil liberties were not guaranteed in the same way as in a written constitution. They were merely negatively defined by common law and case law in the sense that judges and individual acts of parliament set the limits for actions by the state and its agencies. In other words, there was no need for explicit emergency laws because there was no clearly defined catalogue of civil liberties that could be suspended by such legislation.

Against this backdrop, the Riot Act – and in particular its indemnifying clauses – can be seen as an instrument to curtail the articulation of political protest. Both pieces of legislation, nevertheless, set the framework for the involvement of the military in domestic affairs. In Britain, the military remained subsumed under civil authority as an instrument of politics. In Germany, by contrast, the army would emerge as an autonomous actor in domestic policy without any effective control by civilian authorities. This exclusive accountability to the Emperor enshrined in the Law Regarding the State of Siege was designed to maintain control over the military as an instrument.

Public Order and the State of Exception: The Application of Emergency Measures before the First World War

During the first half of the nineteenth century, the only state agency capable of enforcing emergency measures was the military. Yet, a number of controversial incidents and the emergence of large scale protest movements during the second half of the century led to a differentiation of the agencies of the central state. The military proved increasingly insufficient to police public mass meetings and strike assemblies. The experience of excessive violence used by the military in dispersing meetings finally led to the emergence of the police force as an intermediate agency for policing public order and security.¹⁵² The emerging labour movement and

¹⁵² Vogler, *Reading the Riot Act*, pp. 17-19; see also Johansen, *Soldiers as Police*, pp. 275-282; Idem, 'Violent Repression or Modern Strategies of Crowd Management: Soldiers as Riot Police in France and Germany, 1890-1914', *French History*, 15, 4 (2001), pp. 400-420; idem, 'Policing and Repression: Military Involvement in the Policing of French and German Industrial Area 1889-1914', *European History Quarterly*, 34, 1 (2004), pp. 69-98; Thurlow, *The Secret State*, pp. 17-36; Barbara Weinberger, *Keeping Peace: Policing Strikes in Britain 1906-1926* (Oxford: Berg, 1991), pp. 9-19.

liberal politicians saw the deployment of the military in domestic affairs as illegitimate and as an attempt to establish authoritarian forms of rule. Consequently, professional police forces increasingly took over the task of policing public protests and strikes. Yet, this transition of responsibilities also brought new challenges for the authorities. The emergence of the modern police was accompanied by phenomena that were not always coherent with liberal ideas of the state. Secret political police units such as the *Abteilung VII* of the Berlin Royal Police Presidency or the Special Branch of the Metropolitan Police represented hybrid types of state agencies situated between the normality of police work and domestic intelligence.

It is crucial for understanding the emerging concept of the state of exception during the First World War to analyse these relations between the state, its executive agencies such as the military and the police and the public before 1914. The discussion of the following examples will show that the existence and actions of these agencies were far from being generally accepted. They also illustrate how notions of the appropriate response to threats to public order and security changed from manifest confrontation to concepts of preventive security. This, of course, had wide-ranging implications regarding legality, secrecy and the application of emergency measures.

Policing the Belagerungszustand: Military and Police as Agents of the Authoritarian State in Germany

The preceding description of the state of siege legislation in Germany has already drawn our attention to the central position of the military. But what did the actual practice of emergency government actually look like? And how did the general

public perceive the institution of the *Belagerungszustand* and the domestic deployment of the military?

The brutal crackdown by Prussian and Austrian troops on the revolutions 1848-49 left a deep suspicion within the liberal and socialist movement against the military.¹⁵³ Although popular militarism was a widespread phenomenon within German society in the second half of the nineteenth century, the use of the military for domestic duties was perceived critically.¹⁵⁴ The SPD, for example, popularised the concept of the military, and in particular the army, as an institution belonging to the nation as a whole.¹⁵⁵ Its domestic deployment against strikers was thus increasingly seen as a contradiction to this inclusive national character. The fact that the German army was largely comprised of conscripts from all social classes made things particularly difficult. Whereas leading generals and the Imperial Government saw the army primarily as a pillar of the monarchy, the liberal parties and the SPD popularised the notion of a people's army (*Volksheer*) and integrated this demand into its Erfurt Party Platform of 1890.¹⁵⁶ These conflicting notions

¹⁵³ Nicolas Stargardt argues that Social Democratic criticism of Prussian militarism integrated older traditions of left-liberal anti-militarism in Germany; Nicolas Stargardt, *The German Idea of Militarism, 1866-1914*, (Cambridge: Cambridge University Press, 1994).

¹⁵⁴ For a critical assessment of the concept of popular and social militarism in Germany see: Benjamin Ziemann, 'Sozialmilitarismus und militärische Sozialisation im deutschen Kaiserreich, 1871-1914. Desiderate und Perspektiven in der Revision eines Geschichtsbildes', *Geschichte in Wissenschaft und Unterricht*, 53, 3 (2002), pp. 148-164. See also Marilyn Shevin Coetzee, *The German Army League: Popular Nationalism in Wilhelmine Germany* (Oxford: Oxford University Press, 1990); Christoph Treblmayr, 'Militarism Revisited: Masculinity and Conscription in Germany', *Journal of Contemporary History*, 39, 4 (2004), 649-656; Frank Becker, 'Strammstehen vor der Obrigkeit? Bürgerliche Wahrnehmung der Einigungskriege und Militarismus im Deutschen Kaiserreich', *Historische Zeitschrift*, 277, 1 (2003), pp. 87-113.

¹⁵⁵ For the Social Democratic conception of a people's army, see Bernard Neff, '*Wir wollen keine Paraderuppe... Wir wollen eine Kriegarmee*': *Die reformorientierte Militärkritik der SPD, 1890-1913* (Cologne: SH-Verlag, 2004).

¹⁵⁶ Jörn Leonhard, *Bellizismus und Nation: Kriegsdeutung und Nationsbestimmung in Europa und den Vereinigten Staaten, 1750-1914* (Munich: R. Oldenbourg, 2008), pp. 461-464, pp. 651-670; John Moses, 'The Prusso-German Idea of War: The Values of a Virtual Rogue State', *History Compass*, 10/12 (2012), pp. 901-917.

about the function and position of the military within German society set the field for the debates about the use of the army in the interior.

The case of a metalworkers' strike in the Westphalian city of Bielefeld in March 1885 illustrates the practice of the military in policing industrial disputes.¹⁵⁷ The years 1884 and 1885 saw an unprecedented wave of strikes in the German Empire and other parts of Europe, particularly in France. During the following 'decade of class struggle', the military was frequently used to suppress strike movements and protests.¹⁵⁸ Bielefeld was at this time a regional centre for textile production and its ancillary industries. The occasion for the strike in March 1885 was the plan of the owners of the sewing machine factory Koch & Co to introduce new rules for its workers, including the demand to bring or pay for their own tools. This caused outrage among the workers. The eventual layoff of two alleged ringleaders by the factory owners provided the last push towards a strike. On 4 March 1885, the workers of Koch & Co went out on strike. The dispute about changes in work contracts soon reached a new level when the German Metal Workers Union (*Deutscher Metallarbeiterverband*) intervened and threatened an all-out strike in Bielefeld and the surrounding districts. The factory owners attempted to bring in workers from outside, which were immediately attacked in the streets by flying pickets.

From the beginning of the strike, the police made an effort to disperse pickets and strike assemblies but was soon outnumbered and overwhelmed. Although

¹⁵⁷ For more details on the strike see Karl-Ludwig Günsche and Klaus Lantermann, *Verbieten, Aussperren, Diffamieren: Hundert Jahre Sozialistengesetz und verwandte Praktiken* (Cologne – Frankfurt am Main: EVA, 1978), pp. 124-128; Albrecht Funk, *Polizei und Rechtsstaat: Die Entwicklung des staatlichen Gewaltmonopols in Preußen 1848-1918* (Frankfurt am Main – New York, 1986), pp. 153-156, pp. 304-308.

¹⁵⁸ Anja Johansen, *Soldiers as Police*, pp. 113-139.

several dozen strikers were arrested in the coming days, these repressive measures additionally contributed to a general aggravation of the dispute. The conservative *Norddeutsche Allgemeine Zeitung* reported that ‘people willing to work were attacked and beaten by strikers so that the police had to protect them on their way to the factory and home’.¹⁵⁹ Eventually, protestors gathered around the lodging house of the imported strike breakers and started to attack it by smashing the windows. The police proved unable to disperse the crowd of several hundred people during this night. Eventually, two companies of infantry took position in the streets around the factories and held the pickets back from the factory gates. When the situation seemed to have calmed down, the soldiers were ordered back to their barracks. Yet, according to the newspaper article, the strikers immediately returned to the streets and now started to attack the mansion of the factory owners. The troops returned and marched to the owner’s residence. After their arrival, they carried out several bayonet charges against the largely unarmed rioters in order to disperse the crowd. At least two workers were seriously injured by stabs in the chest and several others by blows of the rifle butts. The crowd consequently broke up in panic. On the following day, the commanding officer of the Bielefeld garrison Colonel Otto Köppen declared a provisional state of siege over Bielefeld. All public meetings were banned and several trade unionists and strike leaders were detained. The strike lasted five weeks and the state of siege was upheld until its end. Soldiers patrolled the streets and violently suppressed any further attempts to establish picket lines. The strike finally resulted in a defeat for the strikers who could not achieve any major concessions.

¹⁵⁹ *Norddeutsche Allgemeine Zeitung*, 30 March 1885.

The Bielefeld strike of 1885 was more than a regional industrial dispute. Many contemporary observers saw it as a ‘forward skirmish of the working class’ against the repression of the Socialist Laws.¹⁶⁰ The intervention of the military under the state of siege set a precedent for further military intervention in industrial unrest in Germany. In 1889, during the first large-scale miners’ strike in the Ruhr area, the military intervened again. This resulted in the killing of fourteen striking workers. A further escalation of this strike was only prevented by an intervention by the Emperor himself.¹⁶¹ The ‘full’ state of siege, however, was only declared on two occasions: during a metalworker strike in the Silesian city of Königshütte and during the discussed strike in Bielefeld in 1885.¹⁶² The increasing violence during strikes at the end of the 1880s contributed to the refusal of the Reichstag to prolong the Socialist Laws. Open confrontation and repressive measures were increasingly seen as inappropriate instruments to deal with the labour movement.¹⁶³

Nonetheless, the military remained an apparatus of repression at the free disposal of the Emperor. This was particularly the case after the Reichstag rejected the prolongation of the Socialist Laws in 1890. Immediately before and after the governmental crisis, which emerged in the wake of the repeal of the Socialist Laws and which eventually resulted in Bismarck’s dismissal, leading generals urged the Emperor to use his prerogative under article 68 to declare an empire-wide state of siege. With the landslide victory of the Social Democrats in the 1890 Reichstag

¹⁶⁰ *Der Wächter*, 8 April 1885.

¹⁶¹ Albin Gladen, ‘Die Streiks der Bergarbeiter im Ruhrgebiet 1889, 1905 und 1912’, in Jürgen Reulecke (ed.), *Arbeiterbewegung an Rhein und Ruhr: Beiträge zur Geschichte der Arbeiterbewegung in Rheinland-Westfalen* (Wuppertal: Hammer, 1974), pp. 111-148.

¹⁶² Funk, *Polizei und Rechtsstaat*, p. 153.

¹⁶³ Wilhelm Deist argues, for example, that during the 1890s even leading military commanders recognised that the military was unable to maintain social peace, which led to growing recognition of trade unions and Social Democrats as partners for negotiations. Wilhelm Deist, *Militär, Staat und Gesellschaft*, pp. 83-102.

elections, ultra-conservative generals promoted the detention of leading Social Democrats and the suspension of the constitution as the only viable option to preserve the old monarchic order.¹⁶⁴ Although eventually not put into action, the existence of this plan underlines the argument that the state of siege was seen as a legal instrument to abolish constitutional order. The army remained a bulwark of the established political order and against any drive in the direction of democratisation. On 20 March 1890, with the end of the Socialist Laws looming, the Prussian minister of war, Julius von Verdy du Vernois, issued an order to all commanding generals of the Prussian army instructing them to suppress any social democratic agitation within the troops and urging them to gather intelligence about local socialists, their press and party leaders.¹⁶⁵ This echoed the widespread belief within the officer corps that the army now had to take the lead in the struggle against social democracy after the majority in the Reichstag rejected further support.¹⁶⁶ The special position of the army was also highlighted in a speech of Emperor Wilhelm II during a swearing-in of recruits of a Guards Regiment in Potsdam in 1891. The Emperor pointed out that the army's only allegiance was to be with the monarch:

(...) There is only one enemy for you and that is my enemy. With the current socialist machinations, it may occur that I order you to shoot your own relatives, brothers, even your parents – may God prevent it – but even then, you have to follow my order without muttering.¹⁶⁷

¹⁶⁴ John Röhl presents a comprehensive account of the putsch plans and preparations for a coup in 1890. It remains unclear to what extent the Emperor played an active role in this plot. It seems very likely that particularly the generals pushed the issue: John Röhl, 'Staatsstreichplan oder Staatsstreichbereitschaft? Bismarcks Politik in der Entlassungskrise', *Historische Zeitschrift*, 203 (1966), pp. 610-624.

¹⁶⁵ BArch R43/1270 pp. 3-4, *Order regarding the Military Suppression of Domestic Unrest by Verdy du Vernois*, 20 March 1890.

¹⁶⁶ Deist, *Militär, Staat und Gesellschaft*, pp. 83-86.

¹⁶⁷ German original: '(...) es gibt für euch nur einen Feind, und der ist Mein Feind. Bei den jetzigen socialistischen Umtrieben kann es vorkommen, daß Ich euch befehle, eure eignen Verwandten, Brüder, ja Eltern niederzuschießen – was ja Gott verhüten möge –, aber auch dann müßt ihr Meine Befehle ohne Murren befolgen.', quoted in Ernst Johann, *Reden des Kaisers. Ansprachen, Predigten, und Trinksprüche Wilhelms II.* (Munich: dtv, 1966) pp. 55-56.

Yet, without risking civil war, and without the emergency powers granted by the Socialist Laws, other ways to tackle Social Democracy had to be found. Since the enactment of the Socialist Laws in 1878, the Royal Police Presidency in Berlin had started to gather domestic intelligence about the labour movement.¹⁶⁸ Initially beginning with the surveillance of socialists and anarchists in Berlin, it soon extended its scope to all other provinces of Prussia and later began to collect information beyond the borders of the empire. Department VII (*Abteilung VII*), also known as the *Politische Polizei* (political police) of the Police Presidency established a closely tied net of surveillance consisting of a large number of confidential informants.¹⁶⁹ Additionally, local police officers regularly compiled reports about the activities of socialist groups in their districts and the Department issued yearly secret reports about the issue to the Imperial Government. The activities of Department VII remained mostly secretive and widely defied public control. The institution of a political secret police was particularly problematic because it unified the functions of a domestic intelligence agency with the general powers of the regular police such as the right to arrest and collaboration with the bodies of public prosecution. This combination of intelligence and policing made the political police in Prussia the historical predecessor for later agencies such as the Secret State Police (*Geheime Staatspolizei*, *Gestapo*) during the Third Reich. As we shall see, Department VII significantly extended its already broad activities during the First World War. In combination with the ruling military, the police

¹⁶⁸ Funk, *Polizei und Rechtsstaat*, pp. 255-273.

¹⁶⁹ A rich collection of surveillance records survives at the Berlin city archives. See for example the files about unmasked informers and the SPD campaign against 'snitches' in their own membership: Landesarchiv Berlin [henceforth LAB] A Pr. Br. Rep. 030 Nr. 15944, *Verhalten der Sozialdemokratie gegenüber der Polizei*, 1888-1911.

would become the main agent of enforcing the *Belagerungszustand* in the German Empire.

The Failure of Military Intervention and the Rise of the Central State in Nineteenth-Century Britain

A number of incidents during the nineteenth century changed relations between civil society and the military in Britain profoundly. The shortcomings of military deployment for domestic purposes became increasingly manifest – particularly against the backdrop of growing industrial unrest. These developments were one of the main reasons for the establishment of countrywide police forces that consequently took over the responsibility for keeping peace and public order.¹⁷⁰ The call for ‘bringing the troops on to the streets’ was increasingly seen as a contradiction to the British values of liberty and rule of law. The emergence of this notion in nineteenth-century Britain can be reconstructed with the example of a number of incidents in which the military was used against protesters and striking workers.

The so-called Peterloo Massacre was one key event in this respect. On 16 August 1819, the Manchester and Salford Yeomanry Cavalry attacked a huge crowd of 50-60.000 people. The militia had been called in by the local magistrates to assist in the detention of some of the speakers present at the field. The subsequent confrontation resulted in fourteen protesters and bystanders being killed and several hundred injured.¹⁷¹ The use of trained soldiers against mostly peaceful

¹⁷⁰ Vogler, *Reading the Riot Act*, p. 41.

¹⁷¹ See inter alia Donald Read, *Peterloo: The Massacre and its Background* (Manchester: Manchester University Press, 1973). Michael Lobban locates Peterloo within a general development of repressive state policies in the post-Napoleonic era: Michael Lobban, ‘From Seditious Libel to

demonstrators caused a public outcry. Nevertheless, the direct aftermath brought a number of repressive acts of parliament that restricted freedom of assembly and curbed the freedom of the press by introducing new taxes. Although those acts were soon repealed, not much changed immediately in the approach to policing public order. The maintenance of order remained the key responsibility of local magistrates, many of them representatives of the oligarchy, who often used their prerogatives to suppress local protest movements. The Riot Act proved to be a useful legal instrument to call in the assistance of troops for this purpose. For instance, the repression of the Chartist movement and its public assemblies in the 1840s was predominantly based on readings of the Riot Act.¹⁷²

However, the level of violence the troops applied against public meetings was soon seen as excessive. Representatives of the central government in London, primarily the Home Secretaries and the War Office, worried about the perception of the military as a repressive organ of the local ruling classes rather than an impartial institution of the Empire.¹⁷³ From the mid-nineteenth century onwards, attempts were made to replace the military with local police authorities for the purpose of keeping public order. However, the emergence of new, nationwide forms of political organisations such as national trade unions soon brought new challenges, which local police authorities were not able to cope with. From the last quarter of the nineteenth century until the eve of the First World War, the military

Unlawful Assembly: Peterloo and the Changing Face of Political Crime, 1780-1820', *Oxford Journal of Legal Studies*, 10, 3 (1990), pp. 307-352; Ian Herson, *Riot! Civil Insurrection from Peterloo to the Present Day* (London: Pluto Press, 2006), pp. 21-46.

¹⁷² Malcolm Chase, *Chartism: A New History* (Manchester: Manchester University Press, 2007), pp. 95-106; Steve Peak, *Troops in Strikes: Military Intervention in Industrial Disputes* (London: The Cobden Trust, 1984), p. 20; Herson, *Riot!*, pp. 58-104.

¹⁷³ For a discussion of this problem, see Matthew Johnson, *Militarism and the British Left* (London: Palgrave MacMillan, 2014), esp. pp. 10-19.

again played a central role in policing industrial unrest, particularly during the Great Labour Unrest of 1911-1913.¹⁷⁴

The first of these occasions was the first nation-wide labour dispute in Britain's coal mining industry in 1893.¹⁷⁵ An incident in Featherstone, in the West Riding of Yorkshire, proved to be crucial for the further development of civilian-military relations.¹⁷⁶ The pit owner of the Ackton Hall Colliery, Lord Masham, and the owner of the Featherstone Main Colliery, decided to lock out their workers in order to stockpile their coal and wait for an increase in market prices. Stripped of the means to support their families, the miners soon assembled in protest meetings all over the coalfield. After a number of incidents of rioting in which the police were outnumbered and incapable of maintaining public order, the assistance of troops of the South Staffordshire Regiment from Bradford was called in. A small detachment consisting of three officers and 36 soldiers was sent to Featherstone. As the mere presence of soldiers proved to be no deterrent for the protesters, a local magistrate arrived and read the Riot Act which legally enabled the soldiers to use lethal force to disperse the assembled strikers.¹⁷⁷ The unit was soon surrounded by an angry crowd and forced to retreat to a boiler house. The commanding magistrate, Bernard Hartley, then ordered the soldiers to fire a volley of warning shots over the

¹⁷⁴ For a summary of the current state of research on the Great Labour Unrest, see Yann Béliard, 'Introduction: Revisiting the Great Labour Unrest 1911-1914', *Labour History Review*, 79, 1 (2014), pp. 1-17; James Thompson, 'The Great Labour Unrest and Political Thought in Britain', *Ibid.*, pp. 37-54; Tom Villis, 'Elitism and the Revolt of the Masses: Reactions to the "Great Labour Unrest" in the New Age and New Witness Circles', *History of European Ideas*, 31, 1 (2005), pp. 85-102; Matt Vaughan Wilson, 'The 1911 Waterfront Strikes in Glasgow: Trade Unions and Rank-and-File Militancy in the Labour Unrest 1911-1914', *International Review of Social History*, 53, 2 (2008), pp. 261-292.

¹⁷⁵ J. E. Williams, 'The Miner's Lockout 1893', *Bulletin of the Society for the Study of Labour History*, 24 (1972), pp. 13-16.

¹⁷⁶ See Hernon, *Riot!*, pp. 115-122.

¹⁷⁷ Peak, *Troops in Strikes*, p. 23; Vogler, *Reading the Riot Act*, pp. 70-73.

heads of the crowd. As this had apparently no effect, he ordered the detachment to shoot another volley directly into the crowd. This time eight people were injured, two of them so severely that they later died in hospital. The shooting caused a severe panic among the assembled crowd which immediately dispersed.

The incident at the Ackton Hall Colliery was soon called the ‘Featherstone massacre’ and caused intense public debate. A parliamentary inquiry was conducted investigating the deaths of those who had been shot. It concluded that use of lethal force by the soldiers was a ‘justifiable homicide’ for which they could not be prosecuted.¹⁷⁸ However, after an intervention by MPs, the two families of those who had been killed at least received compensation. On the political side, MPs such as Labour’s Keir Hardie pressed for a Parliamentary Commission into the incidents at Featherstone. The then Home Secretary Herbert Asquith saw himself confronted with accusations that the Home Office had not done enough to ensure police were available, and that the local magistrates were uncontrolled in their partisan acquisition of troops.¹⁷⁹ Although Asquith personally had nothing to do with the escalation in Featherstone, he was seen as the main person responsible. The labour press soon gave him the nickname ‘assassin Asquith’ and ‘Featherstone murderer’.¹⁸⁰ A direct result of the Parliamentary Commission was that by 1895 the local magistrates lost their right to call in troops directly. The deployment of troops for domestic purposes became a prerogative of the Home Office.¹⁸¹ In 1908 a Select Committee on the deployment of troops in civil disorders was instated. One of its key recommendations was to use military force in domestic affairs as a last resort

¹⁷⁸ Hansard, *HC Deb 15 September 1893*, vol 17, cc1290-1.

¹⁷⁹ Hansard, *HC Deb 20 September 1893*, vol 17, cc1715-32.

¹⁸⁰ See for example the suffragist magazine: ‘The Strike’, *Freewoman*, 2, 36 (27 June 1912).

¹⁸¹ Hansard, *HC Deb 10 January 1894*, vol. 20, cc1287-312.

when all other available means of policing had failed. Yet, the eventual centralisation of these emergency powers did not mean an end to the deployment of troops in the interior.

Already in 1910, however, during another nation-wide miners' strike, troops were deployed in the southern Welsh mining town of Tonypany.¹⁸² After a series of riots there, the local constabulary called for help from Home Secretary Winston Churchill. His initial reaction was to dispatch 200 officers of the Metropolitan Police to Tonypany. After this did not calm down the situation, Churchill gave marching orders to the 18th Hussars, which were later reinforced by detachments of the Lancashire Fusiliers under Major-General Neville Macready.¹⁸³ In cooperation with local Welsh police units, all potentially riotous assemblies were suppressed. The massive presence of troops in the Rhondda Valley and their more or less partisan intervention on the side of the mine owners soon evoked the feeling among many miners that they were experiencing some sort of military occupation. Tonypany was the first occasion on which the military was deployed under command of the Home Secretary but not much had changed in the actual practice on the ground. On the contrary, whereas before 1895 the domestic deployment of the army was a spatially limited issue, the subsequent centralisation under the Home Office opened up the way for the large-scale use of troops in the interior. The first nation-wide railway strike in August 1911 saw another stage of escalation of labour unrest when two protesters were shot dead by soldiers who were protecting a train in Llanelli (South West Wales) and several more injured during the following

¹⁸² See D. Smith, 'Tonypany 1910: Definitions of Community', *Past and Present*, 87 (1980), pp. 158-184; Hennon, *Riot!*, pp. 138-146; Geary, *Policing Industrial Disputes*, pp. 25-28; Weinberger, *Keeping the Peace?*, pp. 47-52.

¹⁸³ Peak, *Troops in Strikes*, p. 29; Vogler, *Reading the Riot Act*, p. 83.

riots.¹⁸⁴ During this strike, soldiers were not only used to maintain public order but also as replacements for the striking workers themselves.

Another innovation was a nationwide scheme for the deployment of troops. In anticipation of the national railway strike the cabinet had grouped the available troops in the mainland into seven areas under the command of senior military officers. Within these regional commands, the officers were autonomous in their responses to local strike movements. The coordination of these military commands was centralised at the War Office. Already on 11 August 1911, Home Secretary Churchill urged Prime Minister Asquith to allow the use of troops against strikers in London. Asquith denied this request and the situation in London calmed down after several employers gave in to the demands of the strikers.¹⁸⁵ Troops had, however, already seized strategic positions in London such as rail stations and post offices. On 14 August, two rioters had been shot dead during an attempt to free two detained strikers in Liverpool. The Admiralty deployed two battle cruisers to Liverpool harbour in order to overawe the strikers.¹⁸⁶

The large-scale deployment of troops against strikers and particularly the centralisation of command represented a new stage in the development of emergency powers and direct intervention of the central state. In a protest meeting held on 26 August 1911, Labour MPs criticised this development as a ‘reasonable

¹⁸⁴ The use of troops during the national railway strike caused a massive outcry similar to that one year earlier after Featherstone. See for example: Keir Hardie, *Killing No Murder! The Government and the Railway Strike. What Caused the Recent Railway Strike? Who Settled It? For What Purpose were the Troops Called Out?* (Manchester: National Labour Press, 1911).

¹⁸⁵ Peak, *Troops in Strikes*, p. 30. For more details on the Liverpool General Transport Strike of 1911 see Eric Taplin, *Near to Revolution: The Liverpool General Transport Strike of 1911* (Liverpool: Bluecoat, 1994); Sam Davies and Ron Noon, ‘The Rank-and-File in the 1911 Liverpool General Transport Strike’, *Labour History Review*, 79, 1 (2014), pp. 55-81.

¹⁸⁶ Peak, *Troops in Strikes*, p. 30.

suppression of civil authority’ and ‘the institution of martial law’ in Britain.¹⁸⁷ Already days before, during the Parliamentary session of 22 August 1911, the Labour MPs Ramsay MacDonald and Keir Hardie attacked the cabinet. Hardie accused the ministers of having ‘overridden the law, and suppressed civil government in this country without the consent or sanction of Parliament, and substituted military rule for it.’¹⁸⁸ He continued in his assessment:

On this occasion (...) the military authorities – we have the statement from the Home Secretary himself – were given an absolutely free hand to act where they pleased and to do as they pleased in what they called the preservation of order. Talk about revolution! The law of England has been broken in the interests of the railway companies of this country.¹⁸⁹

This highlighted one of the key features of the government’s new system of emergency government: the military’s deployment of on a large scale and the submission of local police under the command of military officers were completely new and the most obvious breaches with established traditions of government in Britain. The so-called ‘Great Labour Unrest’ continued until 1913 when the Dublin Lockout marked its peak.¹⁹⁰ However, the experience of the large-scale military intervention in 1911 and the following debates represented the most notable experience with emergency government in Britain immediately before the First World War. It also demonstrates that despite the liberal traditions of British political culture, emergency measures were applied rather quickly when deemed necessary.

¹⁸⁷ Ibid, p. 31.

¹⁸⁸ Hansard, HC, *Deb 22 August 1911*, vol , c2335.

¹⁸⁹ Ibid.

¹⁹⁰ Francis Devine (ed.), *A Capital in Conflict: Dublin City and the 1913 Lockout* (Dublin: Four Courts, 2013); Padraig Yeates, *Lockout: Dublin 1913* (Dublin: Gill and Macmillan, 2000); John Newsinger, *Rebel City: Larkin, Connolly and the Dublin Labour Movement* (London: Merlin Press, 2003).

Already in January 1913, the General Headquarters, War Office and Home Office were at loggerheads with each other about this question. The cause was a plan to arm the Metropolitan Police with rifles in case of a national emergency. Although the nature of the emergency situation in question was never fully articulated, the chronological proximity to the Labour Unrest of 1911-1913 suggests that it concerned mainly the suppression of a national general strike.¹⁹¹ For this purpose, 5,000 rifles and 500,000 rounds of ammunition were stored in the Tower of London.¹⁹² The conflict between the government offices, however, arose about the question who should assume the command of the armed Metropolitan Police during an emergency. Generals and War Office suggested that the Metropolitan Police should in such cases be organised according to the battalion structure of the army and put under the command of a military officer. Yet, the Home Office under Reginald McKenna – himself political master of the Metropolitan Police in his function as the Home Secretary – utterly rejected these proposals.¹⁹³ Clearly, the actual core of this debate was the question of whether the military could become an independent political actor with control over civilian institutions. This was something the liberal government under Asquith sought to avoid at all costs. These debates occurred in the wake of the secret negotiations between the military and the Home Office in the Committee of Imperial Defence

¹⁹¹ TNA HO144/1650/179987, *Storage of Arms at the Tower of London for Use of Metropolitan Police*, 1913: The provisions also included a scheme from 1915 for the armed suppression of ‘disturbances’ in London. This scheme is discussed in some detail by Charles Townshend and David Englander; See Charles Townshend, *Making the Peace. Public Order and Public Security in Modern Britain* (Oxford: Oxford University Press, 1993), pp. 67-68; David Englander, ‘Police and Public Order in Britain, 1914-1918’, in Clive Emsley and Barbara Weinberger (eds), *Policing Western Europe. Politics, Professionalism, and Public Order 1850-1940* (Westport, CT: Greenwood, 1991), pp. 101-102.

¹⁹² TNA HO144/1650/179987, *Storage of Arms at the Tower of London for Use of Metropolitan Police*, 1913; see also Englander, *Police and Public Order in Britain*, p. 102.

¹⁹³ Englander, *Police and Public Order 1914-1918*, p. 102.

about emergency measures in the case of a war.¹⁹⁴ This dispute highlights the increased activities of the military to influence the politics of the cabinet before the war. There were, however, also fears that the military might develop an uncontrollable praetorian spirit. These fears were additionally confirmed after the so-called Curragh Incident in March 1914 and the following alarms of a possible military coup.¹⁹⁵ The conflict seems to have never been fully resolved before the outbreak of the war. The Home Office insisted on the subordinate position of the military in domestic affairs, limiting its actions to so-called ‘military aid to the civilian authorities’, which was a well-established peacetime procedure. The generals, however, did not pursue this question any further. Yet, with the enactment of the Defence of the Realm Acts in 1914 and 1915, the military assumed at least partial control over the police forces in Britain.

Another reaction to the escalation during labour unrests was the establishment of the so-called Macready System after 1910.¹⁹⁶ This system was developed after the experiences in Tonypany and represented a national strategy to deal with national emergencies such as nation-wide strikes. It earmarked troops to be deployed across the nation and included forward intelligence and positive propaganda.¹⁹⁷ From the late 1880s onwards, the Special Branch of the Metropolitan Police gathered domestic intelligence within the United Kingdom. The Special Branch was primarily created to counter terrorist acts by the Irish

¹⁹⁴ See Chapter One.

¹⁹⁵ Charles Townshend, ‘Military and Civilian Authority in the United Kingdom, 1911-1918’, *Journal of British Studies*, 28, 3 (1989), pp. 262-292, esp. pp. 265-269; see also Ian Beckett, *The Army and the Curragh Incident* (London: Bodley Head, 1996); John Gooch, *The Prospect of War: Studies in British Defence Policies 1847-1942* (London: Frank Cass, 1981), pp. 116-123.

¹⁹⁶ See Roger Geary, *Policing Industrial Disputes 1893-1985* (Cambridge: Cambridge University Press, 1985), pp. 25-47.

¹⁹⁷ Vogler, *Reading the Riot Act*, pp. 81-97.

Republican Brotherhood but it is likely that radical trade unionists and socialists were among those under surveillance too.¹⁹⁸ From 1909, another agency concerned with domestic security came into being – the Secret Intelligence Service (SIS), the predecessor of MI5 and MI6.¹⁹⁹ Although primarily dealing with the alleged threat of a German spy network, the SIS contributed significantly to the development of practices in use under the Defence of the Realm Act. Already before the First World War, the SIS monitored the postal correspondence of suspected spies and prepared ‘black lists’ for the pre-emptive detention of suspected spies and enemy aliens. The intelligence services were quite aware of the dubious legality of some of their activities. As many courts would refuse to issue warrants just for gathering intelligence, Home Secretary Winston Churchill bypassed this problem by issuing so-called Home Office Warrants. A similar principle would be applied during the war when the government was empowered to issue Defence of the Realm Regulations (DRR) to sanction emergency measures. Officials of the intelligence services such as Vernon Kell, later the head of MI5, and Colonel George MacDonogh, head of the military intelligence MO5, played a key role in the drafting of those pieces of emergency legislation that later would be enacted as DORA.²⁰⁰

¹⁹⁸ No clear statement is possible here because almost no records about the early activities survive or they are still classified: Bernard Porter, ‘Secrecy and the Special Branch, 1880-1914’, *Bulletin for the Society for the Study of Labour History*, 52, 1 (1987), pp. 8-16.

¹⁹⁹ Christopher Andrew, *The Defence of the Realm. The Authorized History of MI5* (London: Allen Lane, 2009), pp. 1-52; Keith Jeffery, *The Secret History of MI6* (London: Penguin Books, 2010), pp. 5-40.

²⁰⁰ Andrew, *The Defence of the Realm*, pp. 67-90.

Comparison

Despite the different legal frameworks in Britain and Germany, the actual practices of the state of exception did not differ significantly. In particular, the deployment of troops to police industrial unrest took very similar forms in both countries. The military was regularly used to reinforce police units, which were often overwhelmed by the sheer number of protesting workers. The employment of troops, however, often also brought a severe aggravation of violence. The soldiers frequently used bayonet charges or gunfire to disperse crowds. In Britain, where the Riot Act indemnified the application of lethal violence against alleged rioters, this provoked an aggravation of already critical situations. Nevertheless, the military remained in a subordinate position to the civil authorities. Rather than being an almost autonomous political actor, the military remained an instrument of civilian domestic policies. In Germany, by contrast, the *Belagerungszustand* made the military a potentially independent political actor. Only in 1911, when a national railway strike hit Britain, did the military seem to have emerged as an actor in domestic affairs. This would have a significant impact on wartime emergency government.

The public perception of the use of the military in the interior was, however, in both countries very critical. Furthermore, the often partisan intervention of the military on the side of the employers diminished the legitimacy of the domestic deployment of troops. The disputes about military intervention also reflected the political divides in both countries. Whereas representatives of the labour movement attacked the repression of strike and protest movements as features of reactionary militarism, conservatives tended to justify it as necessary for keeping public peace and order. The liberal parties, by contrast, showed no unified reaction. The anxiety

about potentially revolutionary socialist movements coexisted with liberal convictions that opposed authoritarian methods of rule. This ideological conflict shaped the approach that the liberal British cabinet under Prime Minister Herbert Asquith adopted towards the subsequent establishment of emergency government during the war.

A major consequence drawn from this dilemma was the attempt to avoid direct confrontations with protestors. Forward intelligence and the beginnings of domestic surveillance marked this new approach. In Germany, the military and political police shared this task from the late 1870s. In Britain, however, initially no special organisation for monitoring the labour movement existed. From the turn of the century, the Special Branch of the Metropolitan Police and to some extent also the new Secret Intelligence Service began working along similar lines. Yet, the related institutions and methods were underdeveloped in comparison to the German Empire. There, the Socialist Laws had been instrumental for the development of secret political policing. It is, nevertheless, remarkable how quickly the British institutions caught up with these developments during the First World War.

The practices and experiences of domestic intelligence before 1914 provided the basis for the massive extension of the ‘secret state’ in both countries during the war. Against the backdrop of the emergence of security agencies, discourses about their potential targets and suspects – ‘enemies within’ and other ‘threats to national security’ – evolved rapidly. The emergence of the security agencies of the central state clearly took place within very different political frameworks. Police and the military in Germany were perceived as guardians of the existing political order against the threat of the emerging challenge of Social Democracy. Their function was primarily a political one and many contemporary observers acknowledged this

fact. To some extent, this reflected the authoritarian tendencies in the political culture of the German Empire. In Britain, on the other hand, police and military were not primarily seen as political instruments. The use of troops in the interior was often more the result of current exigencies than that of fundamental ideological considerations. Nonetheless, the experiences on the ground were altogether not that different. In both countries, troops were regularly used to quell strike movements and the experiences were very similar for many of those affected by such emergency measures. Different legal and political frameworks nonetheless generated in very similar experiences.

Preparing for the War at Home: The Role of Emergency Government in German and British War Preparations

The preceding sections have discussed the German and British experiences with the state of exception before the First World War. These were, however, timely and spatially limited episodes. There was virtually no experience of how to apply emergency government to run a whole country.

Yet, military strategists on the German and British general staffs began to include aspects of emergency government in their plans for an anticipated great war from the turn of the century onwards.²⁰¹ The traditional historiography of the First World War tends to neglect these plans for domestic policies whilst focussing on the operational aspects of the grand strategies.²⁰² This neglect, however, cannot be

²⁰¹ For a comprehensive discussion of the domestic factors in Britain's and Germany's build-up to the First World War, see Michael R. Gordon, 'Domestic Conflict and the Origins of the First World War: The British and German Cases', *Journal of Modern History*, 46, 2 (1974), pp. 191-226.

²⁰² See for example Richard F. Hamilton and Holger H. Herwig (eds), *War Planning 1914* (Cambridge: Cambridge University Press, 2009); Paul M. Kennedy (ed.), *The War Plans of the*

taken as evidence that no such considerations existed. On the contrary, especially the analysis of the Russo-Japanese War of 1905, the experiences of the ‘Great Labour Unrest’ between 1910 and 1913 in Britain and the general rise of dissident Social Democracy in Germany gave military planners enough reasons to include considerations of domestic policies into their war plans. It is, nevertheless, important to point out that domestic policies were not explicitly included in grand strategic schemes such as the German Schlieffen Plan. They formed, nevertheless, part of broader strategic assessments and war preparations in almost all European countries before 1914.²⁰³ These considerations gained particular importance after the 1912 conference of the Socialist International in Basle and its pledge to join the forces of the European working class in the ‘war against war’.²⁰⁴ General considerations for domestic policies in case of a European war thereafter developed a specific drive towards extensive state control of daily and political life. And, as we shall see, a certain notion that a major European war would have to be enforced against the resistance of the organised labour movement gained currency amongst military and civilian planners.

Great Powers (London: Allen and Unwin, 1979); William Mulligan’s study on the origins of the Great War at least acknowledges the importance of public opinion and the shaping of the international alliance system but says very little about the actual discussions about possible domestic policies in case of a war: William Mulligan, *The Origins of the First World War* (Cambridge: Cambridge University Press, 2010), pp. 133-176. See also Keith M. Wilson, ‘To The Western Front: British War Plans and the “Military Entente” with France before the First World War’, *British Journal of International Studies*, 3, 2 (1977), pp. 151-168.

²⁰³ A good example outside the scope of this study is the Netherlands. There, emergency legislation was prepared with the aim of enforcing strict neutrality: Maartje M. Abbenhuis, ‘In Fear of War: The First World War and the State of Siege in the Neutral Netherlands, 1914-1918’, *War in History*, 13, 1 (2006), pp. 16-41.

²⁰⁴ For the Socialist Peace Movement before 1914 and particularly Basle 1912, see Kevin J. Callahan, ‘The International Socialist Peace Movement on the Eve of World War I revisited: The campaign of “War against War!” and the Basle International Socialist Congress 1912’, *Peace and Change*, 29, 2 (2004), pp. 147-176; Georges Haupt, *Socialism and the Great War. The Collapse of the Second International* (Oxford: Clarendon, 1972), pp.107-182.

German War Preparations, the State of Siege and the Planned Suppression of Socialist Dissent

Within the German leadership two different designs for domestic policies in case of a war co-existed. The first plan envisaged the declaration of the state of siege only in those military districts in which enemy invasions were likely to take place, and for those areas where crucial lines of supply and communication had to be protected. By and large, these plans followed assessments of military necessity and were not met with major criticism within the Imperial Government. It was widely accepted that sabotage and espionage could only be prevented by suppressing some civil liberties during the mobilisation phase. This was also communicated as the official line of the Imperial Government towards the declaration of the state of siege. Moreover, it was enshrined in several regulations and orders passed on to the general commands and military authorities in the federal states.²⁰⁵

Yet, a number of documents indicate that some military planners saw a long anticipated war as the perfect occasion for an all-out crack down on the Social Democrats.²⁰⁶ The secret regulations and plans for mobilisation in case of an external war contained explicit plans to deal with uprisings and to suppress strikes and protest movements that might occur in their course. It is likely that the general staff analysis of the Russo-Japanese War of 1904-05 and the following

²⁰⁵ This followed widely the regulations of the Law about the State of Siege of 1851.

²⁰⁶ At least from April 1912 the Imperial Government began consultations with the governments of the federal states about the necessity to declare an empire-wide state of siege in case of a war. The correspondence reveals that domestic considerations had an impact on these considerations. BArch R1501/112215, pp. 64-77, pp. 92-112, *Kriegszustand*, 1910-1913.

revolutionary uprisings in Russia played a crucial role in the inclusion of these domestic aspects into German war planning.²⁰⁷

Since the early 1900s, a number of service regulations had been circulated within the officer corps, which explained the systematic procedure for the declaration of the state of siege and the responsibilities of the commanding officers. One of these regulations was the *Service Regulation Regarding the Use of Weapons of the Military to Suppress Domestic Unrest* of 23 March 1899. In this secret document, the chief of staff of the 7th Army Corps and later Prussian minister of war, Karl von Einem, explained that ‘His majesty the Emperor’ demanded the ‘ruthless use of the weapon’ against insurgents in order to respond to the ‘gravity of the situation’.²⁰⁸ These regulations were supposed to provide general guidelines for the local military commanders, who consequently set up their own orders for the case of mobilisation and the declaration of a state of siege. Yet, only few of these orders and mobilisation plans actually survive. An illustrative example is the order of the commander of the 7th Army Corps, General Moritz von Bissing, of 30 March 1907.²⁰⁹ In this very detailed instruction to all commanders and staff officers, von Bissing laid out the planned actions in case of an uprising, in which the pre-emptive declaration of a state of siege played a crucial role. Von Bissing’s contingency plan demanded the swift and ruthless suppression of any open uprising and the detention of all known socialist agitators and leaders. Even the pre-emptive detention of Reichstag MPs in defiance of their immunity was included in this

²⁰⁷ See Matthew S. Seligman, ‘Germany, the Russo-Japanese War and the Road to the Great War’, in Rotem Kowner (ed.), *The Impact of the Russo-Japanese War* (Abingdon: Routledge, 2009), pp. 109-123.

²⁰⁸ Deist, *Militär und Innenpolitik*, p. XXXV.

²⁰⁹ BArch R43/1271, pp. 46-50, *Order of Moritz von Bissing for the 7th Army Corps*, 30 March 1907.

plan.²¹⁰ The order concluded with a severe warning by von Bissing that no negotiations with insurgents should take place under any circumstances, and that only the complete submission and unconditional surrender of the insurgents could be accepted. All captured ringleaders and armed persons were to be ‘finished off with the weapon’.²¹¹

Orders like these reflected in large part a strategic analysis of the general staff’s department of military history from 1906. In *Combat in Insurgent Cities* the general staff laid down the main principles to be applied to gain control over a hostile urban environment.²¹² The study analysed all major insurgencies in European cities since 1848 including the Paris Commune and the Russian Revolution of 1905. It concluded that the actual fighting necessarily had to be accompanied with pre-emptive measures such as establishing control over the press, the suppression of political agitation, and pre-emptive detention of alleged agitators and ringleaders. The study delivered a blueprint for counter-insurgency plans for the case of the declaration of the state of siege for all army corps commands.²¹³ There is, however, another aspect related to von Bissing’s order. In 1910, the order became public and caused a major outcry in particular in the social-democratic press.²¹⁴ Several protest meetings were held and SPD-parliamentarians denounced the order as the most appalling expression of anti-Socialist policies. The 1910 party

²¹⁰ Ibid., p. 48.

²¹¹ Ibid., p. 50.

²¹² The original German title was *Der Kampf in insurgierten Städten*; cf. Deist, *Militär und Innenpolitik*, p. XXXV.

²¹³ Similar radical approaches to deal with protesting workers can be found in the regulations of the Berlin Police. The Berlin Police President, von Jagow, urged his constables to make ruthless use of the weapon; LAB Berlin A Rep. 011-02 Nr. 2271, *Instruction on the Use of Firearms by the Berlin Police*, 1911.

²¹⁴ BArch R43/1271, pp. 77-90, *Memorandum on the Social Democratic Party Congress in Magdeburg*, 1910.

conference of the SPD in Magdeburg passed a resolution condemning the order and demanding a revision of the general military guidelines.²¹⁵ The scandal was also used during the SPD's 1912 election campaign. As a reaction to the public outcry, the Imperial Government was anxious to calm down the situation. Yet, the internal correspondences reveal that willingness to change the guidelines fundamentally existed neither within the military nor within the Imperial Government.²¹⁶ The only concession the Imperial Government was willing to make was to guarantee the protection of the immunity of Reichstag MPs under the state of siege. However, this did not influence the procedures of the military under the state of siege significantly. The so-called Saverne (Zabern) Affair of 1913 demonstrated that censorship, pre-emptive detention and massive military presence on the streets remained the cornerstones of the state of siege.²¹⁷

The assumption that a confrontation between the Social Democrats and state was inevitable in case of a war dominated the German contingency plans. The 1912 conference of the Socialist International in Basle and its pledge to oppose any imperialist war certainly reinforced this belief.²¹⁸ The idea that a coming war had also to be fought also against 'enemies within' gained considerable momentum within the general staff. Plans to crack down on social democratic organisations immediately before or after the outbreak of hostilities were consequently to be

²¹⁵ Cf. *Protokoll der Verhandlungen des Parteitag der Sozialdemokratischen Partei Deutschlands abgehalten vom 18. bis 24. September in Magdeburg* (Berlin: Vorwärts Buchhandlung, 1910), pp. 430-432.

²¹⁶ *Ibid.*

²¹⁷ The declaration of the state of siege over Alsace-Lorraine during the peak of the Saverne affair shows that the procedures and measures regarding the state of siege were not significantly altered. Records also show that all measures were sanctioned by the Imperial Government; BArch R1501/112215, pp. 180-182, *Memorandum on the Declaration of the State of Siege in Alsace Lorraine*, 1913. See also Richard William Mackay, *The Zabern Affair 1913-1914* (Lanham, MD: University Press of America, 1991); Winkler, *Der Lange Weg nach Westen*, pp. 328-329.

²¹⁸ *Manifest der Internationale zur gegenwärtigen Lage. Resolutionen am Basler Kongress 24.-25. November 1912* (Berlin: Vorwärts Verlag, 1912), pp. 23-27.

implemented in mobilisation orders. A document of particular relevance for this argument is the surviving letter of the Saxon State Ministry to the Prussian Ministry of War from 31 March 1913. In this letter, the Saxon authorities requested updated lists (entitled ‘A’ and ‘B’) of persons that were to be ‘detained because of political or security police considerations’.²¹⁹ This document is one of the few surviving pieces of evidence that the war plans were accompanied by extensive contingency planning to crack down on Social Democracy and the pre-emptive detention of social democratic leaders and agitators.

The British War Book and the Creation of DORA

Comparatively little attention has been paid to the role of domestic policies in British war plans before 1914. Yet, an analysis of the surviving records of the Committee of Imperial Defence (CID) for the pre-war period allows us to reconstruct the strategic assessments that shaped war planning. Moreover, it allows us to explain how the Defence of the Realm Act of 1914 came into being. We will see that domestic policy considerations played a much more central role in war preparations in Britain than many accounts of the origins of the First World War have hitherto acknowledged.

The CID was formed in 1902 in reaction to the disastrous course of the South-African War (1899-1902). Its main purpose was to inform and counsel the

²¹⁹ German original: ‘(...) diejenigen Personen, deren Verhaftung aus politischen und sicherheitspolizeilichen Gründen nach Erklärung des Belagerungszustandes wegen drohender Kriegsgefahr oder Mobilmachung (Listen B) und aus Anlaß eines Generalstreiks (Listen A) in Frage kommen (...)’; BArch R1501/112215, p. 185, *Letter by the Saxon Ministry of State regarding the Detention of Political Activists*, 31 March 1913.

respective Prime Ministers regarding military policies.²²⁰ During the 1910s, however, it developed into the main political body the British government for all things related to strategic military planning. It brought together high-ranking representatives of all relevant government departments including the Home Office, the Foreign Office, the War Office, the Admiralty, as well as other concerned cabinet members such as the Attorney-General, who regularly convened to discuss strategic decisions.²²¹ The CID's main responsibility was the formulation of general strategic assessments for the cabinet. It also coordinated the interdepartmental policies regarding the military and matters of imperial defence. From 1911, this also included the preparation of a so-called *War Book* that listed all measures that were to be undertaken by the different departments in case of an international crisis or the outbreak of a war.

Between 1902 and 1907, the committee's main concern was to assess the likelihood and possible course of a military conflict. Its discussions circled around the prevention of a Russian attack on India or a French invasion in Britain. However, after the agreement between France and Britain, which ended the tensions in Africa (Entente Cordiale), and the Treaty of St. Petersburg (Anglo-Russian Convention) in 1907, British war plans soon focussed on a possible confrontation

²²⁰ For an overview of the activities of the CID see TNA, CAB 38/1, *Committee of Imperial Defence: Minutes and Memoranda*, 1888-1914; Franklyn Arthur Johnson's 1960 study on the CID remains the only comprehensive work on this institution. It lacks, however, many primary sources that were still classified at the time; Franklyn Arthur Johnson, *Defence by Committee: The Committee of Imperial Defence, 1885-1958* (Oxford: Oxford University Press, 1960); see also Geoffrey R. Searle, *A New England? Peace and War 1886-1918*, (Oxford: Oxford University Press, 2004), pp. 317-320; John P. Mackintosh, 'The Role of the Committee of Imperial Defence before 1914', *English Historical Review*, 77 (1962), pp. 490-503.

²²¹ See, for example, the composition of sub-committee on the preparation of the War Book; CAB 15/1, p. III, *Interim Report of the Standing Sub-committee on the Co-ordination of Departmental Action on the Outbreak of War*, 27 April 1912.

with Germany.²²² Nonetheless, pre-war Britain never developed a detailed military grand strategy comparable to the other belligerent powers. The main concern of the British government was the protection of the British mainland and the effective use of Britain's naval superiority to establish a blockade of the enemy-controlled territories. Therefore, considerations of gathering intelligence and protection against sabotage and espionage in defended harbours on the British mainland played a crucial role in the debates of the CID.²²³

It is remarkable how much attention the CID paid to aspects of warfare that were not directly connected to military actions, for instance public opinion, the impact on the British economy and the need to ensure popular support for a war. The importance of these factors for British war planning was clearly visible in a strategic analysis from 1901, which considered a possible war with France and Russia. It stated:

(...) But for the British Empire it is very necessary that a great war with Continental Powers should be brought to as speedy a termination as possible. A long dragged-out campaign would both enhance the cost of living and lessen the demand for labour; it would therefore press very hardly on the labouring and artisan classes in this country, and tend to produce a discontent which might force the acceptance of peace on very unsatisfactory terms. (...) but a great war may at any time break out through a dispute over some intricate question of African boundaries (...) which would be imperfectly understood by the people (...). In a war of this nature there would never be lacking men to preach that our enemies were in the right and Great Britain in the wrong; and in a prolonged campaign their teaching that the interests of the working classes of this island are not identical with the interests of the Empire as a whole would in the time carry weight, and might lead to lamentable results. (...) Governments, in shaping their military policy must necessarily have regard to political conditions, and there can be little

²²² See the series TNA CAB 38/1-28: the whole series allows an excellent insight into the developments of British strategic planning in the 1910s.

²²³ The records on the preparation of the *War Book* highlight the prominent place of these considerations; TNA CAB 15/1 – 15/5, Committee of Imperial Defence; see also Sheila Sokolov Grant, 'The Origins of the War', *The RUSI Journal*, 117, 667 (1972), pp. 65-69.

doubt that democratic institutions are unfavourable to the continuance of prolonged wars (...).²²⁴

These assumptions about the impact of a war on domestic policies did not change significantly until the outbreak of the First World War in August 1914. Furthermore, they led to the inclusion of domestic policies in British war plans. Particularly the preparation of the *War Book* of 1911 illustrates this fact very well. The *War Book* was a comprehensive instruction for all government departments regarding actions which had to be undertaken in case of an armed conflict.

For the purpose of the creation of the *War Book*, a standing sub-committee of the CID was created on 27 January 1911.²²⁵ During the first year of its existence, the committee produced a preliminary version of the *War Book* containing all designated measures. Another section of the draft provided a roadmap for those measures, which were not prepared yet but which were deemed necessary by the committee. The proposed measures were designed to prevent the publication of naval and military intelligence on probable mobilisation orders and troop and fleet movements. As the key measure to prevent this, a general imposition of censorship of telegraphic and postal communication was recommended. However, the military members of the committee insisted on a more wide-ranging regulation of the press and the control of ‘enemy aliens’ was desirable.²²⁶ The 1913 edition of the *War Book* already contained the results of an agreement on the control of the press in wartime that had been negotiated between the Admiralty, War Office and the

²²⁴ TNA CAB 38/1, No. 6, pp. 30-31, *Military Needs of the Empire in a War with France and Russia*, 1901.

²²⁵ TNA CAB 15/1, p. 1, *Interim Report of the Standing Sub-Committee on the Co-ordination of Departmental Action on the Outbreak of War*, 27 April 1912.

²²⁶ *Ibid.*, p. 10.

Newspaper Proprietors Association.²²⁷ A bill to control the movement of aliens was then also drafted by the War Office, and the Home Office agreed to ensure a swift passage of the legislation through parliament.²²⁸

Other discussions within the CID with regards to war measures centred on the necessity of establishing martial law. Particularly the military representatives pleaded for the necessity to declare martial law in Britain to be able exercise the powers needed for defence and mobilisation. Their main demands included emergency powers that would enable the requisitioning of resources and transport as well as the imposition of censorship.²²⁹ The threat of an alleged German spy network was also quoted to justify proposed measures such as the suspension of Habeas Corpus in order to detain enemy aliens and alleged spies. However, here – different to the issue of censorship – the wishes of the military were not entirely met with pragmatism but with a certain reservation by the civilian members of the committee. It was agreed that another standing sub-committee should deal with the problem of emergency legislation.²³⁰ The fact that the first meeting of this sub-committee did not take place until 30 June 1914 indicates the resistance within the cabinet to the institution of martial law or other forms of emergency government. In particular Attorney-General John Simon – who also was a member of the emergency powers sub-committee – opposed the idea of emergency government. Already in July 1913 both Law Officers of the Crown, Rufus D. Isaacs and John Simon, had laid down their general rejection of martial law or emergency powers

²²⁷ Cf. Sanders and Taylor, *British Propaganda*, pp. 7-9.

²²⁸ TNA CAB 15/4 Committee of Imperial Defence, *War Book 1913*.

²²⁹ *Ibid.*

²³⁰ *Ibid.*

in an official legal opinion piece.²³¹ They favoured a strategy of keeping the Common Law that would allow emergency measures if necessary, but would keep the rights of parliament and courts untouched.

During the first and only meeting of the sub-committee before the outbreak of the war on 30 June 1914, no substantial consensus emerged. The War Office had prepared and circulated several memoranda in preparation of the meeting in which the necessity of a distinct piece of emergency legislation was discussed.²³² The application of martial law was considered insufficient as it demanded a legal review of the actions by the military and their ex post facto legalisation by a parliamentary Act of Indemnity. Instead of the traditional martial law, the War Office suggested a piece of legislation that would empower so-called Competent Military Authorities (CMA) and Her Majesty's Government to implement emergency measures without being scrutinised by Parliament. The proposed draft bill with the tentative title *Martial Law Regulations* contained, inter alia, the following powers for military authorities: the right to arrest without warrant, the right to requisition goods and property; the right to suppress 'inflammatory speech and writing'; the right to enter and search any premises without warrant; the right to censor post and press; the right to impress any person for labour; and the prohibition of all meetings except those allowed by the authorities. Breaches of the regulation under martial law were to be tried by courts martial. The provisions of the draft bill were in wide parts taken from the declaration of martial law in Cape Province during the South African War in May 1901.²³³

²³¹ TNA CAB 16/31, p. 26, *Martial Law in the United Kingdom: Opinion of the Law Officers of the Crown*, 16 July 1913.

²³² Ibid., pp. 8-22, *Emergency Powers in War: Memoranda by the General Staff*, 1 May 1914.

²³³ TNA CAB 11/142, pp. 20-29, *Martial Law in the Cape Colony*, 8 June 1901. The declaration of martial law in the Cape Colony in May 1901 bears a great similarity to the proposed provisions for

It is obvious that the proposed emergency powers went far beyond the agreed measures of the *War Book*. They demanded nothing less than the suspension of key civil liberties and the introduction of rule without control by parliament or the courts. The explicit demand to silence possible anti-war dissent is particularly remarkable. In his history of MI5, Christopher Andrews suggests that Vernon Kell of the SIS (later MI5) elaborated most of the proposed measures.²³⁴ This is very likely, as most of the additional powers in the War Office draft concerned activities of the Secret Service such as the pre-emptive detention of alleged spies. Between 1911 and 1914, the SIS had already prepared lists of suspects – most of them alleged German spies – that were earmarked for immediate detention at the outbreak of a war.²³⁵ Moreover, the main author of the War Office draft was Colonel George MacDonogh of the military intelligence section MO5. It is therefore likely that he and Kell maintained a close working relationship and worked on the draft together.

Nevertheless, the CID sub-committee on emergency powers never came to a definite conclusion. Before Simon and MacDonogh could convene to draft an amended bill in 1914, war had already broken out. The bill of the Defence of the Realm Act that was introduced into parliament on 8 August 1914 was essentially the War Office draft, however with the main difference that the emergency powers were concentrated within the cabinet and not assumed by the military authorities. Yet, most of the proposed emergency measures from the War Office were later

the emergency powers during a future war. S. B. Spies gives an extremely critical account of the methods applied by the British military against civilians in the Cape Colony and in particular of the role the commander-in-chief Lord Kitchener played: S. B. Spies, *Methods of Barbarism? Roberts and Kitchener and Civilians in the Boer Republic January 1900 – May 1902* (Cape Town: Human and Rousseau, 1977); see also Thomas Pakenham, *The Boer War* (New York: Random House, 1979).

²³⁴ Andrew, *The Defence of the Realm*, pp. 67-90.

²³⁵ TNA HO 144/11720, *Internment of Enemy Aliens during the War 1914-1918. Classified List*, 1918.

adapted by the cabinet as emergency decrees under DORA (so-called Defence of the Realm Regulations).

Comparison

It has been demonstrated that domestic policy considerations played an important role in German and British war planning before 1914. In both countries, the outbreak of a war was seen as an occasion that would necessarily create a state of exception. In Germany, the declaration of the state of siege transferred civilian powers to military authority. The *Belagerungszustand* was a long established tool of emergency government that had already been applied twice before the Great War to suppress large-scale strikes. By contrast, in Britain no clear arrangement had existed during the nineteenth century. Yet, the Boer War and its impact on British politics as well as on military thinking led to an increased effort to develop an imperial strategy regarding the implementation of emergency government. In the underlying strategic assessments, political conditions and domestic policies started to play a crucial role. In the *War Book* that was developed after 1911, domestic emergency measures took a central position although they did not form a comprehensive system of emergency government such as the German *Belagerungszustand*. Yet, from at least 1913 onwards, the military emphasised the necessity to declare martial law in Britain in case of a war. The measures which the military presented as necessary also included wide-ranging encroachments on civil liberties that cannot be explained by military necessity alone. Although no unequivocal evidence from the files exists, it could be argued that at least some of these measures were designed to tackle potential anti-war dissent or industrial

disputes. It remains, nevertheless, unclear if and how far the experiences of the Labour Unrest of 1911-13 played a role in these plans. The plans to arm the Metropolitan Police that were discussed between War Office and Home Office in 1913 and 1914 suggest, however, that precautionary measures that military and cabinet anticipated an escalating domestic crisis. It also demonstrates that they were prepared and willing to suppress such occurrences violently. Although these plans did not feature straightforward political aims such as the wholesale suppression of dissenting political parties as in Germany, it is nevertheless striking that comparatively elaborated plans for counter-insurgency combat also emerged in Britain at a time when the Committee of Imperial Defence discussed possible modes of emergency government. In Germany, the declaration of the state of siege was clearly designed to suppress possible opposition against a war and particularly targeted the Social Democrats and their affiliated organisations. Wide-ranging preparations for this crackdown existed before the actual outbreak of the war and local military commands were ready to apply them immediately. This political dimension of emergency government was far less obvious in Britain. Yet, military leaders and their demands put pressure on the cabinet to implement emergency provisions close to martial law for the case of a war. The main difference between Britain and the German Empire was, however, that the civilian government remained in charge of the managing the state of exception.

Nevertheless, military and political leaders in both countries anticipated the growing role of domestic policies and the importance of popular support for a future great war. And although at the time no one could with certainty predict the total war that would unfold between 1914 and 1918, many of the designated emergency measures of the pre-war strategic plans were designed to enforce support and if

necessary to suppress anti-war dissent. Already before August 1914, plans for emergency government were designed to enable the authorities to wage this new kind of war.

Conclusion

The rise of the state of exception as a paradigm of rule during the ‘long’ nineteenth century was closely linked to the emergence of the modern central state in Britain and Germany. In their specific forms, pieces of emergency legislation represented two very different and even contradicting developments: on the one hand – and this is particularly relevant for the German Empire – the expansion of constitutionalism and the closely entangled gradual limitation of state power by the rule of law. On the other hand, however, emergency laws also epitomised the attempt of state authorities to preserve some elements of absolute rule. This found its most obvious expression in the suspension or bypassing of those constitutional provisions that prohibited or limited state agency. With the institution of the state of siege in the German Empire, having constitutional rank as article 68 of the imperial constitution, the Emperor maintained the legal power to suspend key elements of the constitution and to rule under a form of military dictatorship. By contrast, in Britain no comprehensive system of emergency government existed before the Great War. Yet, this was mainly the result of the non-existence of a written constitution that could be suspended by such a legal instrument. In fact, British constitutional law provided (and still provides today) a number of instruments that covered the functions of emergency government. Theoretically, the King or Queen is able to issue so-called Orders in Council without the involvement of parliament

which are legally binding. Although seldom exercised, this instrument represents a highly problematic relic in British constitutional law. Most Defence of the Realm Regulations during the First World War were, for example, issued in the form of Orders in Council. More frequently, however, a de-facto state of exception was declared under the Riot Act of 1714. The Riot Act allowed local magistrates to use military assistance and lethal force against protestors to keep public order and peace. During the nineteenth century, the Riot Act was read several times to deal with political protest or strike movements. Particularly in the second half of the century, the reading of the Riot Act and the linked deployment of the military in the interior became instruments of a tacit emergency government.

In this regard, the similarities between Britain and imperial Germany are striking. In both countries, the military was used to crack down on large-scale strike movements – often with fatal consequences – when local police forces were unable to deal with them. This triggered massive criticism by the emerging labour movement, which attacked the partisan deployment of the military as a tool of suppression of – in their eyes legitimate – protest. In Germany, the military – or at least the officer corps – emerged as a self-confident political actor that saw its main task as preserving the established political order against the threat of socialist subversion. For this purpose, contingency plans for a crackdown on Social Democracy were prepared as well as for a potential putsch in order to reverse any democratic reforms. No such development can be proved for the British case. Here, the military remained under civilian control although senior military officers could exercise great influence on actual policymaking.

In addition, the experiences of the state of exception during the nineteenth century and the early 1900s influenced strategic war planning in both countries.

From the turn of the century, British and German military planners considered a major confrontation between the great European powers as a distinct possibility. Within their war plans domestic policies featured prominently. In their assessments the anticipated character of the coming war did not only demand the preparation of military measures but also organisation of the support of the home front. Military commanders particularly in the German Empire feared a potential socialist uprising against a European war. Therefore their main provisions for domestic policies were aimed at an all-out anti-socialist crackdown under the state of siege. Many senior officers saw a great war as a welcome opportunity to solve the problem of Social Democracy in an instant. In Britain, the main concerns seem to have been that organised labour protests would force the government to seek an unfavourable peace. From early 1914, the War Office urged for wide-ranging and intrusive emergency powers for the case of a war. Although no general agreement between cabinet and military could be achieved immediately before the war in June 1914, the first Defence of the Realm Act of 8 August 1914 featured most of the elements desired by the military.

It can be concluded that emergency government during the First World War did not occur without precedent but was the result of a long chain of historic experiences. Most instruments of emergency government in Britain as well as in Germany were developed in the decades preceding the First World War. However, most of these were temporally and spatially limited measures and often only concerned comparatively small sections of society. Virtually no government in Europe had experience of how to run a whole country under a state of exception over a prolonged period. During the First World War, however, these formerly

limited measures would evolve into an elaborate system of emergency government that bore increasingly authoritarian features.

Chapter Two

The Opening of Pandora's Box: Emergency Government and Home Front Politics 1914-1916

The time between the beginning of the war in August 1914 and December 1916 can with good reason be seen as a phase of experimentation with emergency government in Britain and Germany. Political and military elites in both countries had barely any practical knowledge of how to manage an increasingly mobilised society, and how to control and enforce the gigantic war efforts. Clearly, the new powers the military and governments received under emergency legislation were potentially unrestrained. But the system and the institutions to make effective use of them were only rudimentarily developed. As military authorities played a crucial role in wartime domestic policies, most military officers that took over administrative tasks on the home fronts had only limited experience with them. During the first two years of the war, a system of civilian-military relations emerged in both countries that became crucial for the conduct of the war and for enforcing endurance on the home fronts.

We shall see that this system cannot solely be described as a 'military dictatorship' in a narrow sense. Although the military played a key role, commanding officers could not simply impose their will upon the civilian authorities. In fact, a system of close and voluntary collaboration between government, judiciary, civilian administration, patriotic elements of civil society and the military emerged in both countries. Within this system, the separation of

powers – which had been a cornerstone of pre-war conceptions of the rule of law and *Rechtsstaat* – was only superficially upheld.²³⁶

This chapter provides an overview of the emergence and development of emergency government in Britain and Germany during the first half of the Great War between August 1914 and the aggravation of domestic conflicts in the second half of 1916. Up to this turning point, domestic policies were predominantly characterised by the coincidence of an evolving coercive system of emergency government and a political arrangement known as ‘truce policy’ (Britain) and *Burgfrieden* (Germany). These domestic truces included agreements between the different political parties not to compete against each other in elections, yet they were soon extended to industrial relations as well. As we shall see, these truce policies were a key reason why emergency measures were initially only reluctantly applied.

In order to illustrate the process of establishing emergency government in Britain and Germany, this chapter will highlight two key developments during the first half of the war: firstly, it will give an overview of the various legislative actions in both countries. In this regard, the contemporary debates and various attempts to amend the different pieces of emergency legislation during this period will be discussed. Secondly, a focus is put on the practices of the different state agencies that actually exercised emergency powers and their impact on the respective home front politics.

²³⁶ See Chapter One.

The July Crisis, Truce policies, and the Establishment of the State of Exception (August 1914 – December 1914)

The July Crisis

When on 28 June 1914 the young Bosnian Serb Gavrilo Princip fired the shots that killed the Austro-Hungarian Archduke and heir to the throne, Franz Ferdinand, and his wife in Sarajevo, few contemporaries anticipated what grave consequences this event would have. The unfolding international crisis following the Austro-Hungarian ultimatum towards Serbia on 23 July 1914 set the full mechanism of the European alliance system into motion that would finally lead to the beginning of the hostilities.²³⁷ Much has been written and argued about the actual responsibilities for the war.²³⁸ In fact, a multi-causal approach for the explanation for the outbreak of war in 1914 seems to be most promising.²³⁹ It appears that in a diplomatic system of alliances that was designed for a major conflict, and with a general willingness of all European powers to wage war as a means of solving political conflicts, the aggressive stance of the German political and civilian élites gave the final push into the abyss.²⁴⁰ Even this development was not as straightforward as some of the

²³⁷ For a comprehensive account including the classic arguments see Thomas G. Otte, *July Crisis: The World's Descent into War Summer 1914* (Cambridge: Cambridge University Press, 2014); Hew Strachan, *The First World War. To Arms, Vol. 1* (Oxford et al.: Oxford University Press, 2001), pp. 64-110. See also Annika Mombauer, *Die Julikrise: Europas Weg in den Ersten Weltkrieg* (Munich: C. H. Beck, 2014); Gordon Martel, *The Month that Changed the World: July 1914* (Oxford: Oxford University Press, 2014).

²³⁸ For a current overview about the Fischer Controversy, see Annika Mombauer, 'The Fischer Controversy, Documents, and the "Truth" about the Origins of the First World War', *Journal of Contemporary History*, 48, 2, (2013), pp. 290-314.

²³⁹ For some excellent examples of a differentiated and multi-faceted account of the developments in July 1914, see Christopher Clark, *Sleepwalkers: How Europe went to war in 1914* (New York: Harper, 2012); Margaret MacMillan, *The War that Ended Peace: How Europe Abandoned Peace for the First World War* (London: Profile Books, 2013). See also Holger Afflerbach and David Stevenson (eds), *An Improbable War: The Outbreak of the First World War and European Culture Before 1914* (Providence: Berghahn, 2007).

²⁴⁰ For comprehensive overview about the debates with a particular focus on Germany, see Annika Mombauer, *The Origins of the First World War: Controversies and Consensus* (London: Longman, 2002); idem, *Helmuth von Moltke and Origins of the First World War* (Cambridge: Cambridge University Press, 2001), pp. 187-226. See also Herfried Münkler, *Der Große Krieg*, pp. 54-70

traditional accounts of the July Crisis suggest.²⁴¹ Whereas the British government sought to prevent a general major European conflict by negotiating a compromise between Serbia, Austria-Hungary, and Russia, the German Empire acted ambivalently. On the one hand, Emperor Wilhelm II and his Imperial Chancellor Bethmann-Hollweg opened the way up for Austria-Hungary with the so-called ‘blank cheque’ to pursue an aggressive stance towards Serbia. This happened in the knowledge that this would likely mean Russia becoming involved in a possible conflict. But on the other hand, the Imperial Government in Berlin seems not to have followed this course without hesitation.²⁴²

A consideration of domestic policies during the July Crisis can shed light on these issues. As we have seen in chapter one, the looming war triggered various mobilisation mechanisms related to the declaration of the state of imminent war (*drohende Kriegsgefahr*). Many of these measures were designed to quell potential resistance to a war on the part of the Social Democrats. And indeed, from 25 July 1914 onwards, the SPD called for mass meetings to protest against the danger of a European war. In a resolution from 25 July 1914, published on the front page of the main party newspaper *Vorwärts*, the executive committee declared:

Danger is at hand! World War looms! The ruling classes that disregard, exploit, and take advantage of you, want to abuse you as cannon fodder. Everywhere shall ring our call “We don’t want the war! Down with the war! Long live the international brotherhood of the people!”²⁴³

²⁴¹ See, for example, Fritz Fischer’s very linear argument for Germany’s push for war: Fritz Fischer, *Der Griff nach der Weltmacht: Die Kriegszielpolitik des kaiserlichen Deutschland 1914/18* (Düsseldorf: Droste, 1961).

²⁴² Volker Berghahn argues that Bethmann-Hollweg only wanted a limited war on the Balkans to preserve Germany’s last ally Austria-Hungary; Volker Berghahn, *Der Erste Weltkrieg* (Munich: Beck, 2004), pp. 31-35.

²⁴³ *Vorwärts*, 25 July 1914, quoted in Susanne Miller and Heinrich Potthoff, *A History of German Social Democracy. From 1848 to the Present* (Leamington Spa et al.: Berg, 1983), p. 72.

What followed was a hastily organised peace campaign that saw the biggest series of public meetings during the imperial period in Germany. Wolfgang Kruse has identified at least 183 individual meetings with over 1,000 participants each, in nearly all major German cities.²⁴⁴ The largest meetings took place in Berlin on 28 July with over 100,000 participants, with others being held in Dresden (35,000) and Düsseldorf (25,000) on the same day.²⁴⁵ Overall at least 485,000 persons attended anti-war rallies within a few days and outnumbered the occasional patriotic pro-war demonstrations that took place by far.²⁴⁶ Enthusiasm for the war was predominantly, if not entirely, a phenomenon of the educated middle classes in both countries as Wehler, Simmonds and others have pointed out.²⁴⁷ It is remarkable, however, that the German authorities let the peace meetings happen without much interference leaving aside the occasional attempts by some local police forces to suppress some these demonstrations.²⁴⁸ The actions of the Social Democrats clearly fitted into scenarios for which contingency plans had been prepared by the military before the war and which could have triggered a wave of repression. But why did

²⁴⁴ Wolfgang Kruse, *Krieg und nationale Integration: Eine Neuinterpretation des sozialdemokratischen Burgfriedensschlusses 1914/15* (Essen: Westfälisches Dampfboot, 1994), pp. 31-36.

²⁴⁵ The Berlin police reported over 30,000 participants in a meeting in Tiergarten after which several groups marched through the city singing the International, shouting 'down with the war' and occasionally clashing with police and patriotic demonstrators. Several arrests were made on this day: LAB, A Pr. Br. Rep. 030 Nr. 11361, p. 228, *Report about the Peace Demonstrations by the Berlin Police President*, 28 July 1914.

²⁴⁶ Kruse, *Krieg und national Integration*, p. 36

²⁴⁷ See e.g. for Britain: Adrian Gregory, *The Last Great War: British Society and the First World War* (Cambridge: Cambridge University Press, 2008), pp. 9-39; Catriona Pennell, *A Kingdom United: Popular Responses to the Outbreak of the First World War in Britain and Ireland* (Oxford: Oxford University Press, 2008), pp. 22-56; Alan G. V. Simmonds, *Britain and World War One* (London: Routledge, 2012), pp. 25-36. For the German Empire see: Kruse, *Krieg und national Integration*, pp. 36-41; Susanne Miller, *Klassenkampf und Burgfrieden. Die deutsche Sozialdemokratie im Ersten Weltkrieg* (Düsseldorf: Droste, 1974), pp. 66-72; Wehler, *Deutsche Gesellschaftsgeschichte*, p. 16.

²⁴⁸ LAB, A Pr. Br. Rep. 030 Nr. 11361, pp. 228-231, *Reports about Peace Demonstrations*, July 1914- April 1916.

the anticipated crackdown against the Social Democracy not happen? If there was any opportune moment for the authorities to set these measures into action, then it was in the week immediately before the outbreak of the hostilities, before a dissenting movement would have gained hold in the German public. The peace meetings and their attendance numbers vividly demonstrated that the SPD had a considerable potential to mobilise its rank and file against war.

A number of different accounts of the events in Germany during the July Crisis suggest that the public peace demonstrations were a welcome fact for Chancellor Bethmann-Hollweg to demonstrate the defensive character of Germany's intentions particularly against Tsarist Russia. This suggests that this was primarily an attempt to win over public opinion at home, in the neutral countries and among potential allies.²⁴⁹ The notion of a defensive war against Russian aggression was the politically most convenient option for the German Imperial Government. Chancellor Bethmann-Hollweg was well aware of the fact that this would also allow him to integrate parts of the reformist wing of the Social Democracy into the war efforts. For these reasons, an undifferentiated attack on the SPD was not in the interests of the Imperial Government. In reaction to the party's resolution of 25 July, an unofficial meeting between one of the members of the party's executive committee, Hugo Haase, and the Under-Secretary of State of the Imperial Home Office, Arnold Drews, took place in Berlin on 26 July. Drews assured Haase that the Imperial Government did not intend to suppress the peace demonstrations as long as they remained peaceful and abstained from seditious acts.²⁵⁰ One day after the major peace demonstrations in Berlin, on 29 July 1914, a

²⁴⁹ Wolfgang Kruse, *Der Erste Weltkrieg* (Darmstadt: WBG, 2009), pp. 18-20; Miller, *Klassenkampf und Burgfrieden*, pp. 44-46.

²⁵⁰ Miller, *Burgfrieden und Klassenkampf*, pp. 42-43.

second meeting, this time between Chancellor Bethmann-Hollweg and the right-wing Social Democrat Albert Südekum, took place in the Imperial Chancellery. On this occasion, Bethmann-Hollweg hinted at the possibility of a – at this point tacit – domestic truce between the German state and Social Democrats. If the SPD terminated its anti-war campaign, the Imperial Government would take care that the military commanders refrained from cracking down on the SPD after the soon expected declaration of the state of siege. Südekum assured Bethmann-Hollweg that he would influence the executive committee towards the acceptance of this agreement. As a result, the party abruptly stopped its official anti-war agitation on 30 July 1914.²⁵¹ Locally, however, anti-war protest continued until mid-August.²⁵²

Nevertheless, the threat of the declaration of the state of siege – and the wave of repression it would bring – hung over the heads of the social democratic leadership like a sword of Damocles. On 29 July the executive committee of the party sent out a circular note to the editorial offices of the party newspapers, warning them about the implications of the declaration of the state of siege and urging the party officials to do everything to preserve the structures of the party.²⁵³ And despite Südekum's meeting with Bethmann-Hollweg, the treasurers of the party and Reichstag faction, Otto Braun and Friedrich Ebert, left Berlin incognito in a train to Zurich on 30 July with a mission to bring the party coffers to safety in Switzerland. Other party officials prepared to go underground or into exile.²⁵⁴

²⁵¹ Ibid.

²⁵² Kruse, *Krieg und national Integration*, p. 36.

²⁵³ BArch RY20/II145/9 pp. 2-3, *Secret Memorandum to the Editors of Local Party Newspapers*, 27 July 1914; a similar memorandum was circulated immediately after the declaration of the state of siege on 31 July 1914; Ibid., pp. 3-4, *Memorandum regarding the Restrictions of the Freedom of the Press under the State of Siege*, 31 July 1914.

²⁵⁴ Kruse, *Krieg und national Integration*, pp. 50-52.

However, in a letter from the Prussian Minister of War to the deputy military commanders of the army corps districts from 25 July 1914, a generally lenient handling of the state of siege was advised and in particular the planned detention of Social Democratic officials was mentioned as an undesirable measure.²⁵⁵ Although these were merely suggestions and wishes by the War Ministry, all corps commanders followed these recommendations.

The coincidence of a patriotic integration of parts of Social Democracy and the threat of repression under the state of siege set the ambivalent tone that would become characteristic of the *Burgfrieden* policy. The threat of harsh suppression that was embodied in the term *Belagerungszustand* and the personal fears of many social democratic leaders were certainly one, if not the most crucial, factor for the acceptance of the party truce. In her study of the SPD during the First World War, Susanne Miller takes up this argument and points out that the Social Democrats were more or less forced into the domestic truce.²⁵⁶ This view, however, has been challenged by Wolfgang Kruse. Kruse points out that particularly the right-wing of the SPD had other motives, and positively accepted the war and cooperation with the Imperial Government as a chance to establish Social Democracy as an accepted political partner rather than an unpatriotic, marginalised, internationalist party.²⁵⁷ Probably the best way to understand the emergence and acceptance of the *Burgfrieden* policy is to take both factors into account. On the one hand, harsh repression was a realistic possibility that certainly intimidated the anti-war left-wing of the party and led to a degree of passivity when the war began. On the other

²⁵⁵ Deist, *Militär und Innenpolitik*, pp. 188-192.

²⁵⁶ Miller, *Burgfrieden und Klassenkampf*, pp. 44-46.

²⁵⁷ Kruse, *Krieg und nationale Integration*, pp. 142-144.

hand, the hope for political reforms of the Prussian three class voting franchise and the mooted acceptance of the SPD as a legitimate political party proved to be a strong incentive for cooperation for many reformist socialists.²⁵⁸ The latter faction's focus on the benefits of cooperation for domestic policies finally outweighed internationalist inhibitions when it came to the question of whether or not to support the war effort.

By comparison, developments in Britain during the July Crisis were less controversial. During the July Crisis, Britain sought to broker a compromise between Austria-Hungary, Serbia, and indirectly also between Russia and Germany.²⁵⁹ It was far from clear that Britain would become involved as a belligerent itself. During this period the Labour Party followed the anti-war consensus of the Second International and organised 43 anti-war rallies on 31 July 1914. On the same day the Labour Party published an appeal by Keir Hardie and Arthur Henderson, in which they called for mass action by the working class:

Workers, stand together for peace. Combine and conquer the militarist enemy and the self-seeking Imperialists to-day once and for all. Men and Women of Britain, you have now an unexampled opportunity of showing your power, rendering a magnificent service to humanity and to the world. Proclaim that, for you, the days of plunder and butchery have gone by. Send messages of peace and fraternity to your fellows who have less liberty than you. Down with class rule! Down with the

²⁵⁸ A very good example is the prominent right-wing social democrat Eduard David. His diaries give a very good insight into the political considerations of the SPD leadership. Clearly, a reform of the voting franchise and a step-by-step democratisation of the German Empire were seen as rewards for a Social Democratic support of the war. Erich Matthias and Susanne Miller (eds.), *Das Kriegstagebuch des Reichstagsabgeordneten Eduard David 1914 bis 1918* (Düsseldorf: Droste Verlag, 1965).

²⁵⁹ See Richard F. Hamilton and Holger H. Herwig, *Decisions for War 1914-1917* (Cambridge: Cambridge University Press, 2004), pp. 130-145; Mulligan, *The Origins of the First World War*, pp. 215-224; Clark, *Sleepwalkers*, pp. 527-537; MacMillan, *The War that Ended Peace*, pp. 563-592.

rule of brute force! Down with war! Up with the peaceful rule of the people!²⁶⁰

The biggest anti-war rally in Britain was held at Trafalgar Square in London on 2 August 1914.²⁶¹ Key figures in the Labour Party such as Keir Hardie and party chairman Ramsay MacDonald openly opposed Britain's entry into the war.²⁶² Yet, the German invasion of Belgium and simultaneous consent of the German Social Democrats to the war credits in the Reichstag soon undermined Labour's hopes for a united response of the European working class. Consequently, the Labour Party stopped its anti-war campaign. The Liberal Party was initially split amongst similar lines. Yet, the German violation of Belgian neutrality became the turning point towards supporting the war. Only the Conservative and Unionist Party backed, with very few exceptions, Britain's participation in order to preserve its world power status and vital imperial interests.²⁶³

If dissent against the war occurred, it was in most cases individually motivated and seldom based on clear political convictions. The Labour Party had only very rudimentary foreign policies before the First World War.²⁶⁴ Neither could the Gladstonian Liberals deduce a clear pro- or anti-war stance from their political

²⁶⁰ Labour History Archive and Study Centre [henceforth LHASC], ILP 1914/72, *An Appeal to the British Working Class: Manifesto by British Section of the International Socialist Bureau*, 31 July 1914.

²⁶¹ Paul Laity, *The British Peace Movement, 1870-1914* (Oxford: Oxford University Press, 2001), pp. 216-223. See also Georges Haupt, *Socialism and the Great War*, pp. 107-182.

²⁶² *Ibid.*, pp. 221-223.

²⁶³ Keith M. Wilson, 'The British Cabinet's Decision for War, 2 August 1914', *British Journal of International Studies*, 1, 2 (1975), pp. 148-159; Holger H. Herwig and Richard F. Hamilton, *Decisions for War, 1914-1917* (Cambridge: Cambridge University Press, 2004), pp. 130-145.

²⁶⁴ Rhiannon Vickers, *The Labour Party and the World. Vol. 1: The Evolution of Labour's Foreign Policy 1900-51* (Manchester: Manchester University Press, 2003), pp. 56-59; see also Paul Bridgen, *The Labour Party and the Politics of War and Peace, 1900-1924* (Woodbridge: Boydell and Brewer, 2009).

platform.²⁶⁵ This division ran through the entirety of British society. It led to the strange situation that, for example, the suffragette movement was split on this question. Christabel Pankhurst became one of the most ardent public supporters of a war, whereas her sister and fellow-suffragette, Sylvia would develop into one of the most active anti-war activists. Both, however, claimed to continue the common pre-war cause of women's emancipation.²⁶⁶ The Labour movement was split along similar lines. Whereas a minority within the Executive Committee retained an anti-war stance, the pragmatic majority around Arthur Henderson soon began to support the joint war effort. This was also reflected by the emergence of 'patriotic' labour organisations.²⁶⁷

In contrast to the German Empire, considerations of possible repression of anti-war dissent played no significant role in the debates of British war opponents. The main reason for this was certainly the fact that none of the planned measures laid out in the *War Book* were publicly known. The discussions within the Committee of Imperial Defence about emergency legislation and martial law were highly secretive and virtually no public discussion regarding the implications of the war on domestic policies took place. While many military strategists were well aware of the necessary impact of a great war on life in Britain, most politicians and the general public seem not to have dedicated too much consideration to this question.

²⁶⁵ Simmonds, *Britain and World War One*, p. 25.

²⁶⁶ For a comprehensive discussion of the split and decline of classic suffragism during First World War, see Jo Vellacott, *Pacifists, Patriots and the Vote: The Erosion of Democratic Suffragism in Britain during the First World War* (London: Palgrave, 2007).

²⁶⁷ David Silbey, *British Working Class Enthusiasm for War 1914-16* (London: Frank Cass, 2005).

State of siege and Burgfrieden Policy in Germany (August – December 1914)

The state of siege was eventually declared in the German Empire on 31 July 1914.²⁶⁸ With its declaration, the provisions of the law of 1851 were set into operation, handing over all executive powers within the respective army corps districts to the commanding generals. After the mobilisation of the units had begun, and after commanding generals and their staff had left the garrisons, their deputy commanders (*stellvertretende Generalkommandos*) took over the administrative duties.

The public declaration of the state of siege that was issued by the commander of the Marken district, which included the capital Berlin and the surrounding province of Brandenburg, Colonel-General Gustav von Kessel, is exemplary for the declarations issued by other military commanders in the empire.²⁶⁹ Von Kessel suspended all articles of the constitution (with the exception of article 7) he was empowered to, but left the civilian administration and civil servants in office under his command. Simultaneously, a first decree under the new emergency powers was issued, prohibiting all public meetings except those approved by the police 48 hours in advance.²⁷⁰ In the accompanying public proclamation, the general command of the Marken assured the general public that all measures were only applied to ensure a swift mobilisation and transportation of the troops. All law-abiding citizens would have nothing to fear, and all measures would only be targeting those not following

²⁶⁸ This excluded the Kingdom of Bavaria where a separate Law regarding the State of War from 1913 was put into operation; for the text of the law see Huber, *Dokumente zur Deutschen Verfassungsgeschichte*, pp. 89-91.

²⁶⁹ LAB Rep. 001-04 Nr. 9110, vol. 1, p. 1, *Declaration of the State of Siege by Generaloberst von Kessel*, 1 August 1914.

²⁷⁰ 'Letter by the Prussian Ministry of War to the Deputy Army Corps Commands, 17 September 1914', quoted in Deist, *Militär und Innenpolitik*, p. 11.

their patriotic duties.²⁷¹ The propagated notion that emergency measures were only applied where necessary and that patriotic and law-abiding citizens would be able to continue their lives without interference was far from true. Statements like this became, however, a commonplace in propaganda and public proclamations by the authorities. After the declaration of the state of siege, no immediate measures were undertaken against the Social Democrats. This was clearly a signal that the military commanders accepted the truce policy at least in principle. Yet it seems that this was merely superficial. Already days after the outbreak of the war the Berlin police presidency intensified its efforts to monitor the SPD in the city, and particularly the Berlin Police Presidency and its political branch *Department VII* continued to work against the ‘enemies of the realm’.

Records of the Imperial Post Office surviving in the German Federal Archives prove that from October 1914 onwards, the staff of the General Command of the Marken district worked on plans for counter-revolutionary warfare in Berlin.²⁷² The plans contained a detailed description of the positions for artillery units outside the city from which the inner-city districts could be shelled. The plan also contained detailed orders regarding the measures to be undertaken by the Post Office to completely interdict the city in case of an uprising (see figure 1). The existence of these top secret contingency plans is not only interesting with regard to counter-insurgency planning of the German military during the war, it also reveals that the *Burgfrieden* policy was a fragile construction from its very beginning. The documents of the Imperial Post Office show that pre-war plans to crack down on the Social Democrats or any other dissenting movement were far from being

²⁷¹ ‘Proclamation to the Population in the Marken District, 31 July 1914’, quoted in *Ibid.*, p. 9.

²⁷² BArch R4701/2330, *Abriegelung Berlins*, 25 June 1918. The file contains several burn notes that prove the existence of similar orders for the time between October 1914 and June 1918.

(*Bundesrat*) the full power to enact laws without the Reichstag.²⁷³ During the First World War over 800 such decrees were enacted by the Prussian-dominated Federal Council.²⁷⁴

The situation that emerged after the beginning of the hostilities on 1 August 1914 was as follows: on the local level, the deputy commanders of the army corps districts and the commanders of fortresses and defended harbours had taken over executive powers from the civilian administration. Most commanders had suspended those articles of the constitution that guaranteed fundamental civil liberties.²⁷⁵ The emergency powers under the state of siege also gave them the power to issue decrees for their corps districts. Extraordinary courts-martial (*außerordentliche Kriegsgerichte*) were established to prosecute breaches of such decrees. This put the military commanders in the extraordinary position of being legislator and prosecutor at the same time. Given the fact that the military commanders were barely controlled by their supreme warlord (*Oberster Kriegsherr*), Emperor Wilhelm II, the declaration of the state of siege created a legal status without the rule of law. Additionally, with the enactment of the Federal Council Enabling Act the Reichstag had surrendered its law-making prerogative to the Federal Council, making the parliament a mere bystander for the time being. Yet, the ideology of the *Burgfrieden* and Bethmann-Hollweg's attempts to establish a 'policy of the diagonal', which aimed at maintaining a political equilibrium between the Reichstag parties, led to a certain self-restraint of the authorities

²⁷³ Schudnagies, *Kriegs- und Belagerungszustand*, p. 25.

²⁷⁴ Roger Chickering, *Imperial Germany and the Great War, 1914-1918* (Cambridge: Cambridge University Press, 1998), p. 34; Richstein mentions over 1,000 of these decrees Cf. Richstein, *Belagertes Strafrecht*, p. 98.

²⁷⁵ For an overview about the Prussian parts of the empire, see 'Survey of the Imperial Home Office about the Legal Forms with which the Military Commanders Exercise the State of Siege, 21 December 1914', quoted in Deist, *Militär und Innenpolitik*, pp. 13-17.

regarding the application of the practically unlimited powers the executive now possessed.²⁷⁶

During the first months of the war, the majority of the activities of the local military commanders focused on regulating the practicalities of daily life. The decrees issued by local commanders predominantly covered matters such as food supply, consumption and price controls, and measures relating to the short term surge in unemployment during August and September 1914.²⁷⁷ One task that was taken seriously by local commanders was the maintenance of moral standards on the home front. In particular the allegedly excessive nightlife in larger cities such as Berlin and the purported neglect of the urban youth became points of concern during the early months of the war.²⁷⁸ For example – in a rare incidence for the whole war period – Emperor Wilhelm II personally demanded from the commander of the Marken district to limit the number of bars, cafés and pubs in Berlin and to enforce a closing hour of ten o'clock in the evening.²⁷⁹ The Emperor remarked that reports about the apparent moral decline at home would have a demoralising effect on the troops in the field. It is similarly remarkable that the President of the Berlin Police rejected this demand on the grounds that this would do more harm than good. He argued that such a measure would be regarded as an unnecessary interference of the authorities in everyday life.²⁸⁰ An additional factor that contributed to this

²⁷⁶ For a discussion of Bethmann Hollweg's 'policy of the diagonal', see James Retallack, *The German Right, 1860-1920: Political Limits of Authoritarian Thought* (Toronto: The University of Toronto Press, 2006), pp. 393-405; Dietrich Orlow, *Weimar Prussia, 1918-1925: The Unlikely Rock of Democracy* (Pittsburgh, Pa., 1986), pp. 14-15; Wolfgang J. Mommsen, 'Die Regierung Bethmann-Hollweg und die öffentliche Meinung, 1914-1917', *Vierteljahreshefte für Zeitgeschichte*, 17, 2 (1969), pp. 117-159.

²⁷⁷ LAB A Pr. Br. Rep. 030 Nr. 1465, *Fabriksachen. Zur Lage der Industrie*, 1914-1915.

²⁷⁸ LAB A Pr. Br. Rep. 030 Nr. 11361, pp.267-342, *War 1914-1918*, July 1914-April 1916.

²⁷⁹ *Ibid.*, pp. 2-3, *Letter by Emperor Wilhelm II to Police President von Jagow*, 20 September 1914.

²⁸⁰ *Ibid.*, p. 3, *Letter by von Jagow to Emperor Wilhelm II*, 22 September 1914.

bold rejection might have been that the Berlin Police in September 1914 did not have enough policemen to enforce such a ban.

Similar decrees were issued by military commanders in other districts. Judging from the number of cases tried at extraordinary courts martial during the early months of the war, the illegal serving of bread rolls in restaurants seems to have been a particular concern.²⁸¹ Most of the 8,624 trials before courts martial between August and December 1914 ended with minimal penalty of a one-day prison sentence, with most of them almost automatically proposed for pardons by the commanding generals.²⁸² This is a clear sign that most of the prosecuted offences were minor in nature and not seen as a vital threat to the war effort. But the sheer number of offences also illustrates that the local military commanders made extensive use of their emergency power to regulate almost every aspect of daily life. The legal basis for the prosecution of breeches of decrees was article 9b of the Law regarding the State of Siege.²⁸³

There were, however, also draconian sentences in some cases. Again, it seems that the main concern was to defend the moral order of the home front. Harsh sentences were, for example, passed against women that had ‘inappropriate’ contact with prisoners of war.²⁸⁴ Particularly the ‘spreading of false news’ soon became

²⁸¹ The Imperial Home Office collected exemplary verdicts of extra-ordinary courts martial, here such petty offences such as the illegal serving of bread rolls in restaurants, breaches of the ban to trade horses, or the non-registration of guests in hotels make the majority of the cases. The series BArch R1501/112246 to R1501/112253 provide rich material for a quantitative analysis of wartime jurisdiction in the German Empire.

²⁸² BArch 1501/112217, pp. 277-278, *Survey about the Business of the Extraordinary Courts Martial*, July 1916.

²⁸³ Schudnagies, *Belagerungszustand*, pp. 92-105.

²⁸⁴ BArch R3001/6655, *Reichsgerichtsentscheidungen zum Preußischen Gesetz über den Belagerungszustand vom 4. Juni 1851 und zum Königlichen Gesetz über den Kriegszustand vom 5. November 1915*, January 1915 – August 1916; BArch R3001/6656, *Reichsgerichtsentscheidungen zum Preußischen Gesetz über den Belagerungszustand vom 4. Juni 1851 über den Belagerungszustand und zum Königlichen Gesetz über den Kriegszustand vom 5. November 1912*, September 1915 – March 1916.

cypher for all kinds of diverging expressions of opinion ranging from spreading rumours to openly questioning the war and its conduct by the military.²⁸⁵ Politically organised dissent, however, remained rather small in scale. Nevertheless, the first cracks in the *Burgfrieden* became visible when the SPD parliamentarian Karl Liebknecht voted against new war credits in the Reichstag on 2 December 1914. But substantial public protest against the war did not occur until the end of the year 1915.

A heterogeneous group that became the first target of out-and-out repressive measures during the early months of the war in the German Empire were the so-called ‘citizens of enemy states’ (*feindliche Fremdstaatangehörige*), the German equivalent of the British term ‘enemy aliens’.²⁸⁶ Although their detention had already been planned before the war, the German authorities were reluctant to engage in large-scale internment of civilians. Matthew Stibbe has pointed out that the German internment of enemy aliens was primarily an act of retaliation against the British internment of Germans in the United Kingdom.²⁸⁷ Yet, the term ‘enemy alien’ in this context is misleading. Leaving aside the interned merchant seamen in German harbours at the outbreak of the war and the comparatively small number of tourists and travellers, most of the detainees had lived in Germany for many years and were often married or otherwise related to German nationals. This included

²⁸⁵ The case of the Berlin-based tailor Ernst Sporny is exemplary: he was charged with the ‘spreading of false news’ in October 1915, acquitted by a civil court but then taken into protective custody by the commander of the Marken district from 25 November 1915 until 15 January 1916. In another trial for compensation for illegal detention, the Marken commander argued that although Sporny’s public remarks were technically not ‘false news’ they were suitable to cause disaffection with the war effort. This gave enough reason to detain him under protective custody. BArch 1501/112253, pp. 285-287, *Case File Ernst Sporny*, November 1915-December 1916.

²⁸⁶ For a discussion of the whole problem, see Matthew Stibbe, ‘Civilian Internment and Civilian Internees in Europe, 1914-20’, *Immigrants and Minorities*, 26, 1-2, pp. 49-81; see also Idem, *British Civilian Internees in Germany: The Ruhleben Camp, 1914-1918* (Manchester: Manchester University Press, 2008), esp. pp. 23-51.

²⁸⁷ Stibbe, *Civilian Internment*, p. 59.

British and Commonwealth citizens, French citizens, but also 300,000 seasonal Russian-Polish farm labourers who could not return home and were declared civilian prisoners of war after the hostilities had begun.²⁸⁸ The legal status of this group was vague and not clearly defined under international and humanitarian law. Most measures against enemy aliens were therefore based on the emergency powers under the state of siege that allowed detention without trial, in particular on the basis of the right to take any person into so-called protective custody (*Schutzhaft*) or military security detention (*militärische Sicherheitshaft*). Whereas civilian detainees with a high social status were often treated rather leniently, Russian farm labourers were soon used as a cheap work force whose treatment came to resemble forced labour.²⁸⁹ These measures, however, set the precedent for the — during the later course of the war increasingly arbitrary and excessive — use of protective custody against other groups that were also defined as ‘enemies within’.

Another group that caused particular concerns for the German authorities was the population of Alsace-Lorraine. The general mistrust by the German authorities of the allegedly pro-French Alsatians was nurtured by reports of emphatic welcomes for advancing French troops in the early weeks of the war.²⁹⁰ The existing tensions between military authorities and the civilian population of Alsace-Lorraine were now aggravated under the state of siege. Military commanders exercised their

²⁸⁸ Jens Thiel, ‘Polish and Belgian Forced Laborers in Germany during World War I’, in: Klaus J. Bade et. al. (eds.), *The Encyclopedia of Migration and Minorities in Europe. From the 17th Century to the Present* (New York: Cambridge University Press, 2011), pp. 599-601; for individual court cases related to civilian internees see BArch R3001/6648, *Gerichtliche Entscheidungen zum Preußischen Gesetz über den Belagerungszustand vom 4. Juni 1851*, August 1914 – September 1917.

²⁸⁹ Thiel, *Polish and Belgian Forced Laborers*, p. 600; Westerhoff, *Zwangsarbeit im Ersten Weltkrieg*, op. cit.

²⁹⁰ Alan Kramer, ‘Wackes at War- Alsace Lorraine and the failure of German national mobilization, 1914-1918’, in John Horne (ed.), *State, Society and Mobilization in Europe during the First World War* (Cambridge, 1997), pp. 105-121.

emergency powers particularly harshly here, which lead to a high number of Alsatians being put before courts martial or held in protective custody. Although the national minorities of the Poles and Danes in the empire had a similarly problematic status, neither of them experienced equally harsh repression by the authorities.

Britain and the Defence of the Realm Acts (August – December 1914)

Britain's entry into the war on 4 August 1914 was accompanied by the enactment of a number of emergency laws – most prominently the Defence of the Realm Acts (DORA). We have already seen that discussions about emergency laws had taken place in Britain several years before the First World War. However, no consensus was reached regarding the actual legal form of these emergency measures. The sub-committee of the Committee of Imperial Defence that was set up to draft an emergency powers bill had only discussed a draft by the military that contained some drastic proposals. These measures met with some resistance by the Law Officers of the Crown. Nevertheless, already on 5 August 1914 – the day after Britain's declaration of war against Germany – the House of Commons passed the Aliens Restrictions Act 1914 and on 7 August the British Nationality and Status of Aliens Act 1914 (Alien Registration Act).²⁹¹ The latter act compelled all persons defined as 'enemy aliens' over the age of sixteen to register at their local police station and to demonstrate their good character and non-threatening behaviour. This emergency measure was justified with the widespread fear of a German spy-

²⁹¹ HC, *Deb 05 August 1914*, vol. 65, cc. 1987-90.

network that would act as a fifth column sabotaging British ships and factories.²⁹² Christopher Andrew's research about the SIS showed that the chief of MI5, Vernon Kell, played a key role in drafting the bill. However, Kell was well aware that the hysteria about German spies in Britain was widely unjustified.²⁹³

Additionally, there was an already well-established anti-German sentiment before the war. Diplomatic tensions between the two countries existed since the beginning of the twentieth century, and this became increasingly visible in the public discourses of the other.²⁹⁴ Nurtured by popular novels about a future Anglo-German war and the rather clumsy public diplomacy of the German Empire in the years before the First World War, a degree of popular Germanophobia resonated within different strata of British society.²⁹⁵ Recent research has shown, however, that the danger as perceived during the British 'spy mania' was in reality far away from being the threat portrayed by popular authors such as William Le Queux.²⁹⁶ The SIS was well-informed about the activities of the comparatively small number of German spies operating in Britain in 1914, and most of them were arrested at the outbreak of the war.²⁹⁷ An immediate result of the Act was, however, that a whole group of people, in this case Germans and Austrians, was singled out as enemies

²⁹² Nicholas Hiley, 'Decoding German Spies: British Spy Fiction 1908-18', *Intelligence and National Security*, 5, 4 (1990), pp. 55-79.

²⁹³ Andrew, *The Defence of the Realm*, pp. 50-51.

²⁹⁴ For a discussion of British Germanophobia see Panikos Panayi, *The Enemy in Our Midst: Germans in Britain during the First World War* (New York and Oxford: Berg, 1991), pp. 153-182; for a discussion of German Anglophobia see Matthew Stibbe, *German Anglophobia and the Great War 1914-1918* (Cambridge: Cambridge University Press, 2001).

²⁹⁵ To name two prominent examples, Erskine Childers *The Riddle of the Sands* from 1903 and William Le Queux's *The Invasion of 1910* from 1906 proved to be best-selling novels before the war. For a more general discussion of British images of Germany see Keith Robbins, *Past and Present: British Images of Germany in the First Half of the Twentieth Century and their Historical Legacy* (Göttingen: Wallstein, 1999).

²⁹⁶ Andrew, *The Defence of the Realm*, p. 9.

²⁹⁷ *Ibid.*, pp. 36-52.

within. As already described with regards to the internment of ‘citizens of enemy countries’ in the German Empire, the term ‘enemy alien’ was widely misleading. Numerous cases affected persons and whole families who immigrated to Britain already decades ago and who had little to no ties with Germany anymore.²⁹⁸

The next and most important enactment of emergency measures followed in the session of parliament on 7 August 1914. A bill entitled Defence of the Realm Act was introduced in parliament and passed all readings without discussion within the record time of three hours.²⁹⁹ The bill went through the House of Lords equally fast on the same day, received the royal assent immediately, and was set into operation on 8 August 1914.³⁰⁰ The speed and calm with which the bill passed both chambers of parliament stood in no relation to its dire consequences. Barely noticed by the public and merely a paragraph long, the Defence of the Realm Act provided powers to all persons acting on behalf of the King – particularly the army, admiralty and members of the cabinet – to issue regulations and orders to secure ‘public safety and the defence of the realm’ and to authorise court martial trials for individuals who contravened such regulations, endeavoured to assist and communicate with the enemy, or jeopardised the safety of rails, roads and ships. The act seemed primarily designed to ensure a swift mobilisation, and to protect against espionage and sabotage. Its main consequence was, however, a shift of the legislative power from parliament to cabinet and military, which were now empowered to rule by decree for the duration of the war. The establishment of courts martial also put an end to

²⁹⁸ For a comprehensive overview about the internment of enemy aliens in Britain see John C. Bird, *The Control of Enemy Aliens Civilians in Britain 1914-1918* (New York and London: Garland, 1986); Panayi, *The Enemy in Our Midst*, op. cit.

²⁹⁹ HC, *Deb 07 August 1914*, vol. 65, cc. 2191-3.

³⁰⁰ HC, *Deb 08 August 1914*, vol. 65, c. 2200.

the separation of powers between the legislative, the judiciary, and the executive branch. Under DORA, military and cabinet held a hitherto unknown concentration of power that was barely checked and balanced and thus created a system of constitutional dictatorship.

As early as 25 August 1914, a first amendment to DORA was brought before parliament by Home Secretary Reginald McKenna.³⁰¹ The Defence of the Realm (No. 2) Act extended the reach of powers of the military authorities beyond harbours, rails, and roads ‘to all areas in which trade is being carried on’; extended the section of DORA which made communication with the enemy a felony with the spreading of false reports; and gave the military authorities the power of ‘making by-laws without the existing restrictions such as consents of local authorities, publication in newspapers, etc., which occupy time and are inapplicable to war conditions’.³⁰² The only criticism articulated in parliament came from the liberal MP Charles Trevelyan who questioned whether ‘the Bill in general and the Regulations to be issued, may not be capable of being interpreted by military authorities to prevent the expression in speech or in writing of any political opinions on the actions of the Government’.³⁰³ McKenna assured that this would not be the case and allayed Trevelyan’s concerns.³⁰⁴ The Defence of the Realm (No. 2) Act passed the chambers of parliament without further discussion in a similarly speedy manner as its predecessor.

Against this backdrop, it is remarkable how willingly the British parliament surrendered much of its sovereignty to the government without questioning in detail

³⁰¹ HC, *Deb 25 August 1914*, vol. 66, c. 26.

³⁰² HL, *Deb 27 August 1914*, vol. 17, cc. 540-1.

³⁰³ HC, *Deb 26 August 1914*, vol. 66, cc. 87-9.

³⁰⁴ *Ibid.*

the purpose of the enacted measures. Trevelyan's remarks did hit the right spot when he pointed out that most of the provisions were so general in nature that they barely restricted their application by the military.

This was verified when the first problems with measures under DORA occurred in connection to press censorship. Although the Newspaper Proprietors Association, Admiralty and War Office had negotiated an arrangement regarding the publication of news and maintained a rather collaborative approach to censorship throughout the war, conflicts emerged after sanctions against newspapers by the censors.³⁰⁵ The prospect of journalists tried before courts-martial for reporting actually censored reports of the disastrous campaigns in Flanders in August and September 1914, caused massive discontent among editors and publishers. Influential Fleet Street magnates such as Lord Riddell soon pushed for an overhaul of DORA that would at least take away the imminent threat of courts martial for the journalists. It dawned on Lord Riddell that:

The drastic and unique provisions of this legislation have not attracted the attention they deserve. The legislation has taken place so rapidly that the measures have not been properly discussed. The press have been singularly ill-informed and lacking in criticism regarding a law which wipes out Magna Charta, the Bill of Rights, etc., in a few lines. We have got some alterations made, but trial by court martial still stands. A very dangerous innovation.³⁰⁶

Yet, the protests of the press and the good contacts of many journalists to leading politicians certainly had an impact on policy making.³⁰⁷ When the government introduced a third amendment bill of DORA in the House of Commons on 23

³⁰⁵ Sanders and Taylor, *British Propaganda during the First World War*, p. 7.

³⁰⁶ John M. McEwan (ed.), *The Riddell Diaries. 1905-1923* (New York: Continuum Publishing, 1986), p. 95.

³⁰⁷ Keith M. Wilson, *A Study in the History and Politics of the Morning Post, 1905-1926* (Lewiston et al.: The Edwin Mellen Press, 1990), pp. 87-88.

November 1914 – initially designed as a further extension of the emergency powers for the military, such as the possibility to issue the death penalty to British subjects by a court martial – some vivid discussions ensued. Lord Robert Cecil remarked that the power to prosecute any person suspected to cause disaffection would

(...) cover a very very large area. They practically enable the Government to suppress any reports of any kind of which they disapprove. It does not matter whether the reports are true or untrue. They may be perfectly true, but the Government are still entitled under that paragraph to suppress them altogether, and not only to suppress them, but to bring anyone who spreads them before a court-martial. That is a very extreme power, under the circumstances, to give to any Government.³⁰⁸

The Conservative leader Andrew Bonar Law appealed to the government to use its dictatorial powers very carefully and not to suppress legitimate criticism.³⁰⁹ The criticism in the House of Commons led to a number of minor adjustments, for instance the limitation of the prosecution to explicitly false reports and the clarification that disaffection ‘to his Majesty’ was punishable and not disaffection in general.³¹⁰ The amended bill was brought before the Lords on 27 November 1914 where an even more intense debate occurred.³¹¹ Lord Loreburn – former Attorney-General and Solicitor-General – and the Conservative Lord Crawford argued that British subjects would be in danger of being sentenced to death by courts martial, something they considered a profound break with British legal traditions. Both lords insisted that the principle of open courts of law should be upheld. In response, the Lord Chancellor, Richard Haldane, proposed that this issue would be addressed in a later amendment to DORA. The other provisions of the bill such as the extension

³⁰⁸ HC, *Deb 23 November 1914*, vol. 68, c. 910.

³⁰⁹ *Ibid.*

³¹⁰ HC, *Deb 25 November 1914*, vol. 68, cc. 1264-78.

³¹¹ HL, *Deb 27 November 1914*, vol. 18, cc. 204-24.

of the competencies of the military authorities and the continuation of the power to rule by decree remained untouched. The bill was then passed as the Defence of the Realm Consolidation Act 1914 replacing the two earlier versions of DORA. This act formed the basis of emergency government in Britain for the coming four years.

But DORA merely set the legal framework for emergency powers in Britain, leaving it to the discretion of the government and the military authorities how to use them. DORA served the purpose of an enabling act without clear provisions regarding the limits of the entailed emergency powers. These limits were supposed to be defined by the courts, who as we will see later, entirely failed in this task. The main legal instruments under DORA were the so-called Defence of the Realm Regulations (DRR).³¹² DRR were often drafted by civil servants or military officers and, after discussions in the cabinet, enacted as Orders in Councils with binding legal force. Since September 1914 a special interdepartmental committee (Defence of the Realm Regulation Amendment Committee) took over the task of negotiating proposals for amendments of existing and the enacting of new DRR. The amended or drafted regulations were then presented before the cabinet and most cases enacted without much delay. The *London Gazette* published these new regulations and His Majesty's Stationery Office issued a monthly overview of the consolidated and newly enacted DRR. In the process of drafting and amending regulations particularly the chief of the military intelligence, George MacDonogh, and the head of the SIS Vernon Kell, would again play a key role.³¹³

The provisions of DORA limited the reach of these DRR to issues related to 'public security and the defence of the realm' but this was so vaguely defined that

³¹² See Ewing and Gearty, *The Struggle for Civil Liberties*, pp. 51-52.

³¹³ Andrew, *The Defence of the Realm*, pp. 53-56.

soon all areas of daily life were affected by them. In addition to these nation-wide pieces of emergency legislation, DORA provided army and naval authorities with the power to enact by-laws in areas under military control. Additionally, Army Council and Admiralty could issue direct so-called Army Orders, or the local Competent Military Authorities could issue local decrees.³¹⁴ At the beginning of the war, these areas were predominantly military harbours or fortified places. But soon entire towns and regions were declared restricted or Special Military Areas under military control.³¹⁵ On a local level, civilian authorities were required to assist the military authorities in organising and administering the war efforts. A proclamation issued by the King on 4 August 1914, which declared a precautionary stage before the actual declaration of war a day later, stated that all British subjects were bound to obey orders by the military:

And whereas the present state of public affairs in Europe is such as to constitute an imminent national danger, Now, THEREFORE, We strictly command and enjoin Our subjects to obey and conform to all instructions and regulations which may be issued by Us or Our Admiralty or Army Council, or any officer of Our Navy or Army, or any other person acting in Our behalf for securing the objects aforesaid, and not to hinder or obstruct, but to afford all assistance in their power to, any person acting in accordance with any such instructions or regulations. Or otherwise in the execution of any measures duly taken for securing those objects.³¹⁶

Nevertheless, it seems that the military only reluctantly operated as a political actor on the home front. Where possible, administrative and executive duties were left to civilian authorities and local military commanders preferred an indirect approach

³¹⁴ As early as 31 July 1914 a royal proclamation was issued demanding all British subjects to follow orders and decrees regarding the public safety issued by government, Admiralty, and Army Council: *London Gazette*, 31 July 1914, p. 3.

³¹⁵ For a comprehensive overview about the extent of military control in Britain, see *List of Competent Military Authorities in the United Kingdom for the Purpose of the Defence of the Realm Regulations with a List of the Special Military Areas* (London: HMSO, 1918).

³¹⁶ *Supplement to the London Gazette*, 4 August 1914, p. 6059.

of influencing policy making. But this should not lead to the assumption that the military did not exercise its wide-ranging powers. In fact, military authorities began to play a crucial role as an actor in domestic policies. Overall, it appears that British society barely grasped by the profound political changes that took place between August and November 1914. The principle of ‘business as usual’ guided the policies of Asquith’s Cabinet on the home front, and the idea that the conduct of the war should interfere in the economy and daily life as little as possible was deeply rooted in the liberal convictions of most cabinet members – certainly in those of Prime Minister Asquith and Home Secretary Reginald McKenna.³¹⁷ The first DRR, issued on 12 August 1914, declared in this spirit that ‘the ordinary avocations of life and the enjoyment of property will be interfered with as little as may be permitted by the exigencies of the measures required to be taken for the public safety and the defence of the realm’.³¹⁸

This self-restraint may help to explain the lenient exercise of the massively extended emergency powers by the government. Army Council and Admiralty, however, immediately unfolded activities under DORA. An example for the nature of some of the measures enacted by the Army Council under DORA is an order to the chief constables of the local police forces from September 1914 regarding the surveillance of soldiers’ wives. In it, police constables were asked to supervise the lifestyle of wives of soldiers on the front. If the women were deemed guilty of drunkenness, immorality (a byword for promiscuity and prostitution) and gross

³¹⁷ David French, ‘The Rise and Fall of “Business as Usual”’, in Kathleen Burke (ed.), *War and the State: The Transformation of British Government 1914-1919* (Abingdon: Routledge, 1982), pp. 7-31; Millman, *Managing Dissent*, pp. 31-34.

³¹⁸ *Defence of the Realm Manual* (London: HMSO, 1918), pp. 39-40.

neglect of their children, their soldier's allowances became liable for forfeiture.³¹⁹ Local police constables were encouraged to report any moral misconduct to their local competent military authority and warn the women regarding their behaviour. This caused an outrage in parts of the press. A commentator in the *Daily News* of 7 November 1914 complained that: 'It is clear that the function of the police is that of a general surveillance, and not confined to reporting cases of actual misconduct (...)'.³²⁰ Other newspapers joined the campaign and at the end of November 1914 the Army Council found itself in the position of having to emphasise that the order was not meant to punish soldiers' families but to ensure their welfare.³²¹ This example demonstrates that maintaining the moral order during wartime was a main concern of the authorities, too. It also highlights rather superficial nature of the proclaimed leniency under DORA. Moreover, we can also identify a specific class dimension of emergency government in its ambition to regulate daily lives. It seems that most of the measures predominantly targeted the working classes, whereas such intrusions as ordered by the Army Council in September 1914 into the privacy of upper and middle class families were barely imaginable.

Yet, it seems that the introduction of emergency government did not occur completely unexpectedly for the labour movement. With the outbreak of the war, the War Emergency Workers' National Committee (WEWNC) was formed on 6 August 1914 to ensure that the interests of the working class would be politically

³¹⁹ Angela Smith discusses the attitudes towards the welfare of soldiers' wives and widows in great depth: Angela Smith, *Discourses Surrounding British Widows of the First World War* (London: Bloomsbury, 2013), esp. pp. 146-149; idem, 'Discourses of morality and truth in social welfare: the surveillance of British widows of the First World War', *Social Semiotics*, 5, 20 (2010), pp. 519-535; see also Susan Pedersen, 'Gender, Welfare and Citizenship', *American Historical Review*, 4, 95 (1990), pp. 983-1003.

³²⁰ 'The Soldier's Family', *Daily News*, 7 November 1914.

³²¹ See for example 'Police Surveillance', *Reynold's Weekly*, 6 December 1914; *Daily Chronicle*, 5 December 1914.

represented.³²² It became an influential campaigning body during war with a strong focus on the representation of consumer interests. Yet, the committee also criticised the introduction of conscription in January 1916 and led a campaign for the introduction of a capital levy under the motto ‘conscription of wealth’ in 1917.³²³ The activities of the WEWNC were not fundamentally opposed to the war or emergency government in principle but aimed at preventing the excessive use of emergency powers against the interests of organised labour. In fact, many members of the executive committee, such as its secretary James Middleton, maintained close relations with cabinet ministers and senior civil servants and occasionally sought to influence the application of emergency measures for the benefit of organised labour.³²⁴ The attitude of wide parts of organised labour towards emergency government was less one of fundamental concern about democratic control and constitutional principles and more of utility for its own interest.³²⁵ The WEWNC seems to have provided a workable foundation on which the different branches of organised labour could cooperate with each other and the authorities during the war.³²⁶ Representatives of different factions within the organized Labour movement

³²² The WEWNC has widely been neglected by historiography. Only an essay by Royden Harrison and a book chapter by Jay Winter have been published about it: see Royden Harrison, ‘The National War Workers Emergency Committee, 1914-1920’, in John Saville and Asa Briggs (eds), *Essays in Labour History, 1888-1926* (London: Macmillan, 1971), pp. 211-259; Jay Winter, *Socialism and the Challenge of War: Ideas and Politics in Britain, 1912-1918* (London and Boston: Routledge, 1974), pp. 184-233.

³²³ André Keil, ‘Zwischen Kooperation und Widerstand: Die britische Arbeiterbewegung und das “War Emergency Workers’ National Committee“ während des Ersten Weltkriegs’, *Jahrbuch für Forschungen zur Geschichte der Arbeiterbewegung*, 13, 3 (2014), pp. 7–26.

³²⁴ The Labour History Archive and Study Centre in Manchester (LHASC) has custody of the WEWNC files. The surviving documents show the sheer variety of the committee’s activities and the close contacts between its chair James Middleton and high-ranking civil servants. See Labour History Archive and Study Centre [henceforth LHASC], *War Emergency Workers National Committee*, WNC 1-15.

³²⁵ See e.g. LHASC WNC 1/1/4; WNC 9/1.

³²⁶ For the affiliated organisations see LHASC WNC 9/1.

such as the dissident former Labour Party chairman Ramsay MacDonald or the president of the Miners' Federation of Great Britain, Robert 'Bob' Smillie, cooperated here with proponents of patriotic Labour such as Henry M. Hyndman, who founded the National Socialist Party in 1915. This, however, rapidly changed after the state increasingly intervened in labour relations and enforced Britain's transformation into a war economy to accommodate the wartime necessities.³²⁷ Nevertheless, as long as anti-war dissent remained contained within small groups and without the mass support of the trade unions, the problem of emergency powers and political repression by the authorities was not a matter of extensive debate within the organised labour movement. The mainstream press also barely discussed emergency measures when they were not directly related to their own interests such as censorship issues.³²⁸

The apparent willingness of parliament and the general public to sacrifice substantial parts of the constitutional arrangements of the United Kingdom in favour of a centralised powerful executive is difficult to explain. The contemporary argument, that the granted emergency powers were needed for the successful conduct of mobilisation, was barely grounded in the real necessities during the first months of the war. However, they were certainly no reaction to occurring wartime problems but pre-emptive measures that would provide the legal framework for the

³²⁷ Particularly representatives of 'patriotic labour' such as Tillet and Hyndman criticised the lack of support for the war effort by the WEWNC. From early-1916 the cooperation began to crumble. See LHASC WNC 9/1/86, *Letter by Ben Tillet to Executive Committee*, 10 January 1915; LHASC WNC 9/1/151, *Letter Smillie to Middleton*, 22 May 1916; LHASC 9/1/177, *Letter Middleton to Hyndman*, 6 July 1916.

³²⁸ The suppression of *The Globe* in November 1915 illustrates the relations between press and authorities. In November 1915 *The Globe* reported that war minister Lord Kitchener was about to resign. The CMA of the London district Lieutenant-General Francis then ordered the search and seizure of the press of *The Globe*. This led to an increased criticism by other papers finally resulting in a readmission of *The Globe* a few days later; TNA HO45/10795/303412, *Suppression of The Globe Newspaper*, 1915.

conduct of an increasingly totalised war. The structure of the arguments, however, was strikingly similar to those applied in the German Empire to legitimise the necessity of the state of siege.

We have seen that most of the measures enacted by government and military followed the pre-war assessments about the implications of the nature of a modern war. However, this does not explain why parliament granted such wide-ranging powers days after Britain's entry into the war, when the official narrative was still that of a short but intense conflict. The question about the backgrounds, motives, and intentions of this willing submission of parliament under the government is still not answered and remains a matter of controversy. Apparently, pre-war debates about national efficiency already featured many of the arguments that were then later to legitimise DORA.³²⁹ Nevertheless, a conclusive answer to this question is still not found. What can be stated, however, is that the establishment of emergency government between August and November 1914 opened a Pandora's Box with regards to civil liberties and the vanishing limitation of the powers of the state in Britain.

Comparison

The process of establishing systems of emergency government had different characteristics in Germany and Britain. As has been demonstrated in the previous chapter, military authorities and civilian government possessed well-prepared plans to put emergency laws into operation. Hardly any of the legislative measures

³²⁹ Geoffrey R. Searle, *The Quest for National Efficiency: A Study in British Politics and Political Thought 1899-1914* (Berkeley, Calif.: University of California Press, 1971); Simmonds, *Britain and World War One*, pp. 10-11.

enacted in the early months of the war can thus be seen as mere reactions to the emerging wartime necessities.

The declaration of the state of siege in the German Empire on 31 July 1914 was automatic, and was based on the constitutional prerogative of the emperor under article 68 of the imperial constitution. In Britain, however, the enactments of the Defence of the Realm Acts from August to November 1914 were deliberate political decisions of the parliament. In their consequence the established constitutional arrangements in Britain – with the sovereignty of the parliament at its heart – were widely suspended and replaced by a strong executive, consisting of government and military vested with legislative and judiciary powers. As a result, the structures created on the British home front were not too different from their German counterparts. In both countries, the provisions of the different pieces of emergency legislation introduced the possibility for the authorities to rule by decree without effective control of the respective parliaments. Although to varying degrees, the military in both countries gained a key position within domestic policies.

Furthermore, in both countries military authorities and extraordinary courts-martial took over the task of prosecuting breaches of emergency decrees. The concentration of legislative, executive, and judicial powers in the hands of the military and governments established a de facto constitutional dictatorship although the term was nowhere officially used. Yet, this was met with hardly any significant protest or public debate. The explanations of the authorities that the exceptional powers under DORA and state of siege were needed to ensure a swift and smooth mobilisation of the troops, and to secure public safety were barely challenged. The general system of emergency government was scarcely criticised in the press during

the early stages of the war. The parliamentary debates show no sign of fundamental dissent either. Criticism was, however, articulated when certain measures were perceived as too excessive or too intrusive. This was particularly the case with press censorship. Government and military in both countries showed a vital interest in maintaining favourable relations with the press. Instead of simply suppressing inconvenient and undesirable reports, the press was soon integrated in a system of propaganda and official news that made it complicit with the official policies.³³⁰ In this context, role of the patriotic press in Britain with regards to domestic politics was exceptional. Papers such as the *Morning Post* or the *Daily Express* seem to have followed their own political agenda when they staged their continuous campaigns against ‘peace skanks’, ‘pro-Germans’ or those perceived as too lenient against the ‘enemies within’. The role of these papers and their proprietors differed fundamentally from those in the German Empire, where the freedom of the press was widely curtailed and censorship directly imposed. The British system, on the hand, worked much more through indirect steering and influencing of journalists.³³¹ The aggressive patriotic agenda of the right-wing press, however, sometimes went beyond the acceptable when members of the royal family, high-ranking generals or cabinet members came under fire. The example of the suppression of *The Globe* newspaper illustrates that the patriotic press was not always an asset for the British government.³³² The few remaining critical voices, for instance the social democratic *Vorwärts* in Germany or the ILP magazine *Labour Leader* in Britain, soon became

³³⁰ For a discussion of press censorship in Germany during the war, see Wilhelm Deist, ‘Zensur und Propaganda in Deutschland während des Ersten Weltkrieges’, in Idem, *Militär, Staat und Gesellschaft: Studien zur preussisch-deutschen Militärgeschichte* (Munich: R. Oldenbourg, 1991), pp. 153-164, David Welch, *Germany, Propaganda and Total War, 1914-1918: The Sins of Omission* (London: Continuum, 2000).

³³¹ Sanders and Taylor, *British Propaganda*, pp. 19-22; Hopkin, *Domestic Censorship*, pp. 162-164.

³³² *Ibid.*, pp. 157-159.

targets of repressive measures aimed at intimidating their editors and contributors.³³³

Generally, however, repressive emergency measures were apparently not perceived as a major problem by the vast majority of people. As long as they primarily targeted marginalised and comparatively small groups such as the so-called ‘enemy aliens’ and other people outside of the propagated national collectives criticism, was barely articulated. The question of the treatment of ‘unreliable’ national minorities – such as the population of Alsace-Lorraine – was a particular feature in the German Empire, where the state of siege was applied harshly against allegedly unreliable ethnic minorities. With anti-war dissent only playing a marginal role in the early months of the war, military authorities seemed to have acted leniently with regards to interfering with dissenting political activities as long as they remained rather isolated and small in scale. Yet, as we shall see, the repressive dimension of emergency government should soon become patently obvious.

A primary concern of the authorities in both countries in this early stage of the war was to maintain the moral order on the home front. Considerable attention was drawn to the lifestyle of relatives of soldiers, particularly those of their wives; the limitation of leisure activities and the consumption of alcohol.³³⁴ This also illustrates that the dominant images of the ‘fighting home’ were shaped by socially conservative notions of behaviour ‘appropriate to the gravity of the situation’.³³⁵ It also underlines that different authorities were willing to enforce these social norms

³³³ TNA HO 45/10786/297549, *Labour Leader and Independent Labour Press*, 1915-1918.

³³⁴ LAB A Pr. Br. Rep. 030 Nr. 11361, pp. 267-270, *Report of the Police President about the Suppression of Prostitution in Berlin*, December 1915.

³³⁵ *Ibid.*

with the help of their emergency powers. In this context, emergency powers were not only used to tackle dissent but also to control behaviour that was defined as deviant from the dominant social norms.³³⁶

The major differences between the emerging British and German systems of emergency government are to be found in the actual organisation of their administrative structures. The German state of siege shifted the administrative powers to the deputy general commands of the army corps districts and fortified places. This created a situation in which 63 individual commands governed their army corps districts with no coordinating authority – except the Emperor – above them.³³⁷ The deputy military commanders were independent from the ordinary chain of command of the German army, and were placed under the immediate command of the Emperor. Wilhelm II, however, undertook no significant effort during the war to coordinate the activity of the different corps districts in his function as supreme warlord of the Empire.³³⁸ The situation was further complicated by the fact that the borders of the military districts were in many cases not congruent with the boundaries of the civilian administrative districts.³³⁹ In some areas of the empire, this led to the confusing situation that civil servants in some districts sometimes had to follow contradictory orders by different military commanders (see figure 2). For this reason, there can hardly be any talk of *one* consistent domestic policy in the German Empire during the First World War. It is more precise to speak of a number of different domestic policies by the respective

³³⁶ This included homosexuals, prostitutes, travellers, and alcoholics. See *Ibid.*, p.350.

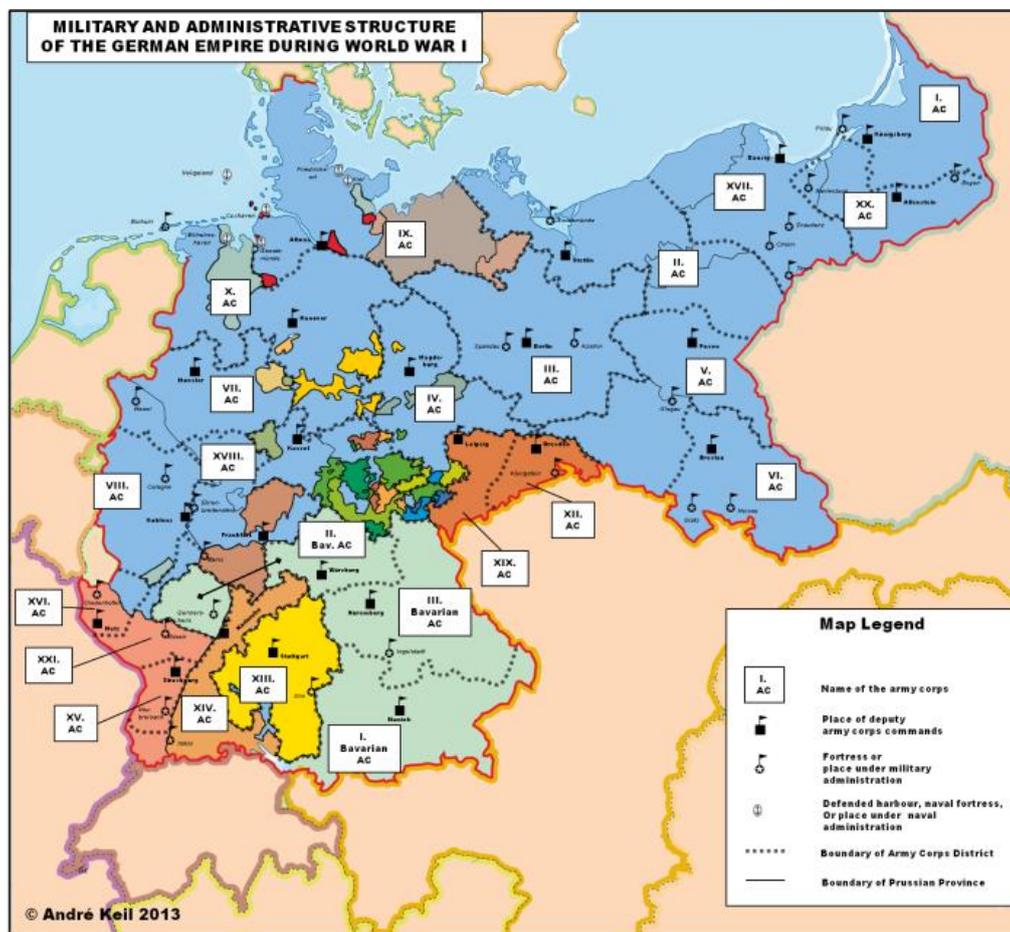
³³⁷ Wehler, *Deutsche Gesellschaftsgeschichte*, p. 40.

³³⁸ Holger Afflerbach, 'Wilhelm II as Supreme Warlord in the First World War', *War in History*, 5, 4 (1998), pp. 427-449.

³³⁹ Schudnagies, *Kriegs- und Belagerungszustand*, pp. 70-82.

corps commanders. The plethora of domestic policies, however, was influenced and to some extent steered by frequent memoranda and policy suggestions by the Imperial Government, Prussian Ministry of War and military high command. Nevertheless, the stereotypical efficiency of the German bureaucracy was, at least with regards to the administration of the state of siege a mere myth.

*Fig. 2: Military and Administrative Structure of the German Empire during the First World War [Source: Deist, *Militär und Innenpolitik*]*



On the other side, the British administration of DORA could build on a certain practical knowledge gained during the Labour Unrest between 1911 and 1913. Particularly the MacReady System that was applied during the 1911 railway strike seems to have provided valuable lessons for the authorities. Generally, the chains

of command and competencies of the different authorities on the British home front were much more clearly defined and worked with far fewer frictions than in Germany despite the large number of different committees and agencies that existed here too. The Competent Military Authorities, which had taken over the administrative duties in defended harbours and fortified places, were integrated in consistent chains of command that allowed a more unified approach to steering domestic policies.

Another significant difference between the German and British models of emergency government can be found in the role and appearance of the military commanders as agents of the state of exception. In the German Empire, the local military commanders assumed a rather dominant position in the public perception. They signed decrees and proclamations – which were then often printed as posters – and civilian authorities acted upon their direct orders (see figure 4 for an example). The military became the central political actor on the German home front. In Britain, the local military authorities seem to have acted more in the background, leaving most of the civilian executive functions to the established offices and agencies. Orders by the military were often directly communicated to the respective civil servants, avoiding too much public scrutiny. This indirect approach to emergency government on the local level seems to have helped to conceal the influence of the military on domestic affairs from the British public. During the later stages of the war, these different degrees of exposition or covertness of the military to public scrutiny would prove an important factor for the public acceptance of emergency government. Whereas emergency government in the German Empire was increasingly seen as an outright military dictatorship, its British counterpart could maintain the impression of the military only playing a

minor role in its domestic policies. This should, however, not entirely blur the historical analysis of the profound impact the military had on British domestic policies during the war.

Emergency Government between Domestic Truce, Enforced Endurance and Emerging Dissent (January 1915 – mid-1916)

The phase between the beginning of the year 1915 and the unfolding of the military and domestic crisis of 1916 marks a period of relative calm at the home fronts compared to the unfolding crises in 1917 and 1918. This was, of course, a fragile composure under the circumstances of the continuing war. After the consolidation of the Western Front in December 1914 following the hitherto unknown large-scale battles in France and Belgium, hopes for a quick victory and a swift conclusion of the war vanished on all sides.³⁴⁰ The continuation of the war brought new and barely anticipated consequences. The static warfare on the Western Front with its extended firefights and artillery bombardments led to a high consumption of ammunition, which soon created shortages that jeopardised the further conduct of the war. The British ‘ammunition crisis’ of May 1915 questioned Prime Minister Herbert Asquith’s conviction that this war could be waged while continuing ‘business as usual’ at home.³⁴¹

In Germany, the first cracks began to show in the policy of the *Burgfrieden*, too. After the first act of public dissent in December 1914 by Karl Liebknecht, growing numbers in the social democratic movement began to question the war and

³⁴⁰ David French, ‘The Military Background of the “Shell Crisis” of May 1915’, *Journal of Strategic Studies*, 2, 2 (1979), pp. 192-205; Strachan, *To Arms*, pp. 163-280;

³⁴¹ *Ibid.*, pp. 993-1004.

its support by the SPD leadership. Additionally, wider spheres of the civilian population started to experience wartime hardships such as inflation, shortages in food supply, and the effects of profiteering that soon stirred the first large scale protest movements.³⁴²

The challenges that wartime governments now faced were increasingly complex: the civilian industries had to be transformed to satisfy the ever increasing demand for military supplies. At the same time, they had to ensure that enough goods for civilian consumption were produced. Manpower shortages and the mounting number of war casualties led to new government policies aimed at mobilising the entire societies for the war efforts. Against this backdrop, emerging protest movements gained momentum and slowly grew into mass movements by the end of 1916 and thus increasingly posed a challenge to the continuation of the war. The terms ‘endurance’ (*Durchhalten*) and *guerre à outrance* became central reference points for the war discourses, particularly in the German context.³⁴³ War was no longer a mere political or military phenomenon but was increasingly perceived as a test for the moral qualities of the whole nation. Or, as a later historian put it, the war became a ‘test of endurance, a match of material resources of the belligerents, of their ability to transform these into immediate tools of war, shells and guns, and of the spirit of men on both sides’.³⁴⁴

Parallel to the dissolution of the traditional boundaries of war on the front, the established limitations of state power under the rule of law were abandoned to wage

³⁴² The opinion analyses of the Berlin Police give an insight into the shifting public mood during this period. The emerging problems with food supply in working-class quarters soon triggered public protests: see Materna and Schreckenbach, *Dokumente aus Geheimen Archiven*, pp. 1-169.

³⁴³ Bauerkämper and Julien, *Durchhalten*, pp. 7-28.

³⁴⁴ René Albrecht-Carrié, *The Meaning of the First World War* (New Jersey: Prentice Hall, 1956), p. 64.

an increasingly totalised war. Now, wartime governments and their agencies began to make extensive use of their wide-ranging emergency powers to enforce this endurance. Yet, this does not mean that societal mobilisation was solely a product of state coercion. It was a combination of positive efforts to mobilise support for the war and the repression of dissent where necessary. Emergency powers were extensively used in those fields where voluntary mobilisation or propaganda failed. Often these were issues where the state had a vital interest in exercising control and surveillance, for example regarding the economic mobilisation of society or the handling of anti-war dissent and protest. Hence, the development of emergency government can therefore only be understood if we also take into account the emergence of dissenting groups and organised labour. These phenomena stood in a dialectic relation to each other. And although we should be careful not to interpret emergency measures as mere reactions to dissent, the radicalisation of protest and the aggravation of repressive emergency measures have to be regarded as strongly intertwined.

The Failure and Reform of the State of Siege in Germany (January 1915 – November 1916)

After taking over much of the administrative duties of the civilian authorities, the local military commanders in the German Empire were soon overwhelmed by the sheer scale of these tasks. Particularly the enforcement of local decrees soon proved to be a Sisyphean challenge. The initial ambition to regulate a wide range of daily-life issues soon clashed with the limited personal resources to enforce them. The personnel of many police authorities had been significantly thinned out since the beginning of the war as many constables had volunteered or were drafted to the

armed forces.³⁴⁵ A similar situation occurred regarding the civilian administration, where many junior civil servants who used to be the backbone of the German pre-war bureaucracy had joined the colours. It is nevertheless remarkable that the number of trials before the 46 extraordinary courts martial in the German Empire soared up to 76,864 in 1915.³⁴⁶ From the beginning of 1915, local military commanders and the chairs of the extraordinary courts martial repeatedly reported severe overwork.³⁴⁷ Statistically, this resulted in over 1,600 hearings per extraordinary court martial per year, or nearly five hearings per court on every day of the year.

The main reason for this was the fact that even the smallest breaches of emergency decrees were to be tried before courts martial. Internal assessments and an analysis of verdicts by the Imperial Home Office soon indicated that most offenses brought before the military authorities were of a minor nature.³⁴⁸ The Law Regarding the State of Siege, however, only provided the possibility to gaoil convicted offenders, however small their offence might have been. This led to the absurd situation that the courts martial convicted a high number of persons to the minimum sentence of one day, and then almost automatically petitioned the military commanders to issue a pardon. Here, the ambition to maintain certain standards of legality by the courts triggered a significant burden of administrative work that soon threatened to paralyse the military administration of the home front. In order to free

³⁴⁵ By 1916 the Berlin police had only 1,200 constables on duty, one sixth of its peace time strength; LAB A Pr. Br. Rep. 030 Nr. 11361, p. 361, *Report about the Wartime Activities of the Berlin Police*, 4 May 1916.

³⁴⁶ BArch R1501/112217, p. 277, *Survey about the Business of the Extraordinary Courts Martial*, July 1916.

³⁴⁷ See e.g. Deist, *Militär und Innenpolitik*, pp. 29-34.

³⁴⁸ For a rather comprehensive list about the trials before extra-ordinary courts-martial compiled by the Imperial Office of Justice see the series BArch R3001/6647 to R3001/6656.

up the courts martial for their actual duties – to try spies, saboteurs and other threats to the conduct of the war – amendments to Law Regarding the State of Siege were drafted in order to relieve them.

Another contributing factor for this revision was that the practice of the military commanders was increasingly scrutinised by the Reichstag. During plenary debates, SPD deputies began to demand a repeal of the state of siege for those parts of the empire that were not directly affected by combat operations. A motion brought forward by the social democratic parliamentarian Adolf Albrecht in July 1915 demanded the restoration of the suspended civil liberties and the return to civilian government by repealing the state of siege.³⁴⁹ In the budget committee of the Reichstag the Social Democrats threatened to boycott further budget talks should there be no changes to the current domestic policies. Due to the limited powers of the Reichstag, the adoption of the budget was one of the few occasions where political concessions could be demanded from the Imperial Government. The budget committee of the Reichstag was therefore a key battleground of domestic policies in the German Empire.

Yet, the Imperial Government and the military leadership showed no significant willingness to give in to these demands as they saw even the smallest concessions to such demands as a threat to their central position of power. However, in order to maintain the political truce, a reform of some aspects of the state of siege was hinted at. In July 1915, the legal counsellor of Lieutenant-General Wilhelm Groener in the Prussian Ministry of War, Eugen Schiffer, introduced the draft of a bill that was soon commonly known as ‘Lex Schiffer’. Essentially, it introduced the ability to hand out fines as punishment for minor breaches of emergency decrees

³⁴⁹ Verhandlungen des Reichstags, Stenographischer Bericht, vol. 316, No. 140, p. 202.

and to transfer petty offences under the state of siege to civilian courts of summary jurisdiction.³⁵⁰ This was a clever gambit by the Imperial Government: on the one side it publically demonstrated a certain willingness of the authorities to compromise. Yet, on the other side, it was effectively a remedy for a situation that had anyway proved unworkable, enabling the military to focus on the more relevant aspects of security policy and the management of the growing anti-war dissent. It nevertheless took until December 1915 for the new regulations to be set into operation.³⁵¹

The stance of the social democratic MPs in the Reichstag budget committee was symptomatic for the emerging discontent with the way the war was conducted. After Karl Liebknecht's rejection of further war credits in December 1914, other SPD deputies began to question the *Burgfrieden* policy. Since March 1915, splits within the SPD became more and more visible.³⁵² Local activists became increasingly active in protests against emerging food shortages and the increasing cost of living, with female party members often in prominent roles.³⁵³ The inactivity of the trade unions, which mostly observed the industrial truce declared in August 1914 by the Central Commission of the official trade unions under Carl Legien, and the failure of the SPD to effectively represent working class interests to the military authorities, soon led to the emergence of spontaneous grass-roots protests and food riots.³⁵⁴ The reaction of the local authorities was mixed. Police surveillance of meetings was increased and the publication of news about protests in many cases

³⁵⁰ Verhandlungen des Reichstags, Stenographischer Bericht, vol. 316, No. 132, p. 189.

³⁵¹ Reichsgesetzblatt 1915, No. 179, p. 813.

³⁵² Miller, *Burgfrieden und Klassenkampf*, pp. 103-125.

³⁵³ Belinda Davis, *Home Fires Burning. Food, Politics, and Everyday Life in World War I Berlin* (Chapel Hill: UNC Press, 2000).

³⁵⁴ Cf. Wehler, *Deutsche Gesellschaftsgeschichte*, pp. 45-46.

prohibited. Radical activists and leading organisers were often taken into protective custody to curb their influence on local protests. Another way to get rid of unwelcome agitators was to draft them into the army in order to bring them under military discipline. This happened to Karl Liebknecht, who was called up in March 1915. Faced with a ban on any political activity outside the actual sessions of the Reichstag, Liebknecht soon found himself in conflict with his military superiors. A similarly repressive approach was taken towards other leading organisers of anti-war dissent. This was not limited to radical socialists. Also the ‘bourgeois’ peace movement, particularly the German Peace Society (*Deutsche Friedensgesellschaft*) and its wartime camouflage organisation New Fatherland League (*Bund Neues Vaterland*), were soon faced with the suppression of their activities.³⁵⁵

However, many military commanders often felt compelled to allow some public protest meetings to give the growing discontent a controlled outlet as long as they were limited to the discussion of – from their point of view – non-political issues. Allowing protest meetings was part of a quasi-appeasement policy by the authorities that seemingly accepted the need to address legitimate grievances without challenging the conduct of the war in general.³⁵⁶ In the wake of the proclamation of the domestic truce, notions of a national community of the German people (*Volksgemeinschaft*) regardless of social class were propagated.³⁵⁷

³⁵⁵ Cf. BArch R1501/112218, pp. 171-194, *Petition of the German Pacifists to the Reichstag*, 1 July 1917; see also Chapter Five.

³⁵⁶ See e.g. ‘Letter by the Army Command of the Army-Detachment Falkenhausen to Prussian Ministry of War regarding the court martial against Karl Liebknecht, 29 April 1915’ quoted in Deist, *Militär und Innenpolitik*, p. 226-232.

³⁵⁷ Stefan Bruendel, *Volksgemeinschaft oder Volksstaat: Die Ideen von ‘1914’ und die Neuordnung Deutschlands im Ersten Weltkrieg* (Berlin: Oldenbourg Akademieverlag, 2003), esp. pp. 238-290; Jeffrey Verhey, *The Spirit of 1914: Militarism, Myth and Mobilization in Germany* (New York: Cambridge University Press, 2000); see also Wehler, *Deutsche Gesellschaftsgeschichte*, p. 18, pp. 36-38.

It seems that many local authorities felt bound to this moral category although it barely informed actual policymaking in favour of working-class interests. Yet, the idea of a homogeneous national collective established certain categories of people that were excluded from it and posed a threat to its functioning. Just like the external enemy, groups of ‘enemies within’ had to be combated and contained to protect the people. We have already seen that these ‘enemies in the midst’ were at the beginning predominantly enemy aliens and members of ethnic minorities. Against the backdrop of growing discontent and protest, however, the older categories of the ‘enemies of the realm’ (*Reichsfeinde*) were evoked again by the right-wing press.³⁵⁸

In addition, the discourse about wartime hardships became increasingly fuelled by anti-Semitic stereotypes that were propagated by right-wing groups such as the Pan-German League. One consequence of this campaigning was the so-called ‘Jewish Census’ (*Juden­zählung*) of May 1916.³⁵⁹ Reacting to the pressure of the Pan-German League, the Prussian minister of war ordered a secret census of Jewish-German soldiers in the army to find evidence for alleged shirking and war profiteering of the Jews in the Empire. Eventually, the investigation found no proof for the allegations of the Pan-German League and the census was declared a top-secret issue prohibiting any reports about it.³⁶⁰

In general, the activity of right-wing groups such as the Pan-German League and its handling by the authorities offers a very interesting perspective on the

³⁵⁸ Cf. Bruendel, *Die Ideen von 1914*, pp. 191-201.

³⁵⁹ Christhard Hoffmann, ‘Between integration and rejection: the Jewish community in Germany, 1914-1918’, in: John Horne (Ed.), *State, Society and Mobilization in Europe during the First World War* (Cambridge: Cambridge University Press, 1997), pp. 89-104, esp. 94-97.

³⁶⁰ Jacob Rosenthal, *Die Ehre des jüdischen Soldaten.: Die Juden­zählung im Ersten Weltkrieg und ihre Folgen* (Frankfurt/Main, 2007), pp. 70-74.

political preferences of many military commanders. Although the Imperial Government, in particular Chancellor Bethmann-Hollweg and his entourage, was keen on combating the influence of extreme-right circles and their propagation of an expansionist war aims policy, local military commanders only reluctantly used their emergency powers to curb the activities of these groups.³⁶¹ Whereas left-wing publications and activists were increasingly confronted with pre-emptive censorship and protective custody from mid-1915 onwards, right-wing organisations barely experienced any interference with their activities from the authorities.³⁶²

In particular the partisan and often arbitrary use of protective custody was increasingly seen as an excess of emergency government. During the Reichstag sessions of 1916, deputies of SPD, Liberals, and even the catholic Zentrum began to criticise the excessive use of protective custody by the military commands.³⁶³ For example, military commanders had ordered protective custody in cases where individuals were acquitted of charges by the civil courts. In other cases protective custody was used to prolong already spent prison sentences. Protective custody was in strict legal terms no form of punishment but an instrument of security policy to protect against threats to public safety. Who was to be seen as such a threat, and how long protective custody was necessary, however, was completely in the

³⁶¹ The aide of Imperial Chancellor Bethmann-Hollweg, Kurt Riezler, kept a detailed diary of the war years. His reflections on the menace of the maximalist war aims of the extreme right reflects the stance of the Bethmann-Hollweg administration towards them: Karl Dietrich Erdmann (ed.), *Kurt Riezler: Tagebücher, Aufsätze, Dokumente* (Göttingen: Vandenhoeck und Rupprecht, 1972).

³⁶² One of the very few attempts to curb the activities was the censorship of some memoranda by the chairman of the Pan-German League, Heinrich Claß, in January 1915. See 'Letter by the Deputy Commander of the 18th Army Corps to the Imperial Chancellor regarding the Confiscation of a Memorandum by Heinrich Claß, 5 January 1915' quoted in Deist, *Militär und Innenpolitik*, pp. 214-216.

³⁶³ The chairs of the budget committee, Spahn and Stresemann, eventually submitted the bill for a law regarding the application of protective custody: *Verhandlungen des Reichstags, Stenographischer Bericht*, Bd. 319, Nr. 431, p. 865.

discretion of the military commanders who ordered it. Therefore it was not bound to court hearings or criminal conviction but based on often arbitrary definitions of security interests and potential threat. There were no effective legal means for detainees to challenge their imprisonment, and no protection against the arbitrary use of this emergency power by the military.

The subsequent parliamentary debates about a reform of protective custody started once more in the budget committee. In hitherto unknown unity, the centre-left parties demanded profound changes to the legal framework of the state of siege. The dictatorial powers of individual military commanders were no longer deemed acceptable. In the accompanying campaign in the liberal and social democratic press, the regime under the state of siege was described as a ‘cancerous ulcer’ for the German people that had started as small measure to ensure mobilisation but had developed into a complete system of political repression.³⁶⁴ In a series of Reichstag speeches, the left-wing SPD parliamentarian Wilhelm Dittmann described the system of the state of siege as a downright military dictatorship during the debate.³⁶⁵ The Imperial Government reacted reluctantly, although internal assessments backed most of the claims that were articulated in the Reichstag.³⁶⁶ A first concession to the critics was the establishment of a central authority for complaints regarding the actions of the local military commanders situated in Berlin in March 1916. The so-called Supreme Military Commander (*Obermilitärbefehlshaber*) had no particular

³⁶⁴ Verhandlungen des Reichstags, Stenographischer Bericht, Bd. 307, 54. Sitz., p. 1278; see also BArch R3001/6666, *Newspaper Extracts regarding Censorship, Protective Custody etc. during the State of War*, April 1916-May 1920.

³⁶⁵ Wilhelm Dittmann, *Belagerungszustand, Zensur und Schutzhaft vor dem Reichstage: Drei Reichstagsreden, geh. 1916*; Nach d. amtl. Stenogramm (Leipzig: Verlag der Leipziger Buchdruckerei, 1917).

³⁶⁶ BArch R3001/6662, pp. 148-155, *Legal Opinion on State of Siege Legislation for Imperial Secretary of Justice*, September 1916.

powers in the actual chain of command but could be addressed to review decisions of the local commanders. This minor reform was enacted as royal decree (*königlicher Erlaß*) to avoid the impression of a success for the parliamentary campaign.³⁶⁷

Yet, the threat of obstruction in the budget committee put additional pressure on the Imperial Government to undertake further reforms. Protective custody remained the key issue for the parties and the pressure for its reform was maintained. It took until December 1916 for a first draft of a Law Regarding the State of War (*Gesetz betreffend den Kriegszustand*) to be presented before parliament. The draft remained far from banning the instrument of protective custody but merely gave detainees the right to consult a legal counsel and to appeal against their detention. For the first time, the possibility of compensation for illegal detention was introduced but detainees only had a right to be freed after the war had ended. Nonetheless, the power of the local military commanders to detain any person without trial was not abolished. The Protective Custody Law (*Schutzhaftgesetz*) was passed by the Reichstag on 2 December 1916 and was set into operation on 4 December 1916.³⁶⁸

The actual background of this concession was that the new Third Supreme Army Command (*Dritte Oberste Heeresleitung*) under Hindenburg and Ludendorff was pushing for a swift enacting of the Auxiliary Service Law (*Gesetz über den Vaterländischen Hilfsdienst*). The public debate about protective custody seems to have strained the negotiations so that at least a minor victory was conceded to the

³⁶⁷ Ibid., pp. 248-256.

³⁶⁸ Reichsgesetzblatt 1916, pp. 1329-1331.

Reichstag parties.³⁶⁹ The historical significance of the parliamentary campaign for the reform of the state of siege, however, is not necessarily to be found in the Protective Custody Law itself. The actual handling of the new legal provisions soon proved to be an ineffective protection against arbitrary detention by the military authorities. More relevant was, in fact, that the parliamentary campaign against protective custody brought together – for the first time – those parties that would later form the so-called Reichstag majority. In 1918, this unlikely alliance became the forerunner of the first Weimar coalition.

Emergency government in Britain under the Asquith Cabinet (January 1915 – December 1916)

Emergency government in Britain under the cabinet of Prime Minister Herbert Asquith remained an ambiguous matter. Certainly, the enactment of the Defence of the Realm Acts in 1914 had provided the government with a barely restricted range of powers to the executive. But they were not systematically applied on a large scale as long as Asquith remained in office as Prime Minister.

If we follow the argument put forward by Brock Millman, then the main reason for this hesitation is to be found in the liberal inhibitions of the cabinet members.³⁷⁰ This is, however, not entirely convincing when we take into account that Asquith as well as cabinet ministers such as Winston Churchill had previously proved to be rather pragmatic when it came to the application of drastic domestic measures. The handling of the Labour Unrest between 1911 and 1913 provides ample evidence that liberal inhibitions did not necessarily limit willingness to apply

³⁶⁹ ‘Letter by the Prussian Ministry of War to Prussian Ministry of State regarding the Negotiations in the Budget Committee, 22 October 1916’ quoted in Deist, *Militär und Innenpolitik*, p. 442-444.

³⁷⁰ Millman, *Managing Dissent*, pp. 31-34.

harsh emergency measures. A more likely explanation for this reluctance is to be found in the concerns of the British government that too repressive a policy would damage Britain's reputation in the neutral countries and particularly in the USA and cause undesirable domestic debates. Among the liberal Home Secretaries Reginald McKenna (1911 – 27 May 1915), John Simon (27 May 1915 – 12 January 1916) and Herbert Samuel (12 January 1916 – 7 December 1916) the notion that emergency measures against prominent anti-war dissenters would in most cases 'do more harm than good' prevailed.³⁷¹ Harsh measures against dissenters were seldom taken although the early trials against the Clydeside labour leader John MacLean were used as a clear warning.³⁷² However, throughout 1915 until the introduction of conscription in January 1916, organised anti-war dissent remained a marginalised phenomenon. The Union of Democratic Control (UDC) that functioned as a collective movement for the various milieus in opposition to the war was still a comparatively small organisation. Millman states quite convincingly that the comparative harmlessness of organised anti-war dissent did not make it necessary to establish a complete system of state repression.³⁷³ This is, nonetheless, a limited picture of the situation merely focused on dealing with organised dissent.

The main challenges for the British government were the manifold problems regarding the necessary increase of industrial production and, in this regard, mainly the manpower shortages and strike movements. Another pressing problem were protests against hardships such as inflation and the rising costs of living. Local protest movements, often appearing in industrial centres such as Glasgow,

³⁷¹ Sanders and Taylor, *British Propaganda*, p. 32-33.

³⁷² Nan Milton, *John Maclean* (London: Pluto Press, 1973), pp. 100-101.

³⁷³ Sanders and Taylor, *British Propaganda*, pp. 38-46.

Newcastle, or the South Welsh coal-mining areas were often not generally directed against the war.³⁷⁴ What was widely criticised was the perceived unfair share of the war burdens and the virulent war profiteering of landlords and shop owners.³⁷⁵ The large-scale and quickly radicalising Glasgow rent strike from April until November 1915 was a first warning sign to the government that these forms of social protest could in some cases merge with a more general anti-war stance.³⁷⁶ A main objective for the authorities was therefore to prevent this from happening. The British situation was additionally aggravated by the unfavourable course of the war itself. A lack of military successes and mounting casualty numbers led to a situation in which the numbers of voluntary recruits could barely make up for the losses.³⁷⁷ Consequently, the introduction of conscription became a pressing issue for the Asquith Cabinet from mid-1915. Yet it seems that the cabinet hesitated to introduce conscription due the perception that it would be unpopular.³⁷⁸ And, without a doubt, the protest against conscription eventually generated a growing anti-war protest movement that united hitherto split parts of the moderate labour movement, radical socialists, disenchanted liberals and pacifists. From late-1915, more and more

³⁷⁴ James Hinton, *The First Shop Stewards' Movement* (London: Allen and Unwin, 1973), pp.103-273; see also Branko Pribicévić, *The Shop Stewards' Movement and Workers Control 1910-1922* (Oxford: Blackwell, 1956).

³⁷⁵ Various food riots and protest meetings from early 1915 illustrate this very well. Jean-Louis Robert analysed the popular perceptions and depictions of war profiteers in comparative perspective, see Jean-Louis Robert, 'The Image of the Profiteer', in: Jay Winter and Jean-Louis Robert, *Capital Cities at War: London, Paris, Berlin, 1914-1919* (Cambridge: Cambridge University Press, 1999), pp. 104-132.

³⁷⁶ *Ibid.*, pp. 103-140.

³⁷⁷ Up to the end of 1916, over 530,000 British soldiers were killed, wounded or captured by the enemy, a number that would almost double during the following two years. Voluntary recruitment, however, increasingly lagged behind the rising casualties particularly after the devastating Dardanelles campaign and the Battle of Loos in 1915. Cf. War Office (ed.), *Statistics of the Military Effort of the British Empire during the Great War, 1914-1920* (London: HMSO, 1922), pp. 237-395.

³⁷⁸ A first attempt to introduce a hybrid form of conscription was the so-called Derby Scheme of 1915. Here, men could enlist in lists and would only be called-in if necessary. Eventually, the Derby Scheme proved to be a failure: Millman, *Managing Dissent*, p. 52.

dissenting groups appeared on the political stage. This included the No Conscription Fellowship (NCF) already founded in 1914, the National Council Against Conscription (NCAC) founded in mid-1915 as well as the majority of the Independent Labour Party (ILP), the British Socialist Party (BSP), local trade union councils and Christian pacifists such as the Society of Friends.

The development of actual emergency legislation in 1915 was, nevertheless, negligible. In March the promised amendment bill to DORA was introduced in the House of Commons, giving British subjects the right to appeal against decisions of courts martial and referring most cases that dealt with breaches of Defence Regulations to ordinary courts of law.³⁷⁹ With its amendment, all offences that would in peacetime be punished with a maximum sentence of six months hard labour or a 100 pounds fine, civil courts could be used instead of courts martial. The new amendment represented a compromise between cabinet, military and parliament that took into account the criticism articulated against the Defence of the Realm Consolidation Act in December 1914. Additionally, it enabled the military to curtail the distribution of liquor in areas under military command – probably one of the longest lasting legacies of DORA in Britain.³⁸⁰ After some debate the amendment passed the House of Commons and the Lords. This was the last major amendment of DORA, giving it its final shape until the end of the war. The government made, however, extensive use of its right to issue defence regulations. Between August 1914 and February 1918 a total of 246 Defence Regulations was set in operation. Most of these were enacted in the time between

³⁷⁹ Defence of the Realm (Amendment) Act, 5 Geo. 5, c. 34.

³⁸⁰ Ewing and Gearty, *The Struggle for Civil Liberties*, pp. 51-52.

January 1915 and December 1916.³⁸¹ The number of local by-laws issued by the Competent Military Authorities cannot be assessed. Together with the numerous amendments to existing DRR, we can assume that the number of individual pieces of legislation ran into the thousands. Some of them extended the powers of the executive considerably, whereas others represented only minor changes.

One significant piece of legislation that can with good reason be defined as an emergency measure was the Munitions of War Act of August 1915.³⁸² The background of the act was the profound change towards trench warfare on the Western Front that created a major demand for ammunition of all kinds. Above all, the massive bombardments that prepared for larger offensives consumed millions of shells. Production soon lagged behind military consumption and created an ammunition shortage that endangered the combat readiness of the British Expeditionary Force. The so-called Shell Crisis of May 1915 had demonstrated how vital the production of war-relevant materials had meanwhile become. The British economy, however, had trouble adapting to war production and was additionally challenged by a number of strikes that occurred during the year 1915. Those strikes were often desperate reactions to rapidly rising costs of living that put workers under immense strain.³⁸³

The Munitions of War Act was designed to tackle this complex issue.³⁸⁴ It sought to combine repressive elements such as the prohibition of strikes in factories

³⁸¹ *Defence of the Realm Manual* (London: HMSO, 1918), pp. 29-185.

³⁸² 5 & 6 Geo. 5 Ch. 54.

³⁸³ Strachan, *To Arms*, pp. 995-1003.

³⁸⁴ Gerry Rubin, *War, Law, and Labour: The Munitions Acts, State Regulation, and the Unions 1915-1921* (Oxford: Oxford University Press, 1987); Sven Oliver Müller, *Nation als Wille und Vorstellung: Nationalismus in Deutschland und Großbritannien im Ersten Weltkrieg* (Göttingen: Vandenhoeck und Rupprecht, 2002), pp. 238-253.

producing war supplies with the regulation of labour relations through the establishment of arbitration committees. In order to appease political protests, so-called Munitions Tribunals were established to try offences under the act – mostly strikes – that were likely to withhold labour and products from the war effort.³⁸⁵ These tribunals were comparable to the institution of courts martial that tried breaches of DORA. Factories that produced war supplies could now be declared ‘controlled establishments’ and thereby put under special supervision by the Ministry of Munitions.

The establishment of state-sanctioned courts of arbitration for labour relations was an attempt to force trade unions and employers into a wartime economy. But it was to a certain extent also a concession to the organised labour movement, as well as an attempt to integrate it into the war effort. Under the Munitions of War Act, so-called National Factories were created, with the largest in Gretna on the Scottish-English border.³⁸⁶ For the first time, planned economy and nationalisation of key industries was practised on a large scale in Britain. It was also the first time that representatives of organised labour were put in positions of (partial) control over the means of production. This rudimentary ‘war socialism’ met with ambiguous reactions from the left. For some, this was a step closer to the feared industrial conscription, for others – mainly Fabians around the Webbs – this was a living

³⁸⁵ Under the act, two kinds of tribunals were established: General Munitions Tribunals dealt with serious breaches of the Munitions of War Act such as organizing and taking part in illegal strikes, whereas local Munitions Tribunals handled breaches of working disciplines in controlled factories and companies. The General Tribunals were later transferred under the supervision of the Ministry of Labour.

³⁸⁶ By 1918 about 240 National Factories existed in Britain employing tens of thousands of workers. See Michael Strotton and Barrie Trinder, *Twentieth Century Industrial Archaeology* (London, 2000), pp. 96-102; Gerd Hardach, *The First World War, 1914-1918* (Berkeley, Cal.: The University of California Press, 1977), pp. 82-86.

experiment that could prove the superiority of nationalised production and a planned economy.³⁸⁷

Another attempt to use the emergency powers to create some relief for the working class, the so-called Emergency Powers (Courts) Act was enacted already in August 1914. This act allowed courts to postpone evictions and enforcement orders, if the affected persons could prove that their incapacity to pay their debts was caused by the war. The War Emergency Workers' National Committee lobbied the government to make extensive use of this emergency measure and provided legal aid for affected families.³⁸⁸ This is remarkable as it shows that the emergency powers were not always applied in a partisan way to tackle strikes and dissent but also to meet some of these working-class grievances that were seen as legitimate. With the enactment of the Munitions of War Act, a special ministry under the former Chancellor of the Exchequer, David Lloyd George, was created to coordinate the transformation into a war economy.³⁸⁹ The new Ministry of Munitions also maintained its own intelligence division, named P.M.S.2, which made efforts to infiltrate strike movements and collect evidence about upcoming labour disputes.³⁹⁰

Yet, the act also created new problems for the government. Although the industrial output of war materials increased significantly, it also contributed to a radicalisation of dissent and led to the gradual rapprochement of formerly disparate

³⁸⁷ Jay Winter, *Socialism and the Challenge of War*, pp. 188-200.

³⁸⁸ LHASC, WNC 15/4, *Legal*, 1914-1918.

³⁸⁹ Chris H. Wrigley, 'The Ministry of Munitions: An Innovatory Department', in Burke, *War and the State*, pp. 32-56; Travis L. Crosby, *The Unknown Lloyd George: A Statesman in Conflict* (London: I.B. Tauris, 2014), pp. 194-207; Pugh, *Lloyd George*, pp. 81-88.

³⁹⁰ This labour intelligence unit was called 'Parliamentary Military Security Department 2' (P.M.S. 2). The name could, however, barely disguise the character of an anti-strike domestic intelligence unit. For its history, see Nicholas Hiley, 'British Internal Security in Wartime: The Rise and Fall of the PMS2, 1915-1917', *Intelligence and National Security*, 1 (1986), pp. 395-415.

protest movements. With the looming introduction of conscription anti-war groups intensified their efforts among working class audiences. The coincidence of the Munitions Act and the escalating debates about the introduction of military conscription paved the way for a combination of anti-war dissent and trade unionist protests against industrial conscription.

A good example of this new quality of anti-war protest that merged social and political arguments was the formation of the Clyde Workers' Committee (CWC) in Glasgow in late 1915.³⁹¹ Here, socialist activists such as William Gallagher, John MacLean, and James Maxton joined forces with the local shop stewards to organise protests against the dilution of skilled labour by female and unskilled workers and the imposition of the Munitions of War Act.³⁹² In an attempt to appease the protesters, Munitions minister Lloyd George tried to address a mass meeting with Clydeside workers at St. Andrew's Hall, Glasgow, in December 1915.³⁹³ The speech was interrupted and the meeting eventually broken up by enraged workers. Lloyd George had been publicly embarrassed and silenced by the Clyde Worker's Committee. Immediately afterwards, an order was issued that every newspaper report about the catastrophic meeting had to be curtailed and censored.³⁹⁴ When the Glaswegian BSP paper *Vanguard* defiantly published a full report of the event, it was immediately banned from further publication. The Glasgow experience certainly influenced Lloyd George's rather oppressive handling of dissent and strike

³⁹¹ For the developments in Glasgow, see James Hinton, 'The Clyde Workers' Committee and the Dilution Struggle', in Saville and Briggs, *Essays in Labour History*, pp. 152-184; idem, *The First Shop Stewards' Movement* (London: Allen and Unwin, 1973); Robert Keith Middlemas, *The Clydesiders. A Left Wing Struggle for Parliamentary Power* (London: Hutchinson, 1965), pp. 58-83; Nan Milton, *John Maclean* (London: Pluto Press, 1973), pp. 109-115.

³⁹² Hinton, *First Shop Steward's Movement*, pp. 103-161.

³⁹³ Crosby, *The Unknown Lloyd George*, pp. 199-201.

³⁹⁴ *Ibid.*, pp. 134-136.; Milton, *John Maclean*, pp. 114-115.

movement during his term as Prime Minister from December 1916 onwards.³⁹⁵ The following crackdown on the CWC exemplifies for the way emergency powers were increasingly used to suppress protest movements when they were perceived as getting too dangerous. Against the leaders of the Clydeside movement the whole range of repressive measures was applied when they protested dilution between January and March 1916. The most active shop stewards of some Clydeside shipyards, for example David Kirkwood, were arrested and deported to Edinburgh. A sedition trial against William Gallagher, John MacLean, and James Muir for breaches of the Defence of the Realm Act ended with a prison sentence of three years for MacLean, and one year each for the other two.³⁹⁶ The government established a strategy for suppressing strike movements and dissent that favoured the detention of leading activists over the wholesale repression of entire protest movements. This approach would become a main feature of the British system of repressing anti-war dissent.

With the introduction of conscription a new tool for silencing was added to the arsenal of the authorities. As in Germany, many leading figures of anti-war groups were drafted and put under military discipline. Even if most activists could have been recognised as conscientious objectors, many refused to appear before the mustering commissions, disobeyed orders by the military and were held in detention. One of the most prominent examples is the case of Clarence Henry Norman, chairman of the anti-war No Conscription Fellowship. Norman was arrested in June 1916 after refusing to appear to get mustered. He was then put before a court martial and eventually kept in military detention until the end of the

³⁹⁵ Martin Pugh, *Lloyd George* (London and New York: Longman, 1988), pp. 88-89.

³⁹⁶ *Ibid.*, pp. 135-139.

war in November 1918.³⁹⁷ The threat of drafting undesirable dissenters or striking workers was used as a means of intimidation throughout the rest of the war.³⁹⁸

Although a distinct willingness to increase the use of repressive measures against strikers and dissenters came to the fore during Asquith's last months as Prime Minister, also the dilemmas of emergency government became apparent. When over 200,000 South Welsh miners went on strike in July 1915, there was virtually no way to enforce DRRs and the Munitions of War Act, except to suppress the strike with the massive deployment of the military.³⁹⁹ This would have meant to use the military against striking workers to an extent that would have endangered the war effort as a whole. Police and civilian authorities alone did not have enough personnel to suppress such a large-scale strike effectively. Within four days Munitions minister David Lloyd George had to give in to all the demands of the South Welsh miners. The Munitions of War Act was essentially a toothless tiger when it came to dealing with large-scale strike movements such as that in South Wales because it was not underpinned by the necessary resources to enforce it. Consequently, more effort was invested in domestic surveillance and pre-emptive measures against emerging strikes. At the same time massive propaganda efforts were undertaken to mobilise patriotic sentiments within the working class.

On the other side, however, the brutal suppression of the Easter Rising in Ireland by the British army also illustrated the consequences that a direct confrontation with the military potentially would have. The events in Ireland

³⁹⁷ TNA HO45/11170, *War: Clarence Henry Norman. Conscientious Objector, Secretary of the 'Stop the War' Movement, 1916-1923.*

³⁹⁸ Millman, *Managing Dissent*, pp. 189-203.

³⁹⁹ Anthony Mór-O'Brien, 'Patriotism on Trial: the Strike of the South Wales Miners, July 1915', *Welsh History Review*, 1, 12 (1984), pp. 76-104.

certainly had an intimidating effect on organised dissent in England, Scotland, and Wales.⁴⁰⁰ But also the government actions were also restrained by external factors. Public opinion about Britain in the neutral countries, especially in the USA became an important point of reference.⁴⁰¹ This included the fear that overly repressive measures would damage Britain's image and its attempts to bring the USA into the war. Nevertheless, since Britain did not declare its official war aims until late 1917, the claim to fight a war for liberty did not allow contradicting this cause by overly authoritarian measures on the home front. The combination of these factors led to a certain self-restraint on both sides of the internal divide. Nevertheless, under the leadership of Prime Minister David Lloyd George this would profoundly change opening the way for a new and in many respects more repressive handling of dissent.

Comparison

We can discern remarkable parallels between the domestic situation in Germany and Britain in 1915 and early 1916. The prolonged nature of the war and its consequences created unanticipated challenges for the economies in both countries. The immense consumption of ammunition and shells jeopardised the conduct of the war on both sides. Also, the huge sacrifices in human lives soon put strains on the industrial and military manpower reserves. However, the German Empire was

⁴⁰⁰ The question what impact the violent suppression of the Easter Rising 1916 had on organised dissent in Britain is understudied and still holds great potential for future research: David Granville, 'The British Labour and Socialist Movement and the Easter Rising 1916', in Ruan O'Donnell (ed.), *The Impact of the Rising 1916 Amongst the Nations* (Dublin: Irish Academic Press, 2008), pp. 49-70.

⁴⁰¹ Philip M. Taylor, *British Propaganda in the Twentieth Century: Selling Democracy* (Edinburgh: Edinburgh University Press, 1999), pp. 35-48.

under additional pressure as the British naval blockade began to deprive the country of much needed resources and vital trade links.⁴⁰²

In both countries, the civilian population began to feel the effects of the war. Rising costs of living in Germany and the extended periods of hunger due to the blockade triggered the first serious protest movements against the war. Riots and food protests emerged during the year 1915 and remained a constant feature of wartime society. The first massive strike that combined political and social demands occurred in May 1916 when 55,000 metal workers in Berlin went on strike. The background was the trial of Karl Liebknecht, who was detained after speaking at an illegal May Day demonstration in Berlin. In his speech Liebknecht had demanded an immediate end to the war and promoted the overthrow of the Imperial Government. Consequently, the court martial passed a sentence of four years gaol. The May Strike in Berlin and parts of Saxony revealed the growing discontent among the German workers that could no longer be entirely channelled by the majority fraction of the SPD.⁴⁰³

However, although anti-war groups and activities emerged in both countries, authorities acted in most cases rather leniently against them. The main concern was to control and steer these spontaneous outbreaks of discontent, which on the local level often related to questions of food supply or profiteering. Where these grievances were seen as legitimate, authorities in both countries showed a surprisingly high degree of forbearance. In both countries, the concept of the 'fighting home' (*kämpfende Heimat*) or home front was ideologically framed as a national collective transcending traditional class divides. Nonetheless, ideal and

⁴⁰² Christopher Birrer, 'A Critical Analysis of the Allied Blockade of Germany, 1914-1918'; *Journal of the Centre for First World War Studies*, 1, 2 (2004) pp. 35-67.

⁴⁰³ Wehler, *Deutsche Gesellschaftsgeschichte*, pp. 45-46

reality soon clashed. This was particularly the case regarding the unequal share of wartime hardships between the working classes and the upper and middle classes. And, as we shall discuss later, the concept of a war-socialist *Volksgemeinschaft* in Germany was soon loaded with racial stereotypes and anti-Semitism. The notion of wartime national unity was also used to legitimise the application of emergency measures for social welfare.

In Britain, this community on the home front was constructed against ‘enemies in the midst’, predominantly German and Austrian enemy aliens. Occasional xenophobic and anti-Semitic riots occurred throughout the war, for instance after the sinking of the *Lusitania* in May 1915.⁴⁰⁴ The British government, however, reacted sensitively to public opinion and feelings and knew how to utilise them. The large-scale and militarily unnecessary internment of so-called ‘enemy aliens’ from early 1915 onwards demonstrated the ability of the British government to accommodate and mobilise public moods quite effectively.⁴⁰⁵ Police and military intervened only leniently in such occurrences.⁴⁰⁶ Here, local police authorities often appeared themselves as patriotic actors whose action were led by conceptions of the ‘enemy within’. This indicates, however, that the authorities in Britain and Germany perceived their emergency measures not as directed against the *people* but as attempts to preserve the domestic truce and national unity against internal

⁴⁰⁴ Regarding the *Lusitania* riots see Nicoletta Gullace, ‘Friends, Aliens, and Enemies: Fictive Communities and the *Lusitania* Riots of 1915’, *Journal of Social History*, 2, 39 (2005), pp. 345-367; Leonhard, *Büchse der Pandora*, pp. 353-356; Panayi, *The Enemies in Our Midst*, pp. 223-258.

⁴⁰⁵ Panikos Panayi, ‘An Intolerant Act by an Intolerant Society: The Internment of Germans in Britain during the First World War’, in David Cesarani and Tony Kushner (eds), *The Internment of Aliens in Twentieth Century Britain* (London: Frank Cass, 1993), pp. 53-78.

⁴⁰⁶ After the German foreign press launched a number of reports about the maltreatment of Germans in Britain, the Home Office ordered an enquiry of the allegations. Although, most of the German claims proved to be exaggerated the enquiry shed light on the often lenient prosecution of anti-German excesses; TNA HO 45/10787/298199, *Aliens: Alleged Maltreatment of German Women and Children in the United Kingdom, 1915-1916*.

and external enemies. A significant difference between Britain and Germany in this context seems to have been that the idea of the home front did not become as ideologised as the German ideal of the *Volksgemeinschaft*.

The means to preserve this idealised national unity and to enforce endurance were emergency measures. Their increased application also highlights that societal mobilisation was an ambiguous and sometimes rather superficial phenomenon. Particularly in Britain, where voluntarism in wartime was an ideological principle of the Liberals, the hitherto unpopular application of coercive measures was soon a necessary element of wartime policies. During the year 1915, the emergency powers of the executive in Britain were increasingly extended. The Munitions of War Act from August 1915 introduced the principles of industrial conscription for strategic industries. It also established a full apparatus of repressive instruments to suppress strikes and increase production such as an own labour intelligence unit or the so-called Munitions Tribunals. This restriction of trade union rights was partly counter-balanced by the introduction of arbitration and the establishment of nationalised industries. This could, however, not prevent the emergence of large-scale protest movements that soon radicalised. Another step towards total societal mobilisation was the introduction of conscription in January 1916, which led to a rapprochement of initially quite disparate protest movements that would create severe challenges for the British government. The combination of labour protest, social unrest, and fundamental anti-war dissent was to a certain extent a direct product of the described government measures.

Parallel to this constant expansion of emergency government in Britain, the development in Germany turned in a slightly different direction. Here, the unrestrained and de facto absolute powers of the military were partially hedged by

new pieces of legislation. The *Lex Schiffer* in December 1915, the creation of the supreme military commander in March 1916 and the Protective Custody Law in 1916 were attempts by the parliament to regulate and limit the use of emergency powers. Although consequently not restricting the actions of the local military commanders, the debates about the state of siege began to forge a coalition of liberal parties, Centre and moderate majority social democrats that, during the later course of the war, pushed for further political reforms and finally formed the first Weimar coalition after the war in 1919.

However, when serious opposition to the authorities and the war efforts occurred, the reactions were often extremely harsh. The Clyde Workers' Committee that was formed to resist the implementation of the Munitions of War Act in Glasgow was soon repressed when its leading figures were gaoled and grass-roots activists expelled from Glasgow and issued with exclusion orders. Another instrument that was increasingly used in both countries was to call up leading dissenters in order to put them under military discipline and prevent them from being politically active. This happened to the key figure of German anti-war dissent, Karl Liebknecht, in 1915 but also to figures such as C. H. Norman, the chairman of the dissenting No Conscription Fellowship. The treatment of conscientious objectors in Britain became a major issue for the British anti-war groups. On the one hand, dissenting groups sought to present COs as martyrs of peace who were repeatedly maltreated in prison. The British government on the other hand, had no interest in creating these martyrs but also sought to deter others from objecting. Additionally, the military authorities treated COs often rather harshly.⁴⁰⁷ A

⁴⁰⁷ TNA HO 144/5802, War: *Treatment of Conscientious Objectors Sentenced to Imprisonment, 1916-1926*; TNA HO 45/10886/348601, War: *Conscientious Objectors – Refusal to Work, Memorandum to Local Prisons, 1917.*

comment by Home Secretary Herbert Samuel that a CO should rather ‘be left alone if we can’t have him shot’, may illustrate the ambivalence of the issue.⁴⁰⁸ However, despite the problematic handling of conscientious objection in Britain, it still provided some alternative to military service for pacifists. The German Empire only conceded the possibility of a non-combatant military service that put pacifists nevertheless under military discipline. At later stages, this method was extensively used to suppress strike movements and dissent. A special feature of the German system of suppression was the so-called protective custody that allowed the military authorities to detain anybody without trial for an undetermined period of time. Throughout the course of the war, several thousand people were held in such a protective custody with detention times ranging from several days to several months and years. The Protective Custody Law only brought minor changes that did not provide any effective protection for the victims. Protective Custody was an out-and-out means of political suppression on the German home front that had no real equivalent in Britain in terms of quantity and quality.

Conclusion

Emergency government emerged during the first months of the First World War as a framework to control, steer and mobilise wartime societies. Most of the measures that were enacted in Britain and Germany were designed to quell potential protest and disturbances of the mobilisation process. However, after domestic truce policies were negotiated, authorities increasingly used their emergency powers to transform their societies answering the necessities of wartime production. The

⁴⁰⁸ TNA HO 144/20983, *Note on file by Samuel*, 23 October 1916.

occurrence of war profiteering, rising costs of living, and shortages in food supply, however, did soon vividly demonstrate the limits of patriotic mobilisation and national unity propaganda. Emergency powers were extensively used to regulate these aspects of daily life under the circumstances of a prolonged war. The application of these measures was guided by the enforcement of a certain set of social norms by the authorities in both countries as the mentioned examples have illustrated. After the beginning of the war concerns about moral decline, inappropriate behaviour and consumption were tackled with decrees that limited opening hours of pubs and the sale of liquor. The state of exception during the First World War was from its early stages also a system to impose a set of hegemonic social norms and a specific moral order. In this context all possible forms of deviance could easily fall into categories of behaviour allegedly endangering the public safety or the moral quality of the newly won national unity. Many of these cases involved groups that had already been socially marginalised in the pre-war period. They were now increasingly targeted by emergency measures and were disproportionately often victims of repressive measures. Another rather heterogeneous group that was victimised by the authorities were so-called 'enemy aliens'. Large-scale internment, legal discrimination, and sometimes abuse characterised the treatment of these people in Britain and Germany. Enemy aliens were the first group that experienced the full scale of repressive instruments under the state of emergency already days after the outbreak of the war.

With the prolonged continuation of the war, anti-war dissent and strike movements emerged in both countries on a larger scale by the end of 1915. After a period of relative forbearance, authorities increasingly suppressed these protest movements. However, this was guided by the ambition to maintain the domestic

truce policies. This often meant that repressive measures primarily targeted the leaders of protest movements who were often gaoled or drafted into the military in order to silence them. Against the rank-and-file, however, full-blown repression was rather infrequent and not enforceable. Instead, public protest was allowed within certain limitations and local authorities sought to address some of the grievances.

In Britain the War Emergency Workers' National Council sought to influence the application of emergency measures for the benefit of the working classes. The WEWNC had no direct equivalent in Germany. Industrial commissions the trade unions participated were only established as a consequence of the Auxiliary Service Law (*Gesetz über den vaterländischen Hilfsdienst*), the German counterpart to the Munitions of War Act, in December 1916. However, the increasing integration of trade unions and organised labour into the state in both countries also limited their ability to campaign for working-class interests. This paved the way for the emergence of more radicalised grass-roots movements that would become characteristic of the aggravated conflicts in the second half of the war.

Generally, it can be stated that the period between August 1914 and mid-1916 was marked by a continuous process of establishing and honing the mechanisms and instruments of emergency government. On the one hand, governments enforced a necessary economic transformation and mobilisation of society with the help of emergency powers and established systems of social control and surveillance. On the other hand, these measures were often limited in range and efficiency. The ambition to control the mobilised societies was certainly dominant, but the means to enforce this were often scarcely available. The maintenance of the war effort and the endurance can therefore not entirely be explained as results of coercive policies.

However, it seems that already by the end of 1915, this self-mobilisation of society was in a crisis and enforced endurance became increasingly important.⁴⁰⁹ The crisis of voluntarism in Britain illustrates this development very well. The voluntary contributions of the British people to the war effort were certainly immense, but the established ways were increasingly inappropriate with regards to the necessities of a totalising war. The imposition of a coercive system of wartime economy and conscription would create a background against which a growing radical protest movement emerged during 1917 and 1918. In Germany, the aggravation of wartime hardships and hunger led to an increasing radicalisation of protest movements that would eventually erupt in a number of mass strikes that soon combined social and political demands and finally led to the revolution of November 1918.

⁴⁰⁹ John Horne, 'Remobilizing for "Total War": France and Britain', in John Horne (ed.), *State, Society and Mobilization in Europe during the First World War* (Cambridge: Cambridge University Press, 1997), pp. 195-211, esp. pp. 195-197.

Chapter Three

From Crisis to Revolution: Emergency Government and Totalised War (1916-1918)

With hindsight, 1916 was a turning point of the First World War. By the end of this year profound changes within wartime governments would pave the way to an increased mobilisation of ever greater parts of British and German society. In the German Empire, the so-called Third Supreme Command (*Dritte Oberste Heeresleitung*) under Field Marshal Paul von Hindenburg and General Erich Ludendorff emerged as a dominant political actor. They had taken over the control of the German military in August 1916 after their predecessor Erich von Falkenhayn had been forced to resign due to the disastrous Battle of Verdun. The duumvirate Hindenburg and Ludendorff eventually established an ever closer grip on German politics for the last two years of the war. With faltering popular support for the war and growing unrest among the working class, the means of coercion under the state of siege became crucial for preventing the German home front from collapsing. At the same time, governments undertook ever-increasing attempts to mobilise the industrial and military manpower reserves of the German Empire.

At about the same time, a new coalition government under the ambitious former Munitions Minister and then Secretary of State for War, David Lloyd George, was formed in Britain in December 1916. Prime Minister Herbert Asquith, who was held responsible for the unsuccessful course of the war including the disasters of the Gallipoli campaign in 1915 and the Somme offensive in 1916, was forced to step down and make way for a 'national coalition'. Here too, new attempts

and strategies evolved to re-mobilise broad public support for a war that attracted growing criticism. The futile offensive on the Somme and its horrendous casualties caused serious doubts as to whether the war could be brought to a victorious conclusion. The so-called Lansdowne letter affair was exemplary of the faltering belief in a victorious peace. Having served as a Conservative minister in the Asquith Coalition Cabinet, Lord Lansdowne circulated a memorandum in November 1916 in which he pleaded for immediate peace negotiations with the Central Powers. With the – in his view imminent – prospect of being forced to submit to German conditions, a peace under the conditions of the status quo ante was more desirable.⁴¹⁰ Although Lansdowne’s defeatism was repudiated by other cabinet ministers, it reflected a growing tendency within British society at the turn of 1916. This general pessimism influenced the policies of the new cabinet profoundly. The focus of the British war policy in late 1916 and early 1917 was pre-eminently to avoid defeat and to maintain morale on the home front at least long enough until an anticipated American intervention could change the fortunes of war. If we follow Brock Millman’s study on pessimism and British policy during the second half of the war, the principal British war aim was less to win the war than to avoid being forced into a peace on German conditions.⁴¹¹ Against this background, the growing anti-war protests and emergent strike movements were perceived as vital threats to the perseverance on the British home fronts. The initially reluctant application of

⁴¹⁰ Douglas Newton, ‘The Lansdowne “Peace Letter” of 1917 and the Prospect of Peace by Negotiation with Germany’, *Australian Journal of History and Politics*, 48, 1 (2002), pp. 16-39; Frank Winters, ‘Exaggerating the Efficacy of Diplomacy: The Marquis of Lansdowne’s ‘Peace Letter’ of November 1917’, *The International Historical Review*, 32,1 (2010), pp. 25-46; Alan J. P. Taylor, *English History 1914-1945* (Oxford: Oxford University Press, 1965), pp. 100-102; see also, David Lloyd George, *War Dairies of David Lloyd George* (Watford: Odham’s, 1934), pp. 514-535.

⁴¹¹ Brock Millman, *Pessimism and British War Policy, 1916-1918* (London: Frank Cass, 2001), pp. 3-4.

the wide-ranging emergency powers under the Defence of the Realm Act was now progressively used to suppress protest and intimidate activists. At the same time extensive and coordinated propaganda efforts were undertaken to re-mobilise support for the war.

The impact of the Russian Revolutions of March and November 1917 gave the British and German home front politics a new dimension.⁴¹² On the one hand, the fear of similar developments in their own countries grew within government circles and the military. A repetition of events similar to those in Russia was to be prevented by all means. On the other hand, many activists were challenged by the prospect of a possible revolutionary turn in their anti-war protest. After all, anti-war dissent was a chequered phenomenon whose lowest common denominator was opposition to the war, but this not necessarily implied support for a socialist revolution. In Germany hunger and the collapse of the military in mid-1918 led to the revolutionary overthrow of the old order in November 1918. Britain was spared a revolutionary uprising, but here as well the discourse about the threat of the ‘enemies within’ shifted from alleged ‘pro-Germans’ and ‘peace cranks’ to Bolsheviks and communists. This chapter will reconstruct these developments in home front politics and the consequential escalation of emergency government in Britain and Germany during the second half of the war. A particular focus will be put on the impact of the Russian Revolutions and the reactions of activists and state agencies.

⁴¹² For reasons of clarity and comprehensibility, the dates are given in accordance to the Gregorian calendar. The February as well as the October Revolution received their names from their dates according to the Julian calendar which was used in Russia at the time.

The Military and Political crises of 1916, Changes in Government and Their Impact on Emergency Government

The Rise of the Third Supreme Command as a Key Political Actor in Germany, 1916-1917

The battle for Verdun that raged from March to November 1916 was designed to be the decisive struggle for the German army in order to win the war in the West.⁴¹³

What was meant to be a ‘blood mill’ (*Blutmühle*) to bleed the allies white turned out to be just as costly for the Germans themselves. Supreme commander Erich von Falkenhayn had hoped to turn Verdun into a battle of total attrition in which German superiority would cause so many allied losses that at least France would have to enter peace negotiations on German terms. The immediate result, however, was a depletion of the German offensive potential on the Western front.⁴¹⁴ The failure at Verdun turned into a downright military crisis for Germany due to Romania’s entry into the war on the allied side, and the increasing pressure of Russia’s ‘Brusilov’ offensive in June 1916.

Yet, the military crisis of mid-1916 had other and much more far-reaching consequences for politics on the German home front. The attrition warfare at Verdun had finally demonstrated that the alleged superiority of the individual German soldier would not be the decisive factor for victory. Instead, industrial output and the full mobilisation of all manpower reserves were crucial in the view

⁴¹³ Robert T. Foley has presented an enlightening study on the German grand strategy under Falkenhayn that eventually led to the Battle of Verdun. Although pursuing a conception of attrition warfare, Falkenhayn was unable to pressure for the closely linked industrial mobilisation in Germany. This was a failure of strategic planning that set the direction for military defeat: Robert T. Foley, *German Strategy and the Path to Verdun: Erich von Falkenhayn and the Development of Attrition* (Cambridge: Cambridge University Press, 2005), esp. pp. 156-268.

⁴¹⁴ *Ibid.*, pp. 237-268.

of the chief strategic planners.⁴¹⁵ Von Falkenhayn, however, was seen as incapable of mobilising the last reserves of the German Empire. If the war was to be won, then it could only be with a new Supreme Command that understood the growing need for further societal mobilisation on the home front. On 23 August 1916, von Falkenhayn was pressured into requesting his dismissal as Supreme Commander of the German army.⁴¹⁶ In his stead, the ‘heroes of Tannenberg’, Field-Marshal Paul von Hindenburg and his aide General Erich Ludendorff were appointed as new supreme commanders of the German army. They maintained the symbiotic relationship that had evolved during their time as commanders of the Eastern front. In this partnership Hindenburg mainly acted as the charismatic leader whereas Ludendorff steered the actual political and military decision making.⁴¹⁷

Ludendorff and his aide Colonel Max Bauer launched immediate activities to influence the general policy making of the Imperial Government under Chancellor Bethmann Hollweg.⁴¹⁸ The policy of the Imperial Government was already under attack by right-wing groups that pressured for a more resolute conduct of the war.

⁴¹⁵ Erich Ludendorff (ed.), *Urkunden der obersten Heeresleitung über ihre Tätigkeit, 1916/18* (Berlin: Mittler, 1920), pp. 82-83.

⁴¹⁶ Criticism against Falkenhayn already emerged in early 1915. However, Emperor Wilhelm II was reluctant to replace him until Bethmann Hollweg as well as Ludendorff and Hindenburg pressured him to do so in late-1916. See Holger Afflerbach, *Falkenhayn: Politisches Denken und Handeln im Deutschen Kaiserreich* (Munich: Oldenbourg, 1994), pp. 211-232, pp. 437-462.

⁴¹⁷ For a comprehensive account of the strategy of the Third Supreme Command under Hindenburg and Ludendorff see Martin Kitchen, *The Silent Dictatorship. The politics of the German High Command under Hindenburg and Ludendorff, 1916-1918* (London: Croom Helm, 1976). For an account of the emergence of the duumvirate during their time at OberOst see *ibid*, ‘Ludendorff, Hindenburg, and the Baltic’, *East European Quarterly*, 11, 4 (1977), pp. 429-444. For thorough analysis of the roots of Ludendorff’s exploitative manpower and forced labour policies in the East, see Christian Westerhoff, ‘“A kind of Siberia”: German labour and occupation policies in Poland and Lithuania during the First World War’, *First World War Studies*, 4, 1 (2013), pp. 51-63.

⁴¹⁸ Colonel Max Bauer belongs to the less well-known and barely researched characters of the German military during the First World War, though his influence cannot be emphasised enough. Bauer was the eminence grise of the Third Supreme Command responsible for designing the main economic and domestic policies. After the war Bauer was involved in the Kapp Putsch of 1920 and then worked as a military advisor across the globe. See Adolf Vogt, *Oberst Max Bauer: Generalstabsoffizier im Zwielficht, 1869-1929* (Osnabrück: Biblio Verlag, 1974), esp. pp. 7-155.

The pressure of the extreme right eventually led to the lifting of censorship regarding the debate on war aims in December 1916. This, however, was more in favour of the right as they seized the moment to propagate ideas of total war and wide-ranging annexations.⁴¹⁹

Bauer and Ludendorff, too, were convinced that only the total mobilisation of all available resources would give Germany a chance to succeed. Ludendorff began his direct interference with the policy of the government with a series of warning memoranda in which he urged the introduction of a system of industrial conscription for all male Germans between the age of sixteen and 60.⁴²⁰ From September 1916 a draft of the so-called Auxiliary Service Law was circulating within the government and the Reichstag parties. The law included the suspension of freedom of labour and the obligation to work in strategic industries. The drastic nature of the new coercive law should be palliated by the establishment of worker's councils (*Arbeiterausschüsse*) in factories with over 50 employees. This provision was designed to integrate the official trade unions into the war industry but also to establish closer state-control over the country's labour force and to prevent a further spread of anti-war strikes.⁴²¹

Chancellor Bethmann Hollweg, however, initially rejected the drastic proposals of the bill, fearing that it would endanger his arduously maintained 'policy of the diagonal' that sought balance and maintain the fragile domestic peace

⁴¹⁹ The liberalisation of the war aims debate was essentially an attempt to create another 'controlled outlet' for public criticism. Yet, as with other censorship issues, local military commanders were more likely to promote annexationist meetings, whereas pacifist and leftist meetings were often suppressed.

⁴²⁰ Gerald D. Feldman's study of the industrial policies of the German military from is still one of the best available works on the topic in English: Gerald D. Feldman, *Army, Industry and Labor in Germany 1914-1918* (Oxford: Berg, 1992[first published 1966]), for the discussion of the Auxiliary Service Law see esp. pp. 137-252.

⁴²¹ For the complete text, see Reichsgesetzblatt 1916, Nr. 276, p. 1333.

under the *Burgfrieden*. But this was not the only reason. Bethmann Hollweg was all too aware that Ludendorff's behaviour undermined his own position of power. The majority parties of the parliament, too, requested that approval of such a bill would only be possible if reforms of the regime under the state of siege were conceded.⁴²² The bill was eventually forced through in December 1916, but only after Ludendorff and Hindenburg threatened to resign if the law was not enacted. The painstakingly slow and complicated process of enacting the Auxiliary Service Law triggered discussions within the military élite about the efficient reorganisation of domestic politics. As a consequence Colonel Max Bauer began to advocate a military dictatorship under Ludendorff and Hindenburg that would replace the Imperial Government and dissolve the Reichstag at least for the duration of the war. Remarkably, the Emperor played no significant role in Bauer's considerations since Hindenburg was regarded as 'untouchable' and could not easily be replaced.⁴²³ Ultimately, Bauer failed to win over a sufficient number of general-staff officers for his plans. However, even though an open military dictatorship was not established, the Supreme Command claimed a central political position for itself.

In March 1917, Bethmann Hollweg issued a statement to the War Press Office in which he indicated a partial accountability of the Supreme Command for policies of the empire. What was thought of as an attempt to hedge the influence of Ludendorff turned into a fundamental debate about the allegiance of the military. Hindenburg and Ludendorff were keen to avoid any public notion that the Supreme

⁴²² See Chapter Two.

⁴²³ After the war, the staff officer Major-General Mertz von Quirnheim recounted several conversations with Bauer, in which he advocated a military dictatorship. According to him Bauer confessed that the proceedings of the Auxiliary Service Law brought him to the conclusion that only a 'absolute military dictatorship' under Ludendorff would be able to rally 'all national forces'; 'Extract of Major-General Mertz von Quirnheim's Diary', quoted in Deist, *Militär und Innenpolitik*, pp. 651-652.

Command could in any way be accountable to anyone else than the emperor. Yet, without the Emperor intervening in the political decision making, this was primarily an attempt to preserve the relative autonomy of the Supreme Command. The following internal row between the Imperial Chancellery and the Supreme Command revealed the unworkable nature of their relationship.⁴²⁴ The policy of the chancellor regarding the resumption of the unrestricted U-boat warfare in February 1917 and his indecisive stand on the peace initiative of the Reichstag manoeuvred him into an impossible position between all camps. The ‘policy of the diagonal’ had eventually failed. The Supreme Command put pressure on the Emperor to relieve him from office. On 14 July 1917 Bethmann Hollweg was replaced by Georg Michaelis as Imperial Chancellor. The rather faint bureaucrat Michaelis, however, was not much more than a puppet of the Supreme Command.⁴²⁵

Although there is some debate about how the Third Supreme Command should be characterised, it cannot be described as a full-blown military dictatorship.⁴²⁶ Nonetheless, it certainly held a hitherto unknown position of power. Effectively, no practical political decision could be made against their will. However, as we shall see it also reached its limits when it came to confronting the increasingly self-confident majority parties of the Reichstag. Whereas Bethmann Hollweg had tried to balance the interests of the different domestic actors in order

⁴²⁴ The conflict was triggered by the question of a journalist at a war press conference on 14 March, in which he asked to what extent the Supreme Command influenced policies such as the Auxiliary Service Law and the deportation of Belgian workers. The draft of an official response by Bethmann Hollweg in which he indicated an influence of the Supreme Command on government policies caused huge internal arguments that involved all major governmental departments. See Deist, *Militär und Innenpolitik*, pp. 672-685.

⁴²⁵ Winkler, *Der lange Weg nach Westen*, pp. 350-351; Wehler, *Deutsche Gesellschaftsgeschichte*, pp. 166-167.

⁴²⁶ The debate about the characterisation of the Third Supreme Command as a military dictatorship already set in during their tenure. Some examples for this view are Kitchen, *The Silent Dictatorship*, op. cit.; Manfred Nibelin, *Ludendorff: Diktator im Ersten Weltkrieg* (Munich: Siedler, 2010), pp. 283-341.

to maintain the *Burgfrieden*, the Third Supreme Command was much more willing to use coercion to enforce its policies. This had a direct influence on the activities of the local military commanders that dealt with the symptoms of the aggravating crisis and the increasingly antagonistic anti-war protests.

The British crisis and the ascent of the Lloyd George system, 1916

Britain also faced an emerging military and political crisis in 1916. As 1915 had brought no significant advantage for the Entente, the conduct of the war by Prime Minister Asquith came under increased criticism. The offensives on the Western Front had shown few results yet cost horrendous casualties. Also, the attempts to bring a decision in the East by focussing on crushing the Ottoman Empire turned into a disaster. Leading generals sought to blame the insufficient supply of weapons and shells for the failures, although strategic misconceptions and individual mistakes of commanding officers were much more crucial. The experiences of 1915, however, led some government officials to the conclusion that the conduct of the war was to be led with more fervour than Prime Minister Asquith had hitherto shown.

The right-wing Unionist and Attorney General Edward Carson began to advocate the establishment of a central War Council that would allow a more coordinated form of wartime government. This new government committee would supersede the sometimes chaotic administration of the strategic industries and war planning.⁴²⁷ The Defence of the Realm Acts had already given the cabinet and military extensive powers to govern without parliament. However, the different

⁴²⁷ Pugh, *Lloyd George*, p. 94; Simmonds, *Britain and World War One*, pp. 108-112.

factions within the cabinet became even more diverse since on 25 May 1915 the Conservatives had joined a coalition and the sometimes contradictory policies of the different departments limited their exercise to some extent. A central war committee such as Carson envisaged would have replaced this arrangement, making way for a potentially more authoritarian way of government. Asquith and most of the other members of the cabinet, however, rejected this proposal. Yet, the idea of a small and almost dictatorial war government remained present. The 'chance' to realise this would come when David Lloyd George and the Conservative leader Andrew Bonar-Law seized the opportunity for similar reforms in the wake of the disastrous Somme Offensive in November 1916.

Similar to the German intentions for the battle of Verdun, the newly appointed Commander-in-Chief of the British Expeditionary Force, Douglas Haig, envisaged the Somme Offensive as an battle of attrition that would lead to a depletion of the manpower reserves of the German Empire. But the Germans struck first with their attack on Verdun leaving the French in a desperate situation. The major offensive on the Somme soon became a vital attempt to relieve the pressure on the French fighting at Verdun. However, the consecutive British thrusts proved just as futile. By the end of the battle in November 1916, the British casualties mounted to nearly 420,000. In consequence none of the originally intended advantages were eventually achieved, although some historians have claimed that the Battle of the Somme shifted the long-term strategic balance on the Western Front towards the allies.⁴²⁸

⁴²⁸ See for example William Philpott, *Bloody Victory: The Sacrifice on the Somme and the Making of the Twentieth Century* (London: Abacus, 2010); Gary Sheffield, *The Somme. A new History* (London: Cassell, 2003).

The failure at the Somme had, however, immediate political consequences. Prime Minister Herbert Asquith and his infamous ‘committee culture’ were now increasingly seen as a liability for the conduct of the war.⁴²⁹ The Secretary of State for War, David Lloyd George, and the unofficial leader of the Tory backbench-opposition, Edward Carson, plotted to replace Asquith.⁴³⁰ After an inter-allied conference at Chantilly in November 1916 that revealed the full dilemma of the allied position, Lloyd George was convinced that it was time to act.⁴³¹ Carson pressured the Conservative Party leader and Secretary of State for the Colonies, Andrew Bonar Law, to support the establishment of a Supreme War Council. In a draft from 25 November 1916 this council was envisaged to consist of four cabinet ministers without portfolio that would meet daily to decide war-relevant questions. Although Asquith would nominally preside over this special committee, its actual business would be managed by Lloyd George himself and included the formerly disgraced Carson again. Asquith rejected the proposals again but attempted to keep the coalition together by mooted a reorganisation of the government. However, after Lloyd George handed in another amended memorandum on 1 December, which excluded Asquith from the proposed War Council, a compromise was increasingly unlikely.⁴³² What followed were five days of political cabal in which Lloyd George endeavoured to organise sufficient support for forming a new coalition. Carson played a crucial role in this process by involving the press to

⁴²⁹ For a discussion of Asquith’s ‘committee culture’ during the war, see Alan G. V. Symmonds, *Britain and World War One* (Abingdon: Routledge, 2012), pp. 103-108. See also Lloyd George, *War Memoirs*, pp. 610-615.

⁴³⁰ George H. Cassar, *Asquith As War Leader* (London: Hambledon, 1994), pp. 191-232.

⁴³¹ *Ibid.*, pp. 585-600; Martin Pugh, *Lloyd George* (Harlow: Longman, 1988), pp. 94-98; George H. Cassar, *Lloyd George at War, 1916-1918* (London: Anthem, 2010), pp. 9-12; Alan J. P. Taylor, *English History 1914-1945* (Oxford: Oxford University Press, 1965), pp. 109-12.

⁴³² Pugh, *Lloyd George*, pp. 94-96.

Lloyd George's advantage.⁴³³ Asquith eventually gave in to the pressure to step down on 6 December, and after some commotion Lloyd George received the support of Conservatives and Labour for a new cabinet. On 7 December 1916, Lloyd George then officially formed his 'national coalition'. On 10 December Lloyd George completed the composition of the new cabinet.

The reorganisation of the cabinet had a profound impact on the application of the emergency powers under the Defence of the Realm Act. The Solicitor General under Herbert Asquith, George Cave, was promoted to become the new Home Secretary. During his time in office as Solicitor General, Cave as well as his predecessor Carson stood for a rather repressive approach to anti-war dissent. This was a stance he would maintain as Home Secretary. The Labour politician William Brace was appointed as his Under-Secretary of State. The post of the Solicitor-General was taken over by Frederick E. Smith, whose main task would become the prosecution of offences under DORA. The policies of the new government were increasingly shaped by the Conservatives, on whose support Lloyd George had to rely more and more. This was particularly the case regarding the full mobilisation of British society under the slogan of 'national efficiency'.⁴³⁴ The partial self-constraint in domestic policies that informed the policies of Asquith and his Home Secretaries McKenna, Simon, and Samuel was now replaced by a willingness to employ the full potential of the British home front. Ideally, extensive propaganda efforts would achieve this aim. But if necessary also coercive measures would be

⁴³³ It is somewhat unclear who informed *The Times* about the turmoil in the cabinet. It is highly likely that Carson was responsible, yet Asquith suspected Lloyd George himself. In fact, Lord Northcliffe, proprietor of *The Times* maintained a close and friendly relation with Lloyd George and was interested in fostering his ascent. See Pugh, *Lloyd George*, pp. 96; Cassar, *Lloyd George at War*, p. 10.

⁴³⁴ Martin Pugh characterises the Lloyd George ministry succinctly as a 'government of national efficiency': Pugh, *Lloyd George*, pp. 100-128.

used to quell strikes and ban the threat of revolution that emerged towards the end of the war. Under Cave the ties between military and civilian surveillance of the home front were intensified and administrative structures amended in a way that enabled military and police authorities to assist each other efficiently. What had been largely a process of experimentation with emergency government under the Asquith ministry, now evolved into a system of domestic surveillance and the sophisticated suppression of a potentially revolutionary threat.

Comparison

It is debatable how far the battles of 1916 at Verdun and the Somme were indeed military ‘turning points’ of the First World War. From a military point of view they were certainly not more or less decisive than many other attrition battles that cost hundreds of thousands of lives. Yet, their significance is more to be seen in their symbolism and the political changes they triggered. Debates about efficient mobilisation were already prevalent in Britain and Germany before the end of 1916. However, only the disastrous outcomes of the year 1916 finally provided the arguments to force through the totalised mobilisation of the British and German wartime societies. It is no coincidence that these attempts to re-mobilise societies were epitomised by the rise of charismatic leaders such as David Lloyd George in Britain, or the duumvirate of the revered military heroes Paul von Hindenburg and Erich Ludendorff in Germany.⁴³⁵ The fact that plans for radical economic mobilisation in Germany were referred to as the ‘Hindenburg Programme’ is just one example of this connection.

⁴³⁵ Robert C. Tucker, ‘The Theory of Charismatic Leadership’, *Daedalus*, 97, 3 (1968), pp. 731-755.

Although the Supreme Command seized a key position in political decision making and in the public eye in Germany, it is questionable whether it can be described as a full-blown military dictatorship. The following points may help to understand why: firstly, neither Ludendorff nor Hindenburg officially took over any political powers other than their military commands. They were dependent on the collaboration of the Imperial Government and its various departments for the implementation of their policies. Direct interference with domestic policies could only be exercised with the local military commanders as their intermediaries or by pressuring the Imperial Government. That their influence had limits was highlighted when they clashed with Imperial Chancellor Bethmann Hollweg in March 1917. However, after finally succeeding in replacing him with the bureaucratic and susceptible Georg Michaelis, the Supreme Command became more dominant. Secondly, the combined power of Imperial Government and Supreme Command was increasingly confronted with demands for political reform and with popular protest. The ‘parliamentarisation’ and democratisation of the German Empire became increasingly pressing issues for the majority parties in the Reichstag.⁴³⁶ These fields of conflict became more relevant as they challenged the dominant conceptions of state, society and monarchy: values, the military was committed to preserve by all means. The persisting intransigence of the Supreme

⁴³⁶ The term ‘parliamentarisation’ refers to the demands to establish a government responsible to the Reichstag. The Imperial Government was constitutionally only responsible to the emperor, who appointed the Imperial Chancellor. The prerogative of the Reichstag lay in its legislative powers and the budget; see Christoph Schönberger, ‘Die überholte Parlamentarisierung: Einflußgewinn und fehlende Herrschaftsfähigkeit des Reichstages im sich demokratisierenden Kaiserreich’, *Historische Zeitschrift*, 273, 3 (2001), pp. 623-666.

Commands towards political reforms would prove to be a key factor in the creeping erosion of the political system in Germany.⁴³⁷

The question how the Lloyd George ministry can be characterised has occupied many historians. In his popular *English History*, A. J. P. Taylor described the ascent of Lloyd George as ‘a revolution, British-style’ and its main protagonist as ‘the nearest thing England has known to a Napoleon’.⁴³⁸ Although Taylor may have overstated his case when describing Lloyd George as a ‘dictator for the time of the war’, who was backed by an ‘unconscious plebiscite of the backbenchers and newspapers’, he certainly had a point.⁴³⁹ Lloyd George, like his German equivalents Ludendorff and Hindenburg, provided the kind of charismatic leadership the press and the public had demanded. Under his leadership the plans for a more centralised war management by a War Cabinet were instantaneously implemented as well as the grip on the home fronts intensified.⁴⁴⁰ Nevertheless, to describe the Lloyd George ministry as a dictatorship is clearly exaggerated. Although the Prime Minister became the public centre piece of official politics, he was far from being a dictator with a monopoly on political decision making. Yet, particularly this notion of *decisionism*, the capability of enforcing political decisions regardless of their content and legality, is what political theorists have pointed out as the main characteristic of modern dictatorships.⁴⁴¹ Lloyd George’s

⁴³⁷ Wehler, *Deutsche Gesellschaftsgeschichte*, pp. 161-170; Winkler, *Der lange Weg nach Westen*, pp. 358-371.

⁴³⁸ Taylor, *English History 1914-1945*, p. 109.

⁴³⁹ *Ibid.*

⁴⁴⁰ For an overview of the changing nature of British wartime government under Lloyd George, see Millman, *Managing Dissent*, pp. 167-205; John Grigg, *Lloyd George: War Leader, 1916-1918* (London: Faber, 2007); David R. Woodward, *Lloyd George and the Generals* (London: Frank Cass, 2004), pp. 122-124.

⁴⁴¹ The most prominent representative of the decisionist paradigm is certainly Carl Schmitt. For a comprehensive introduction into the concept see Paul Hirst, ‘Carl Schmitt’s Decisionism’, in Chantal Mouffe (ed.), *The Challenge of Carl Schmitt* (London: Verso, 1999), pp. 7-17.

ministry was certainly marked by charismatic leadership but not necessarily dictatorial in the sense of an autocratic *decisionism*. The composition of his coalition cabinet demanded a sophisticated equilibrium of the different party interests as well as the egos of other ministers such as Bonar Law and Carson. The dictatorial features of the new Lloyd George Cabinet are more accurately to be found in the emergency powers received under the Defence of the Realm Acts. They, however, were already widely established under the Asquith administration and not significantly extended under Lloyd George. What changed was the willingness to make use of them to an extent that had hitherto not occurred. Nevertheless, the Lloyd George system was in many respects new and very modern, foreshadowing a new age of mass politics. The combination of extensive propaganda, the effective use and integration of the mainstream press into the state apparatus, the effective absence of an organised parliamentary opposition as well as the efficient suppression of dissenting voices were certainly features different from British pre-war politics and idealised concepts of democracy. If not a full-blown dictatorship, then Lloyd George's term in office was at least a flirtation of the British state with authoritarianism.⁴⁴²

The near-simultaneity of events in Britain and Germany and their striking parallels, however, should not blur the vision of major differences. The German military maintained independence from political control. The local military commanders were still in charge of the administration of their army corps districts and effectively without central direction. With the rise of the Third Supreme

⁴⁴² Taylor's reference to Napoleon suggests that the concept of Bonapartism may have shaped his judgement. And Bonapartism could indeed be a theoretical framework to interpret Lloyd George's rise and government. See Karl Marx, *The Eighteenth Brumaire of Louis Napoleon* (New York: International Publishers, 1963); see also Jost Dülffer, 'Bonapartism, Fascism and National Socialism', *Journal of Contemporary History*, 11, 4 (1972), pp. 109-122.

Command, however, the military gained a new agency to influence the civilian departments of government themselves. The actual centre of power within the German state shifted from the Imperial Government to the military commanders Hindenburg and especially Ludendorff. Whereas the Imperial Government had repeatedly been scrutinised by the Reichstag parties, the military was anxious to avoid similar interferences by establishing the puppet chancellor Michaelis as a kind of political lightning rod. However, the Supreme Command also tried to create a form of popular consent by presenting Hindenburg as a unifying national leader standing above the party struggles. The informal but *de facto* merging of military and political powers was a main feature of the Third Supreme Command. However, as has been shown its powers were still limited and far from being dictatorial. This unification of military command and political power did not take place in the British government. After all, Lloyd George remained a civilian leader and the military a subordinated institution within the state. There had certainly been developments towards the independence of the military. However, it seems that the coming into power of the energetic and charismatic Lloyd George was a crucial factor in avoiding any form of military dominance in British politics.⁴⁴³ This is, however, not to say that the military was entirely subdued under civilian control. Officers and military establishments remained crucial factors in home front politics and exercised considerable influence. Yet, overall they rather maintained collaborative relations with the civilian authorities rather than dominating them.

⁴⁴³ Michael S. Neiberg points out how fragile the civilian-military relations actually were: Michael S. Neiberg, 'Cromwell on the Bed Stand: Allied Civil-Military Relations in World War I', in Jenny Macleod and Pierre Purseigle (eds.), *Uncovered Fields. Perspectives in First World War Studies* (Leiden: Brill, 2004), pp. 61-78.

The Impact of the Russian Revolutions on British and German Home Front Politics in 1917

In March 1917 a number of strikes broke out in the Russian capital Petrograd that ultimately ended Tsarist rule. Four days later, the garrison of the city mutinied and formed a workers' and soldiers' council. On the same day, 12 March 1917, a Provisional Government consisting of Duma members was formed. On 15 March Tsar Nicholas II abdicated. The revolution, however, was as much a breakdown of the old order as it was an active overthrow.⁴⁴⁴ The transformation of the Russian economy in order to satisfy the demand for weapons and ammunition had created a shortage of vital goods for civilian consumption. An increasing intensity of exploitation met with a falling level of food supplies. This was a dangerous combination that proved to be the straw that broke the camel's back.

Russia's situation prior to the revolution in March 1917 was not too different from that of many other belligerent countries. In Germany the winter of 1916-17 turned out to be catastrophic. The potato harvest had been particularly poor in autumn 1916 and the following winter was extremely harsh. The situation was aggravated by a shortage of coal and the severe effects of the British sea blockade. For many Germans, and particularly working-class families, turnips replaced grain and potatoes. By the end of 1916 the daily calorie intake was in some cases reduced to approximately 1,000 calories.⁴⁴⁵ Matters were complicated further by the fact

⁴⁴⁴ For a presentation of more recent directions in research on the Russian Revolutions 1917 see Rex A. Wade, *The Russian Revolution, 1917* (Cambridge: Cambridge University Press, 2000); Orlando Figes, *A People's Tragedy: Russian Revolution 1891-1924* (London: Jonathan Cape, 1996); Robert Service, *The Russian Revolution 1891-1924* (London: Palgrave MacMillan, 1986); Christopher Read, *From Tsar to Soviets: The Russian People and their Revolution 1917-1921* (Oxford: Oxford University Press, 1996).

⁴⁴⁵ Belinda Davis, *Home Fires Burning: Food, Politics and Everyday Life in World War I Berlin* (Chapel Hill: University of North Carolina Press, 2000), pp. 159-189, p. 182.

that approximately 50% of the food production went on to the black market from which ordinary working class families were widely excluded.⁴⁴⁶ Local food riots were often the result and began to cause serious problems for local military commanders. At the same time the already mentioned Auxiliary Service Law was introduced which led to additional unrest among many workers. Yet, the revolutionary developments in Russia also inspired socialist activists to intensify their efforts. In April 1917, the SPD officially split when the Independent Social Democratic Party (USPD) was formed in Gotha. The USPD incorporated those Social Democrats who were dissatisfied with the stance of the majority party around its dominant figures Scheidemann, Ebert and David.⁴⁴⁷ But it also gave outspoken revolutionaries a platform for their activities. Members of the USPD soon played a crucial role in the organisation of strike movements and the first unrests in the Imperial Navy. In reaction, local commanders began preparations to deal with revolutionary upheavals. We will see how the provisions of the state of siege were eventually used to quell these protest movements. Yet, also the need for positive mobilisation was recognised by the authorities. In early 1917 a propaganda scheme under the ponderous title ‘Patriotic Instruction’ (*Vaterländischer Unterricht*) was introduced. Its aim was to educate and inspire the German population about German politics and its war aims.⁴⁴⁸ The ways to achieve this were, however, often just as

⁴⁴⁶ Wehler, *Deutsche Gesellschaftsgeschichte*, p. 61, Adrian Gregory, *A War of Peoples 1914-1919* (Oxford: Oxford University Press, 2014), pp. 95-96.

⁴⁴⁷ See e.g. Robert F. Wheeler, ‘Revolutionary Socialist Internationalism: Rank-and-File Reaction in the USPD’, *International Review of Social History*, 22, 3 (1977), pp. 329-349; David W. Morgan, *The Socialist Left and the German Revolution: A History of the German Independent Social Democratic Party, 1917-1922* (Ithaca N.Y.: Cornell University Press, 1975).

⁴⁴⁸ BArch R43/2440 pp. 15-17, *Übersicht über die militärisch organisierte Aufklärung im Heimatgebiet*, 1918. For a general overview about the development of German propaganda see Anne Schmidt, *Belehrung – Propaganda – Vertrauensarbeit*. op.cit.. Deist also features a considerable number of edited sources on the conception of the Patriotic Instruction: Deist, *Militär und Innenpolitik*, pp. 289-352, pp. 805-985.

cumbersome as the title and proved to be eventually ineffective. Another attempt to create positive integration into the war effort was the formation of the German Fatherland Party (*Deutsche Vaterlandspartei*) in July 1917. Originally, the designated name for the party was ‘Hindenburg Party’, which epitomised its lack of programmatic content. Its sole aim was to create mass support for the policies of the Third Supreme Command. Although the party membership soon numbered several hundred thousand on paper, it was merely a melting pot of extreme right-wing pressure groups and dignitaries. The German Fatherland Party almost entirely failed to reach the rank-and-file of the organised working-class and to establish a ‘patriotic’ counterbalance to radical socialism.⁴⁴⁹

The British government, too, viewed the developments in Russia with unease. The question whether Britain would follow Russia into turmoil became a prevalent issue for the Lloyd George Cabinet.⁴⁵⁰ In a private letter from April 1917, Cabinet Minister without Portfolio Alfred Milner wrote to a friend: ‘I feel more sure that the end is nearing than I do what kind of end it will be. The social structure in all the old European countries shows ominous cracks – least of all perhaps in England, though even here there are some signs.’⁴⁵¹ Things had been worsening in Britain since Lloyd George entered office. The vital food imports were increasingly interrupted by the shrinking number of available transport ships. The resumption of the unrestricted submarine warfare in February eventually brought Britain on the

⁴⁴⁹ Hans-Ulrich Wehler concludes that the Fatherland Party was effectively a proto-fascist organisation: Wehler, *Deutsche Gesellschaftsgeschichte*, p. 108; Winkler, however, emphasises its character as an assembly of reactionary dignitaries; cf. Winkler, *Der lange Weg nach Westen*, pp. 352-354.

⁴⁵⁰ Millman, *Pessimism and British War Policy*, pp. 70-91.

⁴⁵¹ Quoted in Keohane, *The Party of Patriotism*, p. 118.

brink of defeat in mid-1917.⁴⁵² Only the entry of the United States into the war helped to maintain the war effort. Repeated food shortages in Britain were another consequence of the shipping crisis. By the beginning of 1918 the average bread rations had dropped to a mere pound per week.⁴⁵³ Meat and fats had become nearly unaffordable luxuries for most working people. Food riots became more frequent and the question of the unequal distribution of hardships triggered intensive criticism.⁴⁵⁴

Consequently, strike movements occurred throughout the year 1917. Fears of a revolutionary uprising were fuelled after a conference of the United Socialist Council in Leeds in April 1917 approved a resolution congratulating the Russian people for the overthrow of the Tsarist regime and demanding the immediate beginning of peace negotiations.⁴⁵⁵ These demands were, of course, not new. They had featured in the platforms of organisations such as the UDC or ILP ever since the beginning of the war. Now, however, the government had good reason to take it more seriously. Anti-war dissent was no longer an isolated phenomenon but received wide-spread support among organised labour. One way to counter this development was through intensified propaganda efforts. For this purpose, the National War Aims Committee (NWAC) was created in mid-1917 and unfolded a

⁴⁵² That was one fifth of the average pre-war consumption; cf. Millman, *Pessimism and British War Policy*, pp. 80-88.

⁴⁵³ Millman, *Pessimism and British War Policy*, p. 79.

⁴⁵⁴ Good examples for this criticism are the various Conscription of Wealth campaigns in Britain. Initiated by the ILP against the background of the introduction of military conscription in 1916, the campaign was subsequently adapted by the WEWNC. It was used to promote the nationalisation of key industries as well as the introduction of progressive taxation. It was meant to be an instrument to redistribute excessive wartime profits.

⁴⁵⁵ HO 45/10810/311932, *Verbatim Report of the Speeches*, 8 June 1917; Stephen White, 'The Soviets in Britain: The Leeds Convention 1917', *International Review of Social History*, 19, 2 (1974), pp. 165-193.

hitherto unknown level of activity.⁴⁵⁶ The NWAC organised thousands of meetings with experienced and appealing speakers as well as distributing over a hundred million pieces of publications.⁴⁵⁷ In February 1918, the proprietor of the *Daily Express*, Max Aitken (in 1917 ennobled as Baron Beaverbrook), became the head of the newly created Ministry of Information whose main task was to coordinate the various propaganda efforts including aspects of censorship and domestic intelligence.⁴⁵⁸ Nevertheless, the profound fears of the emergence of a revolutionary movement also led to an intensification of emergency government. The powers under DORA were now exercised much more severely. Moreover, military and police forces began with contingency planning for the case of revolutionary upheavals, which were soon put to the test when dealing with strikes.

The End of the Burgfrieden: Mass Strikes and the State of Siege in Germany in 1917

The handling of the now regularly occurring food protests presented a huge challenge for the local military commanders in Germany. These riots were severe interruptions of the public order that also threatened war production. The authorities were thus inclined to suppress strikes as quickly as possible. Yet, heavy-handed policing could trigger even more radical reactions amongst the protestors. The so-called ‘Liebknecht strike’ in June 1916 was a warning example for this eventuality.

⁴⁵⁶ See the only available extensive study on the NWAC at the moment: David Monger, *Patriotism and Propaganda in First World War Britain: The National War Aims Committee and Civilian Morale* (Liverpool: Liverpool University Press, 2012).

⁴⁵⁷ *Ibid.*, pp.37-61

⁴⁵⁸ Sanders and Taylor, *British Propaganda*, p. 63, pp. 78-81.

In January 1917, reports about riots by children and women were reported frequently.⁴⁵⁹ In a secret memorandum by the Prussian War Ministry to the local military commanders from 17 January 1917 guidelines regarding the handling of such occurrences were issued.⁴⁶⁰ It stated that although ‘meetings which only serve the purpose of seditious incitement’ were still to be suppressed, further ‘restrictions on public meetings would be rather damaging’. Local military commanders should allow public gatherings instead of forcing people into ‘secret conventions that would facilitate the dangerous subversive activities [*Wühlarbeit*] away from the control of police and public’. It further explained that ‘economic and food problems urge to be expressed, grievances and proposals need access to the public to be solved. A controlled outlet is needed to accommodate the accumulated disaffection and faintheartedness.’⁴⁶¹ Against this background, it was advised to proactively organise public meeting and to let patriotic trade union officials address the assembled crowds. If necessary, the emergency powers under the state of siege should be used to censor speeches or ban undesirable speakers in beforehand.⁴⁶²

This exemplary memorandum followed the general tendency of the early war years to allow meetings and protest in limited and controlled circumstances. However, appeasement of working-class protest soon proved insufficient to maintain home front morale. In February 1917, the number of wildcat strikes increased constantly.⁴⁶³ A secret memorandum addressed to the commander of the

⁴⁵⁹ BArch RY20/II145/12, pp. 34-37, *Reports about Food Riots by Women and Children in Hanover and Itzehoe*, 1 February 1917.

⁴⁶⁰ ‘Letter by the Prussian Ministry of War to the Military Commanders regarding the Loosening of the Restriction on Public Meetings, 17 January 1917’, quoted in Deist, *Militär und Innenpolitik*, pp. 658-660.

⁴⁶¹ *Ibid.*, pp. 658-659.

⁴⁶² *Ibid.*, p. 660.

⁴⁶³ Kocka, *Facing Total War*, p. 65.

Marken district from 23 February 1917 by the Police President of Berlin, Heinrich von Oppen, concluded that the unrest among the workers in Berlin should not be explained solely by deteriorating living standards but also by the political activities of radical socialist agitators. These radicals were trying to ‘end the current war by way of uprising and general strike’.⁴⁶⁴ As the best method to deal with these agitators, von Oppen suggested calling them up and putting them under military control.⁴⁶⁵ This, too, was an already established practice that had been used to silence prominent anti-war dissenters such as Karl Liebknecht before.

The first real challenge for the authorities occurred when in mid-April a mass strike began in Berlin that soon spread to other industrial centres throughout the empire. The trigger for the strike movement was the announcement of a further reduction of the bread rations for workers.⁴⁶⁶ The authorities were well aware that announcement would provoke outbreaks of discontent. Already on 30 March the Prussian Ministry of the Interior issued a decree to the Prussian police with detailed preparatory orders.⁴⁶⁷ The emphasis was now put on harsh repression. The decree ordered the pursuit of necessary measures ‘regardless of the usual consideration of their consequences in peace’.⁴⁶⁸ The cornerstone of these contingency plans was the close cooperation between the military and the police. In cases where the civilian administration was not up to the task, military personnel were supposed to take over. At the same time, the command of the Marken district updated its scheme

⁴⁶⁴ ‘Report by the Berlin Police President to the High Command of the Marken District, 23 February 1917’ quoted in Materna and Schreckenbach, *Dokumente aus geheimen Archiven*, p. 177.

⁴⁶⁵ Ibid.

⁴⁶⁶ For the background of the April strikes see Francis L. Carsten, *War against War: German and British Radical Movements during the First World War* (London: Batsford, 1982), pp. 124-166.

⁴⁶⁷ ‘Order by the Imperial Home Office to the Berlin Police Presidency, 30 March 1917’, quoted in Materna and Schreckenbach, *Dokumente aus geheimen Archiven*, pp. 181-182.

⁴⁶⁸ Ibid.

for the suppression of revolutionary uprisings.⁴⁶⁹ Yet despite the careful preparations, it seems that the extent of the walkout surprised the authorities. On 16 April, 84,000 workers in Berlin left their workplaces and joined protest demonstrations. Overall, between 180,000 and 200,000 refused work.⁴⁷⁰ In the morning, several thousand protestors attempted to march to the inner city districts, where the main government buildings were situated. Hastily assembled troops erected road blocks and guarded the area around the central boulevard Unter den Linden and the Wilhelmstraße. Nonetheless, most marches were suppressed by police squads using baton rounds, and in some cases warning shots were fired.⁴⁷¹ During the next day, 17 April 1917, demonstrators developed a new tactic to play cat and mouse with the police. When the police tried to kettle marchers, the crowds dispersed and reassembled half an hour later at another spot in the city. When the police arrived the same procedure would begin again. Occasionally, shops, food stores and bakeries were looted.⁴⁷² In an attempt to deter further strike action, the chief of the central War Office, Lieutenant-General Groener, issued a warning statement that everyone inciting strikes would have to be considered as committing high treason.⁴⁷³

By the evening of 17 April, the authorities were convinced that the walkout had been successfully suppressed. However, on the same day the workers of the

⁴⁶⁹ BArch R4701/2330, *Interdiction of Berlin in Case of Revolutionary Uprisings*, 1914-1918; the version of the scheme from 15 September 1915 was replaced by an updated version on 25 March 1917. See also chapter 2.

⁴⁷⁰ Official estimates stated 148,903 strikers, whereas the shop stewards claimed up to 300,000; Cf. 'Report of the Berlin Police President to the High Command of the Marken District, 17 April 1917', quoted in Materna and Schreckenbach, *Dokumente aus geheimen Archiven*, pp. 193-194.

⁴⁷¹ LAB A Rep. 001-02 No. 1056, *Report about the Strike April 1917*, May 1917.

⁴⁷² Ibid.

⁴⁷³ Ibid.

armaments and ammunitions factory in Spandau began a strike that lasted for another four days. This walkout was only suppressed after the military commander of the Marken district, Gustav von Kessel, intervened and prohibited every cessation of work. He declared that the factories were now under military command and that every male worker would be called up in case another strike took place.⁴⁷⁴ In order to underline his threat, a company of infantry was stationed at the factory and a Lieutenant-Colonel took over the administration. After the resumption of work on 21 April 80 to 100 of the alleged ringleaders were sacked and immediately called up.⁴⁷⁵ Among them was the leader of the revolutionary shop stewards, Richard Müller.⁴⁷⁶ The harsh repression of the strike in Spandau was clearly intended to serve as a deterrent for other potential walkouts. This tactic had, however, only limited success.

In June 1917, major disturbances occurred in Düsseldorf following a food protest march by women and children.⁴⁷⁷ The deputy commander of the 7th Army corps declared a ‘severe state of siege’ (*verschärfter Belagerungszustand*) over the city and several women were arrested under the provisions of the state of siege. During the following, hastily organised trials, several women were given draconian

⁴⁷⁴ BArch R3001/6663, pp. 33-34, *Declaration of the High Command of the Marken District threatening Strikers with Detention*, 19 April 1917.

⁴⁷⁵ ‘Report by Department VII, External Service, 3rd Commissariat to Berlin Police Presidency’, quoted in Materna and Schreckenbach, *Dokumente aus geheimen Archiven*, p. 201.

⁴⁷⁶ Only the persisting interventions of the trade union leader and Reichstag deputy, Adolf Cohen, could free Müller after three months of military detention. Yet, almost immediately after his release, Müller resumed his activities as a shop steward. Generally, Müller’s key role in the German anti-war movement as well as that of the ‘revolutionary shop stewards’ has been neglected for a long time. His almost forgotten history of the November Revolution, published in 1925, has recently been republished; Richard Müller, *Eine Geschichte der Novemberrevolution. Vom Kaiserreich zur Republik. Die Novemberrevolution. Der Bürgerkrieg in Deutschland* (Berlin: Die Buchmacherei, 2011). For a biography of Richard Müller see Ralf Hoffrogge, *Richard Müller: Der Mann hinter der Novemberrevolution* (Berlin: Karl-Dietz-Verlag, 2008).

⁴⁷⁷ For an account of the radicalisation of working class protest in Düsseldorf during the war see Mary Nolan, *Social Democracy and Society: Working-Class Radicalism in Düsseldorf 1890-1920* (Cambridge: Cambridge University Press, 1981), pp. 251-268.

sentences of up to six years hard labour. The severe state of siege was maintained until 14 July 1917.⁴⁷⁸ The events in Dusseldorf were symptomatic of the advancing crisis. Since June 1917, almost daily new reports about minor strikes throughout the empire reached the Imperial Home Office.⁴⁷⁹ Yet, strikes were not the only threat the authorities had to fear. In August 1917, sailors of the High Sea Fleet in their base at Wilhelmshaven mutinied and the following suppression ended in courts martial and death sentences for five of the ringleaders. Two socialists, Albin Köbis and Max Reichpietsch, were actually executed.⁴⁸⁰ In the wake of the mutiny, numerous arrests among sailors and civilians were made. Most of them were kept in military security detention under the provisions of the state of siege.⁴⁸¹

A conclusion drawn from the occurrence of continuous strikes and the mutiny of the High Sea Fleet was the intensification of domestic intelligence in the Empire. Germany had no centralised domestic intelligence agency such as the British MI5. Therefore domestic intelligence was mainly carried out by Department VII of the Berlin Police presidency, the political branch of the Prussian police. Although Department VII maintained its own informers and monitored all kinds of potentially seditious movements, no systematic approach to domestic intelligence and surveillance existed. A conference between the heads of the Prussian police and military commanders on 16 and 17 December 1917 examined strategies for a better surveillance of the home front and the suppression of revolutionary movements.⁴⁸²

⁴⁷⁸ ‘Aufhebung des verschärften Belagerungszustandes in Düsseldorf’, *Vorwärts* 17 July 1917; BArch 1501/112218, pp. 191-194, *Repression of the Strike Movement in Düsseldorf*, July 1917.

⁴⁷⁹ BArch R1501/112260, pp. 1-2, *Leaflet about the Events in Düsseldorf*, 22 August 1917.

⁴⁸⁰ Carsten, *War against war*, pp. 112-123.

⁴⁸¹ BArch R1501/112473, *High Treason*, 1915-1918.

⁴⁸² LAB A Pr. Br. Rep. 030 Nr. 15903, pp. 38-42, *Précis about a Conference on the Fight against Hostile Activities and Domestic Intelligence*, 17/18 December 1917.

As a result Department IIIb of the general staff extended its activities to the home front. For this purpose a ‘Section X’ within the department was formed whose main task became the surveillance of revolutionary movements in Germany. The Department was originally the foreign intelligence unit of the German army, but its range of activities increased significantly during the war.⁴⁸³

In May 1917, it had already taken over the task of organising ‘patriotic instruction’. Now, its commanding officer, Colonel Walter Nicolai, additionally seized control over domestic intelligence.⁴⁸⁴ The objectives formulated at the aforementioned conference included the prevention of further mass strikes as well as the suppression of pacifist propaganda.⁴⁸⁵ Department IIIb eventually turned into a political intelligence unit that combined military powers under the state of siege with the tactics of political policing. In the wake of this extension of domestic intelligence, also the monitoring of political activists was gradually increased.

After the April strikes in 1917, orders were given to monitor the postal communication of prominent members of the Independent Social Democratic Party.⁴⁸⁶ The experiences with mass strikes also led to adjustments in the counter-

⁴⁸³ For a general introduction to German intelligence during the First World War see Markus Pöhlmann, ‘German Intelligence at War, 1914-1918’, *Journal of Intelligence History*, 5, 2 (2005), pp. 25-54; For an introduction into the structures of domestic intelligence see Florian Altenhöner, ‘Total War – Total Control? German Military Intelligence on the Home Front, 1914-1918’, *Ibid.*, pp. 55-72.

⁴⁸⁴ Despite Colonel Nicolai’s key role on the German home front, only little is actually known about his activities during the war. The main reason is the loss of nearly all documents due to the allied air raid that destroyed the Imperial Archives in Potsdam in April 1945. For an introduction, see Kenneth J. Campbell, ‘Colonel Walter Nicolai: A Mysterious but Effective Spy’, *American Intelligence Journal* 27, 1 (2009) pp. 83-89.

⁴⁸⁵ LAB A Pr. Br. Rep. 030 Nr. 15903, p. 40, *Précis about a Conference on the Fight against Hostile Activities and Domestic Intelligence*, 17/18 December 1917.

⁴⁸⁶ On 24 June 1917 the general command of the Marken district decreed the surveillance of the Reichstag parliamentarian of the USPD Georg Ledebour. Similar measures against other members of the parliamentarian group were already in force since 1916; BArch R4701/2367, p. 260, *Order to Monitor and Censor the Postal Communication of the Georg Ledebour*, 24 June 1917. In August 1917 postal censors warned that seditious materials were circulated by post and that closer

insurgency planning of the military. The Bavarian Ministry of War, for example, outlined principles for the suppression of uprisings in a decree to the military commanders from 2 April 1917.⁴⁸⁷ The described measures are exemplary for the contingency plans of other army corps commands.⁴⁸⁸ In fourteen points the military commanders were instructed to distinguish between food protests and revolutionary uprisings. Their dealing with the first instances should be lenient and measured. The main target here was to disperse the crowds without too much commotion. Yet, the provisions for dealing with political unrest were much more severe. The instruction stated that only reliable officers and troops were to be employed in such instances. These were preferably professional troops with no connections to the local people, ideally from a different area of Bavaria. It stated further that: ‘All other considerations have to stand back from the necessity to achieve the aim [the suppression of an uprising] in short time and without restrictions. Reliable troops and decisive leaders are necessary for this.’⁴⁸⁹

Modes of Emergency Government in the Lloyd George System 1917

The first changes in the British handling of strikes and dissent had already set in before the outbreak of the Russian Revolution in March 1917. The worsening

surveillance was urgently necessary; *Ibid.*, p. 261, *Memorandum on Revolutionary Propaganda distributed via the Imperial Post*, 25 August 1917.

⁴⁸⁷ ‘Order by the Bavarian Ministry of War concerning the Suppression of Domestic Unrests, 2 April 1917’, quoted in Deist, *Militär und Innenpolitik*, pp. 697-699.

⁴⁸⁸ Similar measures were discussed at a conference of the Prussian deputy military commanders on 20 February 1918, after the January strike movement had been suppressed: ‘Notes of a Conference in the Prussia Ministry of War on Strikes and the Suppression of Strike Movements, 20 February 1918’, quoted in Deist, *Militär und Innenpolitik*, pp. 1184-1192.

⁴⁸⁹ ‘Order by the Bavarian Ministry of War concerning the Suppression of Domestic Unrests, 2 April 1917’, quoted in Deist, *Militär und Innenpolitik*, p. 699.

situation on the Western Front after the failed Somme offensive but also fears of domestic turmoil and strike movements led to a redrafting of domestic contingency plans. In August 1916, a new Home Defence Scheme was prepared by the War Office.⁴⁹⁰ Primarily dealing with provisions for the case of a potential German invasion, it also contained measures for ‘special emergencies’. Although no explicit explanation of what constituted such an emergency was provided, the details of the scheme indicate that this was likely to mean large-scale strikes and other disturbances. Article 26 of the emergency scheme decreed the suspension of the right to trial by jury that was introduced under the Defence of the Realm (Amendment) Act of March 1915.⁴⁹¹ In article 27 of the emergency scheme the immediate detention of ‘dangerous persons’ was ordered. The scheme also ordered all Competent Military Authorities to collect lists labelled A, B, and Z with the help of local police constabularies. Class A contained all persons that were to be interned when the War Office would issue the code word ‘praetor’. Class B included persons that had to report themselves regularly to the police. Class Z represented enemy aliens that were to be detained as well. After the planned detention of the persons of the classes A and Z, they were to be transferred from the police to the military, who were then responsible for deporting them to so-called ‘concentration centres’.⁴⁹² However, the War Office files give no clear picture about the persons actually listed for the pre-emptive detention by the military authorities. The existence of a separate list for enemy aliens, however, suggests that these were

⁴⁹⁰ WO 33/872, *General Summary of Home Defence Emergency Schemes*, 16 August 1916.

⁴⁹¹ See Chapter Two.

⁴⁹² WO 33/872, *General Summary of Home Defence Emergency Schemes*, 16 August 1916.

British subjects considered as ‘dangerous’ and potentially seditious. There are good reasons to believe that anti-war activists were included in this group.⁴⁹³

Another example for the increasingly severe approach to the exercise of emergency government is a memorandum of the Chief Constable of Glamorganshire from 23 February 1917 to the Home Office.⁴⁹⁴ It expressed the annoyance of the senior police officer about the alleged leniency of the prosecution against the ‘disloyal, mischievous speeches’ at meetings ‘convened by the Independent Labour Party, No-Conscription Fellowship, Union of Democratic Control etc.’. According to him, the ‘decision to prosecute [offences against DORA] had not been given often enough by the CMA [Competent Military Authority]’. He concluded that this leniency would lead to further disturbances as had been seen in Ireland and that the timely and measured prosecution of anti-war activities was strongly advised.⁴⁹⁵

Yet, it remains unclear how influential anti-war groups had really become by this point. In a letter from 16 December 1916, Sylvia Pankhurst articulated her firm belief that ‘there is a great and growing volume of opinion in favour of an immediate peace’.⁴⁹⁶ However, this ‘voice of the people is never heard’, because ‘the free expression of opinion is denied, newspapers told by the government what to say and what not to say’.⁴⁹⁷ Despite this rather optimistic outlook, dissenting

⁴⁹³ Despite intensive efforts, no surviving specimen of such a list could be found in the Home Office and War Office files. It is likely that the related records were destroyed in the 1940s. Bernard Porter pointed out the same problem exists for the records of the Special Branch of the Metropolitan Police: Bernard Porter, ‘History and Secrecy: Secrecy and the Special Branch 1880-1914’, *Bulletin of the Society for the Study of Labour History*, 52, 1 (1987), pp. 8-16.

⁴⁹⁴ HO 45/10742/263275, *Letter Chief Constable of Glamorganshire to Home Office*, 23 February 1917.

⁴⁹⁵ *Ibid.*

⁴⁹⁶ HO 45/10742/263275, *Pankhurst to Bow*, 16 December 1916.

⁴⁹⁷ *Ibid.*

groups were in a crisis by the end of 1916. The introduction of conscription had liberated groups such as the NCF or UDC from their former isolation, but the increased repression took its toll on them. The conscription of young workers posed a severe challenge to anti-war socialists organised in the BSP and ILP. Both parties saw a decline in branches and membership numbers throughout 1916.⁴⁹⁸ What had changed, however, was that their position was increasingly supported by the trade unions. Deteriorating living standards, insufficient control of food supplies, and the repressive handling of trade disputes had paved the way for a gradual rapprochement of the initially disparate movements. In this context, particularly shop stewards and local food vigilance committees began to play an important role as intermediaries between political and social protest.

On the other side, however, the parliamentary Labour Party had joined the Asquith coalition in 1915 and Arthur Henderson had become a member of Lloyd George's War Cabinet in December 1916 despite growing internal conflicts.⁴⁹⁹ When the Russian Revolution broke out in March the Labour Party remained intact. Yet, it was split between patriotic groups that supported the war effort and the participation in government, moderate war opponents such as Ramsay MacDonald, and downright revolutionaries such as the BSP leadership around Albert Inkpin and John MacLean. Yet overall, the events in Petrograd were clearly a turning point for the home front politics. Nearly all branches of the Labour Party welcomed the overthrow of the autocratic Tsarist regime emphatically. The interpretation of the significance of the events, however, differed within the labour movement. For

⁴⁹⁸ According to Francis L. Carsten 1,540 members of the ILP alone were drafted and consequently gaoled as COs for more than two years each. 71 of them died in prison: Carsten, *War against war*, p. 205.

⁴⁹⁹ Fred M. Leventhal, *Arthur Henderson* (Manchester: Manchester University Press, 1989), pp. 55-70; Vickers, *Labour Party and the World*, pp. 58-61.

moderate socialists the end of Tsarism opened up the prospect of the defeat of its ideological twin Kaiserism. For them it was now much easier to argue for the war as a fight for liberty and democracy versus authoritarianism. In the view of anti-war radicals, however, the revolution was primarily driven by the wish of the Russian people for peace. In their eyes, this was an example that the British working class should follow.⁵⁰⁰ But Britain was far from having a revolutionary moment in March 1917. Despite the fact that food riots and strikes became more frequent and anti-war protest meetings were held nearly every day in different parts of the country, neither government nor dissenters really believed that the situation was close to an uprising. What was important, however, was the belief on both sides that if things continued to develop in the way they were, a situation similar to that in Russia could easily emerge. Lloyd George himself stated at a meeting of the War Cabinet on 6 April 1917 that there was ‘a very considerable and highly-organised labour movement with seditious tendencies, which was developing in many industrial centres’. Although some of their grievances were legitimate, there was a danger ‘of these being exploited by violent anarchists’.⁵⁰¹

A short time after his ascent to office, Lloyd George endeavoured to suppress the ILP’s *Labour Leader* and the NCF’s *Tribunal*. The Home Office, MI5 and the Department of Public Prosecutions prepared the suppression by collecting evidence of offences against various DRR.⁵⁰² In January 1917, Lloyd George sought to secure the support of Arthur Henderson for such a measure. Henderson, however,

⁵⁰⁰ See Rhiannon Vickers, *The Labour Party and the World*, pp. 64-75; Bill Jones, *The British Labour Party and the Soviet Union* (Manchester: Manchester University Press, 1977), pp. 1-10; Paul Adelman, *The Rise of the Labour Party 1880-1945* (London: Pearson, 1972), pp. 48-49; John Callaghan, *The Labour Party and Foreign Policy: A History* (Abingdon: Routledge, 2007), pp. 46-48.

⁵⁰¹ TNA CAB 23/2/, pp. 99-100, *Minutes of War Cabinet Meeting*, 6 April 1917.

⁵⁰² TNA HO 45/10786/297549, *Labour Leader and Independent Labour Press*, 1915-1917.

refused with reference to the upcoming Labour Party conference in Manchester in the same month. He indicated that the conference would force the parliamentary party to withdraw its support for the government in such a case.⁵⁰³ Henderson's rejection made clear that an open attack on organised labour would not be tolerated by the Labour Party. The same applied to the overly oppressive handling of strikes. Although the Minister of Labour, John Hodge, had threatened to prosecute striking boilermakers in Liverpool in 1916 as traitors and offenders under DORA, he generally sought to avoid open confrontation. With regards to a strike of Jewish tailors in London in December 1916 and their subsequent prosecution under the Defence of the Realm Act, his permanent secretary, David Shackleton, wrote in a memorandum that '(...) the real concern of this Department is that extreme action should not be taken where it can be avoided (...)'.⁵⁰⁴ Often, however, strikes were not avoided. The number of walkouts in the vital metal, shipbuilding and engineering trades more than doubled between 1916 (105) and 1917 (225). The number of strikers increased ten-fold from 305,000 to 3,063,000 during the same time.⁵⁰⁵ This surge was in many ways also a sign that the government was unable to tackle inflation and problems in food supply, which left strikes often as the only way for organised workers to improve their situation. In addition the revocation of exemption certificates for skilled workers further stirred the resistance of big unions such as the Amalgamated Society of Engineers (ASE).⁵⁰⁶

In anticipation of the troubles ahead, the government had already established guidelines as to how strikers could be prosecuted efficiently. As early as February

⁵⁰³ Ibid., *Henderson to Lloyd George*, 15 January 1917.

⁵⁰⁴ LAB 2/444/ML1156/1919, *memorandum by David Shackleton*, 2 February 1917.

⁵⁰⁵ Cf. Hinton, *The First Shop Stewards Movement*, p. 37.

⁵⁰⁶ Ibid., pp. 38-40.

1916 a legal opinion of the Law Officers of the Crown suggested that strikers and persons inciting delay or interference with the production of war-relevant materials should be prosecuted under DRR 42.⁵⁰⁷ When in mid-August 1917, the National Union of Railwaymen threatened a national strike, local police constables were advised by the Home Office to suppress picketing as breaches of DRR 42, 56 (14), and to arrest strikers under DRR 55.⁵⁰⁸ The main anxiety was, nevertheless, to prevent the occurrence of strikes at all. In order to avoid them forward intelligence was applied by different authorities. If strikes were looming, local Competent Military Authorities used so-called restriction orders under DRR 27B to keep alleged agitators away and deprive strike movements of their leadership. From mid-1917, more and more industrial centres were declared special military areas that could only be entered by non-inhabitants when the Competent Military Authorities gave their consent and issued special passports.⁵⁰⁹ Despite warnings by the Ministry of Labour regarding the negative impact of such measures, military authorities had issued over 600 of these orders in the period up to June 1917. The responsible officer at the War Office even complained that the four initially designated areas for deportations were meanwhile insufficient. They were too close to munitions centres to effectively suppress the influence of agitators.⁵¹⁰

⁵⁰⁷ TNA LAB 2/444/ML1156/1919, *Opinion of the Law Officers of the Crown*, 16 February 1916.

⁵⁰⁸ TNA HO 45/10884/346578, *Home Office to Chief Constables*, 21 August 1917.

⁵⁰⁹ TNA HO45/10805/309317, *War: Special Military Areas under Provision 29B of the Defence of the Realm Regulations, Restrictions of Entry*, 1915-1919.

⁵¹⁰ TNA LAB 2/1189/ML2525/1917, *Minutes of a cabinet conference regarding the exclusion of agitators from munitions centres*, 7 June 1917. The Ministry of Labour argued that further 'Glasgow cases' would aggravate labour disputes. However, eventually the Army Council and Admiralty seized the power to issue restriction orders. Ibid, *Memorandum about a meeting of the DRR amendment committee by David Shackleton*, 27 June 1917.

Another priority for the authorities was the surveillance of the public. MI5 and local police authorities collected information about nearly every meeting that took place anywhere in the country. The priorities of gathering intelligence even lead to the abandonment of the practice of denying peace meetings access to squares and halls. Just before the Leeds Conference of ILP and BSP on 3 June 1917, the Chief Constable of Leeds wrote to the Home Office that ‘it was desired that the meeting should be held under one roof where there would be ample opportunities for adequate police supervision.’⁵¹¹ However, he also suggested that open air meetings were to be suppressed with the help of DRR 9A.⁵¹²

Wherever possible, police constables gathered reports about meetings and demonstrations. This information was then summarised and sent to the Home Office. Competent Military Authorities, too, compiled domestic intelligence summaries and dispatched them to the War Office. In addition, also MI5, MI7, the Ministry of Labour, the Ministry of Munitions, the National Service Ministry and the Admiralty gathered some forms of domestic intelligence.⁵¹³ In April 1917, an internal agreement between the different departments was achieved in so far as the Home Office now became the central agency for collecting intelligence reports. It created comprehensive weekly intelligence summaries from all available sources and distributed them among the other departments.⁵¹⁴

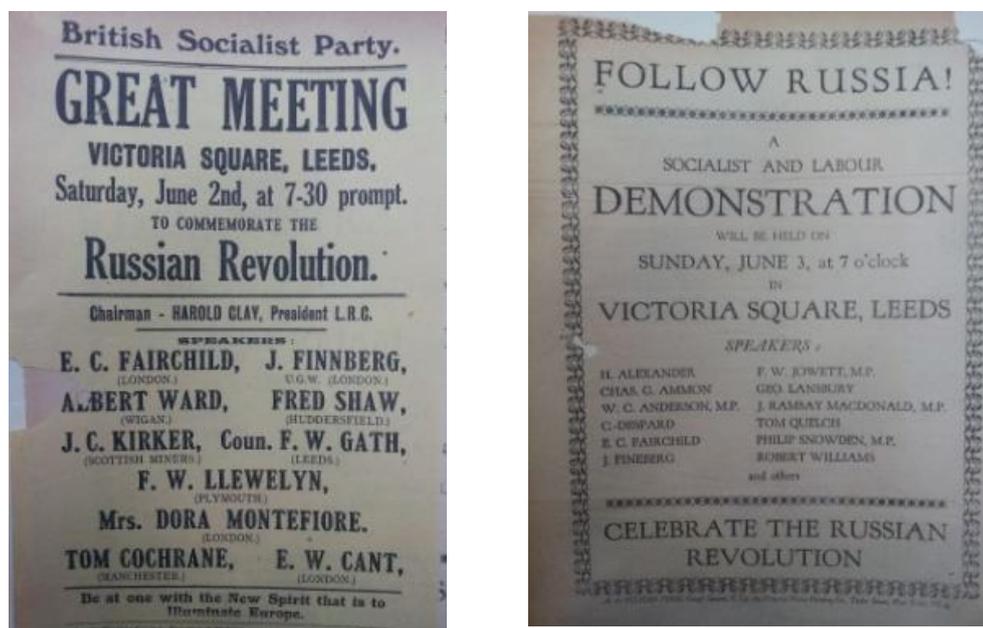
⁵¹¹ TNA HO 45/10810/311932, *report by the Chief Constabulary to Home Office*, 1 June 1917.

⁵¹² *Ibid.*

⁵¹³ Millman, *Managing Dissent*, pp. 179-184.

⁵¹⁴ *Ibid.*, p. 179; Altenhöner, *Kommunikation und Kontrolle*, pp. 118-119.

Fig. 3 – Poster and leaflet advertising the Leeds conference of the United Socialist Council (TNA HO 45/10810/311932)



The political conflicts in Britain were further aggravated in June 1917. Simultaneous to the Leeds conference of the ILP and BSP, an international socialist peace congress took place in Stockholm between 2 and 17 June.⁵¹⁵ Initially, Ramsay MacDonald was delegated by the ILP to attend, but ‘patriotic’ seamen prevented him from entering the ship that was supposed to bring him to Sweden.⁵¹⁶ The apparent unwillingness of the government to negotiate peace offers and the fact that

⁵¹⁵ See Hildamarie Meynell, ‘The Stockholm Conference 1917 (I)’, *The International Review of Social History*, 5, 1 (1960), pp. 1-25; idem, ‘The Stockholm Conference 1917 (II)’, *The International Review of Social History*, 5, 2 (1960), pp. 202-225; David Kirby, ‘International Socialism and the Question of Peace’, *The Historical Journal*, 25, 3 (1985), pp. 709-716; Jay M. Winter, ‘Arthur Henderson, the Russian Revolution, and the Reconstruction of the Labour Party’, *The Historical Journal*, 15, 4 (1972), pp. 753-773.

⁵¹⁶ Millman, *Managing Dissent*, pp. 210-213.

he and other Labour delegates were denied passports to travel to Stockholm led to Arthur Henderson's resignation from office.⁵¹⁷

The intransigence of Lloyd George also triggered calls to follow Russia and end the war with a revolution in Britain. The Chief Constable of Birmingham, for instance, reported a 'patriotic' meeting attended by Alfred Milner at which crippled soldiers shouted: 'Why don't you people start the revolution? You are too peaceful! Look at Russia.' And then addressing Milner: 'You do not care what life you sacrifice! All the manhood is gone!'⁵¹⁸ A few days later, one of the soldiers was visited by Special Constables who threatened that his pension would be revoked in case he continued to agitate people and break DRR.⁵¹⁹ The radical socialist Tom Mann struck a similarly revolutionary tone when he publically stated in September 1917: 'I have been an advocate for a revolution for this country for the least 30 years. Russia has done it. How much longer are we going to wait?'⁵²⁰ And on the eve of the October Revolution, Home Secretary Cave concluded that revolutionary and pacifist propaganda had created an excitement 'in the bulk of the populace that is no doubt much greater than it was. This may account for a general impression that they [pacifist sentiments] have become much more common.'⁵²¹ The Assistant-Commissioner of the CID agreed with this observation: 'The officers of this department have noticed, lately, a distinct increase in the support given to these societies [the Daily Herald League, BSP and ILP] and in the circulation of their

⁵¹⁷ Martin Pugh, *Speak for Britain. A New History of the Labour Party* (London: Bodley Head, 2010), pp. 118-120.

⁵¹⁸ TNA HO 45/10743/263275, *Report Chief Constable of Birmingham to Home Office*, 11 June 1917.

⁵¹⁹ *Ibid.*

⁵²⁰ *Ibid.*, *Report Chief Constable of Birmingham to Home Office*, 16 September 1917.

⁵²¹ *Ibid.*, *Note Cave to Assistant-Commissioner Criminal Investigation Department*, 5 October 1917.

literature.⁵²² In a subsequent order to Special Branch and CID, Cave decided that speakers at such public meetings were to be treated as ‘amidst the enemies of the King’, therefore as traitors.⁵²³ And even if prosecution for offences against DRR were not likely to succeed, the police should at least not interfere with mobs attempting to break-up such meetings as ‘they [the mob] had the right on their side’.⁵²⁴

The growing nervousness among the authorities also influenced the treatment of prominent anti-war activists. Leading dissenters were kept under particularly close surveillance. Their postal communication was read by intelligence officers and often police agents monitored their contacts and conversations. The Home Office kept dossiers of prominent anti-war activists such as Philip Snowden and his wife Ethel, Charles P. Trevelyan, or Bertrand Russell.⁵²⁵ This information was now also used to prosecute influential figures of the anti-war movement. The case against Edward D. Morel in August 1917 is exemplary. Morel attempted to send a copy of his anti-war pamphlet *Tsardom’s Part in the War* to Romain Rolland in Switzerland. Allegedly he incited a female friend, Ethel Sidgewick, to smuggle the pamphlet abroad, which was discovered and eventually prosecuted by the Competent Military Authority of London. During the following trial Morel was convicted to six months hard labour, which he spent in Pentonville Prison.⁵²⁶

⁵²² Ibid., *Note Assistant-Commissioner CID to Cave*, 12 October 1917.

⁵²³ Ibid, *Note Cave to Assistant-Commissioner CID*, 13 October 1917.

⁵²⁴ Ibid.

⁵²⁵ TNA HO 45/10814/312987, *WAR: Pacifist activities of Mr. and Mrs. Philip Snowden*, 1916-1918; TNA HO 144/1459/316786, *DISTURBANCES: Charles P. Trevelyan, M.P. pacifist activities*, 1916-1918; TNA HO 45/11012/314670, *WAR: Pacifist activities of Bertrand Russell*, 1916-1921.

⁵²⁶ Catherine Cline, *E. D. Morel, 1873-1924: Strategies of Protest* (Belfast: Blackstaff Press, 1981), pp. 112-115; Millman, *Managing Dissent*, pp. 179-184; Sally Harris, *Out of Control. British Foreign Policy and the Union of Democratic Control, 1914-1918* (Hull: Hull University Press, 1999), p. 159.

Morel's case was clearly intended as a cautionary tale by the authorities. Yet, it also triggered a wave of protests against the increasingly repressive policies of the Lloyd George government.

Comparison

The situation in 1917 on the British and German home fronts was marked by an aggravating domestic crisis. Food supplies became increasingly insufficient while at the same time working conditions deteriorated. Even though wages rose nominally, they could barely keep pace with soaring inflation. Yet, not all strata of society were hit in the same way by wartime hardships. Jürgen Kocka's characterisation of Germany as a class society at war was certainly equally true for Britain.⁵²⁷ Despite propaganda claims of national unity, the majority of the social elites in both countries were not willing to share or give up privileges. This concerned unequal opportunities for political participation as epitomised by the Prussian three-class franchise but also the accessibility of consumer goods and food. Like no other wartime phenomenon, the black market made class divides and entrenched social inequalities visible for everybody.⁵²⁸ The reluctance of the state to intervene – food rationing in Britain was introduced as late as February 1918 – contributed to a general war weariness among the working class.

The escalation of industrial unrest during 1917 in both countries was thus the result of socio-economic problems rather than political incitement. In the majority

⁵²⁷ Jürgen Kocka, *Facing Total War: German Society 1914-1918*, op. cit.; Waites, *A Class Society at War*, pp. 221-230.

⁵²⁸ Wehler, *Deutsche Gesellschaftsgeschichte*, p. 71.

of cases, strikes addressed immediate demands such as wage rises or food shortages. In reaction, the authorities were inclined to solve these grievances if possible, or at least to allow a controlled outlet of protest. Nonetheless, the number of strikes increased significantly in both countries between 1916 and 1917. In Germany the number rose from 240 in 1916 to 561 in 1917. The British numbers were at about the same level.⁵²⁹ And even though the strikes in Britain and Germany were not anti-war actions per se, they soon gained a critical dimension after the Russian Revolution of March 1917. In Berlin, the radical shop stewards of the Metalworkers' Union organised a mass walkout in mid-April in which approximately 200,000 workers participated. Among demands for better food supplies, the revocation of the state of siege and calls for a peace without annexations and indemnities were articulated.

In Britain, strikes rarely featured similar political demands. But this should not lead to the conclusion that anti-war positions were isolated within organised labour. Despite war supported by the parliamentary Labour Party and the TUC, the rank-and-file of the trade unions increasingly supported the call for peace negotiations. A growing number of local trade councils affiliated themselves to organisations such as the UDC and the growth of local branches of the BSP and ILP after June 1917 provides evidence for this tendency. In both countries shop stewards played a crucial role in this process. As experienced activists, they often were intermediaries between local workers and political organisations. The regional failure or success of pro- and anti-war campaigns was often directly related to their stance towards the war. This also helps to explain why in Britain anti-war dissent could flourish in some strongholds such as Glasgow, Sheffield, Birmingham, or

⁵²⁹ Kocka, *Facing Total War*, pp. 61-63.

South Wales, where the shop stewards movement had strong ties with anti-war dissent, whereas it could not gain ground in other parts of the country. In comparison, in Germany food protests and political activities occurred in all major cities and feature no such geographical divide.

The Russian Revolution of March 1917 fuelled the existing dissent on the home fronts. It is, however, questionable whether the events in Russia actually led to a more revolutionary strategy of activists in Britain and Germany. There were certainly many emphatic articulations in support of the Russian Revolution. The foundation of the USPD in Germany as well as the increased activities of the United Socialist Council of the BSP and ILP such as their Leeds conference in June 1917 illustrate this very well. Prominent radical socialists undoubtedly took new motivation from the Russian developments. However, actual revolutionary events such as the mutiny on ships of the German High Sea Fleet in August 1917 were singular events with only limited impact on the developments in Germany. Yet, it also demonstrated that the domestic crisis was escalating. Despite all this, there was neither a full-blown revolutionary movement nor mass support for such a course of action in Britain or Germany in 1917.

It is in this context important to make a distinction between the advocacy of peace negotiations and the promotion of a revolutionary overthrow of the societal order: firstly, because the revolutionary question became a cause of conflict within the anti-war camp itself. Secondly, because patriotic wartime propaganda blurred this distinction by lumping together everybody opposed to the war by presenting them as dangerous, seditious revolutionaries that wanted to push countries into turmoil and chaos. This highlights that the perception of dissenting movements by the authorities was changed by the impact of the Russian Revolution.

The Russian example had demonstrated that strike movements could easily turn into revolutionary unrest if they were not tackled in the right way. German as well as British authorities therefore intensified their efforts to monitor and if necessary suppress such movements. The strategies they chose, however, were – despite some surprising similarities – rather different. We have seen that the coercive powers under the different pieces of emergency legislation were now applied with much less leniency than before. The British authorities constantly amended existing DRR to make them fit for their purpose to suppress strike movements and dissent. In this process, however, also some conflict lines between the different state departments came to the fore. Whereas the War Office and the Home Office under the Conservative George Cave were only too willing to make use of DORA to tackle dissent and strikes, the Ministry of Labour or the Ministry of Munitions urged for a more lenient handling. Yet, it seems that the repressive approach finally prevailed after the parliamentary Labour Party withdrew its support for the coalition government. In Germany, on the other hand, no unified approach for the handling of strikes existed. Due to the ramified structure under the state of siege the decision how to handle strike and protest meetings was up to the local commanding officers.

Similarly to Britain, allowing a controlled outlet of protest was the most convenient way for the local authorities. Public meetings under police surveillance also allowed relevant intelligence about the development of local protest movements to be gathered. Yet, the incapacity to address the most urgent grievances such as food shortages and inflation diminished the effect of these appeasement policies. Simultaneously, local military commanders began to prepare counter-insurgency plans, which indicate a growing anticipation of looming unrest.

In fact, the repressive approach and the willing use of troops and police squads to counter demonstrations became a dominant feature of strike-breaking tactics. In contrast, British authorities were reluctant to employ armed troops for maintaining public order. Only in October 1918, when the Metropolitan Police went on strike in London, armed troops visibly conducted armed patrols in London. Nevertheless, the British authorities prepared their own contingency plans in case of strikes and revolutionary uprisings. These plans envisaged the large-scale employment of troops in the interior. The main difference between Britain and Germany in this regard was the fact that these plans did not materialise in Britain during the war. The military government in Germany collapsed before it could set them into operation. Yet, the crushing of the Spartacus Rising in January 1919 and later counter-insurgency operations during the early years of the Weimar Republic give an impression of the possible outcome of these plans. We should not forget, however, that military units were also employed in Britain to deal with the unrest in Ireland and the strikes in Glasgow and Liverpool in 1919.

A similar disposition of the British and German authorities can also be found regarding the treatment of prominent dissenters. Whereas the German military had made extensive use of its power to arrest without warrant since the beginning of the war, the British authorities remained for a long time reluctant to intern public figures.⁵³⁰ However, the self-imposed restraint under the Asquith ministry and the taming effect of the Labour Party cabinet ministers in the Lloyd George coalition was gone by August 1917. This had the immediate effect that Edmund D. Morel a leading member of the UDC was convicted under DORA for a questionable offence. During the following months, the DPP endeavoured to prosecute other

⁵³⁰ See Chapter Two.

leading dissenters such as Bertrand Russell. A relevant difference to Germany was that the British authorities avoided detention without trial (which they had the power to impose under DRR 14B) and used court convictions instead. This was obviously an attempt to avoid any notion of despotism. Nevertheless, as we will see later, the courts proved to be reliable allies for this purpose.

Another relevant dimension of emergency government was the advanced use of domestic intelligence. Here, the British system was clearly superior to the German efforts. Since mid-1916, different departments had collected relevant information about strike movements and political dissent. By April 1917 a unified approach to domestic surveillance under the aegis of the Home Office was established. Surveillance practices included the monitoring of postal communication, the infiltration of political groups as well as the supervision of public meetings. The gathered information was used to prepare prosecutions but also – and more importantly – to design efficient counter-propaganda. From October 1917, the Home Office and MI5 shared their intelligence dossiers with the NWAC.⁵³¹ With the establishment of the Ministry of Information in February 1918 this practice was extended, and the Ministry consequently built its own domestic intelligence section.⁵³² Its German counterpart, however, worked with less efficiency. Only in October 1917 did the Military Intelligence Department IIIb extend its activities to the supervision of domestic affairs. Although local military commanders did their best to gather information in their districts, there was no

⁵³¹ Millman, *Managing Dissent*, pp. 247-249.

⁵³² The Ministry of Information maintained an Intelligence Bureau, which collected data about the public mood and the impact of propaganda campaigns. In March 1916, a Political Intelligence Bureau was formed within the Foreign Office, mainly staffed with former members of the MOI's Intelligence Bureau; Michael Dockrill, 'The Foreign Office Political Intelligence Department and Germany in 1918', in idem and David French (eds), *Strategy and Intelligence: British Policy during the First World War* (London: Hambledon Press, 1996), pp. 160-183.

unified approach to domestic intelligence. Only Department VII of the Berlin Police Presidency conducted systematic surveillance of the activities of socialist activists. However, its reach was effectively limited to Berlin and the province of Brandenburg. Reliable reports about the public mood could only be gathered in bigger cities such as Berlin, where local police constables submitted regular updates. Yet, these were mere spotlights and neither civilian nor military decision makers seem to have used much of this intelligence to inform their actual policy making.

In many respects, the British system with its efficient combination of suppression, surveillance and propaganda was more modern in its anticipation of future developments. The heavy-handed German approach towards dealing with strikes and dissent was still based on paradigms of the nineteenth century. In contrast, the British authorities were well aware that the suppression of undesirable movements alone was not sufficient for maintaining the war effort. It also understood that broad public support for the war effort was even more crucial. Propaganda was in this context just as imperative as surveillance and coercion. The German authorities underestimated the importance of public opinion for too long and could not adapt their system in time. A contributing factor might have been that many local military commanders lacked a basic understanding of the importance of public opinion. The Third Supreme Command undertook efforts to change this, however with little success. The martial habitus and its influence on the actual handling of protest were additionally diminishing the chances of success for propaganda campaigns. The British, on the other hand, with their willingness to co-opt civilian expertise for propaganda purposes proved to be much more successful.

Towards the Abyss: Emergency Government, Dissent and Enforced Endurance at the Home Front (1918)

If the atmosphere on the home fronts was tense in 1917, it was to reach its tipping point in 1918. By the end of the year the war would be over and three European empires would have ceased to exist. Yet, despite the eventual collapse and defeat of the Central Powers, it is hard to establish how close the Allies had come to a breakdown themselves. Fear of revolutionary turmoil had emerged in Britain in the wake of the first revolution in Russia in March 1917. Yet, after the Bolshevik coup in November 1917, these fears became even more intense leading to serious preparations for suppressing uprisings by the authorities.

The crisis in the German Empire was even more severe. After the last and eventually futile military Spring Offensive in early-1918, the economic, political and military problems agglomerated into the consequential collapse of the old order.⁵³³ The revolution that broke out in November 1918 was just the last push over the edge. Against the background of the escalating crisis, the handling of the state of siege reached its most repressive phase. As the crisis at home became worse, it increasingly shifted from policing the home front to militarizing it. This, however, also proved to be the Achilles' heel of the oppressive state of siege system. The growing reliance on military units for maintaining public order finally backfired on the authorities when the soldiers refused to shoot on striking workers and to suppress the mutiny of the sailors of the High Sea Fleet.

The situation in Britain did not develop in the same way. Yet, also here contingency planning emerged along similar lines. When the Metropolitan Police

⁵³³ David Stevenson, *With Our Backs to the Wall: Victory and Defeat in 1918* (London: Penguin, 2011), pp. 30-111; Millmann, *Pessimism and British War Policy*, pp. 241-282.

went on strike in October 1918 the signs seemed to point in the direction of a revolution in Britain, too. In its secret contingency plans the Lloyd George Cabinet was prepared to use whatever force was necessary to preserve the existing order.

Towards Collapse and Revolution: The Handling of the State of Siege Germany 1918

After Georg Michaelis had replaced Bethmann Hollweg as Imperial Chancellor in the wake of the 'July Crisis' of 1917, the political conflicts in the Reichstag became more intense. Michaelis, who was barely more than a spokesperson for the Supreme Command, did not show the equal capability for political appeasement and for negotiating compromise of his predecessor. The SPD now demanded visible preparations for the promised rewards of their wartime support. Democratisation and a reform of the voting franchise were cornerstones of their demands. Yet, neither civilian nor military authorities were prepared to make substantial concessions. The Emperor's 'Easter Message' of April 1917 fell short of all expectations and had no significant impact on the domestic policies.⁵³⁴ It had the adverse effect of alienating even greater sections of German society. The premature proclamation demonstrated yet again the unwillingness for political reforms, even if the war would be brought to a successful conclusion. In an act of defiance, the Reichstag majority eventually forced Michaelis to step down on 31 October 1917.⁵³⁵ The new chancellor, Georg von Hertling – an experienced Bavarian

⁵³⁴ Ernst Rudolf Huber, *Dokumente zur deutschen Verfassungsgeschichte*, 2 vols (Stuttgart: Kohlhammer Verlag, 1961), vol. 2, pp. 467-468.

⁵³⁵ Winkler, *Der lange Weg nach Westen*, pp. 354-356; Wehler, *Deutsche Gesellschaftsgeschichte*, pp. 167-168.

politician – proved to be more skilful in his handling of the Reichstag parties. Yet, he was equally anxious to appease the demands of the Reichstag and to protract the enactment of actual political reforms. This weakened the cohesion of the political class in Germany, and more importantly, it diminished the influence of the moderate Social Democrats and trade unionists among the increasingly dissatisfied working class. Whereas support for the war effort by the German left had previously been presented as a trade-off for more political rights, it now appeared futile against the backdrop of the missing political reforms. The unwillingness of the political élites to concede political reforms facilitated the growing influence of more radical protest movements. The coup of the Bolsheviks and their demand for an immediate peace ‘without annexation and indemnities’ reverberated within the radical German left and soon became their main demand.

In January 1918, a massive strike wave swept through Germany and brought the country to the brink of a revolution. The strikes were inspired by a similar development in Austria-Hungary where approximately 700,000 to 1 million workers in Vienna, Budapest and other centres went on strike between 3 and 25 January 1918.⁵³⁶ On 28 January 1918, a similar strike began in Berlin. The strike movement soon spread to other big cities in the empire and reached a new quality of confrontation between state and workers. In the preparations for the strike the revolutionary shop stewards of the Metalworkers’ Union around Richard Müller, USPD leaders such as Wilhelm Dittmann and members of the communist Spartacus Group played a key role.⁵³⁷ This also led to a stronger link between socio-economic

⁵³⁶ Dick Geary, ‘Revolutionary Berlin, 1917-20’, in Chris Wrigley (ed.), *The Challenges of Labour: Central and Western Europe, 1917-1920* (London: Routledge, 1993), pp. 24-50, esp. pp. 29-34.

⁵³⁷ Martin Comack, *Wild Socialism: Workers Councils in Revolutionary Berlin 1918-1920* (Lanham: University Press of America, 2012), pp. 40-42; Stephen Bailey, ‘The Berlin Strike of January 1918’, *Central European History*, 13 (1980), pp. 158-174.

and political demands during the strike demonstrations. Whereas previous strikes were dominated by economic grievances, the political dimension of the January strike movement became just as important. A series of leaflets by the Spartacus Group declared the strike to be the ‘moment of truth’ (*Stunde der Entscheidung*).⁵³⁸ Their hope was clearly that the strike would turn into a revolutionary uprising. Yet, it seems that despite the speculation on a spontaneous mass action, no preparations for an actual uprising were undertaken. Although essentially not a revolutionary anti-war strike, the strike committee demanded political reforms. A strike leaflet from Essen from 29 January summarised these demands as follows:

[T]he continuation of the war, just as much as a victory of the German militarism (...), will lead to the blackest reaction, the rule of the sabre, the subjugation of the people in Germany. The work shall not be resumed until the following demands are achieved:

1. The immediate repeal of the state of siege, censorship, and all other regulations of the press.
2. Unrestricted freedom of assembly and association.
3. Unrestricted right to strike and organisation in trade unions.
4. Repeal of the Forced Labour Law [*Arbeitszwanggesetz* – presumably the Auxiliary Service Law].
5. Release of all political prisoners and the end of all political prosecution.⁵³⁹

During the following days, mass demonstrations made their way through Berlin and the police were faced by masses they could not adequately control. Almost on a par with the strikes in April 1917, between 200,000 and 300,000 workers walked out. The occasional clashes between police squads and strike demonstrations were particularly intense. An internal report of the Berlin Police Presidency that listed injuries of police constables recorded ‘massive fist punches, truncheon blows,

⁵³⁸ LAB A Pr. Br. Rep. 030 Nr. 15842, pp. 79-84, *Collection of Strike Leaflets*, January 1918.

⁵³⁹ BArch R1501/112255, pp. 107-111, *Strike Leaflet from Essen*, 29 January 1918.

stabbing and gunshot wounds’ among the injured police constables.⁵⁴⁰ It can be assumed that the police used equally harsh means during street fights. The situation was complicated further by the already tested methods of the strikers to play cat-and-mouse with the police. Larger demonstrations split up into groups of 300 to 500 people, dispersed and reassembled a short time later. On some occasions, the police could not assemble enough men to kettle such demonstrations and were routed by attacking mobs.⁵⁴¹ By 30 January the police could no longer guarantee control of the city and the commander of the Marken district, Colonel-General von Kessel, assumed command over the handling of the strike. On the following day, the severe state of siege (*verschärfter Belagerungszustand*) was proclaimed over Berlin and military units began to conduct armed patrols in the city. Von Kessel issued a public proclamation in which he emphasised that ‘there should be no doubt’, that he would ‘suppress all disturbances of law and order with all means at my disposal.’ He went on to warn all ‘law-abiding citizens’ to stay away from public meetings because ‘in case the military makes use of the weapon it will not distinguish between actual troublemakers and mere bystanders.’⁵⁴² Additionally, extraordinary courts martial were established to try detainees under the state of siege – a practice that had been widely abandoned since late-1916.

In contrast to previous strikes, the January events caused a massive panic among the social elites. On 30 January 1918, Wilhelm von Siemens, director of the important Siemens Corporation wrote a memorandum to the under-secretary of the

⁵⁴⁰ LAB A Pr. Br. Rep. 030 Nr. 15842, pp. 161-162, *Report by the Berlin Police President regarding the Strike in Berlin*, April 1917.

⁵⁴¹ *Ibid.*, pp. 224-226, *Report by the Royal Constabulary regarding the Suppression of the Strike*, 29 January 1917.

⁵⁴² BArch R1501/112255, p. 103. *Proclamation of the Severe State of Siege over Berlin*, 31 January 1918.

Imperial Home Office, Max Wallraff, with recommendations as how to suppress the strike movement.⁵⁴³ He stated that despite his workers being hitherto ‘immune’ to revolutionary incitement; they now began to show signs of upheaval, too. While asking for protection for his factories, he concluded that ‘a harsh suppression of the agitation will calm down the situation instead of aggravating it.’⁵⁴⁴ Another factory director, a certain Franz Kühne from Berlin-Steglitz, suggested calling up ringleaders and replacing them with soldiers. In order to gather the names of activists he offered his help and that of his factory management. For this purpose, he suggested, the police should send plain clothed officers as contact men into the factories that would help to organise and orchestrate the action.⁵⁴⁵

Eventually, the strike movement collapsed after the military effectively suppressed all public meetings and numerous people were detained and kept in protective custody.⁵⁴⁶ In order to prevent further upheavals, the military authorities began to draft around 500 to 600 workers every day. Yet, about ten percent of them evaded the draft and went underground.⁵⁴⁷ In an analysis of the preceding events from February 1918, Department VII concluded that the strikes could only be suppressed because the powers under the state of siege were rigorously exercised. In the aftermath of the January strike, it became apparent that the preparation of repressive responses was the main concern for the authorities. The editors of the SPD’s *Vorwärts*, Friedrich Stampfer and Erich Kuttner, were prosecuted for treason

⁵⁴³ BArch R1501/112255 p. 34, *Von Siemens to Wallraff*, 30 January 1918.

⁵⁴⁴ *Ibid.*

⁵⁴⁵ *Ibid.*, p. 104, *Kühne to Imperial Home Office*, 31 January 1918.

⁵⁴⁶ The Berlin Police noted over 90 cases of arrests under the state of siege. The alleged offences were among others: incitement to strike, resistance against police officers, rioting, disturbing the peace. LAB A Pr. Br. Rep. 030 Nr. 15842, *Police report about the strike movement*, 1 February 1918.

⁵⁴⁷ *Ibid.*

because their paper had documented the demands of the strikers. In another political trial, the spokesman of the USPD and member of the Reichstag, Wilhelm Dittmann, was sentenced to five years' severe imprisonment (*Festungshaft*) for attempted high treason. The same fate befell the Bavarian USPD leader Kurt Eisner, who had organised the strike in Munich.⁵⁴⁸

The harsh repression seems to have had a chilling effect on the anti-war movement. Also, the beginning of the large-scale Spring offensive of the German army on the Western front and its initially overwhelming success seem to have triggered a last momentum of self-mobilisation of the German home front. Yet, already in June 1918, the looming collapse became a distinct possibility for the German government. On 8 June the Imperial Chancery concluded that the financial reserves in foreign currency were almost completely depleted and that the acquisition of vital resources from the neutral countries would soon become impossible.⁵⁴⁹ On 16 June 1918, Ludendorff wrote to Chancellor Hertling that not enough replacements for the losses of the preceding offensives were available and suggested a *levée en masse* of all Germans no matter what age.⁵⁵⁰ Ludendorff was certainly aware that such a proposal was highly unrealistic and politically not feasible. Ludendorff's increasingly alarmist memoranda are therefore to be seen as attempts to create a myth of the alleged betrayal of the unbeaten army by the home front.

⁵⁴⁸ Chaja Boebel and Lothar Wentzel (eds), *Streiken gegen den Krieg: Die Bedeutung des Massenstreiks in der Metallindustrie im Januar 1918* (Hamburg: VSA, 2008).

⁵⁴⁹ BArch R43/4613, *Minutes of a meeting in the Imperial chancery*, 8 June 1918.

⁵⁵⁰ *Ibid.*, *Ludendorff to Hertling*, 18 June 1918; For a discussion of Hindenburg's proposal of a *levée en masse*, see also Michael Geyer, 'Insurrectionary Warfare: The German Debate about a Levée En Masse in October 1918', *The Journal of Modern History*, 73, 3 (2001), pp. 459-527.

Effectively, the war was lost for Germany in June 1918. Wilhelm Deist concludes that at least from this point a covert military strike spread within the German army that eventually led to a rapid decline of morale among the troops. The main aim of many German soldiers was now rather to survive the war than still trying to win it.⁵⁵¹ It took, however, until the end of September for the Supreme Command to officially acknowledge the fact of military defeat. On 26 September, Ludendorff confessed that the war could not be won anymore and negotiations for a truce should be commenced. At the same time, the Supreme Command urged a shift of political responsibility to the parliamentary parties. Hertling's attempts to integrate the majority parties into a coalition eventually failed and he was forced to resign on 28 September 1918. On 3 October Prince Max of Baden was appointed Imperial Chancellor with the explicit task of transforming the Imperial constitution towards a constitutional monarchy. This was a last hopeless attempt to fulfil the preconditions of US President Woodrow Wilson for entering peace negotiations on the basis of his 'Fourteen Points'.⁵⁵²

In order to address some of the main grievances of the Reichstag parties, the regime under the state of siege was hastily reformed. As early as 25 September 1918, the Imperial Home Office concluded that 'without a reform of the state of siege no effective calming down of the parliamentary situation will be achieved'.⁵⁵³ Yet, whereas an immediate reform of the law itself would be impossible, its handling should be softened. A first step in this direction would be to abandon the

⁵⁵¹ Wilhelm Deist, 'The German Army, the authoritarian national state and total war', in John Horne (ed.), *State, Society and Mobilization in Europe during the First World War* (Cambridge, 1997), pp. 160-172.

⁵⁵² Wehler, *Deutsche Gesellschaftsgeschichte*, pp. 178-182; Winkler, *Der Lange Weg nach Westen*, pp. 363-366.

⁵⁵³ BArch R1501/112262 pp. 3-4, *Imperial Home Office to Imperial Chancery*, 25 September 1918.

in many cases arbitrary administration of the state of siege by the individual military commanders and to transfer their emergency powers to the Supreme Military Commander (*Obermilitärbefehlshaber*) who had already been introduced in October 1916.⁵⁵⁴ On 15 October, an imperial decree was issued subsuming the local military commanders under the control of General Groener, the head of War Office. At the same time, leading socialist anti-war activists such as Wilhelm Dittmann were released from prison. A short time later Karl Liebknecht, Rosa Luxemburg and Kurt Eisner followed after a general amnesty. This was supposed to be a sign of goodwill, and opened up the way for the negotiations of the state reform with the representatives of the Reichstag parties.⁵⁵⁵

However, the protracted parliamentary process to enact the reforms came too late to make any significant difference. On 29 October, the sailors of the High Sea Fleet in Kiel, Lübeck, and Wilhelmshaven began to mutiny.⁵⁵⁶ Already on 26 October the Supreme Command had urged the Emperor to leave Berlin and seek refuge at the Great Headquarters in Spa in occupied Belgium.⁵⁵⁷ Plans were worked out to use the remaining loyal divisions as forces for a looming civil war. Leonidas E. Hill suggests that in this context the order for a last battle of the High Sea Fleet that eventually triggered the revolution was intended as a signal for a military coup against the new parliamentary system and not as a last heroic stand of the German

⁵⁵⁴ See Chapter Two.

⁵⁵⁵ Jürgen Christoph, *Die Politischen Reichsamnestien 1918-1933* (Frankfurt am Main: Peter Lang, 1988), pp. 24-25.

⁵⁵⁶ For a comprehensive account of the German revolution, see Pierre Broue, *The German Revolution, 1917-1923* (Leiden: Brill, 2005), esp. pp. 43-226.

⁵⁵⁷ Cf. Winkler, *Der lange Weg nach Westen*, pp. 366-372.

Navy.⁵⁵⁸ But the officer corps had lost its grip on the troops and attempts to mobilise them against strikers and sailors turned out to be entirely futile.⁵⁵⁹ Eventually, the spread of the revolution forced the Emperor to abdicate and on 9 November 1918 Germany was declared a republic. The new revolutionary government of the Council of the People's Deputies (*Rat der Volksbeauftragten*) officially repealed the state of siege by decree on 12 November 1918 and thus officially ended the war on the home front – one day after the armistice in Compiègne was signed.⁵⁶⁰

Between Collapse and Victory: Britain's Home Front Politics in 1918

The direction in which the situation in Britain would develop at the turn of 1917 was unclear. Despite the persisting crisis of food supplies and continuing strikes, no escalation of domestic protests towards a revolution was perceivable. The labour movement's reaction to the Bolshevik coup in November 1917 had been ambiguous. Whereas the overthrow of the Tsarist regime in March 1917 was almost unanimously welcomed, the Bolsheviks could only muster limited support in the British labour movement. Apart from the BSP and some factions in the ILP, the labour movement seems to have repudiated Lenin's putsch. Yet, those who supported it intensified their activities to bring about a revolution in Britain as well. Whether the situation was ripe for a Bolshevik-style upheaval remained,

⁵⁵⁸ Leonidas E. Hill, 'Signal zur Kinterevolution? Der Plan zum letzten Vorstoss der deutschen Hochseeflotte am 30. Oktober 1918', *Vierteljahreshefte für Zeitgeschichte*, 36, 1 (1988), pp. 113-129.

⁵⁵⁹ Even the highly loyal Light Infantry battalions stationed in the Saxon city of Naumburg refused to march on Berlin on 7 November 1918, but formed a soldiers' council and declared their allegiance to the revolution instead.

⁵⁶⁰ BArch R3001/6663, p. 283, *Decree about the Repeal of the State of Siege*, 12 November 1918.

nevertheless, a matter of debate. On 17 February 1918, the general secretary of the BSP, Albert Inkpin, wrote to the later Soviet Commissar for Foreign Affairs, Giorgi Chicherin:

We live in a time of great expectation, though things don't seem to be moving much – perhaps it is the lull which precedes the storm – we hope so. We do not, however, want any uncontrolled outbreak, which can easily be turned off by palliating immediate wants – but we do wish to take advantage of the disaffection of the people and guide it into the right course.⁵⁶¹

Within the radical left, the call of following Russia and 'its splendid revolution' became commonplace.⁵⁶² The question how this could be achieved, however, was answered in different ways. In January 1918 the revolutionary shop steward movement adopted a policy of mass strikes to bring the war to an end. After the government had introduced another amendment to the Military Service Bill on 15 January that revoked exemptions from military service for certain protected trades, the ASE threatened a national strike.⁵⁶³ At the same time the National Vigilance Committee campaigned for state regulation of food supplies.⁵⁶⁴ If the state would not intervene then a national strike would be called and workers' councils and local food vigilance committees would take things into their own hands.⁵⁶⁵

However, the mobilisation for these strikes proved to be painstakingly difficult. In the end, no mass strike movement materialised. The BSP, as the main revolutionary organisation in Britain besides the shop stewards, adopted a different strategy. As Inkpin had outlined in his letter to Chicherin, they rather favoured

⁵⁶¹ TNA KV 2/1653, *Inkpin to Chicherin*, 17 February 1918.

⁵⁶² *Ibid.*, *W. Anderson to Inkpin*, 13 April 1918.

⁵⁶³ HC, *Deb 17 January 1918*, vol. 101, cc. 526-98.

⁵⁶⁴ John F. Wilson, Anthony Webster and Rachael Vornberg-Rugh, *A Business History of the Co-operative Group, 1863-2013* (Oxford: Oxford University Press, 2013), pp. 158-165.

⁵⁶⁵ Hinton, *The First Shop Stewards Movement*, pp. 247-249.

Lenin's model of the vanguard party rather than hoping for a spontaneous strike movement. Although the membership numbers remained comparatively low, this did not necessarily account for a lack of influence as Francis L. Carsten suggested.⁵⁶⁶ The usually well-informed CID estimated that in the six weeks after the Bolshevik coup in Russia, over 200 new branches of the BSP were set up in the whole country.⁵⁶⁷ And in its strongholds such as Clydeside the influence of the party on the rank-and-file of the labour movement was a real factor. Nevertheless, the revolutionary tendency was far from being dominant within Labour. Despite adopting the famous Clause IV at its party conference in Nottingham and London in January and February 1918, the Labour Party essentially rejected the peace agenda of the Stockholm conference and endorsed the war aims laid down by the allies.⁵⁶⁸ The now reaffirmed explicit commitment to socialism was in no way a turn towards an explicitly revolutionary policy.⁵⁶⁹ For leading Labour politicians such as Arthur Henderson, the British wartime state with its immense emergency powers was a tool of transformation that had to be used by the party rather than overthrown by a revolution.⁵⁷⁰ The peace of Brest-Litovsk also demonstrated what dire consequences a peace with Germany would have in case of a defeat.

The importance and reality of a revolutionary movement in Britain was at least as much exaggerated by its enemies as it was by its exponents. The alleged existence of a revolutionary mass movement with '100,000 workers in London

⁵⁶⁶ Carsten, *War against war*, pp. 200-201.

⁵⁶⁷ TNA KV 2/1653, *Summary on the BSP by CID*, 18 January 1918.

⁵⁶⁸ On 15 January 1918, Lloyd George had laid out the official British war aims after a series of consultations. The socialist parties of the allied countries, too, had formulated war aims along similar lines; see David Lloyd George, *British War Aims* (New York: Charles Doran, 1918).

⁵⁶⁹ Pugh, *Speak for Britain*, pp. 111-116.

⁵⁷⁰ Winter, *Socialism and the Challenge of War*, pp. 245-270.

ready to strike against the war', was a convenient construction used to generate a moral panic among the British people.⁵⁷¹ The alleged revolutionary threat provided the material for the right-wing press to rally their troops. Victor Fisher proclaimed in the *Empire Citizen and Worker* of 26 January 1918: 'In opposition to the ragged standards of a crazy and criminal cosmopolitanism, we will raise the banner of Nationality, Motherland and Empire [...]. Those who are not with us are against us.'⁵⁷² Patrick Hannon, secretary of the British Commonwealth Union, spoke of the need to create 'a national scheme of propaganda to counteract the increasing activities of the poisonous missionaries of Pacifist and Bolshevist doctrines who are now energetically in almost every part of the United Kingdom'.⁵⁷³ It is hard to assess how seriously the threat of a revolution was actually taken by the British government. The more severe handling of labour unrests and dissenting activities was continued in any case. After Edmund D. Morel had been gaoled in August 1917, the prosecutors tackled figures such as Bertrand Russell and John MacLean.⁵⁷⁴ Both, however, were also keen on using the trials as public platforms for their own causes. Other genuine and alleged revolutionaries were called up to limit their influence on home front politics.

The case of the BSP executive, which was almost entirely called up, in February 1918 is exemplary for this well-approved tactic. Already on 12 October 1917, the head of MI5, Colonel Vernon Kell, had written to the recruiting officer for London Piccadilly with an enquiry about the service status of Albert Inkpin and

⁵⁷¹ Hinton, *The First Shop Stewards Movement*, p. 262.

⁵⁷² Quoted in Keohane, *Party of Patriotism*, p. 115.

⁵⁷³ Quoted in *ibid.*

⁵⁷⁴ For the prosecution of Bertrand Russell see Jo Vellacott, *Bertrand Russell and the Pacifists in the First World War* (New York: Macmillan, 1980), pp. 298-302; For John MacLean's sedition trial see Milton, *John MacLean*, pp. 69-78.

the other clerks at the BSP office. He suggested that Inkpin ‘would be more useful in the Army as a clerk than carrying on an anti-militarist and pacifist’ propaganda.⁵⁷⁵ By the end of February 1918 all party workers at the BSP head office had been called-up to the army. In January 1918, the BSP offices had been raided by the Special Branch and all its publications confiscated.⁵⁷⁶ The fact that this happened just days before the Labour Party conference in Nottingham, for which most of the confiscated pamphlets were intended, was certainly no mere coincidence. This was an attempt to influence party politics in a very direct way. In April 1918, the authorities targeted the NCF’s *The Tribunal*. However, neither the editors nor the sellers were harassed but the printers. The police raided the printing press where the journal was produced and destroyed it, apparently with the intention to deter other printers from taking on orders by dissenting groups.⁵⁷⁷ A similar raid at the National Labour Press in Salford in 1915 had caused a massive outcry in the House of Commons and the press. Now, however, after four years of life under the state of exception, a certain callousness and indifference had become normal. Leo Maxse, editor of the arch-conservative *National Review* epitomised this stance, when he wrote: ‘the drastic domination of “Dora“, which threatens every writer who has a soul above licking our Prime Minister’s boots, is nothing to the present reign of terror in Bolshevika’.⁵⁷⁸ The cause had begun to justify almost every means. Nevertheless, *The Tribunal* continued its publication, now however, produced in a wooden shed in Surrey and smuggled into London.⁵⁷⁹

⁵⁷⁵ TNA KV 2/1653, *note in file*, 18 January 1918.

⁵⁷⁶ *Ibid.*

⁵⁷⁷ C. L. Carsten, *War against War, British and German Radical Movements in the First World War* (Berkeley: UoC Press, 1982), p. 205.

⁵⁷⁸ Quoted in Keohane, *Party of Patriotism*, p. 170.

⁵⁷⁹ Carsten, *War against War*, p. 206

In addition to prosecuting political activists and curtailing the publication of anti-war propaganda, the structures of domestic surveillance were changed in the new circumstances. In July 1918, the Home Office restructured the number of Competent Military Authorities and brought their districts in congruence with the police districts of the countries. This was designed to make collaboration between military and police more efficient when dealing with labour unrest and anti-war protest. As another novelty, so-called Assistant Competent Military Authorities (ACMA) were established whose main task was the coordination of domestic intelligence and policing in their respective districts.⁵⁸⁰ In August 1918, the Home Defence Scheme was redrafted but maintained the provisions for the internment of 'dangerous persons' as well as enemy aliens.⁵⁸¹ After the shock of the successful German Spring offensive had disappeared, a new strike wave of strikes swept through Britain in August 1918. The two most significant of them were the railway strike that soon spread to major industrial centres and the one-day strike of the Metropolitan Police on 30 August.⁵⁸² In reaction to both strikes, troops were mobilised to deter any upheaval. Battalions of the London Rifle Brigade were mobilised and sent to South Wales to protect the trains of the Great Western Line.⁵⁸³ Faced with the police strike, the cabinet seemed to lose its composure. Soldiers in full battle-gear seized crucial points in London such as post offices and train stations in anticipation of what might come. This was a lesson learnt from the events in

⁵⁸⁰ David Englander, 'Military Intelligence and the Defence of the Realm: the Surveillance of Soldiers and Civilians in Britain during the First World War', *Bulletin of the Society for the Study of Labour History*, 52, 1 (1987), pp. 24-33; Clive Emsley, *The English Police: A Social and Political History* (Hemel Hempstead: Harvester Press, 1991), 128-131.

⁵⁸¹ TNA WO 32/892, *Home Defence Scheme Great Britain*, August 1918.

⁵⁸² See for the government reactions TNA HO 144/3469, *Police Strikes 1918 and 1919, 1918-1920*. For the internal developments leading to the strike, see TNA MEPO 3/257A, *The Police Strike, 1918*.

⁵⁸³ TNA HO 45/10884/346578, *Railway Strikes*, September 1918.

Russia almost one year earlier where the authorities had missed the chance to secure these key points before the Bolsheviks did. The police strike, however, lasted only a day and was immediately over after most of the strikers' demands were met. Yet, the reaction of the government gives an impression of how tense the atmosphere at the home front was even in the face of imminent military victory.

Various strikes continued to occur throughout the rest of 1918 and reached a new peak in 1919. Although most DRR were revoked after November 1918, a significant number of the most relevant remained in force. Since DORA only granted emergency powers 'for the duration of the present war', the newly elected parliament extended the duration of the war by definition until 31 August 1921 with the so-called Termination of the Present War (Definition) Act.⁵⁸⁴ This allowed the government to exercise emergency powers as long as it deemed necessary. Most regulations, however, were set out of operation and DORA was subsequently transformed into the Emergency Powers Act of 1920.⁵⁸⁵ The impact of the wartime experience of emergency government, however, had a profound impact on British political culture. After the First World War, emergency powers were primarily used to suppress strike movements in the 1920s. The British government could hereby draw on the experiences under DORA and the strategies that had been developed to suppress domestic unrest.⁵⁸⁶

⁵⁸⁴ HL, *Deb 21 November 1918*, Vol 32, cc. 357-63.

⁵⁸⁵ 10 & 11 Geo. 5 c. 55.

⁵⁸⁶ This argument has particularly been emphasised by Ralph H. Desmarais: see Ralph H. Desmarais, 'The British Government's Strike-Breaking Organisation and Black Friday', *Journal of Contemporary History*, 6, 2 (1971), pp. 112-117; idem, 'Lloyd George and the Development of the British Government's Strikebreaking Organizations', *International Review of Social History*, 20, 1 (1975), 1-15; idem, 'Strikebreaking and the Labour Government of 1924', *Journal of Contemporary History*, 8, 4 (1973), pp. 165-175.

Comparison

The impact of the Bolshevik coup of November 1917 is crucial for understanding developments on the British and German home fronts in 1918. There was clearly no unified perception within the anti-war or the labour movements regarding the events in Russia. The Bolshevik seizure of power was not the overthrow of a hated autocratic regime but of a more or less social democratic government. The moderate socialists that dominated the Labour Party and SPD were clearly shocked by the Bolshevik putsch and tried to use it as cautionary tale for their own governments to advocate their own demands for political reform as a way to avoid similar developments. On the other side, revolutionary socialists saw the Bolshevik actions as proof that only a social revolution would be able to end the war. For each side, the Bolshevik coup had its own significance and implications. Revolutionaries found a model of action, which they attempted to copy whereas governments were increasingly alert about the dynamics of aggravating social and anti-war protests. This shaped the perception of the continuously growing strike movements in both countries. Whereas the previous handling of strikes was marked by a certain leniency, authorities were now more likely to use the full range of their emergency powers to quell them. Moreover, the activities of anti-war dissenters were now taken much more seriously as the harsh treatment of E. D. Morel and Bertrand Russell in Britain, or the convictions of Wilhelm Dittmann and Kurt Eisner in Germany demonstrate. The growing willingness to use repression became even more apparent with the now regular use of troops for maintaining public order. However, whereas the German authorities increasingly relied on their employment to manage strikes and demonstrations since the January strikes, their British counterparts only began to employ troops for this purpose towards the end of the

war. Yet, the events in Britain in 1919 and the use of the military to deal with protests illustrate that a willingness to use the military in the interior also existed in Britain.

The fact that the British situation did not escalate along similar lines to that in Germany has two main explanations: firstly, the strikes did not feature the same political dimension as in Germany, Austria or Russia. The strikes of 1918 certainly articulated grievances and expressed a prevalent war weariness amongst the British working class but they lacked a profound political dimension and revolutionary direction. In comparison, during the January strikes in Germany political demands dominated the strike demonstrations and featured prominently in pamphlets. Attempts to copy the tactics of revolutionary mass strikes by the shop stewards' movement in Britain eventually proved to be futile. A second explanation, was however, that the British government was prepared to concede to demands of strikers, if it was possible and not too costly. The combination of extensive propaganda, concession when possible and harsh repression where necessary proved to be efficient in order to palliate and appease social protests. This was much to the frustration of ardent revolutionaries such as Albert Inkpin, whose hope for a revolutionary crisis proved to be fruitless. The German elites, on the other side, were not able and not willing to concede political and social demands. The economic situation in Germany in 1918 was increasingly deteriorating and could not sufficiently be stabilised. At the same time, growing demands by the Social Democrats for a political war dividend for their support in the form of the abolition of the discriminatory Prussian three-class franchise and a democratisation of government was met with reluctance and protraction by the Imperial Government and the Supreme Command. The inability to properly address grievances eventually

contributed to the profound social and political disintegration of the German Empire. The looming erosion of political power finally came to the fore in November 1918. Faced with military defeat and faltering morale on the home front the old elites could not muster enough support to maintain the old order. The constitutional reforms of October 1918 were too hesitant and came too late to make any significant difference. The British government, on the other hand, was more prepared to concede to popular political demands. The reform of the franchise that came with the Representation of the People Act in February 1918 as well as the mooted reconstruction policies after a victorious conclusion of the war, helped to contain the spread of militant anti-war protest to a similar extent as in Germany.

Another relevant reason why the British handling of the domestic crisis eventually proved to be more successful than in Germany was the sophisticated and systematic use of propaganda and domestic intelligence. The German authorities were too slow and too reluctant to apply modern concepts of propaganda and advertising. Whereas the British propaganda targeted individual groups with especially designed material, the German idea of 'Patriotic Instruction' conducted by military officers proved to be inefficient. Both systems, however, also relied heavily on repressive methods to suppress undesirable publications and control public debates. Propaganda, surveillance and censorship were intertwined phenomena when it came to maintaining morale at the home fronts.

This should, however, not distract from the fact that the use of repressive methods became an ever increasing aspect of home front politics in 1918. The suppression of public meetings, the detention of activists, as well as the call-up of 'troublemakers' were common practices in both countries. Harsh sentences for sedition and treasonable acts occurred several times often in relation to public

speeches or demonstrations. John MacLean's sedition trial in March 1918 can be easily compared to the conviction of Wilhelm Dittmann after the January strikes in Berlin. Both were apparent examples of political justice. The main difference between Britain and Germany is thus not necessarily to be found in the quality of oppressive practices but in their quantity. Whereas the British authorities primarily targeted the prominent heads of anti-war protest to create cautionary tales for others, the military in Germany often arbitrarily prosecuted also minor offenders. The strategy of the British government to favour targeted repression of political dissenters over the blanket suppression of whole strike and protest movements can be seen as a main reason why emergency rule under DORA never attracted the same public criticism as in Germany. The British system was designed to exercise indirect and less publically noticeable control through intelligence agencies, censorship, surveillance and targeted repression. Most of these activities were concealed from public scrutiny and therefore never created the same public conscience and debates about emergency measures as in Germany. This lack of public criticism – apart from those affected by repressive emergency decrees – is probably the most striking feature of Britain under DORA during the First World War.

Conclusion

The almost two years between December 1916 and the end of the First World War in November 1918 were marked by escalating military, political and social crises in all belligerent nations. The failed attempts on both sides to seek military victory on the Western Front through battles of attrition eventually led to far-reaching

political consequences. The ascent of the Third Supreme Command under the duumvirate Hindenburg and Ludendorff marked a distinct turning point in the politics of the German home front. Particularly Ludendorff, as the political mastermind of the Supreme Command, almost immediately began to unfold activities to enforce the complete mobilisation of Germany's remaining resources. The enactment of the Auxiliary Service Law in December 1916 was just one sign that the German state's response to the intensifying crisis lay in even more intrusive measures. The strikes of April 1917 in Germany, which were primarily triggered by worsening living and working conditions, demonstrated that the internal cohesion of the *Burgfrieden* was gradually eroding. Although there were attempts to create positive mobilisation through propaganda schemes such as Patriotic Instruction or the creating of the German Fatherland Party, the authorities increasingly relied on the emergency powers under the state of siege to enforce endurance on the home front.⁵⁸⁷ From 1917 and then particularly in 1918, strike movements could only be suppressed by the massive use of the military in the interior as police forces were increasingly overwhelmed by the scale of the task. The result was the militarisation of the home fronts, accompanied by an even more excessive use of emergency powers by the local military commanders. The overreliance of the authorities on repressive measures contributed to the simmering political crisis in the Empire. The Imperial Government and the Supreme Command were unable and unwilling to make concessions to the majority parties of the Reichstag and their demands for a gradual democratisation of Germany. Combined

⁵⁸⁷ Despite the fact that the Fatherland Party attracted a significant membership, its actual effectiveness during the war was very limited. James Retallack offers an insightful discussion of the eventual failure of the Fatherland Party: James Retallack, *The German Right, 1860-1920: Political Limits of Authoritarian Imagination* (Toronto: The University of Toronto Press, 2006), pp. 65-75.

with the experiences of economic hardships and hunger the intransigence of the political elites eroded the national consensus that had at least partially pacified the home front during the first two war years. Consequently, strike movements and food protests gained a significant anti-war dimension in Germany that was additionally fuelled by the impact of the Russian Revolutions in 1917. The result was an escalation of protest that was countered by an aggravation of repressive emergency measures. Yet, this level of repression could only be upheld as long as the troops – who were now the main agency for enforcing the state of exception – remained loyal. With the mutiny of the High Sea Fleet and the breakdown of military discipline in most other units in early-autumn 1918, however, this was no longer the case.

In Britain, the internal situation in late 1916 was similar to that in the German Empire. The futile offensive at the Somme facilitated the eventual downfall of Prime Minister Herbert Asquith and the accession of David Lloyd George's government. If the first two years of the war had been marked by a certain self-restraint of the government that was in parts based on the liberal inhibitions of leading cabinet members, the new government soon used the full extent of emergency powers for the conduct of the war. Particularly, the new Home Secretary George Cave was more than willing to use the powers under DORA to suppress any serious attempt to challenge the British war effort. The Russian Revolutions additionally fuelled the fears of the government about a similar development in Britain. Yet, although some left-wing activists now indeed began to promote a revolutionary overthrow of the existing political and social order as a means to end the war, Britain never came to close to a revolutionary moment during the war. Nevertheless, the moral panic about a revolutionary movement stimulated increased

efforts to establish a sophisticated system of domestic surveillance and led to the preparation of counter-revolutionary contingency plans. The British government was, however, well aware of the importance of positive mobilisation and the public perception of its actions against anti-war protests. Repressive measures were applied in a way that made them less perceptible for the general public. Instead of suppressing public meetings by police or the military, patriotic mobs were organised that often violently broke up such meetings. This was a specific phenomenon of the British home front, which barely occurred in Germany. The authorities nevertheless extended their efforts to establish a closely-knit net of surveillance on the British home front. The avoidance of open confrontation with protestors was certainly the main reason why the developments in Britain eventually did not follow the same logic of escalation as they did in Germany. Yet, the violent confrontations immediately after the war in 1919 in Glasgow, Liverpool and other parts of the country give an impression that the Lloyd George government was prepared and willing to use violence and military force to suppress dissenting movements.

Overall, the fact that the German and British societies continued to maintain their war efforts despite the described multiple crises for another two years has not least to be attributed to the intensification of emergency government in both countries. Despite various attempts to create positive mobilisation through propaganda schemes such as Patriotic Instruction in Germany or the National War Aims Committee in Britain, endurance increasingly needed to be enforced by the authorities. The main tools for enforcing this endurance on the home fronts were the emergency powers under the Defence of the Realm Act and the state of siege. In Germany, this process mainly depended on the military as most police forces

proved to be incapable to deal with large-scale strike and protest movements. Yet, this visibility also provided a target for intense criticism, thus additionally aggravating the existing crisis. The British authorities, on the other hand, sought to avoid public scrutiny of their actions and avoided open confrontations. This, combined with the ability to address grievances and accommodate popular demands, made the British system of emergency government eventually more efficient than its German counterpart. Yet, also here repressive emergency measures remained a crucial part of home front politics and would remain part of British political culture throughout the 1920s and 1930s.

Chapter Four

Guardians of the Home Front: Military, Police and Courts as Agents of Emergency Government

A study of the state of exception during the First World War would be incomplete without taking into account the institutions and agencies entrusted with the enforcement of the state of exception. A look at the actors in both countries helps us understand how emergency powers were exercised on the ground. It also allows us to reconstruct the actual system of emergency government below the level of high-ranking military and civilian administration and decision-making that was the focus of the preceding chapters. Furthermore, it reveals how different traditions of policing and jurisdiction influenced the respective systems of emergency government. We shall see that actors such as police officers and judges were far from mere recipients of orders, often acting on their own initiative and according to their own perceptions of their roles on the home front.

In both countries, the enforcement of emergency measures was mainly the responsibility of the police, although occasionally military personnel were employed to suppress strikes. Yet, despite being a predominantly civilian institution, the police forces came either under direct military control, as in Germany, or were readily available for use by the Competent Military Authorities as in Britain. The inclusion of the police forces into the system of emergency government also brought a considerable extension of their responsibilities, which soon comprised surveillance tasks, the gathering of intelligence, and the suppression of dissenting activities in addition to their traditional police duties. This extension of powers and responsibilities changed the face and character of policing in both countries profoundly.

Within the system of emergency government, the judiciary was another relevant actor. If we take the initial characterisation of the state of siege and DORA as ‘constitutional dictatorships’ into account, courts were supposed to play a crucial role in controlling – and where necessary limiting – the potentially excessive application of emergency measures by the governments and their agencies. Yet, the judicial institutions in both countries almost entirely failed to exercise this function during the war. In both countries, the circumstances of the war and the increasing mobilisation and polarisation of the wartime societies changed the self-perceptions of the judges and their function on the home fronts. The effective judicial control of emergency government was inadequate not because the powers of the judicative branch were curtailed, but because judges often operated according to their self-perceived role as patriotic actors. A number of court proceedings during the war illustrate the anxious ambition of many judges to defend their independent position and established powers against attempts to subsume them under the control of the executive branch. At the same time, however, many judges used the law as a weapon against the alleged enemies within.

This chapter explores how police and judges exercised their functions within the system of emergency government. We will see that both institutions were crucial for the enforcement of the state of exception. Moreover, their actions were often guided by emerging concepts of ‘enemies within’. The way in which emergency powers were used during the war can only be understood in conjunction with these concepts of domestic enmity, which shaped the wartime mentalities of many police officers and judges.

Enforcing the state of exception: German and British police within the system of emergency government

Professional police forces were a comparatively new social phenomenon when Europe went to war in 1914. Most forces were established during the early decades of the nineteenth century, but policing only became a specialised profession by the end of the century. The structural organisation of most police forces in Europe predominantly followed military models, and the majority of their rank-and-file recruited itself from discharged former professional soldiers.⁵⁸⁸ However, a more detailed comparison demonstrates that the degree of militarisation of the police differed significantly from country to country. Whilst the German-Prussian ideal of a police officer was — in the words of Herbert Reinke — that of a ‘bureaucrat-soldier’, the British authorities sought to avoid an overly martial appearance of the police.⁵⁸⁹ Nevertheless, the military ideals of order and obedience and a strictly hierarchical chain of command dominated the style of policing in both countries. The military model also provided a specific *esprit de corps* for the police that would become important during the war and influenced their interpretations of the role of the police on the home front.

The enforcement and administration of the emergency measures was also influenced by structural differences in Britain and Germany. The Prussian police, for example, was subdivided into three different organisations: the *Gendarmerie* was directly affiliated to the army and employed to patrol rural areas. Meanwhile,

⁵⁸⁸ Clive Emsley, ‘The Policeman as Worker: A Comparative Survey c. 1800-1940’, *International Review of Social History*, 45 (2000), pp. 89-110, esp. pp. 94-99.

⁵⁸⁹ Herbert Reinke, ‘Armed as if for a war’: The State, the Military and the Professionalism of the Prussian Police in Imperial Germany’, in Clive Emsley and Barbara Weinberger (eds.), *Policing Western Europe: Politics, Professionalism, and Public Order 1850-1940* (Westport, CT: Greenwood, 1991), pp. 55-73, p. 55; David Taylor, *The New Police in Nineteenth-Century England: Crime, Conflict and Control* (Manchester: Manchester University Press, 1997), pp. 89-135.

the so-called *Kommunale Ortspolizei* (municipal police) was used in larger towns and cities. Finally, the *Königliche Schutzmannschaft* (Royal Constabulary), which was stationed in Berlin but was also employed to police strikes and to quell potential unrest in other parts of the country.⁵⁹⁰ Whereas the tasks of *Gendarmerie* and Royal Constabulary were mainly traditional security tasks such as maintaining public order and crime fighting, the municipal police forces also dealt with the whole range of administrative tasks such as licensing, supervision of hygienic standards, health and safety in factories, or the security of construction sites and buildings.⁵⁹¹ The command structure of the Prussian police, as the biggest force in the German Empire, was highly centralised, with the Berlin Police Presidency as its administrative headquarters and the Prussian Ministry of the Interior as its political supervisor. The tight grip of the government made the Prussian police an ‘uncontrolled instrument of the Prussian state-bureaucracy’.⁵⁹² The majority of Germans perceived the police officer as a direct representative of the authority of the central state. Uniform and professional habitus made the police officer a person of authority for the middle classes and at the same time a hated symbol of the authoritarian state for many political activists. The structure of the British system of policing was different. With the exception of the Metropolitan Police in London, direct influence of the central state on policing was limited. Each borough and county maintained its own borough or county police under the command of a Chief

⁵⁹⁰ Johansen, *Soldiers as Police*, pp. 275-282.

⁵⁹¹ Reinke, *As Armed for a War*, pp. 57-60.

⁵⁹² Wolfgang Knöbl, *Polizei und Herrschaft im Modernisierungsprozeß. Staatsbildung und innere Sicherheit in Preußen, England und Amerika, 1700-1914* (Frankfurt, New York: Campus, 1998), p. 255.

Constable and controlled by either a Watch or Joint Committee.⁵⁹³ This ensured a degree of public scrutiny and democratic control of the police. In the perception of the British population, the role of a police constable was more that of a public servant than a representative of state authority.

The political significance of policing in both countries, however, was shaped by the different responses of the state to the rise of popular political movements. The emergence of the organised labour movement during the second half of the nineteenth century and more specifically the surge in labour disputes before the First World War had led to a change in the conceptions of public order and security. Whilst the newly formed German Empire under Bismarck aimed at marginalising and eventually crushing the organised labour movement with the means of a police state, the British experience differed.⁵⁹⁴ Here, the Liberal Party offered for a long time a platform for trade unions to articulate their political demands. These differences regarding the political integration of the labour movement had a profound impact on the development of the police forces. The repression of the Social Democrats in Germany led to an unprecedented expansion and structural reforms of the police apparatus during the 1870s and 1880s. They were designed to establish the police as an instrument for maintaining the political *status quo*.⁵⁹⁵ Consequently, policing in Germany was highly politicised and marked by clear concepts of true and alleged ‘enemies of the realm’. This political animosity had a profound influence on the professional identity of the German police officers. The

⁵⁹³ Clive Emsley, *The English Police: A Political and Social History* (Hemel Hempstead: Harvester Wheatsheaf, 1991), pp. 89-91.

⁵⁹⁴ Knöbl, *Polizei und Herrschaft*, pp. 294.

⁵⁹⁵ The Berlin police alone recruited 630 new officers in 1873, and increased its strength between 1870 and 1880 from initially 1,000 to over 3,000. The personnel of the different police forces increased by between 500 and 900%. In 1913, the Berlin police had a strength of over 9,000 officers; Cf. Knöbl, *Polizei und Herrschaft*, pp. 301-307.

dominant notion of being a hybrid ‘bureaucrat-soldier’ received an additional dimension during the war. In addition, the subordination of the police under military command also changed the context of policing significantly. Concepts of domestic enmity were radicalised and the political function of the police steadily extended. Within the system of the state of siege, the already existing tendencies of the pre-war period were aggravated and the legal restrictions of policing gradually eroded.

In Britain, by contrast, policing did not attain a similar political dimension before the First World War. The main task of the police forces was seen in crime fighting and the maintenance of public order.⁵⁹⁶ At times, however, police forces were involved in violent confrontations with protesters that required the assistance of the military under the Riot Act.⁵⁹⁷ The earlier mentioned examples of the incidents at Featherstone in 1893, Tonypany in 1910 and Llanelli in 1911 were particularly relevant for the development of security policies in Britain. Yet, these experiences caused no significant changes to the general liberal concept of policing that dominated in Britain before the First World War. Only the Labour Unrest between 1911 and 1913 seems to have triggered debates about the political role of the police. Nonetheless, political policing directed against the labour movement similar to the German model did not fully emerge until the outbreak of the First World War. Domestic intelligence was predominantly applied to counter the threat of the Irish Republicans and to monitor the activities of foreign political refugees in Britain.⁵⁹⁸ The organised labour movement was – at least judging from the available archival sources – not particularly targeted by special policing measures

⁵⁹⁶ Emsley, *The English Police*, pp. 109-110.

⁵⁹⁷ See Chapter One.

⁵⁹⁸ For an account of the Fenian bombing campaign and the responses of the British State see Shane Kenna, *War in the Shadows: The Irish-American Fenians Who Bombed Britain* (Dublin: Irish Academic Press, 2013).

or domestic intelligence before 1914. The Special Branch of the Metropolitan Police was the only dedicated unit that was gathering domestic intelligence and that was involved in activities that came closest to the German model of political policing.⁵⁹⁹ For many contemporary politicians, continental-style secret policing was an un-British manner in contradiction to the long-established political traditions of the country.⁶⁰⁰ Although this last claim was only partially true, it influenced the public perception of policing before the war profoundly. The police was seen less as an instrument of state power or an extension of the government, but as an impartial public institution entrusted with keeping peace and order.⁶⁰¹ Whilst the German police officer often met with open hostility by working-class activists, who perceived him as their natural enemy, the British ‘bobby’ never received a similar negative symbolic status.⁶⁰² Yet, despite this different initial situation, the scope and scale of policing dramatically changed during the war under the provisions of DORA. Not only did the emergency measures extend the powers of the police, they also triggered fundamental changes within the police force themselves, leaving a lasting impact on them. Against the backdrop of the dominant liberal conceptions of the state before 1914, the nature of these changes was even more radical and disruptive than in the German Empire.

⁵⁹⁹ Bernard Porter, *The Origins of the Vigilant State: The London Metropolitan Police Special Branch before the First World War*, op. cit., pp. 161-194.

⁶⁰⁰ Charles Townshend, *Making the Peace. Public Order and Public Security in Modern Britain*, op. cit., pp. 36-44.

⁶⁰¹ Emsley, *The English Police*, pp. 98-101.

⁶⁰² The Berlin police maintained a specific repository for insulting and inflammatory anti-police letter and pamphlets that allows a unique perspective on the perception of the police in working class circles. See LAB A Pr. Br. Rep. 030 Nr. 15968, *Schmähbrieife/Drohungen*, 1911-1918.

The German Police and the State of Siege

The police had already featured prominently in German pre-war emergency planning. The various military schemes for a crackdown on the organised labour movement assigned very specific tasks to the police in case of a declaration of the state of siege. The primary duty for the police was here to monitor potential troublemakers and to collect names for the planned round-ups of social democratic activists.⁶⁰³ This was in many respects just an intensification of activities the police were already involved in anyway. The main difference under the state of siege would have been that the constitutional limitations for detentions and the infringement of civil liberties would have been abandoned. In addition to these assigned tasks, the police were expected to assist the military in any way the commanding generals deemed necessary. These plans for the declaration of the state of siege made the police an almost paramilitary institution. They were, however, primarily designed for the case of a domestic crisis. It is remarkable how little prepared the German police actually was for the eventualities of a prolonged war. Clearly, there were provisions for the police to guard the swift and smooth mobilisation of the troops, and to some degree also for protecting vulnerable points against possible acts of sabotage. Yet, there were almost no plans for how the police was supposed to react to the necessities of managing a wartime society.

One task the police took over right from the beginning of the war was the monitoring of public opinion.⁶⁰⁴ Although not all local police forces had sufficient capacity to conduct this form of domestic intelligence, at least the Berlin Police

⁶⁰³ See Chapter One.

⁶⁰⁴ For an annotated edition of these reports, see Materna and Schreckenbach, *Dokumente aus geheimen Archiven*, op. cit.

Presidency and its various departments undertook a significant effort in collecting information for their weekly reports regarding the public mood.⁶⁰⁵ Police officers on the beat were ordered by their superiors to collect and document all relevant events in their areas. The vast number of weekly reports was then summarised by the Berlin Police President's office. The Berlin Police President, Traugott von Jagow, then passed them on to the military commanders as well as to the Imperial Government, often with written statements highlighting particularly important developments.⁶⁰⁶

Whilst the précis forwarded to the generals and government represent highly aggregated information, the reports by departments and individual police officers allow a unique insight into the authorities' perceptions of the situation on the home front. The language and topics of these reports are not only valuable because of their factual content, but also because they express the mentalities, observations and perceptions of those who wrote them. For example, the description of suspects often followed established stereotypes of domestic enemies with anti-Semitic undertones. Frequently, officers used formulations such as 'has a typical Jewish face', 'has unpleasant mouth odour', or 'Jewish shamble' when referring to suspected persons.⁶⁰⁷ The virulent anti-Semitic language of some police officers was symptomatic of a widespread conception of 'enemies within' that also included other groups such as Alsations, socialists, pacifists, enemy aliens and persons showing a socially deviant behaviour. Although being disparate groups, they were soon merged into one category of enemies at the home front. Whilst socialists and

⁶⁰⁵ Ibid., pp. IX-XXVIII.

⁶⁰⁶ See for example BArch R1501/112475, *Morale in the Country*, 1916-1917; BArch R1501/112476, *Morale in the Country*, 1917-1918.

⁶⁰⁷ LAB A Pr. Br. Rep. 030 Nr. 15713, *Secret Report about the Activities of Enemy Activists*, 26 June 1915.

pacifists opposed the war on political and ethical grounds, other groups such as the Alsatians, enemy aliens and to a certain extent also Jews were seen as inherently ‘hostile towards Germans’ (*deutschfeindlich*) and therefore a threat to the war effort. Socially marginalised groups such as homosexuals, prostitutes, vagrants and travellers were victimised because they supposedly threatened the moral order of the home front in the eyes of the authorities. What connected these groups was less a shared political agenda than the fact that they were targets of repression and surveillance by the police and the military.

Initially, the activities of dissident Social Democrats, and concerns about the moral order of the home front and the neglect of youth were a priority for the authorities.⁶⁰⁸ Already in August 1914, the leadership of the Berlin police highlighted in a circular to its officers that despite the *Burgfrieden* policy the Berlin socialists still followed ‘the golden thread of internationalism’ and that they had to be kept under close surveillance.⁶⁰⁹ The responsible political branch of the Berlin police, Department VII, conducted this task in close co-operation with the local military commander of the Marken district. The head of Department VII summarised its activities in an internal report from 4 May 1916 as follows:

Berlin is still the hotbed [...] of the radical opposition within Social Democracy, which has its main strongholds within the police district. For this reason, there was always the urgent danger that the general war situation and rising food prices would have been used to incite considerable unrest among the population. Only because of – and despite its other demanding tasks – the constant contact of the officers of Department VII with the concerned levels of the population, all of these attempts could be stifled. This was the only way in which all seditious activities could be suppressed in due course.⁶¹⁰

⁶⁰⁸ See Chapter Two.

⁶⁰⁹ LAB A Pr. Br. Rep. 030 Nr. 11360, p. 360, *Circular to Police Officers*, 30 August 1914.

⁶¹⁰ LAB A Pr. Br. Rep. 030 Nr. 11361, p. 365; *Report about the Wartime Activities of the Berlin Police*, 4 May 1916.

The files of the Berlin police also give an impression of what this ‘constant contact’ meant. Since the times of the infamous Socialist Laws, the department had maintained a network of secret informers within the capital’s socialist and anarchist circles.⁶¹¹ As a result, the officers of the political police were well informed about the content of most meetings of oppositional groups. In order to gather relevant intelligence about the activities of dissident socialists and pacifists all possible sources were used. Leaflets were collected, speeches recorded by shorthand writers, popular meeting points such as pubs and cafés were monitored by plain-clothed officers, and party offices frequently raided and searched. There were even police officers whose main task it was to monitor conversations in buses, trams and the Berlin overground trains, the *S-Bahn*. In addition to the surveillance of public places by the police, also the postal communications of leading anti-war activists were closely monitored. The provisions of the state of siege gave the military commanders, and therefore by extension the Berlin police, the power to read and censor every letter sent and received by suspects. If the commanding general of a district ordered the so-called *Briefkontrolle* (letter control) or *Briefsperre* (letter ban) for a suspect, letters were usually intercepted by the Imperial Post and then forwarded to military intelligence officers, censors or the officers of Department VII. Depending on the severity of the ordered measures, the letters were then either kept, destroyed, or resealed and delivered to their original recipients.⁶¹²

Yet, despite the significant effort of the police and military authorities to monitor public places and opinion, stretched resources and depleted reserves limited its efficiency. The ambition to establish a tightly knit net of surveillance

⁶¹¹ LAB A Pr. Br. Rep. 030 Nr. 15647, *The Anarchist Movement in Berlin, 1911-1918*.

⁶¹² Some interesting postal censorship against anti-war dissenters is documented here: BArch R1501/112254, *State of War: Postal Censorship, 1916-1918*.

was, however, clearly visible. A major problem for the police was the doubtful substance of many reports. Police officers on the beat often just repeated widespread rumours, and the means to investigate the validity of some allegations were very limited. In particular, after the strike waves in April 1917 and January 1918, the police reports show a number of wild speculations about imminent strikes and even fears of an armed uprising in Berlin.⁶¹³ Despite the significant efforts to monitor public life and collect information about all sorts of dissenting activities, the police seem to have been overwhelmed by the overabundance of information. Florian Altenhöner has pointed out that rumours and uncontrolled public communications were a main concern for the authorities because of their unpredictable impacts on military and civilian morale. Following a dialectical dynamic, the steady expansion of state-controlled media outlets and censorship caused an almost proportional increase in fast-spreading rumours and disinformation. Moreover, it seems that the excessive attempts of the police and military authorities to control the public sphere only increased the appeal and credibility of these rumours among the war-weary population.⁶¹⁴

Attempts to counter this tendency by a better organisation of the propaganda efforts under the so-called 'Patriotic Instruction' scheme from 1917 onwards remained widely unsuccessful. Where censorship, official information policies and propaganda failed, repressive measures were readily applied to control public communications. Yet, these measures had an ambiguous character themselves. On the one hand, the authorities hoped for an intimidating effect of harsh repression. For this purpose, a degree of publicity for the emergency measures was desired and

⁶¹³ LAB A Pr. Br. Rep. 030 Nr. 15842, *Rumours about Strikes*, 1917-1918.

⁶¹⁴ Altenhöner, *Kommunikation und Kontrolle*, pp.112-148.

indeed intended. Cases of ‘seditious speeches’, ‘undermining of the civilian and military morale’, *lése majeste*, or most frequently the ‘spreading of wrong news’ and their prosecution were regularly reported in the newspapers. The punishment for these offences under the state of siege were often severe. Yet on the other hand, reports about the most serious cases against political activists were often censored and curtailed.⁶¹⁵ The authorities were interested in giving their repressive measures enough publicity to have a deterring effect, but at the same time sought to avoid providing additional material for further protest. This systematic intimidation was a crucial part of the management and control of public opinion. Then again, there were concerns that too much publicity would harm the image of the German Empire in the neutral states.

A way to circumvent this dilemma was the extensive use of emergency powers under the state of siege. With their help, undesired activities could be suppressed without causing the unwanted publicity of public court trials. Already in early 1915, the Prussian Minister of War, Adolf Wild von Hohenborn, ordered in a letter to the Berlin Police Presidency to avoid prosecutions under the provisions of the Imperial Penal Code (especially article 89 ‘treason in wartime’) because of the publicity court trials would cause. Instead, the emergency powers of the state of siege were to be used to deal with the matter without attracting too much public scrutiny. The minister made clear that the publicity caused by public trials would be detrimental to the interests of the Empire.⁶¹⁶ The main instrument to deal with

⁶¹⁵ An example illustrating this is the attempt of the Berlin police to curtail the distribution of the pamphlet *State of Siege and Censorship* by the SPD parliamentarian Wilhelm Dittmann in which the excessive use of emergency power was criticised. Various party offices and publishers were raided to seize the pamphlet before it could be distributed; LAB A Pr. Br. Rep. 030 Nr. 15903, p.248, *Miscellanea*, July 1917.

⁶¹⁶ LAB A Pr. Br. Rep. 030 Nr. 15854, p. 4-5, *Letter Prussian War Ministry to Berlin Police President*, early-1915.

alleged offenders against the state of siege was the increasingly arbitrary use of ‘protective custody’ by the police and the military. The power to keep people in prolonged custody without a trial was a convenient option for the authorities to silence dissenting voices. In many cases, the police were far from being a mere executive agency of the military commanders but acted according to their own agenda. The various departments of the Berlin police – particularly the Criminal Investigations Department (*Abteilung III*) and Department VII – often conducted investigations and observations on their own initiative. The military commanders were in most cases only involved when warrants for protective custody had to be issued. This only changed in 1918 when the policing of the home fronts became increasingly militarised as a consequence of the escalating domestic crisis. There were, of course, always cases where the police acted on orders and on behalf of the local military commanders, yet it seems that the police undertook the majority of these proceedings proactively in its own capacity.⁶¹⁷

The prosecution of offences under the state of siege was not always the result of proceedings by the police alone. In many cases, the police only initiated its investigations and prosecutions after receiving information from members of the public. For the period immediately after the outbreak of the war in August 1914, a surge of denunciations and accusation letters is documented in the files. The war situation and the omnipresent patriotic propaganda created a climate in which even the slightest careless critical remark could bring people into trouble. The Berlin police regularly received letters with accusations regarding offences against decrees under the state of siege or general ‘hostile behaviour’. These files also highlight the

⁶¹⁷ See LAB A Pr. Br. Rep. 030 Nr. 15854; LAB A Pr. Br. Rep. 030 Nr. 15903; LAB A Pr. Br. Rep. 030 Nr. 15715, *Anzeigen, Mitteilungen, die sich auf die Mobilmachung 1914 beziehen*, September 1916.

evolution of certain concepts of ‘enemies within’. Initially, denunciations and accusations mainly concerned alleged and actual ‘enemy aliens’ and also people from Alsace-Lorraine. However, during the later course of the war all kinds of critical or dissenting expressions of opinion could lead to denunciations. It seems that anonymous allegations were often used to settle old accounts: landlords accused unruly tenants, people wrote letters about their neighbours, shop owners denounced competitors and employers their employees and vice-versa.⁶¹⁸ Some examples illustrate the emergence of this culture of accusations and denunciations in wartime Berlin: in September 1916, the factory supervisor Arndt Reuther was taken into protective custody after a female worker had accused him of ‘hostile propaganda’. After almost two months in solitary confinement (*Isolierungshaft*), Reuther was released without ever being charged.⁶¹⁹ In November 1915, the worker Emma Nehring was arrested and taken into protective custody for ‘illegal contacts with prisoners of war’ after a denunciation. She had passed on photos, letters and socks to a French prisoner.⁶²⁰ Often, mere suspicion was sufficient for the authorities to apply harsh measures such as protective custody. The fact that these methods were legally barely restricted and politically insufficiently controlled facilitated their arbitrary use.

The language of the denunciations also reflects how deep-rooted certain stereotypes and concepts of domestic enmity were within the population. In a letter to the Berlin police from November 1916, a Mrs Hoffmann complained about

⁶¹⁸ LAB A Pr. Br. Rep. 030 Nr. 15706, *Majestätsbeleidigungen aus Arbeiterkreisen*, 1911-1915; LAB A Pr. Br. Rep. 030 Nr. 15707, *Majestätsbeleidigungen aus Arbeiterkreisen*, 1915-1918.

⁶¹⁹ LAB A Pr. Br. Rep. 030 Nr. 15715, *Anzeigen, Mitteilungen, die sich auf die Mobilmachung 1914 beziehen*, September 1916.

⁶²⁰ LAB Pr. Br. Rep. 030 Nr. 15713, *Anzeigen, Mitteilungen usw. betreffend die Mobilmachung 1914 (1915-1916)*, November 1915.

‘French and Russian Jews’ who allegedly regularly met in the flat of a Dr Eisner to ‘incite hatred against the Emperor and Germany’.⁶²¹ In another letter, a dismissed cook complained about his former employer’s ‘inherent affection for all things French’ (*Franzosenhimelei*). What caused suspicion in many cases was not concrete evidence for offences but the belonging to certain groups or an allegedly hostile attitude. The frequent reference in accusation letters to certain personal features of suspects rather than their actual deeds reveals how widespread conceptions of the ‘enemies within’ were during the war. From the limited evidence in the sources, it can also be inferred that many of the denunciators came – with few exceptions – from the middle classes, whereas the accused were often workers or belonged to socially marginalised groups.⁶²²

Exceptional powers and barely restricted practices were used to exercise social control and monitor the population on the home front. That said, many police officers initially sought to maintain the established codes of practice. It seems that certain notions of professionalism and rule of law at least partially informed the actions of some police officers. Even when the case reports reflected the negative views of many police officers on the suspects, they still sought to obtain objective evidence for possible prosecutions. This approach highlights the conflicting priorities of police work during the war. Nevertheless, the professionalism of the police in Berlin and other parts of Germany vanished during the course of the war. Many police officers were either called up or had volunteered.⁶²³ New recruits to

⁶²¹ Ibid., *Letter Ms. Hoffmann to Berlin Police Presidency*, November 1916.

⁶²² LAB A Pr. Br. Rep. 030 Nr. 15707, *Majestätsbeleidigungen aus Arbeiterkreisen*, 1915-1918; see also LAB A Pr. Br. Rep. 030 Nr. 15648, *Gestellungsgesuche*, 1911-1916.

⁶²³ In May 1916, the pre-war strength of the Berlin police was diminished by three quarters. LAB A Pr. Br. Rep. 030 Nr. 11361, p. 360, *Report of the Royal Constabulary about its wartime activities*, 4 May 1916.

the force were often either wounded soldiers released from the army, or raw recruits that lacked substantial experience. The quality of policing and morale within the force was mitigated further by the declining supply of goods. By 1916, many officers were more concerned with obtaining additional rationing cards and queuing to buy food than actually fulfilling their duties.⁶²⁴ By the beginning 1917, the president of the Berlin police admitted that his forces were no longer numerous enough in numbers to maintain public order in the city.⁶²⁵ Consequently, the policing of the home front became increasingly militarised, with military personnel taking over important tasks from the police.⁶²⁶ By the end of 1917, the military police (*Militärpolizeistellen*) in Berlin seized the responsibility of monitoring strike movements and dissent in the city.⁶²⁷ At least in Berlin, the police became an appendix of the military authorities until the end of the war. The political policing of the home fronts occupied the best part of the available police resources throughout the war in Germany. It is remarkable how little space actual criminal cases occupy in the internal correspondence. This does not necessarily reflect a decline in criminal activity during the war but rather a lack of prosecution and law enforcement. The pre-war fear of a dramatic rise in crime rates did not materialise. Recent research suggests that crime rates remained comparable the pre-war

⁶²⁴ *Ibid.*, p. 371, *Report by the Commander of the Royal Constabulary*, February 1917.

⁶²⁵ LAB A Pr. Br. 030 Nr. 15838/1 p. 27, *Memorandum of the Berlin Police Presidency to the Imperial Home Office*, 10 April 1917.

⁶²⁶ *Ibid.* p. 23, *Memorandum of the Minister of the Interior regarding the suppression of strikes*, 30 March 1917.

⁶²⁷ LAB A Pr. Br. 030 Nr. 15803 p. 98, *Circular Letter by the Minister of the Interior regarding the Responsibilities of the Military Police*, 4 September 1917.

levels.⁶²⁸ The only category of offences that featured a significant rise were breaches of emergency decrees under the state of siege.⁶²⁹

However, for the last two years of the war with its severe food shortages, the number of crimes such as theft or black market trading increased significantly.⁶³⁰ Departments traditionally concerned with crime fighting adjusted their activities to the wartime necessities of the political and moral policing of the home front. The Criminal Investigations Department of the Berlin police, for example, began to concentrate on prosecuting activities that were perceived as prejudicial to the war effort. A report of the department from May 1916 names very distinctive categories of persons taken into protective custody at the request of the police, representing the whole range of the alleged 'enemies within'.⁶³¹ The report also emphasised the significant efforts undertaken by the department and the close collaboration between police and military authorities in this matter. Yet again, the report stressed that the initiative for these prosecutions lay with the police. Most remarkable, however, is the fact that the exceptional instrument of protective custody was not only used to quell political dissent. It became the main instrument to deal with all kinds of deviant behaviour that occurred during the war. Its application by the Criminal Investigation Department soon replaced the established legal procedures

⁶²⁸ Clive Emsley, *Crime, Police, and Penal Policy: European Experiences 1750-1940* (Oxford: Oxford University Press, 2007), p. 232-233.

⁶²⁹ See Chapter 2.

⁶³⁰ Roger Chickering, *The Great War and Urban Life in Germany: Freiburg 1914-1918* (Cambridge: Cambridge University Press, 2007), pp. 244-249; Holger H. Herwig, *The First World War: Germany and Austria-Hungary 1914-1918* (London: Bloomsbury Academic, 2014), pp. 286-287; Richard Bessel, 'Mobilization and Demobilization in Germany, 1916-1919', in John Horne (ed.), *State, Society and Mobilization in Europe During the First World War* (Cambridge: Cambridge University Press, 1997), pp. 212-222, esp. pp. 218-220; Haldach, *The First World War*, pp. 119-120.

⁶³¹ LAB Berlin A Pr. Br. Rep. 030 Nr. 11361, p. 343, *Report of the Kriminalpolizei about its wartime activities*, 4 May 1916: '[...] A large number of culprits was taken into protective custody at the request of the department such as: fortune tellers, pederasts, pimps, army insulters, etc. [...].'

in many cases supplanting court hearings and severely limiting the defendants' rights. Already in May 1915, for example, the High Command of the Marken District issued an order – after a suggestion by the Berlin police – that all transvestites (*Päderasten in Weiberkleidung*) and homosexuals in the province were to be taken into protective custody for the duration of the war. Although not entirely enforced by the police, this remarkable order demanded the wholesale detention of an entire social group.⁶³² Even after the hesitant reform of the protective custody in December 1916, the number of cases did not significantly fall. Another report from 1916 reveals the full extent to which the police meanwhile used detention without trial. It names eleven categories of offenders against which protective custody was ordered, they included: 'fortune tellers, pederasts, peace protestors, participants of food riots, army insulters, vagrants, charlatans, pimps, prostitutes [...], [and] persons who had unauthorised contact with prisoners of war'.⁶³³ The variety of affected groups demonstrates that the originally exceptional measures for the case of an emergency had become a regular instrument for exercising social control on the home front. The excessive use of emergency powers was possible and accepted because it could build on prevalent negative stereotypes and conceptions of 'enemies of the realm'. Many of these concepts had already been shaped before the First World War but became aggravated by the war situation and were gradually extended to all groups defined as being outside the national collective. By targeting groups that opposed the war politically or were perceived as threats to the unity and morale of the home front, the police established the boundaries of the imagined

⁶³² LAB A Pr. Br. Rep. 030 Nr. 15803 p. 14, *Order by the High Command of the Marken District*, 14 May 1915.

⁶³³ *Ibid.*, p. 350, *Report about the use of the protective Custody*, 1916.

wartime *Volksgemeinschaft*.⁶³⁴ Whereas those inside these imagined boundaries could expect at least a degree of rule of law and even leniency when faced with the authorities, those outside were often deprived of the most basic legal protections. Against this backdrop, the police acted not only as an executive agency for the military and the government but it also exercised exceptional powers at its own discretion. Police officers acted according to their self-assigned role as guardians of the home front. Their activities protected the patriotic sections of the nation against the perceived threats of subversion and moral decline.

Defenders of the Realm: The British Police and the Defence of the Realm Acts

The beginning of the First World War also transformed policing in Britain fundamentally. This transformation was primarily caused by the extraordinary extension of powers under DORA. The expansion of policing reflected the overall growth of the British state during the First World War. Initially, however, the question which authority – military or civilian – would be primarily responsible for the enforcement of emergency measures was intensively discussed in the early stages of the war and even before. After the declaration of war on 8 August 1914, all civilian administration, including the police forces, were obliged to assist the military in the defence of the realm.⁶³⁵ This did not mean that military officers assumed direct command over the police forces – after all the civilian supervision by the Watch Committees remained intact – but that the Competent Military

⁶³⁴ For the concept of the wartime *Volksgemeinschaft* in Germany, see Bruendel, *Volksgemeinschaft oder Volksstaat*, op. cit.

⁶³⁵ *Supplement to the London Gazette*, 4 August 1914, p. 6059; see also Chapter Two.

Authorities could now order the police to assist them at their discretion. However, there seem to have been significant differences regarding the requisition of police forces by the military commanders. Some Competent Military Authorities used military personnel to enforce emergency decrees under DORA and to perform police duties. Others, however, employed local police forces regularly to ensure the enforcement of defence regulations. The use of police or military for the administration and enforcement of emergency measures seems to have depended mainly on local circumstances such as the availability of qualified personnel and the size of the population. In the large urban and industrial centres, the police force became the central agency for the enforcement of emergency measures, because its existing administrative infrastructure was a valuable asset for the military authorities. In smaller ports and fortresses, however, military personnel also took over policing tasks.⁶³⁶ It is, therefore, not possible to completely disentangle the police and military as agents of emergency government on the British home front.

It was, however, initially not clearly defined which officers were to be regarded as Competent Military Authorities with the emergency powers established under the first Defence of the Realm Act. As result, the first months of the war were marked by rather chaotic structures of emergency government, which were only rectified after the Army Council and the Admiralty intervened. This confusion of competencies sometimes led to dramatic consequences. The tragic case of William Smith from October 1914 illustrates how military authorities and police tried to cooperate, but also how responsibilities were shifted between the two when measures turned out to be controversial. Smith – a schoolmaster in the Essex village of

⁶³⁶ This mainly concerned so-called Special Military Areas as defined under DRR 29B. The number of these areas was consecutively extended throughout the war. For an overview about Special Military Areas in Britain, see *List of Competent Military Authorities in the United Kingdom with a List of Special Military Areas and their Commandants* (London: HMSO, 1918), pp. 29-32.

Henham – was issued with a so-called removal order by the commanding officer of the East Anglian Division based in Ipswich.⁶³⁷ The order was given after the Chief Constable of East Suffolk suggested that Smith was likely to assist the Germans in case of an invasion as he was ‘[...] undoubtedly pro-German in conversation, behaviour, and sympathy [...]’, and urged the military to remove Smith from his village.⁶³⁸ The suspicion was based on the fact that Smith had taught German at school, had visited Germany and had received guests from Germany before the war. What was neglected, however, was the fact that his son had volunteered and fought in France as a junior officer. Tragically, Smith committed suicide almost immediately after receiving the order, with his wife also taking her life shortly afterwards. The internal enquiry by the Army Council following the incident revealed two things: firstly, that the evidence on which the police had based their request was merely hearsay and village gossip. An inquest from May 1915 stated that Smith was the victim of ‘silly tittle-tattle of the village’.⁶³⁹ The police, however, were more than willing to believe these rumours without trying to check the allegations. Only after the tragic outcome did the Chief Constable of East Suffolk police seek to clarify that Smith was indeed innocent and not dangerous and thereby shifted the blame to local police constables. The military authorities, however, also rejected all responsibility, stating that the Chief Constable had provided wrong information.⁶⁴⁰ Secondly, the enquiry also revealed the confusion about the question who was actually responsible and accountable for the application of

⁶³⁷ The order prohibited Smith and his family to entering the county, thus forcing them to leave their home and village.

⁶³⁸ TNA WO 141/1/2, *Letter by Chief Constable East Suffolk to G.O.C East Anglia Division*, 29 October 1914.

⁶³⁹ TNA WO 141/1/2, *Letter H. W. Goldstone to H. J. Tennant*, 7 May 1915.

⁶⁴⁰ *Ibid.*, *Letter Chief Constable of East Suffolk to War Office*, 15 December 1914.

emergency powers on the home front. For example, the Assistant Provost Marshall, who had signed of the removal order, apparently did so *ultra vires* as he was officially not considered a Competent Military Authority.⁶⁴¹ Yet, the commanding general felt that such issues were below his actual responsibilities. The Smith case – alongside with a larger number of similar ones – is exemplary of the initially chaotic handling of emergency powers by the military and police. This led to a number of orders by the Army Council clarifying, which officers and commands were to be considered Competent Military Authorities vested with powers under DORA.⁶⁴²

From the beginning of 1915, however, the responsibilities seem to have been divided more clearly. The military assumed responsibility for the administration of DORA, whereas the police forces were responsible for upholding public order and – in close cooperation with MI5 – the gathering of domestic intelligence in addition to traditional policing tasks. Police constables also enforced decrees and monitored the observation of DRR issued by the cabinet. Soldiers and military police were rarely directly concerned with the enforcement of emergency measures. This reluctance to employ troops on a large scale on the home front was certainly influenced by pre-war experiences during the Great Labour Unrest and the negative image such measures had amongst the British public.

Nevertheless, military and police eventually became omnipresent sights in Britain during the war. With each new Defence Regulation and emergency decree, the British state tightened its grip on its citizens. David Englander has trenchantly pointed out that under DORA ‘(...) Britain came to resemble a nation dominated

⁶⁴¹ Ibid., *Minute Sheet A.G. 3*, 17 November 1914.

⁶⁴² TNA ADM1/8391/271, *Army Order: Further Instructions Relative to the Defence of the Realm Acts 1914*, 14 September 1914.

by soldiers and policemen.⁶⁴³ From the enactment of the first Defence of the Realm Act in August 1914 onwards, the powers of the police were constantly extended throughout the war. The established pre-war approach of policing and its legal limitations were gradually pushed to the background. Some DRR increased the powers of police constables to a degree that would have been deemed impossible before 1914. For example, DRR 52 allowed constables to stop and search vehicles without warrants.⁶⁴⁴ DRR 53 enabled police officers to question and interrogate any desired person.⁶⁴⁵ With the enactment of DRR 55, the police gained the extraordinary power to arrest persons without a warrant.⁶⁴⁶ This remarkable extension of powers limited the possibilities of a legal review of police actions. Under DORA, the protection of individual rights and the important role of the courts in the legal review of police actions were in many respects rendered irrelevant. The British state entered almost every sphere of life and with it, so did the police and military authorities. Yet, the majority of DRR concerned the Competent Military Authorities and their exceptional powers. In addition, the police became principally responsible for their enforcement. In these cases, the constables acted on behalf of the military. DRR 9, for example, gave the authorities the power to clear certain areas of undesirable persons. It was soon extended, providing the police with the power to prohibit meeting and processions (DRR 9A), and later to enter every meeting and seize distributed materials without writs or search warrants (DRR 9AA).⁶⁴⁷ The control and surveillance of public places was a central task for the

⁶⁴³ Englander, 'Military Intelligence and Defence of the Realm', p. 25.

⁶⁴⁴ *Defence of the Realm Manual 1918*, p. 166.

⁶⁴⁵ *Ibid.*, pp. 166-167.

⁶⁴⁶ *Ibid.*, pp. 168-171.

⁶⁴⁷ *Ibid.*, p. 80.

police forces to which significant resources were dedicated. This included control of the population within certain specified areas, but also the movement of people between places. Major efforts were also made to curtail the movement of prostitutes near the vicinity of military camps (DRR 13A).⁶⁴⁸

The most radical shift from British legal traditions was, however, the power to arrest and detain people without trial. On 10 June 1915, the cabinet enacted DRR 14B, which allowed the infinite and unrestricted detention of ‘persons of hostile origin or association’.⁶⁴⁹ The procedure for such detention provided that the Home Secretary could issue warrants, after ‘recommendation of a competent military or naval authority or one of the advisory committees’ for the detention or confinement of any person that was considered a threat to public safety.⁶⁵⁰ In the majority of cases, either the intelligence services (predominantly MI5) or the Chief Constables presented the CMAs with names of suspects, which were then passed on to the Home Office. With very few exceptions, the Home Secretaries followed these recommendations. This radical restraint of personal freedom could come in the form of confinement to a certain area such as a city or even a specific district with the obligation of regular reporting to the local police. Yet, in more severe cases, it meant arrest by the police and subsequent detention by the military authorities. Although subject to review by especially assembled ‘Advisory Committees’ presided over by a senior judge, the possibilities of legal challenges were highly restricted.⁶⁵¹ DRR 14B was initially applied to detain British subjects of German origin, but its application was later extended to Irish-republican insurgents and to

⁶⁴⁸ Ibid., p. 92.

⁶⁴⁹ Ibid., p. 94.

⁶⁵⁰ Ibid., pp. 93-94.

⁶⁵¹ Simpson, *In the Highest Degree Odious*, pp. 20-21.

political dissenters. The restriction to persons of ‘hostile origin or association’ was a formulation so imprecise that every British citizen could fall under it if the authorities made the case for it. Yet, it also abandoned the traditional protection of individual freedoms established in Habeas Corpus and the Bill of Rights. As a result, the Home Office could arbitrarily exclude a British subject from the legal protections of the constitutional law on the grounds that they were considered a threat to national security. This was a particularly ambiguous matter concerning the status of naturalised aliens, British people married to enemy aliens and the children of German-born parents. On 17 June 1915, Home Secretary John Simon justified the extensive character of the regulation and its application to British-born subjects as well as to enemy aliens as:

I do not myself think that you ought to draw a strict line of legal division between persons who are naturalised and persons who are natural born citizens of this country. When a person is naturalised and given a certificate he is, by the terms of that certificate, assured by the State that henceforward he will stand in the same position as a person who is a natural-born British subject. I think we should be acting very foolishly if we did not remember that we had given that promise. The right way to deal with the matter is to say, "I do not care whether a man is natural born or naturalised. There is a rule which, in time of war, we must apply, and that rule is, that when it is fairly shown that an individual is dangerous to the State, because he is at large, whether it be because of his hostile origin or because of his hostile associations, then if it is fairly shown, even if he is a British-born subject, he must submit to restraint."⁶⁵²

What Simon was advocating in his statement was less equality before the law for enemy aliens but the power of the Home Secretary to deprive British subjects of their civil liberties and rights. Whoever was declared a threat to national security could be indefinitely detained by order of the Home Secretary. Simon was, nevertheless, anxious to emphasise that, as a former lawyer, he would not use this

⁶⁵² HC Deb 17 June 1915 vol 72, cc 851-852.

power arbitrarily.⁶⁵³ Yet, this could not hide the fact that with DRR 14B, an almost unknown degree of power was conferred to the executive. As a result, the legal differences between external enemies, enemy aliens and the ‘enemies within’ increasingly vanished.

The main difference between the internment of enemy aliens and the detention of British subjects was less a qualitative one but a matter of quantity. Whilst thousands of enemy aliens had been deported and interned up to 1916, the number of prisoners under DRR 14B remained comparatively small.⁶⁵⁴ Prior to February 1916, only 36 persons were held in custody.⁶⁵⁵ These numbers quadrupled by the end of the war. Brian W. Simpson estimates the number of detainees under DRR 14B for the duration of the war in mainland Britain at around 160 persons.⁶⁵⁶ Half of them were detained because of their ‘hostile origin’, meaning that they were naturalised British subjects, and the other half detained because of their ‘hostile association’, implying that they were political prisoners.

The case of Hilda Howsin demonstrated how mere suspicion or contacts with the wrong persons could provide enough reasons for the authorities to be detained under DRR 14B. Howsin was arrested in September 1915, and kept in detention until August 1919. Howsin was imprisoned for almost four years because of her

⁶⁵³ Ibid., c 850.

⁶⁵⁴ The estimates about the number of civilian German internees in Britain differ, yet Panikos Panayi provides the most accurate numbers. Until September 1914 approximately 10,500 German civilians had been interned. In May 1915, the number almost doubled to 20,000 and peaked in November 1917 with 29,511. Cf. Panikos Panayi, *Prisoners of Britain: German Civilian and Combatant Internees during the First World War* (Manchester: Manchester University Press, 2012), p. 44. For a comparative discussion of the radicalising policies towards prisoners of war, see Heather Jones, *Violence against Prisoners of War in the First World War: Britain, France and Germany, 1914-1920* (Cambridge: Cambridge University Press, 2011).

⁶⁵⁵ Simpson, *In the Highest Degree Odious*, p. 16.

⁶⁵⁶ This number excludes Irish prisoners after the Easter Rising who were held under DDR 14B. There number alone is estimated at around 1,600 affected persons; Ibid., p. 17.

allegedly ‘hostile associations’. The evidence for this was found in her contact with a leading member of the Indian independence movement who now resided in Berlin and it the fact that she had authored a book on Indian nationalism in 1909.⁶⁵⁷ There was, however, no evidence that she was involved in any dissenting activities during the war itself. In fact, Howsin had even volunteered to work as a Red Cross nurse. The Howsin case was discussed several times in parliament during the war, and particularly war-critical MPs raised the issue. Yet, despite this publicity, the government refused to make any concessions.⁶⁵⁸

The initiative for the detention of suspects usually came from the police, military authorities and primarily the intelligence services. The Home Secretaries rarely rejected such requests, as they depended on their assessments of the situation on the home front. In this context, the Chief Constables acted as links between the Home Office, military authorities, MI5 and the police forces. They frequently submitted reports and observations to the military authorities and the Home Office and were in many ways the ears and eyes of the government on the home front. Their perceptions of individuals and ‘hostile associations’ shaped many domestic policies during the war. Whilst the majority of the reports contained neutral accounts of the current situation, some Chief Constables also expressed their heart-felt contempt for strikers and peace activists. The description of local activists as ‘pro-German’ was amongst the more favourable terms used to describe suspects. There were almost no aspects of daily life that were not interesting enough not to

⁶⁵⁷ Ibid., pp. 22-23. See also Hilda Howsin, *The Significance of Indian Nationalism* (London, A. C. Fifield, 1909).

⁶⁵⁸ See for example HC, *Deb 10 July 1916*, vol 84, cc11-4; HC, *Deb 30 November 1916*, vol 88, cc470-2, HL, *Deb 24 July 1917*, vol 26, cc23-32;

be monitored by the CMA and police authorities.⁶⁵⁹ The central position of higher police officers elevated them above the level of mere recipients of orders. With their reports, the Chief Constables regularly submitted direct requests and recommendations concerning necessary actions to the Home Secretary.

The police became a political actor in its own right – either by the way emergency measures were enforced or by not exercising their legal duties. The latter was a subtle way of dealing with anti-war dissenters. Many police constables conveniently looked away when patriotic mobs disrupted peace meetings and attacked demonstrators. This had happened in Cardiff in November 1916, when Ramsay Macdonald only narrowly escaped a physical assault from a mob of soldiers on leave.⁶⁶⁰ However, these situations occurred throughout the country on many other occasions.⁶⁶¹ Many police constables and their superiors were unwilling to provide — technically legal — peace meetings with the necessary protection against violent attacks. The consequence of this tacit policy was that public meetings could only be held in strongholds of the peace movement or where sympathetic local organisations could provide enough self-organised protection against assaults.

Overall, the First World War radically transformed the British police. Having been a civilian institution with limited powers before the war, it emerged as a

⁶⁵⁹ David Englander, 'Military Intelligence and the Defence of the Realm: the Surveillance of Soldiers and Civilians in Britain during the First World War', *Bulletin of the Society for the Study of Labour History*, 52, 1 (1987), pp. 24-33, p. 25.

⁶⁶⁰ Brock Millman gives a good account of this incident, which also triggered controversial debates in the House of Commons; see Brock Millman, 'The Battle of Cory Hall, November 1916: Patriots meet Dissenters in Wartime Cardiff', *Canadian Journal of History*, XXXV (2000), pp. 57-83.

⁶⁶¹ Another example is the break-up of the so-called Newcastle Soviet. The organiser of the meeting, Dr Ethel Williams, complained to the Watch Committee that the by-standing police were not protecting the participants when soldiers on leave attacked them with clubs and bricks and tried to break up the meeting, which was mainly attended by women and civilians. The Watch Committee simply refused to consider the matter expressing their full trust to the Chief Constable; Tyne and Wear Archives PA.NC/2/5, *Workers and Soldiers Council*, 24 August 1917.

cornerstone of British national security policies after the conflict. The close entanglement of intelligence agencies and the police was emphasised when in May 1919 the Assistant Commissioner of the Metropolitan Police and head of the CID and Special Branch, Sir Basil Thomson, was appointed as ‘Director of (Civil) Intelligence’ at the Home Office. His main task was the co-ordination and oversight of all domestic intelligence activities in the country and to counter ‘threatened disturbances (whether arising out of labour troubles or otherwise), seditious meetings and conspiracies, and revolutionary movements, both home and abroad’.⁶⁶²

With the extension of its responsibilities to political policing and domestic intelligence, the profound changes in policing reflected the revolution in British politics during the Great War. The liberal inhibitions and self-constraint in domestic policies were gradually replaced by an emerging system of domestic surveillance and political policing. This transformation also changed the role of higher police officers and the intelligence services. Before the war, they had been marginal actors in British politics, after 1918, however, they increasingly emerged as self-confident actors in British security policies.

Comparison

The role of police and military as institutions entrusted with the enforcement of the state of exception during the First World War in Britain and Germany was the result

⁶⁶² TNA WO32/21382, *Secret Service: Organization; Formation of Department Dealing with Sedition and Revolutionary Movements*, 1919.

of very different historical developments. Yet, despite these differences, the same organisations emerged as key actors of emergency government of home front politics in both countries. Police, military, and intelligence agencies became cornerstones of the respective systems of emergency government. Nevertheless, the way in which emergency measures were enforced was influenced by a number of factors such as the structures of emergency government, civilian-military relations but also by certain conceptions of ‘enemies within’ against whom most of the repressive emergency measures were directed.

Developments before the First World War

The police as a professional organisation in Britain and Germany emerged during the second half of the nineteenth century. They evolved along different lines in both countries. Whereas the German police – with the Prussian police as its largest force – was controlled by the central state, the British police remained a predominantly local or regional institution under the control of municipal or county Watch Committees. The decentralised civilian supervision of the British police forces also ensured a degree of democratic control. In Germany, the Prussian police was under the control of the Prussian Minister of the Interior, who was only partially answerable to the Prussian Diet. The structure and organisation of the Prussian police was designed to ensure its function as a guardian of the political and social order of the German Empire. The Prussian police itself was organised according to military principles and the majority of its senior officers had served in the military. The appearance and habitus of the German police resembled that of the military, which also influenced a certain *esprit de corps* within the police force. Highly

qualified civilian professionals without a military background were rare in the German police before the First World War.⁶⁶³ Political reliability and allegiance to the Emperor were considered as the most important qualities of a German police officer.

Although many senior British police constables were also former soldiers, the authorities sought to avoid an overly martial appearance of the police. The liberal conceptions of the state that dominated the decades before the war in Britain also influenced the assigned role of the police as an explicitly civilian and apolitical institution.⁶⁶⁴ With the exception of the Special Branch of the Metropolitan Police, no significant efforts to establish a system of political policing were undertaken before the First World War. This was mainly due to the better integration of the organised labour movement in Britain, where the Lib-Lab Pact ensured a degree of political representation for the working class. In Germany, by contrast, the authorities regarded the emergence of Social Democracy as a significant threat to the social and political order. The police and particularly its political departments such as Department VII of the Berlin Police Presidency were on the frontline in the fight against the allegedly subversive activities of the labour movement. The eminent German police historian Albrecht Funk characterised the most significant spheres of activity of the Prussian police since the era of the Socialist Laws as the ‘registering, monitoring, breaking up and ostracising’ of the organised labour

⁶⁶³ The entry of ‘educated gentlemen’ into the police service only occurred at the beginning of the twentieth century and mainly concerned the technical services and the now more scientific criminal investigation departments. Yet, the civilian influx had no direct influence on the militaristic self-understanding of the police: Emsley, *The Policeman as Worker*, pp. 105-106.

⁶⁶⁴ Clive Emsley makes the point that no conception of political policing was existent before the First World War and that it properly emerged during the war because of the experiences with emergency government: Clive Emsley, *The English Police. A Political and Social History* (Hampstead Hamel: Harvester Press, 1991), pp. 98-100.

movement.⁶⁶⁵ Consequently, the German police had clearly established conceptions of ‘enemies within’ when the First World War began. In Britain, a similarly clearly shaped concept of domestic political enemies – perhaps with the exception of Irish republican terrorists – did not exist before the First World War. This liberal conception of policing seem to have shifted in the context of the Labour Unrest of 1911-13, yet without resulting in significant structural or political changes before the outbreak of the war.

To sum up, the German police were an established cornerstone of the authoritarian domestic politics of the German Empire at the eve of the First World War. Its function and self-understanding was that of a guardian of the existing social and political order directed against the alleged subversive threat of the organised labour movement. In Britain, the liberal idea of the state continued to influence the conception of policing as a legally limited means of securing public order and fighting crime. Only against this backdrop does it become comprehensible why the experience of the state of exception during the war truly revolutionised the British state and its agencies, whilst it merely aggravated already existing tendencies in Germany.

Military-Civilian Relations within the System of Emergency Government

The German state of siege established a polycratic system in which the respective military commanders of an army corps district ruled almost supreme. With the acquisition of executive power in their districts, the police forces became subordinated under their control. Within the system of emergency government

⁶⁶⁵ Funk, *Polizei und Rechtsstaat*, pp. 260-266.

under the state of siege, the police's primary responsibility became the enforcement of decrees issued by the local military commanders. In Britain, similarly clear-cut provisions were initially not made. Nonetheless, the mentioned Order in Council of 4 August 1914 obliged all British subjects to assist the military in the defence of the realm. This also included the police forces.⁶⁶⁶ Officially, police constables acted on behalf of the Competent Military Authorities when they enforced emergency decrees, defence regulations or the Aliens Restriction Act. Yet, it would be wrong to see the police as a mere extension of the military authorities. The police constables were the eyes and ears of the authorities and provided the best part of the available domestic intelligence. With their regular reports about the situation in their districts, the Chief Constables had a significant influence on the actual application of emergency powers. Home Office and CMA often only acted on the recommendation of senior police officers. During the second half of the war, the indirect influence of the Chief Constables was put into perspective by the growing influence of domestic intelligence agencies such as MI5. The advancing professionalisation of domestic intelligence also facilitated the emergence of dedicated political police units. Officers of the Metropolitan Police's Special Branch and of the Criminal Investigations Division gradually assumed surveillance tasks and the political policing of the British home front. Both departments also acted as the enforcers for MI5 when it came to arresting suspects. Despite its substantial influence, the intelligence service had no legal power to arrest and detain persons, and depended on co-operation with the police in such cases.

In Germany, the police held a similarly influential position. It acted as the main domestic intelligence agency providing regular reports about the situation in

⁶⁶⁶ *Supplement to the London Gazette*, 4 August 1914, p. 6059.

the country and therefore influenced political decision making. The selection of the provided information and the frequently explicit policy recommendations shaped the decisions of the local military commanders. In both countries, senior police officers assumed important roles in the politics of the home fronts. Military as well as civilian decision-makers depended on the expertise and information they provided. Towards the end of the war, the balance between civilian police and military began to shift. Confronted with growing strike movements and better-organised political dissent, the thinned out police forces were unable to cope with the sheer scale of their tasks. From mid-1917, the policing of the German home front became increasingly militarised. Soldiers were now regularly employed to crush strike-movements. This was certainly a sign of the aggravating domestic crisis in the Empire and a contributing factor for the escalation of conflicts. In Britain, too, the military intensified its control over the civilian police. Here, however, uniformed soldiers were only reluctantly used for policing tasks. Nevertheless, in early 1918 each military district in Britain established so-called Assistant Competent Military Authorities (ACMA) whose main task was to supervise and coordinate the policing of their districts. Moreover, although civilian oversight by the Watch Committees technically remained intact in Britain, they do not seem to have interfered too much with the actual policing. Apart from providing the necessary funds and administering the recruiting of new constables, actual political influence on policing was rather rare. The influence of the Home Office was also rather limited. It received regular reports from the different police forces yet also here a hands-off approach concerning the police guided its policies. Moreover, many Chief Constables were in regular contact with the head of MI5,

Vernon Kell, and the commanders of their military districts.⁶⁶⁷ The separation between the military and the civilian police was essentially a superficial one. Yet this superficial separation was at least officially a perpetuation of the civilian control over the police force. In addition, the reluctance to employ uniformed soldiers seems to have helped to avoid an uncontrollable escalation of domestic conflicts in Britain.

Overall, it can be concluded that neither the German nor the British police were merely subaltern institutions during the war. Despite being under direct military control (Germany) or at least strong military influence (Britain), senior police officers acquired an important role in their respective systems of emergency government. Due to their key role in acquiring domestic intelligence and their technical expertise in the administration and enforcement of emergency measures, they gained a prominent position with significant influence on the actual decision making processes. The ineffective political supervision of the police forces additionally contributed to their role as influential and often self-willing actors in the politics of the home fronts.

⁶⁶⁷ In December 1918, the head of MI5, Colonel Vernon Kell, sent out letters to the Chief Constables across England thanking them for their support of the intelligence agencies during the War. This can be seen as further evidence for the close co-operation between police and MI5. The letter to the Chief Constable of Newcastle City Police read: 'I am directed by the Home Secretary to say that Colonel Kell, M.I.5, War Office has expressed to him his appreciation of the good work of the members of your police force in connection with the numerous enquiries and reports as to the activities of aliens and suspected persons which have been of the greatest assistance to him in carrying out the duties of his department [...]'; TWA PA.NC/2/5, p. 325, *Letter Home Office to Newcastle City Police*, 28 December 1918.

Conception of 'Enemies Within' and the Use of Emergency Powers: The Example of Detention without Trial

The self-understanding of police officers and their role on the home front is another crucial element of understanding wartime emergency government. Many police officers in Germany and Britain saw the protection of the country against the enemy within as their main wartime task. Initially, this meant the prevention of sabotage and espionage. Especially in Britain, where a downright spy mania emerged before and during the first months of the war, police constables were supposed to fight the fifth column of German spies. This widespread fear was a particular feature of the British home front. Nevertheless, the fear of enemy spies was present in Germany, too.⁶⁶⁸

The initially narrow concept of enemies on the home front changed during the further course of the war. Apart from enemy aliens, a group that caused suspicion from the beginning of the war, other groups were considered to be prejudicial to the successful conduct of the war. This primarily concerned groups that opposed the war on political, ethical or religious grounds. Nevertheless, later during the war socially marginalised groups became a particular concern for the police forces in both countries. These images of domestic enemies were shaped by public discourses – the British press campaigned regularly against ‘peace cranks’ and ‘pro-Germans’ – but it could also build on certain pre-war conceptions. Whereas the groups that caused concern for the German police were almost identical with the established notions of ‘enemies of the realm’ of the era of the Socialist Laws, the war facilitated the emergence of a new concept of ‘enemies within’ in Britain. Speaking out against the war was increasingly identified with

⁶⁶⁸ Altenhöner, *Kommunikation und Öffentlichkeit*, pp. 201-229.

directly or indirectly assisting the enemy. For many contemporaries the difference between the external enemy and its alleged collaborators on the home front was minimal. The surge of accusations and denunciations that reached the Berlin police shows how widespread these concepts were in Germany. Against this backdrop, police officers in both countries understood their role as being the guardians and defenders of the home front.

It is essential to understand how deeply engrained these conceptions were to grasp why harsh emergency measures were so readily applied. The language of police reports reflected the antipathy of many police officers towards their suspects. A particularity of the British situation was that the police was still obliged to provide security for legal peace meetings. However, in many cases, police constables plainly rejected to intervene and to provide security when mobs of self-proclaimed patriots broke up such meetings. These acts of tacit disobedience, however, had no serious consequences. One reason may have been that police superiors as well as their political masters shared the same contempt for peace activists. Nevertheless, this withholding of protection by the police almost seems negligible in comparison with openly repressive measures against dissenters.

Among the most radical and intrusive emergency powers in both countries was the detention of suspects without trial. The extra-judicial arrest and detention was the most radical break with pre-war conceptions of the rule of law. This was particularly the case in Britain, where Habeas Corpus and The Bill of Rights protected individuals from arbitrary arrest. With the enactment of DRR 14B in 1915, however, this historically well-established protection of individual freedom was almost casually suspended. In Germany, the 'protective custody' was established as a practice deriving from the royal prerogatives in the Prussian

Constitution of 1851, although barely practised before the war. The cases where protective custody was ordered during the war offer a unique opportunity to analyse and compare how images of domestic enemies influenced the application of the harshest emergency measures by police and military. Detention without trial was ordered either by the local military commanders (Germany), or by the Home Secretary (Britain). In the majority of cases, however, the initiative for such measures came from senior police officers. In both countries, police officers applied for warrants because the suspects allegedly posed a significant threat for public order and security. Yet, what was considered as such a threat was heavily dependent on the individual interpretations of the respective police officers. The described cases of the Berlin police illustrate that this category of the enemy within was gradually extended to an even greater number of people, including pacifists, socialists, homosexuals, vagrants and ordinary criminals. Yet, the persecution of minorities and groups of undesirables was clearly more extensive and more pronounced in Germany. A fact that can be explained by the central role of state agencies such as the police and military in dealing with them. In Britain, the indirect approach of the state to deal with these groups shifted parts of the task of the ‘moral policing’ on the home front to volunteers and patriotic organisations.

This becomes particularly clear regarding different ways of regulating of sexuality and prostitution in both countries. In both countries emergency powers were extensively used in attempts to control and regulate sexual behaviour.⁶⁶⁹ Firstly, because military authorities were concerned about the role of prostitutes in spreading venereal diseases amongst the troops but also amongst workers in

⁶⁶⁹ For the British case see Andrew G. Bone, *Beyond the Rule of Law: Aspects of the Defence of the Realm Acts and Regulation 1914-1918*, PhD Thesis, McGill University, 1994.

wartime industries. Similar concerns existed in Germany, where the vice squads were extending their surveillance of known prostitutes to suspicious single women in general.⁶⁷⁰ In Britain, the monitoring of prostitutes, soldiers' wives and single women in the proximity of barracks and training centres by the police was complemented by – often female – volunteers. Already in 1914, the largely middle-class National Union of Women Workers established so-called Women Patrols that saw their task in maintaining the moral order of the home front. Later, police forces also employed Women Police Constables, whose main task was to control the public behaviour of young women and alleged prostitutes.⁶⁷¹ The use of patriotic volunteers for the moral policing of the home front helped the British government to avoid allegation of being overly oppressive. This has to be considered the main difference between Britain and Germany, where uniformed police was a clearly visible actor. Yet, the motivations for controlling and regulating sexualities were not only influenced by concerns about the spread of venereal diseases. They were also influenced by attitudes towards sexuality that had emerged before the First World War and now received an additional ideological dimension.⁶⁷² The emerging ideas about national unity were – at least in the eyes of the authorities – deeply rooted in notions of decency and ordered gender relations. The regulation of sexuality, the suppression of 'wild prostitution' and the persecution of homosexuals can thus also be interpreted as attempts to maintain the moral order of the home

⁶⁷⁰ Ute Daniel, *The War from Within: German Working-Class Women in the First World War* (Oxford: Berg, 1997), pp. 138-152.

⁶⁷¹ Susan Grayzel, *Women and the First World War* (Abingdon: Routledge, 2012), pp. 35-36, pp. 62-75; see also TNA HO45/10724/251861, *Suppression of 'Camp Followers' suffering from Venereal Diseases*, October 1914.

⁶⁷² Jeffrey Weeks, *Sex, Politics and Society: The Regulation of Sexuality since 1800* (London: Longman, 1989), pp. 201-214; Michaela Freud-Widder, *Frauen unter Kontrolle: Prostitution und ihre Staatliche Bekämpfung in Hamburg vom Ende des Kaiserreichs bis zu den Anfängen der Bundesrepublik* (Münster: LIT, 2000), pp. 27-32.

front. The legal instruments provided by the various emergency decrees did now allow to impose and enforce these conservative notions of sexuality at least in public.⁶⁷³

It seems as if later in the war protective custody was increasingly used by the German police to bypass the established legal procedures even in cases without political significance. Even without providing substantial evidence for these allegations, the simple belonging to certain groups was often enough to be arrested and kept in custody. Police officers, local military commanders but also judges often shared the same notions of a *Volksgemeinschaft* and its enemies, which shaped their attitudes towards certain groups.

In Britain, the powers of the executive under DRR 14B were similar to the German institution of protective custody. Here, too, merely belonging to a group defined as a threat to public security was sufficient to be detained without a trial. This concerned German-born British subjects but also politically undesirable persons. Particularly after the Easter Rising of 1916, DRR 14B was excessively used for the detention of Irish Republicans. Nevertheless, if Irish prisoners are excluded, the number of people detained under DRR 14B remains relatively small compared to the figures for the German Empire. Despite this quantitative difference, the similarity of approaches towards groups of ‘enemies within’ in Britain and Germany is striking. The application of DRR 14B was in the majority of cases the result of recommendations by military officers or Chief Constables to the Home Secretary. Also in Britain, government officials, senior police officers

⁶⁷³ Magnus Hirschfeld’s *Sexual History of the World War* suggests that these attempts were eventually futile and that notions of morality and hetero-normative sexuality were indeed radically changing in Germany during the war. See Magnus Hirschfeld (ed.), *Sittengeschichte des Weltkriegs*, 2 vols (Leipzig: Verlag für Sexualwissenschaft, 1930).

and military officers shared a common notion of domestic enemies. However, this concept was less ideologically loaded than in Germany. The connection between political, racial and, to a certain degree, anti-Semitic notions of domestic enemies was a distinctive feature of the German developments during the war.

Law as a Weapon: Courts and Judges as Agents of the State of Exception

The agencies of the executive branch were not the only actors concerned with the application of emergency powers during the First World War. Within the systems of emergency legislation, the courts maintained an important position. Pre-war conceptions of the rule of law assigned the courts a key position in the legal limitation of state power. British theorists such as Albert Venn Dicey affirmed the key role of the judges as the cornerstones of the rule of law that protected the individual rights of British subjects against the arbitrary use of state power.⁶⁷⁴ Despite its different legal traditions, comparable notions of a *Rechtsstaat* emerged in nineteenth-century Germany.⁶⁷⁵ Here, however, courts acted more as supervisory bodies of the administration rather than as guarantors of individual liberties. Nevertheless, the German courts were also supposed to act as independent intermediaries between individual citizens and the state.

Yet, the unprecedented extension of the state under the emergency legislation of the First World War challenged this established constitutional equilibrium. It is worth bearing in mind that neither the function nor the powers of the courts were

⁶⁷⁴ Dicey, *Introduction to the Study of the Constitution*, pp. 178-180; Ewing and Gearty, *The Struggle for Civil Liberties*, pp. 6-17.

⁶⁷⁵ See Chapter One.

dramatically changed under DORA or the state of siege. The provisions of emergency legislation mainly concerned the powers of the executive and the establishment of a 'delegated legislation', but technically the courts remained in place for the judicial review of acts of the executive. This gave judges a unique position in the system of emergency government, which they could use to review and challenge actions by the government and its executive agencies. But how did judges use their prominent position and how did this influence the system of emergency government on the home fronts?

German Courts and the State of Siege

Article 10 of the law regarding the state of siege demanded the establishment of extraordinary courts martial for the prosecution of all felonies such as sabotage and high treason but also for breaches of decrees by local military commanders. These extraordinary courts consisted of five judges, two of whom were senior civilian judges and three of whom military officers. The ordinary civilian courts, however, also remained intact and continued to sit throughout the war. After the first months of the war, a number of legal disputes arose about which courts would be responsible for which cases. Many military authorities and their associated courts martial did indeed act under the impression that their powers were unrestrained and that a legal review of their decisions by civilian courts was impossible. Against this backdrop, it is remarkable how persistently some judges sought to uphold their own prerogatives against the military commanders. In 1915, a number of cases were heard before the Imperial Court of Justice (*Reichsgericht*) in Leipzig, highlighting these conflicts, or at least uncertainties, between the established ordinary courts and

the military commanders. They also show that the enforcement of the state of siege was far from being without complications but created a number of disputes.⁶⁷⁶

At this early stage of the war, however, the courts often demonstrated a degree of understanding of the complaints against the actions of local military commanders. In a decision of 11 June 1915, the *Reichsgericht* sought to limit the power of military commanders by emphasising that with taking over the executive civilian powers in their districts they were also subject to the established legal obligations and limitations.⁶⁷⁷ In another decision of 5 July 1915, the judges ruled that the military only controlled the executive but not the legislative powers, and were hence bound the existing laws.⁶⁷⁸ Many higher provincial courts held similar opinions. For instance, the *Oberlandesgericht* in Königsberg, ruled that military commanders could only suspend individual rights of German citizens under exceptional circumstances.⁶⁷⁹ Yet, there were also decisions that favoured the unrestricted use of emergency powers by the military. The Bavarian High Court decided that military commanders had to accept no legal restrictions to maintain public security and order. The court concluded that neither the Bavarian Law regarding the State of War nor the Law regarding the State of Siege ‘provide any restrictions to the military commanders to secure public safety and order. Moreover, he is entitled and obliged to counter any threat to public safety and security [...] with any means at his disposal he considers useful and necessary.’⁶⁸⁰

⁶⁷⁶ For an impression of the sheer number of cases, see BArch R1501/112246, *Court Decision Regarding the State of Siege*, 1914 to BArch R1501/112253, *Court Decision Regarding the State of Siege*, 1917.

⁶⁷⁷ BArch R1501/112253, *RG 2 D 211/15-Nr. 39*, 11 June 1915.

⁶⁷⁸ *Ibid.*, *RG 3 D 324/15 Nr. 49*, 5 July 1915.

⁶⁷⁹ *Ibid.*, *OLG Königsberg 3 W 610/14 Nr. 3*, 22 December 1914.

⁶⁸⁰ *Ibid.*, *Oberstes Landesgericht in Munich Rev.Rg.Nr. 291/15-Nr. 73*, 18 November 1915.

This view seems to have prevailed eventually. After 1915, no other landmark court decisions were made. It seems as if the main concern for many senior judges was less the protection of civil liberties than the preservation of their own status against the intrusions of the military. By upholding the established legal procedures against the provisions of the state of siege, the judges also protected their own professional status and position within the state. Nevertheless, this neither meant that they were in fundamental opposition to the regime under the state of siege nor that they saw their main task as protecting individuals against the acts of the state. This becomes particularly clear when the regular court decisions during the war are taken into account. The courts rejected almost all legal challenges against decisions by local military commanders. The judges tended to follow the argumentation of the military and police even when the evidence provided was thin. Moreover, ordinary courts themselves became involved in the repression of anti-war protests.

The remit of the *Reichsgericht* in Leipzig extended to all cases of high treason (*Hoch- und Landesverrat*) but also to specific war-related offences such as the so-called ‘treason in wartime’ (*Kriegsverrat*), which included all actions supposedly ‘assisting the enemy’.⁶⁸¹ These cases included prominent public figures such as Rosa Luxemburg, Clara Zetkin, Franz Mehring and other anti-war Social Democrats indicted for treason and offences against emergency decrees under article 9C of the Law regarding the State of Siege.⁶⁸² Zetkin, for example, was convicted for her participation in international peace conferences and for her ‘active incitement of class hatred’ to two years gaol but was released on medical grounds a few months later. Luxemburg shared the same fate. Only weeks after her release

⁶⁸¹ Article 89 Imperial Penal Code (*Reichsstrafgesetzbuch*).

⁶⁸² BArch NY4002/61, pp. 59-66, *Files of the Chief Prosecutor of the Empire (Oberreichsanwalt) in the case against Luxemburg, Zetkin, Mehring et al*, September 1915.

in 1916, the military commander of the Marken district ordered her protective custody because she had published a pamphlet about Karl Liebknecht, who was convicted of high treason after an illegal May Day demonstration in Berlin in 1916. Nevertheless, conviction for wartime treason also concerned many less prominent people. For example, supporters of the Spartacus Group were convicted for publishing and distributing leaflets and participating in anti-war protests, and were given long-term sentences.⁶⁸³ Alsatians who had supposedly articulated opinions hostile to Germans (*deutschfeindliche Äußerungen*) were regularly subject to trials before courts martial, too. The sentences in these cases were often particularly harsh.⁶⁸⁴ These examples illustrate how crucial state attorneys and courts were for the prosecution of anti-war dissenters. In addition to the powers of the state of siege, the ordinary criminal law was used as weapon against alleged ‘enemies within’ in Germany.⁶⁸⁵ There are, nevertheless, contradictory elements in the practice of the courts. After the reform of the state of siege in December 1916, the *Reichsgericht* and the Imperial Military Court also occasionally revoked decisions made by local military commanders. These were mainly cases where protective custody had been ordered against non-political suspects such as prostitutes or homosexuals.⁶⁸⁶ Yet, the number of these revisions remained rather small. Nevertheless, if such legal

⁶⁸³ An example is the prosecution of Gustav Alvin Herre from Leipzig who was convicted for ‘inciting class hatred’ and ‘wartime treason’ in December 1916 after he was caught distributing leaflets against the detention of Karl Liebknecht: BArch NY4002/61, p. 90-96, *Indictment of the Chief Prosecutor of the Empire against Alvin Herre*, 22 December 1916.

⁶⁸⁴ A number of cases against Alsatians – particularly those heard before the Imperial Military Court and *Reichsgericht* – are documented in the files of the Imperial Office of Justice; see for example: BArch R3001/6667, *Gerichtsentscheidungen betreffend Schutzhaft und Belagerungszustand*, pp. 1-10.

⁶⁸⁵ Richstein, *Das belagerte Strafrecht*, pp. 172-176.

⁶⁸⁶ See for example the case of Julius Thiele from Berlin, who was detained on the grounds that he was a ‘professional pederast’. The hearing before the Imperial Military Court ended with his release and the award of a compensation for having been unlawfully detained. The case is also interesting because the witness statements reveal that the protective custody was primarily used to compensate the staff shortage of the police. BArch R3001/6667, p. 16-18, *Case file Julius Thiele*, 1917.

review was successful even compensation payments to the victims were ordered. Overall, the German courts played an ambiguous role during the First World War. On the one hand, they defended their professional status and powers within the state against the challenges of the state of siege. On the other hand, they also were cornerstones of the system of emergency government particularly concerning the prosecution of anti-war dissenters. Upholding the principle of legality did not guarantee protection of the individual citizen against the state's arbitrary use of power, if the laws were designed as weapons against the enemy within.

British Courts as Agents of Emergency Government

For a long time, the role of the British courts has received little scholarly attention from historians. Nevertheless, landmark cases such as *Rex v Halliday ex parte Zadig* of 1917 have been broadly discussed in the legal literature.⁶⁸⁷ This lack of scholarly interest is remarkable when we take into account how unique the role of the courts within the British system of emergency government was in comparison to most other belligerents. Dicey's conception of the rule of law assigned them a central role in the review of government agency and in the protection of the individual rights of British subjects. The enactment of DORA and the consequent almost complete lack of parliamentary scrutiny put the courts in an

⁶⁸⁷ There is almost no recent legal discussion of emergency measures in the Anglophone world, which does not refer to *Rex v Halliday ex parte Zadig*. Yet, despite its relevance historians of the First World War and the home fronts have widely neglected it. The discussion of the case is almost entirely confined to legal historians. For some examples, see Ewing and Gearty, *The Struggle for Civil Liberties*, pp. 84-88; Simpson, *In the highest degree odious*, pp. 24-26; Charles Townshend, *Making the Peace*, pp. 65-68; Vorspan, *Law and War*, pp. 278-282; Bonner, *Executive Measures, National Security and Terrorism*, pp. 57-61.

‘unprecedentedly responsible position’ to review and limit acts of the government.⁶⁸⁸

The particularities of the historical constitutional developments in Britain and the prevalence of case law made by the courts gave the judges a significant influence within the political sphere of the country. In the context of case law, individual judges and their interpretations of the law were more powerful than, for example, their German counterparts. This position was in danger of being replaced by a system of extraordinary courts martial after the first Defence of the Realm Act was enacted in August 1914.⁶⁸⁹ Yet, after the intense criticism articulated by some of the Law Lords, this issue was rectified with the Defence of the Realm Consolidation Act, which reinstated the right of British subjects to be tried before an ordinary civilian court.⁶⁹⁰ Rachel Vorspan and others have argued, however, that this was less an effort to secure the principles of the rule of law than an attempt to preserve the positions of power of the judges. By upholding the principle that nothing was beyond the law and thus outside the responsibility of the courts, the judges reasserted their own institutional power.⁶⁹¹ This, nevertheless, created a situation in which the judges were frequently confronted with the emergency measures of the police and military under DORA, which they were supposed to interpret and control. Yet, recent research into the role of the courts almost unanimously concludes that they failed entirely in this function during the war. The criticism of the British judiciary is perhaps most radically articulated by Rachel

⁶⁸⁸ Ewing and Gearty, *The Struggle for Civil Liberties*, p. 81.

⁶⁸⁹ The possibilities to trial British citizens before courts martial was additionally extended with the Defence of the Realm Consolidation Act of 27 November 1914; 5 Geo. 5, c. 8, para. 1 no. 5-6.

⁶⁹⁰ Defence of the Realm Amendment Act 1915; 5 Geo. 5, c. 34.

⁶⁹¹ Vorspan, *Law and War*, pp. 263-265.

Vorspan. She claims that ‘during the war the English judiciary used its power and resources to promote not personal freedom but other substantive priorities such as military success, property rights, and traditionalist and nationalist moral values’.⁶⁹² Charles Townshend also presents a critical view of the wartime judiciary but concedes more sympathetically that ‘the paralysis of the traditional standards in the shock of war was plainly marked in the judicial interpretation of cases which arose under DORA and its regulations’.⁶⁹³ Ewing and Gearty, despite expressing a similarly pronounced criticism regarding the protection of civil liberties, acknowledge the limited ability of the courts to control the executive.⁶⁹⁴ Many court decisions did not only confirm the actions of police constables and military, however doubtful they might have been: they sometimes even went beyond the already harsh policies of the government.

Most cases concerning the legal review of emergency measures were heard before the King’s Bench, which was presided over by Sir Rufus Isaacs, later Marquess Reading, in his function as Lord Chief Justice and Attorney General. During the war, however, Isaacs was most active as diplomatic envoy rather than as a judge. In his absence, Lord Darling replaced him in court sittings.⁶⁹⁵ Both judges were ardent supporters of the war effort and this was reflected in their decisions. Isaacs was a member of Asquith’s Cabinet and entrusted with a number of diplomatic missions to the USA to organise American war credits, whilst Lord Darling anonymously wrote opinion pieces that advocated the ruthless conduct of the war. This proximity to the government and their support for an unreserved

⁶⁹² Ibid., p. 343.

⁶⁹³ Cf. Townshend, *Making the Peace*, p. 65.

⁶⁹⁴ Ewing and Gearty, *The Struggle for Civil Liberties*, pp. 91-93.

⁶⁹⁵ Ibid., p. 83.

conduct of the war clearly influenced their rulings in DORA cases. In *Ronnefeldt v Phillips*, a DRR 14B case, Darling argued that the actions of the executive were justifiable even if there was ‘very, very little ground to suspect’ that Ronnefeldt actually committed the offences on which grounds the CMA issued its removal order.⁶⁹⁶ The Ronnefeldt case is particularly revealing because it shifted the responsibility to prove that the removal order was *ultra vires* to the plaintiff while at the same time denying Ronnefeldt access to police reports that could prove his claims.⁶⁹⁷ Other judges went further, stating that any suspicion – even based on rumours – by anyone could justify the use of the DRRs 14B and 55 even if the CMA itself had no presentable evidence.⁶⁹⁸ This also included the fact that orders for indefinite detention under DRR 14B could be issued without stating the reasons for it, if the Home Secretary could assure that he held justified suspicion, as in the aforementioned case of Hilda Howsin. This was nothing less than the willing abdication of judges in favour of the executive.

Rex v Halliday ex parte Zadig was certainly one of the most significant landmark cases concerning measures under DORA. This case was heard in March 1917 before the House of Lords.⁶⁹⁹ Like no other, it represented the ‘watershed between Victorian liberalism and the world of the vigilante state’ that emerged during the First World War, as Brian W. Simpson has argued.⁷⁰⁰ The plaintiff, Artur Zadig, a German-born naturalised British subject had been detained under DRR 14B in October 1915 because he was considered to be of ‘hostile origin’, despite

⁶⁹⁶ *Ibid.*, p. 84.

⁶⁹⁷ David Bonner, *Executive Measures, Terrorism and National Security: Have the Rules Changed?* (Ashgate, 2007), p. 54-55.

⁶⁹⁸ *Ibid.*, p. 56.

⁶⁹⁹ *Rex v Halliday ex parte Zadig*, UKHL 1917, 1.

⁷⁰⁰ Simpson, *In the Highest Degree Odious*, p. 25.

having been a British subject since 1905. As a legal challenge to his detention, Zadig issued a writ of Habeas Corpus against the commander of the detention centre he was held in. The case made its way through all courts and was finally heard before the House of Lords in March 1917. The legal counsel for Zadig argued that with the original Defence of the Realm Acts of 1914-15, parliament had never granted the government the power to suspend Habeas Corpus and that therefore the DRRs limiting the personal freedom of British subjects without a trial were categorically *ultra vires*.⁷⁰¹ The Law Lords rejected this argument with only Lord Shaw of Dunfermline articulating a dissenting opinion.⁷⁰² The majority of judges, however, argued that parliament as the nation's sovereign body had entrusted the government with exceptional powers for the period of national emergency and that it was not within the responsibility of the courts to limit the application of these powers.⁷⁰³ Hence, Zadig's detention was not only lawful but also justified on the grounds that the authorities had supposedly good reason for it.

With such rulings, the judges presented themselves, according to Rachel Vorspan, as 'judicial warriors, enthusiastically advancing executive powers and military policies that went well beyond both parliamentary intent and common law precedent'.⁷⁰⁴ This became especially clear in cases involving the prosecution of leading anti-war dissenters and activists such as the UDC's E. D. Morel or the Scottish revolutionary John Maclean for breaches of censorship regulations and treason.⁷⁰⁵ The courts not only abdicated their traditionally assigned role as

⁷⁰¹ Ewing and Gearty, *The Struggle for Civil Liberties*, pp. 85-86.

⁷⁰² *Ibid.*, p. 86.

⁷⁰³ UKHL 1917, 1.

⁷⁰⁴ Vorspan, *Law and War*, p. 264.

⁷⁰⁵ See chapter 3.

guardians of civil liberties, they also took an active role in the suppression of anti-war dissent. Yet, this self-restraint of the courts to scrutinise acts of the executive was mainly a matter of civil liberties. Judges were in fact more willing to challenge emergency measures and more likely to side with plaintiffs when property rights were concerned.

An explanation for this contradictory development during the war is that the cases in which civil liberties were discussed predominantly affected persons who were alleged 'enemies within'. This concerned enemy aliens but also pacifists, radical socialists and Irish republicans. The perception and hence the treatment of suspects was influenced by established Victorian standards of worthiness and respectability but also by conception of 'enemies at home'. Many judges assumed a moral hierarchy that put the English at the top, followed by the Irish, and naturalised British subjects, citizens of neutral countries and enemy aliens at the bottom.⁷⁰⁶ Hence, the judges showed little sympathy when members of these undesirable groups sought legal protection against actions of the executive.

Overall, the British courts constituted a vital part of the British system of emergency government under DORA. Their central position within the British constitutional framework traditionally gave the judges a level of responsibility for the legal review of executive measures and the protection of individual civil liberties. Yet, the judges almost entirely abdicated this function and granted the authorities a 'free hand' when it came to the limitation of civil liberties. They were, however, more willing to intervene and limit government intrusions when property rights were concerned. This stance highlights that the judges had legal means at their disposal to limit the excessive use of emergency powers but often chose not

⁷⁰⁶ Vorspan, *Law and War*, p. 265.

to use them. Moreover, the courts did not only passively assist the executive, but also took an active role in the enforcement of defence regulations and the prosecution of anti-war dissenters. Many judges became active actors within home front politics in Britain who followed their own specific agenda. On the one hand, they sought to preserve their own professional status. On the other hand, they interpreted their role as judges as being patriotic actors who had to contribute to the war effort by fighting the ‘enemy within’ with the weapon of the law.

Comparison

The role of courts and judges on the British and German home fronts was complex and ambiguous. Despite their different historical starting points, notions of rule of law and *Rechtsstaat* had developed before the outbreak of the First World War in both countries. Within these conceptions, the courts held the role of legal supervisors of executive measures. Whilst the German judges mainly interpreted the provisions of the imperial constitution, their British counterparts were themselves creating constitutional law through their decisions. The lack of a written constitution and a strong case law tradition put them in a uniquely responsible and powerful position. Their German counterparts, too, held an influential position concerning the legal review of government actions. Nonetheless, they never gained political influence or independence to such a degree as the British judges before the First World War. Yet, despite these differences, British and German courts and judges became key actors on the home front with striking similarities. These similarities become particularly visible when attempts to preserve the power status of the courts in both countries are compared. Moreover, the comparison of rulings

concerning the legal review of executive emergency measures helps to understand what role the courts played within the system of emergency government in both countries.

The Status of the Courts within the System of Emergency Government

The enactment of emergency regimes under DORA and the state of siege established a system of courts martial that threatened to replace the established courts. In their function as general enabling acts, both pieces of emergency legislation already minimised parliamentary control of state agency. Yet, with the establishment of a system of extraordinary courts, the possibilities for a legal review of executive measures by the civilian courts were equally limited. Whilst the concept of an absolute executive power was not entirely alien to German political thought at the time, it was almost irreconcilable with British pre-war ideas of the liberal state and the rule of law.⁷⁰⁷

DORA represented a radical shift from these principles and the British courts had to reassert their established role. Against this backdrop, it is no mere coincidence that the Law Lords Halsbury, Loreburn and Parmoor were amongst the most articulate critics of the first Defence of the Realm Acts in the House of Lords.⁷⁰⁸ The Defence of the Realm Consolidation Act of March 1915 and its reaffirmation of the role of the ordinary civilian courts was a direct consequence of their interventions in the House of Lords. However, this did not mean that the judges were in fundamental opposition to emergency government. After asserting their

⁷⁰⁷ Sydney Clark, *The Rule of DORA*, op. cit.

⁷⁰⁸ See Chapter Two.

established power position, the judges became crucial actors within the system of British emergency government. The German courts played an equally ambiguous role. On the one hand, several decisions of the highest imperial court early in the war limited the absolute exercise of the executive powers by the local military commanders. This mainly concerned the reassertion of the responsibilities of the ordinary courts. On the other hand, the courts and state attorneys played an active role in the suppression of anti-war protest. Yet, political justice during the war was in many ways just a continuation and escalation of already existing tendencies in Germany. Emergency laws and ordinary criminal law were deliberately used as legal weapons against domestic enemies such as pacifists, socialists and allegedly hostile minorities such as the Alsatians. It is, nevertheless, remarkable how similarly the British courts interpreted their role under DORA. Ewing and Gearty have highlighted that the judges ‘abdicated’ their traditional role as guardians of individual civil liberties.⁷⁰⁹

This manifested itself in extreme reluctance to scrutinise and interfere with any executive measure. High-ranking senior judges such as Lord Darling repeatedly argued that in times of national emergency the dictate of necessity almost forbade legal limitations of emergency powers. Throughout the war, the majority of judges adapted the principle that the interest of the nation was the highest law (*salus populi suprema lex*).⁷¹⁰ The role of the judges was, however, not limited to a benevolent passivity. The judiciary took an active role in the enforcement of emergency decrees and the prosecution of offences under DORA. In this respect, the British and

⁷⁰⁹ Regarding a case where wheat had been seized by the government in 1915, Lord Darling articulated the principle of non-interference in executive measures. He stated that ‘We are in a state of war; that is notorious. [...] *Salus populi suprema lex* is a good defence and the enforcement of the essential law gives no right of action to whomsoever maybe injured by it’; *3 KB 676* p. 684.

⁷¹⁰ Ewing and Gearty, *The Struggle for Civil Liberties*, pp. 89-90.

German judiciary followed similar notions of their roles on the home fronts and perceived themselves as what Rachel Vorspan called ‘judicial warriors’.⁷¹¹ Moreover, their legal interpretation enabled the authorities to prosecute and suppress dissenting voices on the home front. The judiciary in both countries did not only fail to protect civil liberties during the war: it actively facilitated the almost unrestrained use of emergency powers by government, military and police.

The Courts and ‘Enemies Within’

The fact that judges were autonomous actors with their own political agenda becomes patently obvious when the treatment of ‘enemies within’ is considered. Judges in both countries issued harsh sentences for offences that concerned anti-war activism. This either happened on the grounds of alleged breaches of emergency regulations or after accusations of treasonous acts. Yet, the judiciary also tended to treat members of other allegedly hostile groups particularly harshly. This concerned enemy aliens – no matter whether they actually were naturalised citizens or citizens of enemy countries – but also people from allegedly ‘unreliable’ ethnic minorities such as the Irish in Britain or the Alsatians in Germany. Already before the First World War, the German judiciary played a crucial part in the prosecution of ‘enemies of the realm’ (*Reichsfeinde*), a tendency that was continued and aggravated throughout the war. The circle of those seen as potential domestic enemies was consequently expanded to almost all groups that opposed the war on ethical or political grounds.

⁷¹¹ Vorspan, *Law and War*, p. 264.

The treason cases against leading dissenting socialists such as Liebknecht, Luxemburg, Zetkin and their supporters highlights how partisan and repressive the German courts were in exercising their role. The British courts followed a similar policy. Yet, startling public trials against prominent war opponents were avoided wherever possible. The trials against Morel, Russell and Maclean towards the end of the war were certainly exceptional in their publicity. The judges followed a systematic policy of non-interference in executive measures. This was at least the case when the civil liberties of German-born British subjects or anti-war dissenters were concerned. When British subjects were confronted with encroachments of their property rights, the courts were indeed able and willing to limit executive measures. The cases of Ronnefeldt and Zadig are telling examples of how the judges effectively denied legal protection for the civil liberties of German-born British subjects, a stance they also took concerning Irish prisoners after the Easter Rising in 1916. The strong position of individual judges within the British legal system made their own motivations and their perceptions of allegedly hostile groups especially important for their interpretations of the law. If a group was by definition hostile or a threat to national security, then many judges sought to use their interpretations of the law to combat these ‘enemies at home’. Judges used all possible ways to interpret the

(...) wartime statutes audaciously and broadly, reversing the narrow canons they had previously applied in civil liberties cases. They inferred massive governmental powers from legislative silence, purposefully selected certain statutory provisions to control others, facilitated governmental efforts to achieve indirectly what legislation prohibited, interpreted regulations to impose minimal standards, of conduct of the administration, and manipulated a variety of technicalities to extend the scope of restrictive legislations to unanticipated factual situations (...).⁷¹²

⁷¹² Vorspan, *Law and War*, p. 276.

Yet, it is necessary to acknowledge that this passivity concerning the protection of civil liberties was not only the result of pressure by the government but also the deliberate decision of many judges. The idea that legal restraints of government measures would be prejudicial to the war effort and a shared notion of the enemy at home shaped this judicial policy. It is remarkable that no legal challenges to the extra-judicial detention under the defence regulations 14B or 55 were successful during the war. Judges such as Lord Darling were most unwilling to accept any infringement of the executive powers thus giving up long established constitutional principles.⁷¹³ In contrast, the German courts at least occasionally ruled in favour of defendants that were held unlawfully in protective custody. With the reform of the Protective Custody Law in December 1916, some judges even granted them compensation payments.

In summary, it can be concluded that the British and German judiciary fulfilled similar functions within their respective systems of emergency government. Both institutions were anxious to preserve their professional status and their positions of power that were threatened by the initial establishment of extraordinary courts martial. In both countries, the courts succeeded in maintaining their position after amendments to the emergency laws and landmark rulings cleared the smoke. Yet, the different constitutional traditions profoundly influenced the judges' ability to shape and influence executive measures. The exceptionally prominent position of the British judges gave them the opportunity to intervene directly in executive measures and to limit their application. The German courts were far less influential when it came to limiting executive powers.

⁷¹³ Ewing and Gearty, *The Struggle for Civil Liberties*, pp. 91-93.

Yet, neither used their potential powers to do so to protect civil liberties. Instead, judges in both countries interpreted their role on the home fronts in a way that made them ‘legal warriors’ who used the law to combat allegedly hostile groups of enemies within. For British judges, this mainly meant a policy of non-interference that gave the executive a free hand for their measures. Large-scale active prosecutions and spectacular trials that could cause public debate and would trigger intensified parliamentary scrutiny were mostly avoided. Their German counterparts, however, took a much more active role in the suppression of anti-war protest. The political justice undoubtedly underlined the perception of the German Empire as an authoritarian and almost dictatorial system. Yet, the agency of the British judiciary – despite its different legal foundations – led to very similar developments. With their deliberate inactivity and unwillingness to protect civil liberties against executive measures and the simultaneous gradual extension of emergency powers, the British judiciary actively facilitated the transformation of the liberal Victorian state into an increasingly authoritarian and intrusive ‘vigilant state’.

Conclusion

The state of exception during the First World War was a multifaceted phenomenon that influenced politics on the home fronts on many levels. In order to understand the respective systems of emergency government it is essential to incorporate their actors into our consideration. The emergency laws enacted during the war mainly widened the powers of the executive and in extension those of the military, intelligence agencies and the police. Yet, the way these exceptional powers were

exercised depended on a number of different factors. It has been demonstrated that the historical preconditions for the emergence of emergency government in Germany and Britain differed significantly. The historical self-understanding of the British and German police, civilian-military relations but also diverse conceptions of the state and its legitimate boundaries provided different backgrounds for the wartime practices of the executive agencies. It is, nevertheless, remarkable how similarly police and the military interpreted their roles in the system of emergency government despite these considerable differences. In both countries police forces, intelligence services and the military co-operated closely to monitor almost all aspects of the daily life on the home fronts. Moreover, they were actively involved in the suppression of anti-war protest. In both countries, similar methods were used to manage dissent and quell strike movements, and thus to enforce endurance on the home fronts.

A similar development concerned the judiciary in both countries. The courts failed almost entirely in their function to limit and control the potentially arbitrary use of emergency powers. Moreover, many judges became actively involved in the prosecution of anti-war dissent. They regularly interpreted wartime regulations in favour of the executive and made the law effectively a weapon in the fight against 'enemies within'. Generally, the application of the most repressive emergency measures such as the detention of suspects without trial can only be understood against the backdrop of the prevalent stereotypes of domestic enemies. Police, military authorities and judges apparently shared very similar notions of those outside the national collective they supposedly served. Pacifists, socialists, homosexuals, prostitutes and enemy aliens all became targets of emergency measures by the police and the military. At the same time, the judiciary either

actively participated in their prosecution or denied them the essential protection of the law. The developments in Germany can arguably be interpreted as a continuation and escalation of already existing authoritarian tendencies. The practices of the executive agencies as well as the conceptions of 'enemies of the realm' were deeply engrained in the political culture of the German Empire since the era of the Socialist Laws. By contrast, the wartime emergency measures in Britain were distinctively new and truly revolutionary. The extension of executive powers and the almost complete abdication of judiciary and parliament as supervisory bodies of the executive had no real precedent in British history. The wartime experience of emergency government did not only revolutionise British politics, it also transformed the function and self-understanding of executive agencies such as the police and military.

Chapter Five

'Enemies Within': Activists, Emergency Measures and the Struggle for Civil Liberties

The preceding discussion of emergency government in Britain and Germany has highlighted that emergency measures targeted and affected a large number of diverse groups. This included dissident socialist and trade union activists, pacifists, foreigners and so-called 'enemy aliens' but also socially marginalised groups such as vagrants or prostitutes. What connected these disparate groups was less a common political programme or a shared identity, but the fact that they were all targets of emergency measures under the state of siege and DORA. As we have seen earlier, the application of these measures was often justified by presenting these groups as threats to the collective war effort and by defining them as being outside the national wartime communities. This was particularly the case in Britain where newspapers such as the *Morning Post* or *Daily Express* agitated against 'peace cranks', 'pro-Germans' and 'Hun-lovers' on an almost daily basis.⁷¹⁴ Yet, as the previous chapter has demonstrated, the idea of 'enemies within' also informed the actions of those responsible for the exercise of emergency powers within the military, police, intelligence and the judiciary. In the German Empire the repressive handling of protest and dissent by the authorities was often based on long-established notions of 'enemies of the realm' that can be traced back to the time of the infamous Socialist Laws of the 1880s.

Yet, despite being lumped together by an often hostile environment, wartime dissent was in both countries a diverse and complex phenomenon. The motivation to oppose the war could derive from a variety of sources: religious beliefs, political

⁷¹⁴ Millman, *Managing Dissent*, pp. 84-86, pp. 151-152.

convictions, personal ethics, or particularly during the later stages of the war also social grievances and worsening living conditions. There were, of course, numerous activists whose opposition to the war was influenced by a combination of these motivations. Many socialist dissenters in Britain, for example, also often referred to their Christian beliefs to justify their case. In Germany, many middle-class pacifists who had traditionally been linked to liberal politics moved closer to socialism due to their wartime experiences. It is, nevertheless, problematic to use 'dissent' or 'pacifist protest' as catch-all terms for developments during the First World War. Despite their shared opposition to the war, neither political aims nor motivations were necessarily coherent amongst the various dissident activist organisations that emerged during the war.

The complexity of the phenomenon has inevitable implications for a comparative analysis. The following discussion of the wartime experiences of activists will therefore try to avoid undue generalisations. Instead, it focuses on how two organisations, the British Union of Democratic Control (UDC) and the German Peace Society (*Deutsche Friedensgesellschaft, DFG*) and its various partner organisations such as the New Fatherland League (*Bund Neues Vaterland, BNV*) or the Central Office for International Law (*Zentralstelle Völkerrecht, ZV*), were affected by repressive state measures under DORA and the state of siege.⁷¹⁵ These organisations were targeted by the German and British authorities because of their criticism of the war, and most importantly, both experienced the whole range of emergency measures as a means of quelling dissent. A look at the ways in which activists perceived and discussed these measures is crucial for the overall

⁷¹⁵ For a recent discussion of the dissenting voices in German during the war, see David Welch, *Germany and Propaganda in World War I: Pacifism, Mobilization and Total War* (London: I. B. Tauris, 2014), pp. 141-167.

understanding of the phenomenon of emergency government during the First World War. It highlights how the experiences of confrontation with the wartime state and rule under the state of exception influenced the relationship between activists and the state. Yet, it also helps to reconstruct the emergence of new fields and themes of activism during and after the First World War such as the struggle for human rights and civil liberties.

The wartime history of the UDC and the DFG provide excellent case studies that illustrate how the state targeted activists with emergency measures. The two organisations are also particularly well-suited for a comparative analysis because of a number of shared characteristics. Both organisations featured a similar composition of their members that consisted initially of liberals and moderate socialist activists rooted in the traditions of nineteenth-century peace activism. Moreover, they shared similar political aims, namely the demand for democratic control of foreign affairs and international treaties and later also the plea for a just peace without annexations and indemnities. And, despite the aforementioned diversity of dissent in Germany and Britain during the war, both organisations were, to a certain extent, representative of the overall experiences of activists during the conflict.

Pacifists and the state in Germany and Britain before 1914

In order to assess the impact of wartime emergency measures on the changing relations between activists and the state, it is necessary to briefly analyse developments before 1914. Pacifism as an organised political movement was a relatively new phenomenon at the turn of the nineteenth century. In fact, the term

pacifism only emerged towards the end of the nineteenth century to describe the numerous campaigns for international arbitration and the prevention of war. There were, of course, long-standing traditions of pacifist thought but modern activist organisations campaigning for peace only emerged in the second half of the nineteenth century.⁷¹⁶

And despite different political environments and national peculiarities, the pacifist organisations throughout Europe featured many common characteristics. Karl Holl has pointed out that in most European countries, pacifist organisation followed the established patterns of bourgeois associational culture and thus mainly attracted members of the middle and upper classes for their activities.⁷¹⁷ The composition of their membership also strongly influenced the forms of activism most peace associations used. Rather than confronting the state the bourgeois peace movement concentrated on publishing pacifist literature and lobbying governments regarding the implementation of some of their core demands such as the disarmament or international arbitration.⁷¹⁸ Attending international conferences and maintaining their transnational networks was another relevant aspect of their activism before 1914. Yet, campaigning against war also increasingly became an issue for socialist activists particularly during the last decade before the First World War.⁷¹⁹ Their criticism, however, was more directed against militarism as an

⁷¹⁶ See inter alia, David Cortright, *Peace: A History of Movements and Ideas* (Cambridge: Cambridge University Press, 2008), pp. 25-33; Sandi E. Cooper, *Patriotic Pacifism: Waging War on War in Europe* (Oxford: Oxford University Press, 1991), pp. 30-90.

⁷¹⁷ Karl Holl, *Pazifismus in Deutschland* (Frankfurt a. M.: Suhrkamp, 1988), pp. 13-17.

⁷¹⁸ Cooper, *Patriotic Pacifism*, pp. 91-139. For a case study on the transnational entanglements of pacifist movements in Europe see Daniel Laqua, 'Alfred H. Fried and the Challenges of "Scientific Pacifism" in the Belle Époque', in W. Boyd Rayward (ed.), *Information Beyond Borders: International Cultural and Intellectual Exchange in the Belle Époque* (Farnham: Ashgate, 2014), pp. 181-199.

⁷¹⁹ For a discussion of socialist peace activism before the First World War, see inter alia George Haupt, *Socialism and the Great War: The Collapse of the Second International* (Oxford: Clarendon Press, 1974); Douglas J. Newton, *British Labour, European Socialism and the Struggle for Peace*,

ideology and the military as an instrument of repression against the working class. Yet, despite the intersections in their political aims and occasional contacts between activists, both strands of anti-war activism remained for the most part organisationally separate.⁷²⁰ As we will see, the eventual rapprochement between middle-class pacifism and socialist anti-militarism in Germany but also in Britain was not least a direct result of shared wartime experiences.

The Peace Movement and the State in Imperial Germany before 1914

The pacifist movement in Germany was a latecomer compared to other countries such as France or Britain, where pacifist organisations had emerged in the middle of the nineteenth century. Nevertheless, the first German peace association was already established in 1850 in the East-Prussian city of Königsberg, the same city where Immanuel Kant had in 1795 published his pamphlet on perpetual peace that eventually became a foundation text of modern pacifism. The *Königsberg Peace Society*, however, was banned a year later in 1851 by the Prussian authorities. This coincided with the enactment of the law regarding the state of siege, whose provisions would be used extensively against pacifists during the First World War. As Karl Holl has pointed out, pacifism in Germany remained a negligible quantity for the most part of the nineteenth century following these early attempts.⁷²¹ In the

1889-1914 (Oxford: Clarendon Press, 1985); Kevin J. Callahan, 'The International Socialist Peace Movement on the Eve of World War I Revisited: The Campaign of 'War against War!' and the Basle International Socialist Congress 1912', *Peace and Change*, 29, 2 (2004), pp. 147-176.

⁷²⁰ For a discussion of liberal peace activism see for example: A. J. A. Morris, *Radicalism against War: The Advocacy of Peace and Retrenchment* (London: Longman, 1972).

⁷²¹ Holl, *Pazifismus in Deutschland*, pp. 32-37.

40 years between the 1850s and the 1890s, few serious attempts were undertaken to establish a nation-wide organisation for the German ‘friends of peace’.⁷²²

This changed in 1892 when a circle predominantly liberal politicians and intellectuals inspired by the Austria writer Bertha von Suttner and the later Nobel Peace Prize winner Alfred Hermann Fried formed the German Peace Society in Berlin.⁷²³ The formation of the German Peace Society was strongly influenced by similar developments in neighbouring Austria, where Bertha von Suttner and Alfred Hermann Fried had played a crucial part, too.⁷²⁴ Before the establishment of the society, the promotion of pacifist ideas was mainly based on the private initiative of individual activists. The foundation of the German Peace Society was initially marked by a quick expansion of the association and the establishment of numerous local branches, particularly in the south-western states of the empire.⁷²⁵

The debates about imperial chancellor Leo von Caprivi’s Army Bill in 1894 then drove many left-liberal politicians and members of the Reichstag to join the German Peace Society. Pacifism remained, however, a peripheral matter in the politics of the German Empire. At no point before the First World War could the German Peace Society muster significant mass-support.⁷²⁶ The predominantly

⁷²² For a comprehensive account of the development of the German peace movement see Dieter Riesenberg, *Geschichte der Friedensbewegung in Deutschland: Von den Anfängen bis 1933* (Stuttgart: Klett, 1986); see also Holl, *Pazifismus in Deutschland*, op. cit.

⁷²³ See Brigitte Hamann, *Bertha von Suttner: A Life for Peace* (Syracuse, N.Y.: Syracuse University Press, 1996); Roger Chickering, *Imperial Germany and a World without War: The Peace Movement and German Society, 1892-1914* (Princeton, Princeton University Press, 1975); Holl, *Pazifismus in Deutschland*, pp. 41-54; Friedrich-Karl Scheer, *Die Deutsche Friedensgesellschaft (1892-1933): Organisation, Ideologie und Politische Ziele. Ein Beitrag zur Geschichte des Pazifismus in Deutschland* (Frankfurt a. M: Haag und Herchen, 1983).

⁷²⁴ Daniel Laqua, ‘Pacifism in Fin-de-Siècle Austria: The Politics and Limits of Peace Activism’, *The Historical Journal*, 57, 1 (2014), pp. 199-224.

⁷²⁵ For another interesting case study about pacifist activism in South West Germany before 1914, see Roger Chickering, ‘A Voice of Moderation in Imperial Germany: The Verband für internationale Verständigung, 1911-1914’, *Journal of Contemporary History*, 8 (1973), pp. 147-164.

⁷²⁶ *Ibid.*, pp. 59-63.

upper- and middle-class membership and its seclusion from genuine mass politics and public campaigning at least partially accounted for the lack of working-class support for the German Peace Society. There were also significant differences in the regional spread of pacifist organisations. The strongholds of pacifism in Germany were almost entirely congruent with the traditional heartlands of left-leaning Liberalism in the south and southwest such as Baden, Wurttemberg, and Bavaria. In Prussia, on the other hand, pacifist organisation had a far more limited reach. Karl Holl argues that this regional concentration can be explained by the fact that pacifist activism in Germany had a strong anti-Prussian undertone. Criticism of militarism and advocating a peaceful international order seems have been a way to articulate subtle criticism of the Prussian dominance within the German Empire.⁷²⁷ In a way, pacifism was one of the last resorts of democratic left-leaning Liberalism in the authoritarian political environment of the Empire.⁷²⁸ It would, nevertheless, be misleading to portray pacifism in the German Empire as an out-and-out dissident movement. The German Peace Society saw its main role certainly not in confronting the state or in organising public protests. Its characterisation as a well-connected lobby and pressure group seems therefore more appropriate.

Yet, despite the comparative weakness of the pacifist movement in pre-war Germany, individual pacifists indeed clashed with the authorities. The pacifist campaigner Eduard Löwenthal is a case in point. After being prosecuted and sentenced for *lèse majeste* and his open criticism of the German armaments policies, Löwenthal had to flee to Brussels in 1874. He later lived in Paris and London and returned to Germany after fourteen years in exile in 1888, following an amnesty

⁷²⁷ Chickering, *Imperial Germany and a World without War*, pp. 44-48; pp. 59-72.

⁷²⁸ Holl, *Pazifismus in Deutschland*, pp. 35-41.

granted by the ‘100-days Emperor’ Frederick III.⁷²⁹ Another interesting case is that of the historian and later Nobel Peace Prize winner Ludwig Quidde. Coming from an established merchant family in the city of Bremen, Quidde had started a promising academic career as a medievalist. However, this came to an abrupt end in 1894 after Quidde published a pamphlet titled *Caligula: A Study in Imperial Insanity*.⁷³⁰ What appeared to be a historical study about the erratic Roman emperor Caligula was by many contemporaries interpreted as a thinly veiled attack on the ‘personal rule’ of Emperor Wilhelm II. Although Quidde denied having made any such insinuations in the direction of the Emperor to avoid prosecution, the *Caligula* affair ended his academic career almost instantly. Moreover, he remained the target of victimisation by the authorities. Despite the failure to prosecute Quidde immediately for publishing the *Caligula* pamphlet, he was sentenced to three months in prison on a charge of lèse majeste in another case just two years later in 1896. In a way, Quidde became one of the very few liberal *causes célèbres* of Wilhelmine Germany. The significance of the *Caligula* affair was underlined by the fact that the pamphlet saw several editions and became one of the most read political pamphlets of the time in Germany. Consequently, Quidde began to dedicate his work entirely to the pacifist cause and emerged as one of the key organisers and activists of the movement.⁷³¹

Cases such as those of Löwenthal and Quidde, however, were rather exceptional than regular instances within the German pacifist movement. Roger Chickering argues that the pacifists were neither confronted with ‘a coherent pattern

⁷²⁹ Ibid., pp. 36-37.

⁷³⁰ Ludwig Quidde, *Caligula: Eine Studie über den römischen Cäsarenwahn* (Leipzig: W. Friedrich Verlag, 1894).

⁷³¹ Karl Holl, *Ludwig Quidde (1858-1941): Eine Biographie* (Düsseldorf: Droste, 2007), pp. 93-100.

of harassment' nor with 'a systematic campaign to prosecute them'.⁷³² Unlike for many Social Democrats, state repression was thus not a major concern for most pacifists. Yet, particularly in the years before the First World War, pacifist activities attracted an increasingly hostile response from the extreme right in the Empire. Organisations such as the Imperial Federation against Social Democracy (*Reichsverband gegen die Sozialdemokratie*) or the German Army League openly attacked pacifist activities establishing them as potential 'enemies within' alongside, for example, the Social Democrats.⁷³³ Moreover, unlike any other European country pacifist campaigning was countered by a flood of anti-pacifist pamphlets and newspaper articles in Germany. Prominent public figures such as historians, generals and politicians publically and outspokenly rejected pacifist ideas.⁷³⁴ Such discourse arguably fostered notions of pacifism as a potential threat to the state within police, military and judiciary circles.

It can be concluded that neither systematic repression nor willing confrontation with the state were dominant features of the pacifist movement in Germany before the First World War. Instead of open conflict, an uneasy cohabitation seems to have prevailed. The relationship between the pacifists and the state, however, was also the result of the 'pathetic weakness' of the movement in Germany.⁷³⁵ Despite their considerable membership – the DFG had 10,000 nominal members in 1914 – organisations such as the German Peace Society were simply too focussed on functioning as lobby and pressure groups within the existing

⁷³² Chickering, *Imperial Germany and a World without War*, p. 402.

⁷³³ For a discussion of the activities of the German Army League see: Marilyn Shelvin Coetzee, *The German Army League: Popular Nationalism in Wilhelmine Germany*, op. cit.

⁷³⁴ Chickering, *Imperial Germany and a World without War*, pp. 384-420.

⁷³⁵ *Ibid.*, p. 418.

political order to pose a real threat to the ruling elites of the empire. Against this backdrop, it is nevertheless remarkable that the pacifist movement became one of the main targets of repressive measures under the state of siege with many of its organisations banned, its publications summarily censored and many of its activists either forced into exile or imprisoned for their activities.

British Pacifism and the State before 1914

Alongside the United States, Britain was one of the birthplaces of the modern peace movement. The London Peace Society, for example, was founded in 1816 and belonged to the oldest pacifist organisations in the world. Throughout the nineteenth century, numerous pacifist organisations emerged in Britain at the local, regional and national level.⁷³⁶ In its early years, the main ideological input for the developing pacifist movement came primarily from non-conformist Christian traditions such as the Quakers and Mennonites. Yet, pacifist ideas had also gained currency in British liberal and radical thought. The emerging labour movement also embraced anti-militaristic and to a degree also pacifist ideas. Already in 1871, the Workmen's Peace Association was formed in London following an initiative of the trade unionist William Randal Cremer, who in 1903 was awarded the Nobel Peace Prize in recognition of his activism for peace and international arbitration.⁷³⁷ The

⁷³⁶ Martin Ceadel, *Semi-Detached Idealists: The British Peace Movement and International Politics, 1854-1945* (Oxford: Oxford University Press, 2000); idem, *The Origins of War Prevention: The British Peace Movement and International Relations, 1730-1854* (Oxford: Clarendon, 1996); Paul Laity, *The British Peace Movement, 1870-1914* (Oxford: Oxford University Press, 2001), Alan J. P. Taylor, *The Trouble-Makers: Dissent over Foreign Policy, 1792-1939* (Bloomington: Indiana University Press, 1958).

⁷³⁷ Mark Mazower, *Governing the World: The History of an Idea* (New York: Penguin, 2012), pp. 81-93.

peace movement could flourish in nineteenth-century Britain because of a number of factors: firstly, the established parliamentary system was able to integrate non-conformist and minority opinions such as pacifism into its political culture.⁷³⁸ Secondly, the financial backing provided by Quaker philanthropists facilitated the establishment of comparatively stable organisational structures for the pacifist movement in Britain, which enabled, for example, the regular publication of pacifist literature and newspapers. Thirdly, the British public developed a heightened interest in international relations and foreign affairs particularly in the second half of the nineteenth century. Pacifist ideas featured prominently in these debates, and thus had an undeniable impact on the political culture in Britain.

Yet, despite the early peak in pacifist activism in the wake of the Crimean War (1852-54), the period between the 1860s and the 1890s was marked by stagnation. The absence of British involvement in major international conflicts and their lack of criticism of imperialism deprived organisations such as the Peace Society of campaigning issues. This resulted in a trend towards ‘organisational introspection’ rather than public activism.⁷³⁹ Pacifist ideas nevertheless influenced other emerging social movements such as socialism or feminism, thus creating what Martin Ceadel calls ‘secondary pacifist organisations’, which included pacifist demands into the broader context for their politics.⁷⁴⁰ The rapprochement between pacifism and broader social movements was reflected, for instance, by the close connections between Lib-Lab MPs and the Workmen’s Peace Association. In addition, the International Arbitration and Peace Association, which was founded

⁷³⁸ Holl, *Pazifismus in Deutschland*, p. 13.

⁷³⁹ Ceadel, *Semi-Detached Idealists*, pp. 125-135; Laity, *The British Peace Movement*, pp. 37-87.

⁷⁴⁰ Ceadel, *Semi-Detached Idealists*, pp. 7-11; Laity, *The British Peace Movement*, pp. 6-12.

in 1880 by Hodgson Pratt, moved ever closer to a socialist agenda.⁷⁴¹ Only the traditionally Christian and Quaker-dominated Peace Society maintained its staunchly anti-socialist stance. This inability of the Peace Society to connect with the emerging social movements additionally aggravated the organisational crisis of the association in 1890s.⁷⁴²

An impulse for the revitalisation of the pacifist movement came with the Second Boer War (1898-1901). The war was for a number of reasons, a watershed moment for pacifism in Britain. In its wake, ad hoc committees and coalitions such as the Stop-the-War-Movement were formed, and pacifists made for the first time use of the new tools of mass politics such as public meetings and protest marches.⁷⁴³ The public protest against the war was supported by a number of politicians such as David Lloyd George and Ramsay MacDonald. The latter travelled to South Africa in 1902 and published a vivid report of his observations there.⁷⁴⁴ Yet, the protests against the Boer War failed to muster significant support in the British public. The main obstruction for peace campaigning was, however, not the British state. The authorities undertook no significant efforts to suppress protest meetings or curtail the publication of critical literature. Instead, a hostile press and so-called 'patriotic' elements of the working class posed the main challenges for anti-war protestors.⁷⁴⁵ Nonetheless, the experiences of the Boer War provided a model for

⁷⁴¹ Ibid., pp. 130-139 ;Laity, *Peace Movement*, pp. 48-51.

⁷⁴² Ceadel, *Semi-Detached Idealists*, pp. 171-176.

⁷⁴³ Eliza Riedi, 'The Women Pro-Boers: Gender, Peace, and the Critique of Empire in the South African War', *Historical Research*, 86, 231 (2013), pp. 92-115.

⁷⁴⁴ Vickers, *Labour and the World*, pp. 43-46; Bernard Porter, *Critics of Empire: British Radicals and the Imperial Challenge* (London: Macmillan, 1968), pp. 123-137; pp. 200-206;

⁷⁴⁵ See, inter alia, Richard Price, *An Imperial War and the Working Class: Working-Class Attitudes and Reactions to the Boer War, 1899-1902* (London: Routledge, 1972); Paul Ward, *Red Flag and Union Jack: Englishness, Patriotism and the British Left* (Woodbridge: Boydell, 1998), pp. 59-75.

organised anti-war dissent was to be widely followed by pacifists during the First World War.

The period following the Boer War saw the initiative and momentum within the peace movement in Britain shift further towards labour activists. Traditional Christian pacifist organisations such as the Peace Society went further into decline and became almost moribund by the beginning of the 1910s. On the other side of the pacifist spectrum, figures such as Norman Angell sought to promote the case of pacifism by emphasising the catastrophic economic implications a major armed conflict would have.⁷⁴⁶ Rather than seeing war as a product of the existing social order, as most socialists did, Angell and his followers represented a current of traditionally liberal pacifism that sought to avoid conflicts by establishing democratic control of foreign policies and the promotion of free trade.⁷⁴⁷

On the eve of the First World War, the pacifist movement in Britain was marked by a contradictory development: on the one hand, pacifist ideas had become an accepted part of British political culture. Many activists in the emerging labour movement as well as many feminists embraced pacifist ideas as part of their politics.⁷⁴⁸ The traditional pacifist organisations such as the Peace Society, on the other hand, slipped further into decline and became almost irrelevant. This is

⁷⁴⁶ Norman Angell, *The Great Illusion: A Study of the Relation of Military Power and National Advantage* (London: G. P. Putnam's, 1910).

⁷⁴⁷ Martin Ceadel, *Living the Great Illusion: Sir Norman Angell, 1872-1967* (Oxford: Oxford University Press, 2009); idem, 'The Founding Text of International Relations? Norman Angell's seminal yet flawed *The Great Illusion*', *Review of International Studies*, 37, 4 (2011), pp. 1671-1693; Andrew Williams, 'Norman Angell and his French Contemporaries, 1905-1914', *Diplomacy and Statecraft*, 21, 4 (2010), pp. 574-592; Philip D. Supina, 'The Norman Angell Peace Campaign', *Journal of Peace Research*, 9, 2 (1972), pp. 161-164; Howard Weinroth, 'Norman Angell and the Great Illusion: An Episode in Pre-1914 Pacifism', *The Historical Journal*, 17, 3 (1974), pp. 551-574.

⁷⁴⁸ Heloise Brown, *The Truest Form of Patriotism: Pacifist Feminism in Britain 1870-1902* (Manchester: Manchester University Press, 2003); Harold L. Smith, *The British Suffrage Campaign, 1866-1928* (Abingdon: Routledge, 2007), pp. 73-79.

underlined by the comparatively small number of members of the Peace Society. By 1914, it only counted around 1,500 individual members.⁷⁴⁹ Yet, according to Martin Ceadel, the fact that the government saw itself compelled to justify Britain's entry into the war in August 1914 with essentially pacifist arguments has to be considered a testimony for the latent strength of pacifism in the country.⁷⁵⁰ The developments before the First World War help to understand why predominantly left-leaning Liberals and Labour activists took leading roles within the peace movement whilst organisations such as the Peace Society became virtually defunct. Individual Christian pacifists including many prominent Quakers, however, remained highly active in the anti-war movement. This also gives some indications why organisations such as the UDC followed a rather moderate political programme that was in many respects more a continuation of liberal conceptions of foreign policy than a radical socialist anti-war protest.

Comparison

When we compare the development of the pacifist movement in Germany and Britain before 1914, one main difference is evident: the British movement had – despite its comparatively small size – a notable influence on the political mainstream of the country, whereas its German counterpart remained on the political side-lines. The reasons for this can be found in the different political cultures of both countries. The popular liberal conceptions of state and foreign

⁷⁴⁹ Ann Kramer, *Conscientious Objectors of the First World War: A Determined Resistance* (Barnsley: Pen and Sword, 2013), p. 7.

⁷⁵⁰ Ceadel, *Semi-detached Idealists*, p. 186.

politics at the end of the nineteenth century were a fertile ground for pacifist ideas in Britain. Despite the gradual decline of primary pacifist associations, for instance the Peace Society, pacifist ideas became common currency in many political movements. The emerging labour movement as well as some feminist activists, for instance Sylvia Pankhurst and the East London Federation of Suffragettes integrated a commitment to peace into their broader politics and thus created what Martin Ceadel and A. J. P. Taylor called ‘secondary pacifism’ or ‘pacifism’.⁷⁵¹ This also helps to understand the gradual rapprochement between traditional Christian pacifists and leftist anti-war activists in associations such as the UDC, the No-Conscription-Fellowship or the Fellowship of Reconciliation during the war.

By comparison, the German peace movement faced much greater obstacles. It seems that the experiences of the Wars of Unification in the 1860s and 1870s facilitated a dominance of militaristic and Social-Darwinist conceptions with regards to foreign policies. German society was thus far less receptive to pacifist ideas than, for example, people in Britain.⁷⁵² In addition, the upper- and middle class membership profile of pacifist associations such as the German Peace Society also made it difficult to reach into the working classes and muster support from the labour movement. Yet, within Social Democracy – just as in Britain – certain aspects of pacifist thinking such as anti-militarism were integrated into the broader politics of the movement.⁷⁵³ Despite these ideological intersections, there was – with the exception of individuals such as Quidde – only limited contact and

⁷⁵¹ Taylor, *Trouble Makers*, p. 51; Martin Ceadel, *Thinking about War and Peace* (Oxford: Oxford University Press, 1986), pp. 4-9.

⁷⁵² Holl, *Pazifismus in Deutschland*, pp. 71-74; Chickering, *World without War*, pp. 392-403.

⁷⁵³ See for example Karl Liebnecht, *Militarismus und Antimilitarismus unter besonderer Berücksichtigung der internationalen Jugendbewegung* (Leipzig: Leipziger Buchdruckerei, 1907).

cooperation between pacifists and socialists before the First World War. Unlike in Britain, the German pacifists were also confronted with hostile campaigns against them. These were primarily led by conservative newspapers and extreme-right associations such as the Pan-German League or the various militaristic associations in the empire. The combination of the mentioned internal and external factors led to the German peace movement remaining a negligible quantity before the First World War.

With regards to the relationship between the peace movement and the state, however, the situation in both countries was overall very similar. Before 1914, neither in Britain nor in Germany was the peace movement the target of systematic persecution and repression. This was partially the case because in both countries pacifism remained the resort of upper- and middle class activists who refrained from direct confrontation with the state and thus created little reasons for the authorities to intervene. Moreover, traditional pacifist thought approached the state as a means for its purpose rather than seeking to radically change it as many socialists did. It can therefore be concluded that the relationship between pacifism and the state before 1914 was overall not marked by conflict or confrontation. However, particularly in Germany, individual peace activists did undoubtedly experience episodes of repression. The most notable case here was certainly that of Ludwig Quidde and the disputes in the wake of the publication of his *Caligula* pamphlet. Confrontation with the state was certainly also a defining experience for those ‘secondary pacifists’ in the labour and suffragette movement in Britain. Overall however there was no established pattern of persecution and state repression of the pacifist movement before the war. Against this backdrop, it is

nevertheless noteworthy that pacifist associations became a main target of repressive emergency measures in both countries.

British and German Activists and the State of Exception

The First World War radically changed the relationship between the state and pacifist activists in Britain and Germany. Organisations such as the German Peace Society and the British UDC sought to avoid all allegations of sedition and initially kept a low profile to avoid state repression. They instead presented rather innocuous demands such as the reform of international relations towards a system of arbitration and the public democratic control of foreign policies. Even calls for peace were initially rather vague and undetermined. It is therefore hard to explain why from early 1915 onwards pacifist and pacifist organisations became a primary target of repressive emergency measures. One possible answer to this question is that pacifists and their activities were increasingly construed as a challenge to national unity and the collective ‘will to victory’. Against the backdrop of the totalisation of warfare and rising casualty numbers, the authorities understood demands for peace and reconciliation with the enemy as a challenge to national unity and endurance. The hostile reactions in the right-wing press in Britain, for example, suggest that pacifists were increasingly included in the conception of the ‘enemies within’. In Germany a similarly hostile view was propagated by the annexationist right-wing press, which was barely contained by the censors.

The organisations chosen for the following case study are particularly well-suited for a comparative analysis. Furthermore, for both organisations, enough archival sources are available to reconstruct the impact of emergency measures on

their activities and individual activists. Against the backdrop of the described different pre-war developments, the comparison of both organisations allows to understand how their experiences under the state of exception facilitated the emergence of new fields of activism. Activists in both countries began to campaign for civil liberties and set up bodies to protest against the emergency measures. In Britain, the National Council for Civil Liberties (NCCL) was created in early 1916 under the leadership of the president of the Miners' Federation of Great Britain, Robert Smillie. In Germany, members of the New Fatherland League such as Otto Lehmann-Rußbüldt developed the League into a campaigning body for peace, democratic reform and civil liberties. Eventually, in 1922 the league was renamed the German League for Human Rights (*Deutsche Liga für Menschenrechte*). The fact that many pacifist and anti-war activists were also involved in the emerging civil liberties campaigns suggest a link between the experiences of repression and persecution and the emergence of civil liberties as a campaigning issue.

The German Peace Movement under the State of Siege

The outbreak of the First World War initially stunned the German peace movement almost completely. There was no noticeable public intervention from the German Peace Society and no serious attempt to coordinate a response to the imminent war with the pacifist societies in other European countries. This passivity in the face of the outbreak of the war reflected the ambiguous relationship many pacifists had with war itself. Leading activists such as Alfred Herman Fried were convinced that it was not the pacifists' business to prevent imminent wars or to campaign for the

end of ongoing conflicts.⁷⁵⁴ The German Peace Society was as a consequence paralysed by the events in August 1914 and almost ceased to exist as an organisation. On the one hand, some pre-war members of the society virtually instantly switched their ideological allegiances and lent their voices to the nationalist war propaganda. A telling example for this volte-face of some founding members of the German Peace Society is the fact that some of them even signed the infamous pamphlet *An die Kulturwelt* of October 1914, in which the German attacks on Belgium and France were justified.⁷⁵⁵ Some local branches of the German Peace Society, such as the one in the East-Prussian city of Königsberg dedicated their activities to patriotic war relief work for German refugees from the regions affected by the fighting in the East.⁷⁵⁶

Yet, this ‘patriotic pacifism’ also alienated a considerable number of activists such as Ludwig Quidde or the later founding member of the German League for Human Rights, Otto Lehmann-Rußbüldt.⁷⁵⁷ Frustrated with the weak reactions of the society in August 1914, members of the German Peace Society set up the New Fatherland League (*Bund Neues Vaterland*) in November 1914. The League was conceived as an elite society of intellectuals, academics and politicians. Among its founding members were illustrious figures such as the aristocratic officer and equestrian Kurt von Tepper-Laski or the industrialist and engineer Count Georg von Arco. Later, a number of well-known scientists such as Albert Einstein or the astronomer Wilhelm Förster joined the League alongside representatives of the

⁷⁵⁴ Holl, *Pazifismus in Deutschland*, p. 103.

⁷⁵⁵ Jürgen von Ungern-Sternberg and Wolfgang von Ungern-Sternberg, *Der Aufruf ‘An die Kulturwelt!’: Das Manifest der 93 und die Anfänge der Kriegspropaganda im Ersten Weltkrieg*, op. cit.

⁷⁵⁶ BArch 1501/112218, p. 175, *Petition by the German pacifists to the Reichstag*, 1 July 1917.

⁷⁵⁷ Holl, *Pazifismus in Deutschland*, pp. 107-112.

various factions of the SPD such as the reformists Eduard Bernstein and Rudolf Breitscheid, or the later leader of the Munich Soviet Republic, Kurt Eisner.⁷⁵⁸ The key figure of German revolutionary socialism, Karl Liebknecht, also occasionally attended meetings of the League in 1914 and 1915.⁷⁵⁹ The constitution of the League defined its primary aim as ‘to foster politics and diplomacy of the European countries in the spirit of peaceful competition and supranational confederation’.⁷⁶⁰ In view of the founders, this was only possible ‘if the existing system is abandoned in which very few decide about the fate of hundreds of millions’.⁷⁶¹ Therefore, the League would work to reform domestic as well as foreign policies to achieve its aims ‘for the benefit of all Germans and the cultured world’.⁷⁶²

This last point probably drew the attention of the authorities towards the League. Department VII of the Berlin police immediately started to monitor the activities of the League and military commanders in their districts began to curtail its activities.⁷⁶³ Yet, the repression of pacifist activities also affected the much more cautious German Peace Society. This was mainly the case because military commanders and government officials construed every open criticism of the war as a signal of inner weakness and threat to national unity. The aide of Imperial Chancellor Bethmann Hollweg, Kurt Riezler, emphasised in a memorandum from October 1914 that ‘every doubt of the national convictions and determination of

⁷⁵⁸ For a discussion of Albert Einstein’s involvement in the pacifist movement, see Hubert Goenner and Guiseppe Castagnetti, ‘Albert Einstein as a Pacifist and Democrat during World War 1’, *Science in Context*, 9, 4 (1996), pp. 325-386.

⁷⁵⁹ Holl, *Pazifismus in Deutschland*, p. 114.

⁷⁶⁰ BArch 1501/112218, p. 189, *Excerpt from the constitution of the New Fatherland League*.

⁷⁶¹ *Ibid.*

⁷⁶² *Ibid.*

⁷⁶³ LAB A Pr. Br. Rep. 030 Nr. 15854, pp. 24-26, *Die Bestrebungen der Pazifisten aller Länder wider den Krieg*, 7 November 1915.

any German, or party, or newspaper is undue'.⁷⁶⁴ He went on to state that every criticism of German foreign policies was 'unpatriotic and to shatter the confidence in them reprehensible'.⁷⁶⁵ As a consequence he demanded a repressive approach to all public challenges of the policies of the Imperial Government: 'Exceptional circumstances demand exceptional measures. Where self-restraint fails [...] coercion has to take over'.⁷⁶⁶ Riezler also included the censorship of extreme annexationist views in his recommendation. Yet, the military commanders in the army corps districts clearly interpreted the direction differently. For example, already ten days later when the Berlin-based *Tägliche Rundschau* published an all-out attack on Bethmann Hollweg's defensive public speeches, the military commander of the Marken district only issued a warning.⁷⁶⁷ Pacifist and socialist publications, on the other hand, faced much harsher and more meticulous censorship. Shortly after the outbreak of the war, the military authorities imposed pre-censorship on the periodical of the German Peace Society, *Völkerfrieden* (People's Peace).⁷⁶⁸ This was an unusually harsh measure compared to the forbearance of the military commanders towards the moderate socialist and liberal press – not to mention the conservative and right-wing newspapers – during the *Burgfrieden* period until 1916.

Apart from the severe censorship, however, the German Peace Society could continue its activities until mid-1915, when a wave of repression hit the pacifist

⁷⁶⁴ 'Telegramme Riezler to Foreign Office', 19 October 1914, in Deist, *Militär und Innenpolitik*, pp. 78-80.

⁷⁶⁵ Ibid.

⁷⁶⁶ Ibid.

⁷⁶⁷ 'Telegram Wahnschaffe to Imperial Chancery', 29 October 1914, in: Deist, *Militär und Innenpolitik*, pp. 207-208.

⁷⁶⁸ BArch 1501/112218, p. 173, *Petition to the Reichstag*, 1 July 1917.

societies. The New Fatherland League, on the other hand, was since its foundation in November 1914 confronted with the most severe repressive measures. Initially, this mainly concerned the censorship of pamphlets, which the League had circulated among members of the Reichstag and other political decision makers. Its weekly periodical *Mitteilungen* (Transactions), for example, was already banned on 18 March 1915 by the commander of the Marken district.⁷⁶⁹ Members of the League, amongst them Ludwig Quidde and Kurt von Tepper-Laski, were nonetheless granted passports to attend an international pacifist meeting in The Hague in early-April 1915.⁷⁷⁰ Von Tepper-Laski sent a public memorandum to the members of the League and sympathetic members of the Reichstag, summarising his impressions of the Hague conference. However, its contacts with foreign pacifists – primarily the Dutch *Anti-Oorlog-Raad* (Anti-war Council) – and the anti-annexationist stance of the League soon made it the target of the right-wing press. The League was publically accused of treasonous activities because of their alleged distribution of ‘anti-German material to foreign powers’. Despite all attempts to clarify that the neutral Dutch pacifists were far from being an ‘anti-German’ organisation, the patriotic press launched an all-out campaign against the League.⁷⁷¹ The conservative *Rheinisch-Westfälische Zeitung*, for example, published an article about the New Fatherland League on 26 September 1915, in which the author

⁷⁶⁹ BArch 1501/112218, p. 176, *Petition of the German Pacifists to the Reichstag*, 1 July 1917.

⁷⁷⁰ This meeting should not be confused with the large international Women’s Peace Conference in late April 1915, which also took place at The Hague. For the smaller meeting in early April 1915 see Wilhelmus H. van der Linden, *The International Peace Movement during the First World War: In and Around the Dutch Anti-War Council 1914-1919, Its International Mediator Work for a Speedy Peace, And its Central Organisation for a Durable Peace* (Almere: Tilleul, 2006). For the larger international women’s congress, see Jane Addams et al., *Women at The Hague: The International Congress of Women and Its Results* (Champaign IL: University of Illinois Press, 2003).

⁷⁷¹ BArch 1501/112218, p. 176, *Letter Von Tepper-Laski to editors of the Norddeutsche Allegemeine Zeitung*, 8 June 1915.

equated the activities of the league with a stab in the back of the soldiers on the front.⁷⁷² This represented a remarkably early version of the stab-in-the-back myth.

The League nevertheless continued its activities throughout the year 1915. The main focus of its activities was put on the publication and circulation of a number of memoranda, which were authored by Ludwig Quidde. Two of the pamphlets published in mid-1915, *Shall We Annexe?* (Sollen wir annectieren?) and *Real Garanties For a Permanent Peace* (Reale Garantien für einen dauernden Frieden), attracted the particular attention of the military authorities.⁷⁷³ In both works, Quidde rejected all German ambitions to annexe parts of other European countries and advocated the immediate commencement of peace negotiations. This was construed by the military commanders as a breach of the official ban on discussing the German war aims. On 2 October 1915, the High Command of the Marken district issued a blanket ban on all publications of the New Fatherland League.⁷⁷⁴ Days later, the office of the League in Berlin were raided by the police and all stored publications and files confiscated.⁷⁷⁵ This was, however, only the prelude to an all-out crackdown on pacifist associations in Germany. The raid of the offices of the League was apparently an attempt to seize incriminating evidence for alleged seditious activities. On 7 November 1915, the Prussian Ministry of War circulated a memorandum to various high-ranking generals and police authorities in the country.⁷⁷⁶ In it the deputy-minister of war, Lieutenant-General Franz Gustav von Wandel, argued that the international activities of the ‘German apostles of

⁷⁷² ‘Schüße in den Rücken’, *Rheinisch-Westfälische Zeitung*, 26 September 1915.

⁷⁷³ Holl, *Ludwig Quidde*, pp. 184-186.

⁷⁷⁴ BArch 1501/112218, *Petition to the Reichstag*, p. 176.

⁷⁷⁵ Ibid.

⁷⁷⁶ LAB A Pr. Br. Rep. 030 Nr. 15854, *Memorandum von Wandel to military commanders on measures against the pacifist movement*, 7 November 1915, pp. 4-5.

peace' would jeopardise Germany's image in the neutral countries.⁷⁷⁷ Furthermore, their actions were 'on the verge of high treason and suited to diminish the resilience of the German people whilst they strengthen that of our enemies.'⁷⁷⁸ As a consequence he recommended using the powers under the state of siege legislation to avoid the negative international publicity that a prosecution under article 89 of the Imperial Penal Code (treason in wartime) would cause.⁷⁷⁹ The powers of the military commanders were to be used to 'ban any further public activity' of the pacifists in the Empire.⁷⁸⁰ The memorandum then listed a number of measures that should be applied against the pacifist organisations. They included the surveillance of postal communications and the refusal to issue passports to activists to prevent their participation in international meetings. Furthermore, the publication and circulation of pacifist literature was to be prohibited as well as all private letters by leading pacifists confiscated and analysed by intelligence officers.⁷⁸¹

These recommendations were almost entirely adopted by the local military commanders. In November 1915, the corps commands in Munster, Stettin, Kassel, and Breslau issued bans against the activities of the New Fatherland League. Their decrees read almost like word-for-word copies of the memorandum of the Prussian Ministry of War.⁷⁸² Three months later, on 7 February 1916, the High Command of the Marken district then eventually prohibited all activities of the League for the duration of the war.⁷⁸³ On 31 March 1916, the chief executive officer of the League,

⁷⁷⁷ Ibid., p. 4.

⁷⁷⁸ Ibid.

⁷⁷⁹ Ibid., p. 5.

⁷⁸⁰ Ibid.

⁷⁸¹ Ibid.

⁷⁸² BArch 1501/112218, *Petition to the Reichstag*, 1 July 1917, p. 176.

⁷⁸³ Ibid.

the feminist pacifist Lilly Janasch, was arrested by the Berlin police and held in protective custody for fourteen weeks. Department VII of the Berlin police then sought to seize the membership register of the League during another raid of the League's offices possibly to prepare the detention of other members.⁷⁸⁴ In the wake of the repression of the New Fatherland League the German Peace Society also faced increased repression. Meetings of local branches of the German Peace Society could only be held in the presence of police officers who took notes of everything that was said. The Stuttgart-based bookstore of the society was eventually also raided and closed by the authorities. This was accompanied by a targeted intimidation of the rank and file of the pacifist movement. Several military commands sent letters to members of the German Peace Society in which they advised them to cease their membership to avoid prosecution for high treason.⁷⁸⁵

The strategy of the military authorities was quite clear: systematic intimidation of the rank and file was combined with the destruction of the organisational infrastructure of the associations. Consequently, the German Peace Society as well as the New Fatherland League were effectively silenced for the rest of the war. Activists of the New Fatherland League, among them once more Ludwig Quidde, set up a substitute organisation named *Central Office for International Law* (Zentralstelle Völkerrecht) in July 1916. The association was, however, almost immediately confronted with the same restrictive measures as the other pacifist associations. Individual members continued their attempts to lobby members of Reichstag and Imperial Government, yet the associations themselves widely ceased to function. The ban on pacifist publications and public meetings was upheld until

⁷⁸⁴ Ibid.

⁷⁸⁵ Ibid.

January 1918 when the censorship about the war aims question was partially lifted.⁷⁸⁶

The concerted crackdown against the pacifists was unprecedentedly harsh. Even radical Social Democrats did not face similarly intrusive measures and blanket repression at the time. The ruthlessness with which military commanders suppressed the pacifist societies can only be explained by their comparative weakness. Similar actions against radical socialist leaders would have triggered solidarity strikes as the example of Karl Liebknecht's detention in May 1916 demonstrated. Reactions on a comparable scale were not expected from the mainly middle-class and academic membership of the pacifist associations. On the contrary, the German Peace Society and the New Fatherland League sought to publically distance themselves from the radical anti-war left.⁷⁸⁷ This could be considered a tactical move to avoid further prosecution, yet the dominance of Liberals, intellectuals and industrialists in the pacifist associations also created an ideological barrier to certain forms of activism that was hard to overcome. Different from many socialist anti-war activists, there were also almost no attempts to organise clandestine activities or public protest. The prevailing legalism of the pacifists in the face of all-out repression is remarkable yet it also demonstrates how unjustified allegations of sedition and treason actually were.

The German Peace Society and the New Fatherland League mainly reacted by lodging appeals against the decrees of the military commanders and trying to bring their cases before the courts. Yet, almost none of these appeals were

⁷⁸⁶ 'Letter of the Supreme Military Commander to the Deputy Army Corps Commands regarding the pacifist movement', 10 January 1918, in: Deist, *Militär und Innenpolitik*, pp. 1123-1124.

⁷⁸⁷ BArch 1501/112218, *Petition to the Reichstag*, 1 July 1917. The whole petition is full of references to patriotism and attempts to draw a line between pacifism and radical socialist anti-war activism.

successful. Local military commanders often simply ignored the complaints or refused to repeal any of their decrees. When the courts decided to hear the appeals of pacifists, the judges were often extremely reluctant to repeal decisions of the military authorities. This procedure was typical for the handling of alleged ‘enemies within’ – a category that increasingly also included the pacifists – by the authorities. The attempts to raise their issues with sympathetic members of the Reichstag were more successful though. Leading pacifists were after all well-connected within the political elite in Germany. Examples of overly harsh measures against pacifists featured, for example, during the debates about a reform of the law regarding the state of siege in the budget committee of the Reichstag in mid-1916.⁷⁸⁸ Yet, despite the eventual reforms of the state of siege legislation in December 1916, the majority of the measures against the pacifist organisations were upheld by the authorities. Against this backdrop, a joint open petition signed by the chairs of the German Peace Society, New Fatherland League, the Central Office for International Law and the National Women’s Committee for a Permanent Peace was addressed to the Reichstag on 1 July 1917.⁷⁸⁹ The main intention behind the petition was to provide material for the negotiations in the budget committee of the parliament. The annual budget negotiations, in which the parliament granted new war credits to the government, were one of the few occasions on which the parliament could directly influence the policies of the Imperial Government. The petition meticulously listed all decrees and emergency measures that had been enacted against the pacifist organisations in the country. The main complaint was that the emergency powers were one-sidedly applied against the pacifists, whereas annexationist and pan-

⁷⁸⁸ See Chapter Two.

⁷⁸⁹ BArch 1501/112218, *Petition to the Reichstag*, 1 July 1917.

German propaganda was treated with utmost leniency by the military. For most contemporary observers this was just stating the obvious. Yet, the petition and the discussion in the budget committee had at least some impact on the handling of emergency measures by the military. From September 1917 the Imperial Home Office began to pressure the Prussian Ministry of War to loosen some of its measures against the pacifists.⁷⁹⁰ This was intended as sign of goodwill towards the increasingly self-confident coalition of the majority parties in the Reichstag. It took nevertheless over three months until January 1918 to repeal at least the blanket ban on pacifist publications. In a letter from 10 January 1918 to the deputy army corps commands, the Supreme Military Commander decreed that the ban on ‘strictly scientific pacifist literature’ was to be lifted.⁷⁹¹ This partially repealed the decree from 7 November 1915, in which the commander of the Marken district prohibited all pacifist activities. It was nevertheless emphasised in the same letter that ‘the movement for a peace at all costs is to be combated with all certainty’.⁷⁹² Furthermore, ‘all activities that are suited to undermine the perseverance and hope for final victory with the population’ were to be suppressed. It ended with the unambiguous statement that ‘acting with uncompromising severity is therefore the highest duty of all military commanders’.⁷⁹³ This suggests that the concessions were rather superficial and did not indicate a substantial change in policies towards the

⁷⁹⁰ ‘Letter of the Supreme Military Commander to the Army Corps Commands regarding the pacifist movement’, 10 January 1918, in: Deist, *Militär und Innenpolitik*, p. 1123.

⁷⁹¹ Ibid.

⁷⁹² Ibid. pp. 1123-1124.

⁷⁹³ Ibid., p. 1124.

pacifist movement. In fact, most of the restrictions were only lifted in October 1918 in the face of looming defeat.⁷⁹⁴

The petition of July 1917 is, however, also interesting for another reason. The presented arguments and the language used provide some insights into the ways German pacifists themselves perceived their role during the war. The petition argued, for example, that ‘the suppression of the German pacifism by the military commanders plays into the hands of those who again and again incite a negative opinion against Germany by claiming that permanent peace is only possible if Germany was overpowered’.⁷⁹⁵ The effects of the harsh repression on Germany’s image in the neutral countries was mentioned as a major threat to German interests. Whereas the annexationist and Pan-German propaganda would jeopardise the sympathies for Germany’s cause, the visibility of the German pacifist movement was needed to counter-balance it. Rather than seeing the German peace movement as a sign of weakness, it should be used by the Imperial Government to demonstrate the righteousness of the German cause. It is remarkable that the petition explicitly referred to British pacifists to make its case: ‘Are the activities of English pacifists such as Ramsay Macdonald, Snowden, Trevelyan etc. a sign of English weakness? No because everyone sees that it is the result of fundamental convictions and not of tactical games’.⁷⁹⁶ The text concluded:

[...] The repression of the pacifists in Germany by our military commanders strengthens anti-German [deutschfeindlichen] propaganda and helps to prolong the war. [...] We face the upsetting fact that public opinion in the whole world increasingly believes Germany was “the enemy of all”, the “hostis generis humani” who needs to be overpowered for the sake of humanity. By suppressing the

⁷⁹⁴ BArch R 3001/6663, p. 282, *Minutes of a Conference of the Imperial Government*, 7 October 1918.

⁷⁹⁵ BArch R 1501/112218, *Petition to the Reichstag*, 1 July 1917, p. 171.

⁷⁹⁶ *Ibid.*, p. 186.

German pacifists the military commanders do their utmost to strengthen this belief. The patriotic interest therefore commands the liberation of the German pacifist from the yoke of the state of siege.⁷⁹⁷

This highlights several interesting aspects of relations between the German pacifists and the state. Although the patriotic language can be interpreted as an attempt to rebut allegations of seditious and treasonous activities, it also reflects the fact that the pacifists saw themselves not in fundamental opposition to the state. It was also a way to distance themselves from the revolutionary defeatism of the radical socialists around Karl Liebknecht and Rosa Luxemburg. Yet, the apparent emphasis on German interests also demonstrates that the pacifists fundamentally understood themselves as patriots.⁷⁹⁸ The German pacifists saw themselves faced with a similar ideological challenge that many socialists faced in August 1914. How could the internationalist principles of cooperation and supranational federation be reconciled with the self-image of being German patriots? At least for some activists the answer to this challenge seems to have been the commitment to political reforms and a reinvention of Germany as a democratic nation that would have its place in the international community. It is thus an interesting fact that the New Fatherland League was eventually transformed into the German League for Human Rights in 1922, an association which mainly sought to promote the issue of civil liberties during the Weimar Republic.⁷⁹⁹ The experiences of repression by an autocratic

⁷⁹⁷ Ibid.

⁷⁹⁸ This was by no means a singularity of the German peace movement. The concepts of patriotism and pacifism were intertwined since the beginnings of the pacifist movement: Cooper, *Patriotic Pacifism*, op. cit.

⁷⁹⁹ Otto Lehmann-Rußbüldt, *Der Kampf der Deutschen Liga für Menschenrechte (vormals Bund Neues Vaterland) für den Weltfrieden 1914-1927* (Berlin: Hensel & Co, 1927); Daniel Laqua, 'Reconciliation and the Post-War Order: The Place of the Deutsche Liga für Menschenrechte in Interwar Pacifism', in idem (ed.), *Internationalism Reconfigured: Transnational Ideas and Movements between the World Wars* (London: I. B. Tauris, 2011), pp. 209-237.

military regime during the war was certainly a major contributing factor for this rededication of the association after the war.

In conclusion, the pacifist movement in Germany faced the most severe measures under the state of siege and was effectively suppressed for the duration of the war. Despite neither being a popular mass movement nor being involved in the activities of the radical anti-war opposition, military commanders used the whole range of available emergency measures against the pacifist societies. This repression was only paralleled by actions against the radical wing of the socialists and later the anti-war mass strike movements. It becomes clear that this was grounded in the perceptions of the pacifists by the authorities as being outside the national collective and thus as being a threat to the war effort and perseverance at the home front. The radicalisation of these conceptions of the ‘enemies within’ from 1916 onwards might help us to understand why they became targets of emergency measures despite their strictly legalistic public appearance and defensive activities. Confronted with the severity of emergency measures the pacifists resorted to the means of the rule of law such as court appeals, yet often to no avail as most judges shared the same disdain for those perceived as unpatriotic as did the military commanders.⁸⁰⁰ The only help came from sympathetic members of the Reichstag who pressured the Imperial Government into some concessions towards the end of the war. Yet, the fact that most of the repressive measures against the pacifists remained in force until the end of the war underlines that the military commanders exercised the powers under the state of siege widely independent from the Imperial Government and parliamentary scrutiny.

⁸⁰⁰ See Chapter 4.

'The Enemies in Our Midst': Pacifists, the Union of Democratic Control and the British State under DORA

Similar to the German pacifists, the traditional pacifist associations in Britain were absolutely unprepared for the outbreak of the First World War. The Peace Society widely failed to articulate any decisive answer to the challenge of war and became widely defunct for the duration of the war. The political representation of the peace movement in Britain was consequently superseded by those 'secondary pacifists' who had emerged in the years before the war. The Union of Democratic Control was probably the most important of these new associations that merged radical Liberalism, labour anti-war protest and sections of the traditional Christian pacifism. It was, nevertheless, not the only active body. In October 1914, the editor of the ILP-newspaper *Labour Leader*, Fenner Brockway together with Clifford Allen set up the No-Conscription Fellowship, which agitated against any form of compulsory military service.⁸⁰¹ In December 1914, mainly Quakers set up the Fellowship of Reconciliation in Cambridge. The Fellowship soon established a transnational network and similar associations were set up in other countries such as the predecessors of the American Civil Liberties Union (ACLU).⁸⁰² On a local level there were even more associations that opposed the war.⁸⁰³

The UDC was, nevertheless the most important of these associations as its active membership included eminent Liberal and Labour MPs such as Ramsay

⁸⁰¹ Thomas C. Kennedy, *Hounds of Conscience: A History of the No-Conscription Fellowship 1914-1919* (Fayetteville: The University of Arkansas Press, 1981), pp. 28-74.

⁸⁰² See inter alia: Samuel Walker, *In Defense of American Liberties: A History of the ACLU* (Oxford: Oxford University Press, 1990), pp. 11-29; David M. Rabban, 'The Free Speech League, the ACLU, and the Changing Conceptions of Free Speech in American History', *Stanford Law Review*, 45, 1 (1992), pp. 47-114; esp. pp. 100-112.

⁸⁰³ An incomplete Home Office circular from 1915 named not less than 24 individual peace groups under the letters A to D. It is likely that over 100 individual peace groups were existent during the First World War; TNA HO 45/10741/263275, *Peace Societies*, 1915.

Macdonald, Phillip Snowden, Charles Trevelyan, and Arthur Ponsonby.⁸⁰⁴ Yet, its reach extended far beyond the traditional spheres of Liberal and Labour radicalism. Influential Quakers such as the ‘chocolate magnates’ Arnold Rowntree and George Cadbury joined the UDC as did intellectuals such as the philosopher Bertrand Russell. Other influential members and supporters of the UDC included the campaigner Edmund D. Morel, who built up his reputation during the campaign against Belgian atrocities in the Congo, the economist John Maynard Keynes and the pacifist writer Norman Angell.⁸⁰⁵ The diversity of its membership made the UDC a melting pot for dissidents during the war. Programmatically, the UDC was officially not an anti-war association. It opposed the secret diplomacy that led to the British entry into the war and called for democratic parliamentary control of foreign policies. At its inaugural meeting on 17 November 1914 the aims of the UDC were laid out as campaigning for ‘durable peace, and in favour of a general scheme of international policy designed to avert a repetition of the horrors we are witnessing’.⁸⁰⁶ Yet, during the further course of the war, the UDC increasingly began to advocate peace negotiations and adopted the calls for a peace without indemnities. Furthermore, many activists of the UDC were also members of other campaigning bodies. Ramsay Macdonald remained the chairman of the Independent Labour Party, which broadly maintained an anti-war stance. Rowntree and Cadbury continued to support the Society of Friends and the Friends Service

⁸⁰⁴ Harry Hanak, ‘The Union of Democratic Control during the First World War’, *Bulletin of the Institute of Historical Research*, 26 (1963), pp. 168-180, here pp. 168-170; Marvin Swartz, *The Union of Democratic Control and British Politics during the First World War* (Oxford: Clarendon, 1971), pp. 11-21; Sally Harris, *Out of Control: British Foreign Policies and the Union of Democratic Control, 1914-1918* (Hull: Hull University Press, 1996), pp. 41-54.

⁸⁰⁵ Hanak, *Union of Democratic Control*, pp. 169-170; Swartz, *Union of Democratic Control*, pp. 21-27.

⁸⁰⁶ Hull History Centre [henceforth HHC], U DDC/1/1, *Minute Book*, 17 November 1914.

Committee financially. The Red Clydesider David Kirkwood was to become a key figure in the Clyde Workers' Committee. During the course of the war over 300 different organisations associated themselves with the UDC bringing its individual membership up to over 10,000 by 1918 and its associated membership rose to around 750,000.⁸⁰⁷ From the beginning, the UDC sought to build popular support for its demands by organising public meetings and distributing pamphlets and literature. The driving force behind the campaigns of the UDC was Edmund D. Morel, whose experiences as an organiser were a crucial asset for the Union.⁸⁰⁸ In 1915, Morel made clear that for him the UDC was not a 'mere academic debating society [... but ...] known and felt – and in some quarters even dreaded – as a live thing.'⁸⁰⁹ It has been argued that the UDC remained marginal in British politics and that it widely failed to influence policy making.⁸¹⁰ Despite its marginalisation, the UDC could muster some popular support in Britain. This is true in so far as the UDC never posed a real threat to the British war effort and actually never intended to do so.

It is nevertheless remarkable that the UDC became the target of the most aggressive press campaigns and since the end of 1915 also of harsh repression by the British state. The press campaign against the UDC started after the anti-German Lusitania Riots in May 1915. Until then the UDC operated without much public scrutiny. Since May 1915, however, it faced concerted efforts to break up its public meetings and the authorities began to prosecute members of the UDC for breeches

⁸⁰⁷ Harris, *Out of Control*, p. 64.

⁸⁰⁸ Morel was eventually appointed as the fulltime secretary and treasurer of the UDC at a salary of £350 on 3 August 1915. HHC U DDC/1/4, Minutes Executive Committee, *Minutes Meeting 3 August 1915*.

⁸⁰⁹ HHC U DDC/1/1 Minute Book, *Report of the first Annual Meeting of the General Council of the UDC*, 1915.

⁸¹⁰ See for example Millman, *Managing Dissent*, pp. 108-109.

of DRR. Particularly newspapers such as the *Morning Post* and *Daily Express* were at the forefront of a poisonous campaign against everything and everyone construed as opposing the war effort. The language used in the attacks against pacifists and members of the UDC such as Clarence H. Norman, Clifford Allen or Ramsay Macdonald was demeaning and at times even dehumanising.

An illustrative example for the hostile language and hatred in these articles is a text by the ‘patriotic’ Labour MP Charles B. Stanton in the *Daily Express* from 28 January 1916 titled ‘The Enemies in our Midst’.⁸¹¹ What makes the article remarkable is the fact that Stanton was elected as a Labour candidate after the death of Keir Hardie in 1915 in his Merthyr Tydfil constituency. Stanton started out as a radical trade unionist but moved to the sharp right of the labour movement during the war. At the 1918 general elections Stanton eventually stood as a candidate for the right-wing National Democratic and Labour Party. In the article of 1916, Stanton denounced the pacifist ‘claptrap’ of ‘this horde of Quakers, cranks, Radicals, Little-Englanders, violent pacifists, vocal pro-Germans, and slobbery I.L.Peers’.⁸¹² He went to demand that ‘this fungus-growth in our social life’ and ‘wealthy, obese Quakers’ should be tackled by the, in his opinion apathetic, government:

If we are too mealy-mouthed to hang them, or even to give them a hero’s death at the end of a firing party, they might at least be deported. They are useful for Germany here, their proper place is Germany; or, if there are diplomatic difficulties in transporting them to the dear Fatherland, there are plenty of No Man’s Lands dotted about the ocean where they could be sent to make a little hell of their own, and to build the “New Society” without the exercise of force.⁸¹³

⁸¹¹ Charles B. Stanton, ‘The Enemies in our Midst’, *Daily Express*, 28 January 1916.

⁸¹² Ibid.

⁸¹³ Ibid.

Stanton then went on to emphasise that for him the principles of socialism and trade unionism meant the complete submission of the individual under the state. Those socialists in the peace movement upholding the idea of ‘the dignity of the human soul’ and individual liberty were doing nothing less than ‘their best to snatch away from British courage and British determination the immortal wreath of victory’.⁸¹⁴ This hateful language was not exceptional for articles in the *Daily Express* and *Morning Post*.⁸¹⁵ These articles were often used to mobilise ‘patriotic’ mobs to attack public meetings of pacifist organisations. A meeting of the UDC on 27 November 1915 in London’s Memorial Hall was, for example, broken up by an angry mob and soldiers on leave. The mob stormed the hall, seized the stage and forced the UDC sympathisers in the audience and the speakers to leave the venue. Already days before the *Daily Express* began to publicise the venue of what they called ‘the peace crank congress’ and urged its readers to obtain tickets for the event and to use them to prevent the meeting from taking place.⁸¹⁶ The author of these articles was a certain Richard H. Glover, a self-confessed member of the Anti-German League.⁸¹⁷ The organiser of the meeting, a Miss Longbourne of the London Federation of the UDC, had already on 25 November – after the first threatening articles in the *Daily Express* had appeared – appealed to the City Police in London to provide protection for the meeting.⁸¹⁸ And although some police constables were

⁸¹⁴ Ibid.

⁸¹⁵ For an exhaustive collection of anti-pacifist articles predominantly from the *Morning Post* and *Daily Express*, see TNA HO45/10741/263275 to HO45/10744/263275.

⁸¹⁶ ‘Make a note of the date. Peace crank congress in London’, *Daily Express*, 23 November 1915; ‘Mass Meeting of Peace Cranks. Insult to London?’, *Daily Express*, 26 November 1915; ‘Gathering of the Peace Cranks. Why is it allowed?’, *Daily Express*, 27 November 1915.

⁸¹⁷ ‘Abortive UDC Meeting’, *Morning Post*, 4 December 1915.

⁸¹⁸ HO45/10741/263275, *Letter Deputy Chief Constable of the City Police of London to Home Office*, 2 November 1915.

present at Memorial Hall, none of them intervened to protect the UDC sympathisers. This was a pattern that was consequently repeated throughout the war all over Britain.⁸¹⁹

At the same time, the authorities began to increasingly censor publications of the UDC. The police now regularly raided the offices of the UDC to seize materials and pamphlets and systematically intimidated printing houses, which produced UDC literature. Public meetings were – when not broken up by patriotic mobs – monitored by officers, who took notes of everything said by the speakers to later search for indictable breeches of DRR. The peak of repression was reached when in autumn 1917, the secretary of the UDC was imprisoned for six months for a dubious breach of DORA. Only weeks later, Bertrand Russell, another prominent member of the UDC was charged for a breach of a DRR and also imprisoned for six months after he had published an allegedly seditious article in the NCF-journal *The Tribunal*.⁸²⁰ The combination of open hostility by the right-wing ‘patriotic’ press, severe censorship and the targeted repression against leading members effectively suppressed most activities of the UDC.

The reactions of the UDC members to these challenges were often helpless. Since mid-1915, the executive committee of the UDC was mainly concerned with matters of censorship and the breaking up of their meetings. At a meeting on 25 July 1915, the MPs Charles Trevelyan and Arthur Ponsonby presented a report about the ‘rowdiness instigated by the Daily Express’ which led to the breaking up of UDC meetings in Kingston, Brixton and Norwood earlier that year. Yet, the

⁸¹⁹ Another example for this deliberate inactivity of the authorities is the breaking-up of a NCCL meeting in November 1916 at Cory Hall, Cardiff; see Brock Millman, ‘The Battle of Cory Hall, November 1916: Patriots meet Dissenters in Wartime Cardiff’, *Canadian Journal of History*, 35, 1 (2000), pp. 57-83.

⁸²⁰ See Chapter 3.

executive committee decided not to press charges against the *Daily Express* because it was convinced that no jury would vote in favour of the UDC during the war. As we have already seen these fears were not unfounded. Instead, meetings should only be held where 'large labour audiences could be expected' to provide sufficient protection against attacking mobs.⁸²¹ Trevelyan also approached his party colleague, Home Secretary John Simon, to demand that more needed to be done to protect the freedom of speech. Yet, Simon blocked every such attempt and undertook no significant effort to provide security for public meetings of the UDC. He was, however, also reluctant to directly apply repressive measures against the union. After Attorney-General Edward Carson ordered a raid against the National Labour Press in London and Manchester and shortly prohibited the production of further UDC materials in August 1915, Simon was compelled to backpedal in the House of Commons and to order the return of all seized UDC materials.⁸²² Yet, this was only a temporary success. Under Simon's successors Herbert Samuel and George Cave repressive measures were more readily applied. And despite the frequent interventions of the UDC-friendly MPs, the British government acted increasingly uncompromising in the last two years of the war.⁸²³ Initially the UDC sought to counter the joint campaign of government, police and patriotic press by trying to distance itself from the radical anti-war left and pacifist groups in order to avoid giving any occasion for further repression. When in September 1915 the Fellowship of Reconciliation sought to affiliate itself with the UDC, the executive

⁸²¹ HHC U DDC/1/4, Minutes Executive Committee, *Minutes Meeting 25 July 1915*.

⁸²² *Ibid.*, *Minutes Meeting 24 August 1915*; *ibid.*, *Minutes Meeting 14 September 1915*; TNA HO 45/10741/263275, *Correspondence Morel and Home Office*, August 1915.

⁸²³ See Chapter 3.

committee rejected this emphasising that it did not see itself as an anti-war organisation.⁸²⁴

The executive committee was equally anxious to avoid any allegations of being pro-German as the patriotic press had frequently purported. Especially Arthur Ponsonby and Ramsay Macdonald in particular raised the issue of enemy aliens and German-born British subjects in the ranks of the UDC. Although these groups were not significantly represented within the UDC, Macdonald and Ponsonby suggested that membership applications and donations from people ‘with German-sounding names’ should be rejected by the union. The ensuing debate within the executive committee highlights how intimidated and torn the UDC already was by then. Whilst Macdonald and Ponsonby argued that allowing German-born British subjects and alleged enemy aliens would fuel the hostile campaign against the Union, Charles Trevelyan and Helena Swanwick opposed this as it would mean a capitulation before outside pressure.⁸²⁵ The debate represented a turning point in the activities of the UDC. After Macdonald’s and Ponsonby’s defensive approach was rejected in the executive committee, the Union made the issue of democracy and civil liberties in wartime a centrepiece of its campaigning. This also meant that the issue of foreign policy increasingly faded from the spotlight of the UDC activities. The UDC alongside the reformed National Council for Civil Liberties (NCCL), which emerged from the National Council against Conscription in January 1916, became the two main organisational actors in the struggle for civil liberties in Britain during the war. In the case of the UDC this new focus on democracy and civil liberties was a direct result of the experience of state repression under DORA.

⁸²⁴ HHC U DDC/1/4 Minute Book, *Minutes Meeting 21 September 1915*.

⁸²⁵ *Ibid.*, *Minutes Meeting 10 August 1915*; *ibid.*, *Minutes Meeting 17 August 1915*.

The development was also reflected in the internal discussions of the UDC. The executive committee and the rank and file now increasingly discussed the question of what democracy actually meant for the Union. In the wake of these debates, the initially narrow understanding of democracy as ‘parliamentary control’ was now extended to deeper issues such as the voting franchise and the equality of men and women. The latter was clearly a direct result of the prominent role leading suffragettes such as Helena Swanwick, Ethel Snowden, Olive Schreiner or Margaret Sackville played in the activities of the Union. Another major driving force behind this new orientation of the Union was Charles Trevelyan. Yet, Ramsay Macdonald also soon embraced the new mission and used his contacts in the labour movement to support the new campaign in defence of the freedom of speech.

From November 1915, the UDC urged all local branches and affiliated organisations to document all incidents where meetings were broken up and the freedom of speech had been suppressed. On 7 December 1915, the central office circulated a memorandum authored by Ramsay Macdonald to all trade councils in Britain, in which he warned of the ‘danger to free speech in tolerating the breaking up of meetings by men in khaki’ and the potential ramifications for the rights of the trade union movement.⁸²⁶ This information was then used for enquiries in the House of Commons by Trevelyan, Macdonald, Ponsonby and other MPs sympathising with the UDC.⁸²⁷ It was again particularly Charles Trevelyan who proved to be a useful link between the Union and increasingly alienated Liberal MPs such as William Pringle, John Howard Whitehouse and Arthur Sherwell.⁸²⁸ In addition,

⁸²⁶ HHC U DDC/1/4 Minute Book, *Minutes Meeting 7 December*.

⁸²⁷ See for example HC, *Deb 23 November 1916*, vol. 87, cc. 1698-714; HC, *Deb 20 February 1917*, vol. 90, cc. 1177-289; HC, *Deb 10 January 1916*, vol. 77, cc. 1394-420.

⁸²⁸ HHC U DDC/1/4 Minute Book, *Minutes Meeting 7 December*.

Bertrand Russell became gradually more active in the Union and toured the country on behalf of the NCCL with a lecture series on the topics of freedom, liberty and democracy.⁸²⁹

The turn towards the issue of civil liberties coincided with the campaign against the introduction of conscription by the No-Conscription Fellowship and National Council against Conscription under the leadership of Robert Smillie, which gathered pace towards the end of the year 1915. The campaigns against the introduction of conscription as well as those for the protection of civil liberties emphasised the traditions of British liberties and democracy which were now under threat from compulsive service and intrusive state measures. Many pamphlets argued that whilst the soldiers allegedly fought to defend these values, the British government now used every mean to introduce ‘Prussianism’ at home. The fight ‘against Prussianism at home’ became an often evoked formula in the campaign for civil liberties. This view was probably best described by Frederick Seymour Cocks in an article for the Union’s journal *The UDC*:

‘[...] After all, what is Prussianism? It is the reversal of the law of civilised progress. [...] Prussianism means the rule of force instead of the rule of reason. It means government by conquest instead of Government by consent. [...] It means the exploitation of democracy by financial conspiracies and military juntas working through the medium of secret diplomacy instead of control of foreign affairs as well as of home affairs, by the people. It means the Government of the people by autocratic decree instead of the full democratic principle of government of the people, by the people, for the people for which the Union stands. It means the standard of autocracy, once planted by King Charles the First at Nottingham, and now again by Mr. Lloyd George at Downing Street, instead of the banner of the Commonwealth which once before triumphed over the demands of Privilege and Kings, and which will triumph again over the power of Press-gangers and of Premiers. [...]’⁸³⁰

⁸²⁹ For some of the manuscripts and articles by Bertrand Russell see Bertrand Russell, *Pacifism and Revolution 1916-1918* (London: Routledge, 1995); for the debates about Russell’s lectures see also HC, *Deb 18 October 1916*, vol. 86, cc. 538-40; HC, *Deb 28 November 1916*, vol. 88 cc. 288-300.

⁸³⁰ Frederick Seymour Cocks, ‘What is Prussianism?’, *The UDC*, 2, 13 (November 1917).

This was an attempt to evoke a liberal patriotism founded in the traditions of British radicalism and liberalism to counter the prevalent jingoistic propaganda. However, the campaign failed to reach a public beyond the UDC's audiences. Censorship and hostile press campaigns continued, and throughout the year 1916 the UDC faced increased repression. In June 1916, the local UDC offices in South Wales were raided by the police and all copies of the pamphlet *The Attack On The Freedom of Speech* confiscated. At the same raid the police also seized materials of the Women's Labour League on childcare and contraception.⁸³¹ The central office of the Union provided financial assistance for a legal appeal and Charles Trevelyan raised the case in parliament.⁸³² Yet again to no avail. In September 1916, a number of local UDC-activists were prosecuted for breaches of DRR.⁸³³ Only weeks later, the homes of the main organisers of the Union, Egerton Wake, and Arnold Lupton were raided and searched by the police.⁸³⁴ The UDC reacted to these new intrusions by deciding to establish a closer collaboration with the National Council for Civil Liberties by providing finances and support for the distribution of its literature.⁸³⁵ This led to the War Office prohibiting the postal delivery and export abroad of UDC materials.⁸³⁶ A breach of this decree eventually also provided the occasion for the authorities to prosecute Edmund D. Morel in 1917.⁸³⁷

⁸³¹ HHC U DDC1/4 Minutes Executive Committee, *Minutes Meeting 20 June 1916*.

⁸³² *Ibid.*

⁸³³ *Ibid.*, *Minutes Meeting 19 September 1916*.

⁸³⁴ *Ibid.*, *Minutes Meeting 7 November 1916*.

⁸³⁵ *Ibid.*

⁸³⁶ HHC U DDC1/4, *Letter War Office to UDC Central Office*, 21 November 1916.

⁸³⁷ See Chapter 3.

The confrontation with the state also triggered a shift further to the left. In April 1917, the UDC encouraged its local branches to hold meetings in honour of the Russian February Revolution. In June 1917, a short time after the revolutionary Leeds convention, the UDC executive decided to affiliate itself to the short-lived Workers' and Soldiers' Council movement.⁸³⁸ The fact that a short time later Edmund D. Morel and Bertrand Russell were prosecuted and sentenced to comparatively harsh prison sentences is certainly no coincidence. Targeting the prominent leading figures of the organisation was undoubtedly intended as a warning to other activists not to overstep a certain mark. In the last year of the war, the Union dedicated much of its resources to campaign on behalf of its imprisoned members. Verbatim reports of Morel's and Russell's court hearings were published and their cases discussed in parliament.⁸³⁹ Yet, despite the joint efforts by the UDC, ILP and NCCL on behalf of Morel the government refused to concede any easing of Morel's detention conditions. As a consequence Morel's health rapidly deteriorated during his six months in prison. Deprived of its main organisers the UDC's activities declined significantly during the year 1918. The government finally repealed its restrictive decrees concerning the activities of the Union on 18 December 1918.⁸⁴⁰ The UDC remained in existence for another 50 years and helped to shape the foreign policy of the Labour Party after most of its Liberal members such as Charles Trevelyan, Arthur Ponsonby or Edmund D. Morel eventually joined

⁸³⁸ HHC U DDC/1/4 Minutes Executive Committee, *Minutes Meeting 17 July 1917*; HC, *Deb 14 March 1918*, vol. 104, cc. 464-5.

⁸³⁹ For the debates in Parliament see HL, *Deb 08 May 1918*, vol 29, cc.1009-51; HC, *Deb 01 May 1918*, vol. 105, cc. 1543-4; HC, *Deb 15 November 1917*, vol. 99, cc. 556-60; HC, *Deb 18 October 1916*, vol. 86, cc. 538-40; HC, *Deb 12 February 1918*, vol. 103, cc. 40-54;

⁸⁴⁰ *Ibid.*, *Letter War Office to UDC Central Office*, 17 December 1918.

the party after the war.⁸⁴¹ The NCCL, on the other hand, soon became inactive and disappeared from the public perception. It re-emerged in the 1930s as a civil liberties action group of the political left with close links to the Communist Party of Great Britain.⁸⁴² It continues its activities under the name Liberty until the present day.

In conclusion, the Union of Democratic Control was by far the most relevant dissenting organisation in Britain during the First World War. By the end of the war, over 100 local branches existed and around 300 organisations had affiliated themselves with the Union, bringing its associated membership numbers up to 750,000.⁸⁴³ The UDC started as an ad hoc committee in the tradition of similar organisations during the Boer War. Its agenda was not explicitly directed against the war but demanded the reform of foreign policy and its democratic control. Yet, the Union soon became a melting pot for various political currents in Britain that criticised the war. Liberal MPs, Labour politicians but also activists from social movements and Christian pacifists (often with a Quaker background) became involved in its activities. Due to the organisational crisis of the traditional pacifist associations such as the Peace Society, the UDC became the main body for peace activism during the war. In it Christian pacifist traditions merged with the ‘secondary pacifism’ of the labour movement and the suffragettes. It is thus not

⁸⁴¹ For a discussion of the UDC’s influence on shaping the foreign policy concepts of the Labour see inter alia: Rhiannon Vickers, *The Labour Party and the World*, pp. 39-42; Sally Harris, *Out of Control: British Foreign Policy and the Union of Democratic Control, 1914-1918* (Hull: Hull University Press, 1996).

⁸⁴² For the later history of the NCCL, see Bill Dyson, *Liberty in Britain 1934-1994: A Diamond Jubilee History of the National Council for Civil Liberties* (London: Civil Liberties Trust, 1994); Janet Clark, ‘Sincere and Reasonable Men? The Origins of the National Council for Civil Liberties’, *Twentieth Century British History*, 20, 4 (2009), pp. 513-537; Christopher Moores, ‘From Civil Liberties to Human Rights? Civil Liberties Activism and Universal Human Rights’, *Contemporary European History*, 21, 2 (2012), pp. 169-192.

⁸⁴³ Harris, *Out of Control*, p. 64.

surprising that within the Union the post-war rapprochement between progressive Liberals and the labour movement was anticipated.

The UDC sought to popularise its ideas amongst the wider public by extensive propaganda efforts. It particularly targeted working-class audiences with its public meetings and, as a consequence, soon attracted numerous trade unions and labour activists. These meetings, however, soon caught the attention of the 'patriotic' press, particularly the *Morning Post* and *Daily Express*. Meetings of the Union were regularly broken up after articles in these newspapers called for 'patriotic actions' against 'peace cranks' and 'pro-Germans'. For the right-wing press, the UDC epitomised the 'enemies in the midst', which needed to be combatted. The patriotic press did not only incite the violent breaking up of public meetings, the flood of articles also created pressure on the government to act against the allegedly treacherous pacifists. Whilst the Liberal home secretaries Reginald McKenna, John Simon and Herbert Samuel were hesitant to employ all too repressive measures under DORA against the UDC, the Lloyd George Cabinet and its Home Secretary George Cave used the whole range of emergency powers to suppress the activities of the Union.

The restrictive handling of emergency powers in combination with the unofficial repression by patriotic mobs made campaigning for the core issue of the UDC increasingly difficult. Consequently, the UDC turned more and more towards the fundamental issues of civil liberties and democracy in wartime. For this purpose it collaborated closely with organisations such as the National Council for Civil Liberties and dedicated much of its available resources to campaign for political prisoners such as its prominent members E. D. Morel and Bertrand Russell. However, the UDC never subscribed to any form of 'revolutionary defeatism' and

never saw itself in fundamental opposition to the British state. On contrary, the campaign for civil liberties was based on a liberal version of British patriotism that emphasised the libertarian and democratic traditions of the British people. In this view, the UDC defended genuinely British values against the increasingly authoritarian wartime state. Instead of overthrowing the liberal democratic state, which many revolutionary socialists wanted to replace with a Soviet-style system, the UDC insisted that liberty and democracy should be taken seriously even in times of severe crisis and must not become mere shibboleths of the wartime propaganda. The explicit commitment to civil liberties was a direct response to the experiences of activists under the state of exception. Yet, instead of defining itself in fundamental opposition to the political system as a whole, the UDC developed further its own conceptions of democracy and civil liberties.

Comparison

At the beginning of the First World War very similar activist organisations, which were critical towards the war, emerged in Britain and Germany. Despite being labelled ‘pacifist’ by an often hostile press, neither UDC nor DFG and BNV were fundamentally in opposition to the war. What they criticised was the international system of secret diplomacy and the lack of democratic control of foreign affairs. In this respect organisations such as the UDC and the BNV followed very similar aims and continued the liberal pacifist traditions of the pre-war period. The strategies these organisations used, nevertheless differed significantly. Whilst the New Fatherland League explicitly constituted itself as an elitist academic lobby group, the UDC sought to create popular support for its aims. The propaganda of the UDC

particularly targeted working class audiences and had considerable success in doing so.

A possible explanation for this difference in strategy of the German and British organisations can be found in the different political cultures of both countries. Pacifism in Britain was after all an established part of the political culture of the country. The German Peace Society, on the other hand, had remained on the margins of national politics. And despite its well-connected political network, the German pacifists never achieved a similar public recognition as their British counterparts. Additionally, the conditions for popular pacifist politics were more favourable in Britain during the first two years of the war. Under the liberal Asquith Cabinet and coalition government, repressive emergency measures were only hesitantly used against the UDC. In contrast, in Germany military commanders and police banned public political activities almost entirely thus limiting the possibilities for public meetings and mass propaganda significantly. Yet apart from these internal factors, the established associational culture of German pacifism was also intrinsically elitist and never really adopted the methods and strategies of popular mass politics. Whereas the UDC could build on the practical experiences of leading liberal and labour activists such as Ramsay Macdonald or E. D. Morel, the German organisations lacked similar popular figures. Yet another feature both movements shared are the close links to sympathetic parliamentarians. The UDC's main executive consisted almost entirely of Liberal and Labour MPs and the German peace movement could at least build on the support of some liberal and SPD members of the Reichstag. These connections to the political elites in Germany and Britain might help to explain why neither UDC nor DFG and BNV saw themselves in fundamental opposition to the state and political system. Unlike

radical socialist anti-war activists they never actively promoted the revolutionary overthrow of the existing order but rather its gradual democratic reform.

Yet, despite this rather tame pacifist stance, organisations in both countries faced the hostile reactions of the right-wing press and consequently prosecution by the authorities. In both countries, excessive censorship was used to limit the publicity for the activities of dissident groups. Moreover, particularly during the later course of the war individual activists were also targeted by emergency measures and gaoled on the grounds of dubious accusations. The mentioned cases of E. D. Morel's and Bertrand Russell's imprisonment and the protective custody against the BNV secretary Lilly Janasch are exemplary for the escalation of repression after 1916. Activists in both countries reacted to these emergency measures in similar ways. The initial response to repressive emergency measures was to use the traditional instruments of the rule of law. The responses of the organisations in both countries were marked by a deeply-rooted legalism. This strict legalism also distinguished the activities of the UDC and German pacifist groups from those of revolutionary socialist groups or radical trade unionists. Members of UDC and BNV regularly filed legal appeals against emergency decrees in the hope that the judiciary would protect them against all too intrusive state measures.

Yet as we have seen earlier, judges themselves often understood their role on the home front more as legal warriors whose role it was to fight the 'enemies within'. That organisations such as the UDC and the BNV were seen as part of this category was not least the result of press campaigns against them. Ironically, the severe handling of censorship in Germany at least partially prevented a similarly extensive and hostile campaign as that which took place in Britain. Yet, in both countries the exercise of censorship was unbalanced and mainly targeting

dissenting newspapers and publications whilst the 'patriotic' press broadly operated without too much interference. The ways activist organisations reacted to the described state repression yet again featured some interesting similarities but also significant differences. In Germany, the DFG and BNV limited themselves to lobbying the Reichstag. This was at least partially successful when the majority parties in the parliament forced the Imperial Government to enact some reforms of the state of siege. The military commanders, however, kept most of the bans on pacifist activities in force until the end of the war.

Yet despite the obvious limitations of their strictly legalistic approach, neither the DFG nor the BNV attempted to collaborate with the radical socialist anti-war activists around Karl Liebknecht and Rosa Luxemburg. On the contrary, the German peace movement emphasised its patriotic motives and distanced itself from radical war resisters. Instead it was pointed out that allowing pacifist activities would benefit the German war effort as it would show the world that Germany was not the hotbed of militarism which the allied propaganda presented it as. This argument was most likely a tactical one but it also demonstrates that the German pacifists did not consider themselves as outside the national collective or as 'enemies within'. The UDC, on the other hand, took another route in its struggle for civil liberties in wartime. After the Union faced increasing repression by the British state, it changed the focus of its activities to the protection of civil liberties in wartime. For this purpose it collaborated closely with the National Council for Civil Liberties and other dissident organisations. In contrast to their German counterparts, the British campaign for civil liberties in wartime sought to address a mass audience. The UDC and NCCL also used a language of patriotism, which pointed out the liberal and democratic traditions of the British people. This was the

subversive attempt to turn the claims of the state propaganda to fight a war for freedom and democracy into a weapon of critique. The criticism that Britain had turned into a copy of what it claimed to combat by adapting authoritarian and militaristic policies became a commonplace in the debate about the state of exception. It was probably also the first time that this argument was broadly used in political discourse in Britain. Activists in Germany followed this development, however, it was not until 1920 that the New Fatherland League was renamed the German League for Human Rights. In both countries, however, civil liberties activism emerged as a direct result of the experiences of pacifist activists with the state of exception during the First World War.

Conclusion

The discussion of the experiences of pacifist activists under the state of exception demonstrated that the First World War was indeed a severe rupture in the political cultures of Britain and Germany. Under the circumstances of an increasingly total war, even politically well-integrated and middle-class organisations such as the UDC in Britain or the various academic-pacifist organisations in Germany became the target of repressive emergency measures. This cannot be entirely explained by the activities of these groups themselves. In contrast to the radical and revolutionary socialist anti-war movement, neither the UDC nor German groups such as the BNV openly opposed the war nor did they undertake significant efforts to end it by mass action. Instead of advocating revolutionary action against the war, pacifist organisations in both countries demanded the gradual democratic reform of foreign policy and the establishment of an international system of open diplomacy and arbitration. They faced, nevertheless, almost the same degree of repressive

emergency measures such as censorship, surveillance and imprisonment of leading activists. A probable explanation for this is the fact that pacifist activities were construed as a threat to the national war effort and national unity. As a consequence pacifist activists were also indiscriminately integrated into the vague category of 'enemies within'. This gave the authorities and, particularly in Britain, 'patriotic' press and associations enough justification to suppress their activities. The role of the right-wing press was here of particular importance in the process of constructing the category of 'enemies within'. The hostile press was certainly also a contributing factor to the authorities' attitude towards pacifist activities during the war.

Yet, activists reacted in similar ways to the challenges posed by emergency government under the state of exception. In both countries, organisations adhered to an almost exaggerated legalism and sought to avoid evoking the impression that the public accusations of seditious or treasonous acts would be right. The UDC sought to discourage German-born British subjects and enemy aliens from joining the Union, and in Germany the DFG and BNV publically distanced themselves from the radical anti-war opposition. These public statements and symbolic renunciation of radical anti-war activism, however, had no significant impact on the attitudes of the right-wing press and most authorities. They furthermore sought to use their contacts with sympathetic parliamentarians to raise their grievances in the House of Commons and the Reichstag. Whilst the German pacifists broadly limited themselves to lobbying the parliament, the UDC also embarked on a campaign for the protection of civil liberties in wartime. For this purpose it joined forces with anti-conscription groups and supported the activities of the National Council for Civil Liberties. This campaign addressed primarily other activists and working class audiences, yet it essentially failed to achieve its aims. For example, the campaigns

for prominent political prisoners such as Bertrand Russell or E. D. Morel could not achieve any major improvements of their internment conditions. Moreover, the majority of emergency degrees that were used to suppress the activities of pacifist groups remained in force until the end of the war and beyond. In Germany, it took until 1920 before the German League for Human Rights, a similarly dedicated activist organisation materialised. The fact, however, that it emerged from the New Fatherland League suggests a similar connection between the experiences under the state of siege and the commitment for civil liberties and democracy.

Despite the failure of the struggle for civil liberties during the First World War, the campaign has a particular historical significance. The issue of civil liberties as a field of dedicated activism emerged as a direct response to the experiences of activists under the state of exception. These experiences triggered an intensified debate about the character of the state, the legitimate boundaries of its actions and the individual rights of its citizens. It is thus necessary to understand the impact of emergency government and the activist responses to it as a defining moment in the history of the struggle for civil liberties. Moreover, the emergence of civil liberties activism during and after the First World War shaped the arguments and language that would later also be found in the discourses about human rights. Not least in this respect the experiences of the First World War shaped the political culture of the twentieth century.

Conclusions

The phenomenon of the state of exception offers a unique insight into the question of how European societies experienced and endured the First World War. The domestic politics of war, which were epitomised by its legal frameworks such as the Defence of the Realm Act in Britain or the state of siege in Germany, provide excellent materials to understand and analyse this problem. Furthermore, the comparative approach offered in this thesis helped to establish some of the shared essential features of the state of exception in Britain and Germany during the First World War as well as their national particularities. As we have seen, the First World War and its developments on the home fronts featured many aspects that affected the belligerent societies in very similar ways. The experience of emergency government during the war in Britain and Germany and its impact on their political culture illustrate this very well.

Continuity and Change: The First World War as a Laboratory for Radicalised Practices

The rise of the phenomenon of the state of exception as a paradigm of rule was a direct consequence of the emergence of the central state and of conceptions of the rule of law during the nineteenth century. In the German Empire and its predecessor states (particularly Prussia), the establishment of a written constitution in the wake of the 1848-49 revolutions triggered the almost simultaneous enactment of emergency laws. In Prussia, the Law regarding the State of Siege was enacted as early as 1851. It allowed the authorities to suspend those articles of the Prussian constitution that protected the most essential rights and liberties of its citizens. It

subsequently became part of the German imperial constitution of 1871 and remained unchanged until 1914.

The development of emergency government in Britain followed a different path, primarily due to the fact that no written constitution existed and hence no legislation suspending it was required. Instead of explicit comprehensive pieces of emergency legislation, individual acts of parliament served similar purposes to that of the state of siege in Germany. The Riot Act of 1714, for example, enabled local authorities to establish a temporary and spatially confined state of exception to deal with occurrences of public unrest. The proverbial reading of the Riot Act also enabled them to requisition troops and to order the application of lethal force against protesters. Throughout the nineteenth century, these powers were primarily used to suppress political dissent for example by the Chartists in the first half of the century, and social protest in form of strike movements in the second half. The development in Prussia and Germany bore similar trends. Troops were regularly brought in to quell strike movements particularly in the 1880s and 1890s. Yet, especially the Socialist Laws demonstrated that the concept of the state of exception had a profound political character apart from its function in keeping public peace and order. The militarisation of policing industrial unrests, however, increasingly clashed with liberal and progressive conceptions of the state. Incidents where the use of military force had led to fatalities amongst protesters triggered an intense criticism of the ways in which public order was policed. They eventually led to the emergence of modern professional police forces in both countries as agents of public order and security policies. In Germany, the emerging police forces also assumed the task of monitoring and suppressing the allegedly subversive activities

of the labour movement, something that emerged in Britain only a short time before the outbreak of the First World War.

Against this backdrop, the development of emergency government during the First World War has to be considered a continuation and aggravation of already existing tendencies in both countries. In Germany, the surveillance of labour activists and dissenting organisations and the militarised policing of strikes and protests were already well-established practices when the war came in 1914. The state of siege legislation merely abolished civilian control of the police forces and enabled the local military commanders to rule by decree in their districts. This removed the existing legal restraints to the described practices and facilitated their radicalisation. There was a strong element of continuity between the pre-war practices and the regime under the state of siege in Germany. The enactment of the Defence of the Realm Act in Britain, by contrast, marks a much more significant rupture with established pre-war practices. Ideals of the rule of law and liberal conceptions of the state such as those enshrined in the influential theories of Albert Venn Dicey explicitly rejected emergency laws. The Defence of the Realm Act with its wide-ranging emergency powers, its system of delegated legislation and the initial establishment of extra-ordinary courts martial was therefore probably the most radical break with legal and political traditions in modern British history. However, whereas the legal forms and the political circumstances of DORA were certainly marked by rupture, the exercise of emergency powers continued developments of the pre-war period.

In both countries, the emerging systems of emergency government and their development during the war should be understood as a process of modernisation of existing political practices. The prolonged character of the war and the escalating

domestic crises in both countries worked as a catalyst for the development of the state of exception from an instrument of public order policing into a complete paradigm of authoritarian rule.

Crises, Protest and Enforced Endurance: The Dynamics of Emergency Government during the War

In order to understand what drove the modernisation and radicalisation of emergency government during the war, we have to understand the societal contexts in both countries. The legal frameworks of emergency government in both countries were established in the first days of the war and then gradually amended and adapted throughout the duration of the war. Overall, however, the establishment of emergency government cannot entirely be explained by the necessities of war itself. Most of the policies set into operation in the early weeks of the war had been designed in the years before 1914 and were strongly influenced by pre-war assessments of the potential political developments in case of a major European war. In Germany, the authorities maintained their repressive attitude towards the organised labour movement despite the domestic truce policy of the *Burgfrieden* even though no serious opposition to the war emerged until mid-1916. The British War Book, which contained the main departmental policies, was strongly influenced by the experiences of the Second Boer War of 1899-1902. In the years immediately before the First World War, the British military pushed for the preparation of a wide-ranging emergency powers bill, which was, nevertheless, blocked by the Asquith Cabinet. In August 1914, however, government and parliament met the demands of the military almost entirely fulfilled and without

discussions. Whereas in Germany the declaration of the state of siege was merely an automatic response to the outbreak of the war, it was a deliberate political decision in Britain. The reasons for this decision cannot be established with certainty and will remain open for interpretation and discussion.

Nonetheless, although the given powers were wide-ranging and barely controlled by legal and political instances, the first two years of the war were marked by a remarkable self-restraint in both countries. In Britain, the Asquith administration favoured a 'business as usual' approach to the conduct of the war. However, the growing need to fully mobilise the industrial and manpower resources of the country and the linked pieces of legislation such as the Munitions of War Act of 1915 and the introduction of conscription in January 1916 facilitated the emergence of large-scale protest movements. Anti-war protest was soon perceived as a vital threat to the war effort and, in reaction, emergency powers were increasingly used to suppress it. Developments in Germany featured a similar dynamic. Here, the local military commanders in their army corps districts monopolised the executive power and followed their own political agenda in exercising them. And despite the fact that soon after the outbreak of the war, emergency decrees regulated almost every aspect of daily life, a certain leniency seems to have prevailed at least for those who were perceived as being part of the wartime national community. Yet, with the aggravated crisis in food supplies and the increasing mobilisation of industrial and manpower resources from 1916 onwards, emergency powers were exercised increasingly harshly.

The total mobilisation on the home fronts triggered a dynamic of protest and repression in which emergency powers played a crucial role. Yet, repressive emergency measures must not only be understood as a reaction to radicalised

protests. They were also means to enforce endurance against the backdrop of faltering self-mobilisation and growing war weariness in Britain and Germany. There were, of course, attempts to use extensive propaganda campaigns to stimulate societal mobilisation, yet the repression of protests and strikes was a crucial factor to maintain the war effort. The ways this was achieved differed to a degree between Britain and Germany. In Germany, the police forces soon proved to be insufficiently staffed and equipped to deal with large-scale protest. This led to an increased militarisation of the policing of strikes and additionally fuelled to logic of radicalisation and confrontation. In Britain, on the other hand, the military was only reluctantly used to suppress strikes and protest. Instead, patriotic civilian organisations and newspapers such as the *Daily Express* and the *Morning Post* organised violent mobs that regularly broke up anti-war meetings and demonstrations often with the tacit support of the police. This strategy, however, helped the authorities to avoid the use of uniformed policemen and soldiers in direct confrontations with organised dissenters, thus avoiding a similar spiral of escalation of protest and repression as in Germany. Nevertheless, the violent suppression of strikes in Liverpool and Glasgow in 1919 as well as the deployment of troops in Ireland after 1916 illustrates that the British government and military leadership was prepared and willing to use harsh violence to quell unrest. The development and gradual extension of emergency powers during the war has to be seen as part of a dynamic development. The totalisation of warfare, the total mobilisation of national resources, strikes and anti-war protest as well as emergency measures were entangled and interdependent aspects of wartime politics in both countries.

The Enemies Within

The exercise of emergency powers during the war did not affect everyone in the same way. The agents of emergency government in the police, military and the judiciary were strongly influenced by concepts of domestic enmity and understood their function on the home fronts as being the guardians of the wartime national collective. Hence, the majority of repressive emergency measures were directed against specific groups that were construed as outside these wartime national communities. Initially, this concerned groups of enemy aliens against whom the first extremely repressive emergency measures such as detention without trial were directed. These persons were often treated as representatives of the external enemy on the home front. Yet, the measures against enemy aliens seem to have been a testing ground for practices that were eventually also used against anti-war dissenters and strike leaders. Practices such as detention without trial, restriction orders or deportations from certain areas were first used against enemy aliens but later also used to prevent or quell protest. In the same way that repressive emergency measures were extended to more and more groups, so too were the accompanying discourses about 'enemies within'. This initially narrow concept was gradually extended throughout the war and eventually included diverse groups such as pacifists, socialist dissenters, communist revolutionaries but also marginalised groups such as prostitutes, homosexuals and vagrants. They all had in common that they were perceived as being outside the national communities and as a threats to the successful conduct of the war. The discourses about the enemies helped to reinforce the ideas and boundaries of national unity and solidarity, yet they also justified the unrestrained use of emergency powers against those outside these imagined communities. The ideas of the enemies within were often based on pre-

existing stereotypes. In Germany, the concept of ‘enemies of the realm’ formed part of the professional mentality of the police, judges and military at least since the time of the Socialist Laws. In Britain, these concepts seem to have emerged in their elaborate form during the war but they were certainly founded in Victorian notions of respectability and reliability. Yet, also here emergency measures primarily targeted those constructed as ‘enemies in the midst’ – a term initially used for enemy aliens but later also extended to anti-war dissenters and strikers. These definitions were in many cases arbitrary and not necessarily based on the actual activities of those defined as enemies within. It seems, however, the more idealised and the more ideologised the construction of the wartime national communities became, the more antagonistic and radicalised the conceptions of the enemies within appeared.

Responses to Emergency Government

The case studies of the Union of Democratic Control and the German pacifist organisations have demonstrated that the responses to repressive emergency measures were indeed ambiguous. Organised anti-war protest in both countries was heterogeneous and far from being a unified movement. Nevertheless, the perception of these diverse activist organisations by the authorities often showed little differentiation and made them almost indiscriminately targets of emergency measures. Members of these organisations reacted in different ways, yet they also showed some comparable patterns in their responses to emergency measures. For activists with a background in the radical labour movement experiences of repressive emergency measures certainly contributed to a radicalisation process and

antagonistic politics. The initial enthusiasm with which, for example, the Independent Labour Party and the British Socialist Party welcomed the Russian February Revolution in 1917 provides evidence for this tendency. Yet, it seems that this radicalisation in Britain remained constrained to a comparatively small group of activists during the war. In Germany, by contrast, the combination of social grievances and anti-war protest facilitated a radicalisation of large swathes of the organised working classes from 1917 onwards. This process was reinforced by the increasingly militarised policing of the home front and eventually paved the way for the revolutionary overthrow of the old political order of the Empire. A comparable radicalisation of working class protest occurred in Britain only after the war in 1919.

The example of moderate critics of the war demonstrates, however, that the responses to emergency measures were often complex and multi-faceted. Instead of rejecting the existing political order, organisations such as the Union of Democratic Control in Britain and New Fatherland League in Germany advocated democratic reforms and appealed to progressive notions of national identity. Particularly the UDC emphasised the liberal and democratic traditions in British history and saw its main task as defending established 'British' liberties and freedoms against the intrusions of the wartime state. In its wartime pamphlets and speeches, the UDC used strikingly modern concepts of civil liberties and 'deep' democracy, which seemed to foreshadow some of the later discourses about civil liberties and human rights. In the context of these campaigns for civil liberties in wartime, being patriotic and being critical towards the war were not necessarily incompatible. The German activists also sought to present their activities as an expression of pacifism, yet they were not as able to appeal to a positive notion of

patriotism as long as the authoritarian order of the Empire prevailed. Nevertheless, many German pacifists embraced the newly-founded Weimar Republic and promoted similar ideas and ideals to those the UDC sought to popularise during the war. In 1922, this development was underlined by the renaming of the wartime New Fatherland League as the German Society for Human Rights. During the interwar years the leadership of the UDC and the German activists established and maintained amicable contacts and promoted a shared notion of democratic pacifism based on the concept of civil liberties.

For some activists the experience of massive state repression seems to have facilitated a turn towards revolutionary and antagonistic politics. This was certainly the case for those already on the left of the organised labour movement. Other activists, however, reacted to the experience of unrestrained repressive state power by re-appreciating and reaffirming concepts such as democracy, the rule of law and the idea of civil liberties.

Perspectives for Future Research

As a whole, this thesis has offered a comparative perspective on the phenomenon of emergency government in Britain and Germany during the First World War. Yet, some questions about the impact of experiences with state of exception during the First World War on the developments in the interwar period remain open. More comparative studies are needed to understand how the various systems of emergency government influenced endurance on the home fronts in other belligerent countries such as France, Russia, Austria-Hungary or Italy.

Furthermore, the impact of these phenomena on the development of political thought in Europe and beyond deserve a thorough analysis.

In addition, the question how practices and experiences of the First World War fed into the emerging systems of totalitarian rule in the 1920s and 1930s provides a fascinating avenue for further research. All of these future projects should, however, appreciate the possibilities of comparative and transnational approaches to understanding the First World War and to locating it in the wider trajectory of the political, social and cultural history of the twentieth century. This is something that can only be achieved, if the established constraints of national historical narratives are overcome.

Appendices

1. Law regarding the State of Siege of 4 June 1851 (*Gesetz über den Belagerungszustand vom 4. Juni 1851*)

§1 – In case of a war, every commander of a fortress, or commanding general of an army corps district, in areas threatened or already occupied by the enemy, is authorised to declare the state of siege for his fortress and the belonging rayon, or army corps district either in parts or as a whole.

§2 – The state of siege can also be declared in times of peace and war in cases of insurgencies when urgent danger for the public security is imminent.

In these cases the declaration of the state of siege is issued by the State Ministry, but can also provisionally be ordered by the highest commanding military officer in a district, which is subject to the confirmation by the State Ministry. Under usual circumstances the chief administrative officer of a governmental district will request this from the respective local military commander. However, in cases of exigencies and imminent danger local military commanders will be able to declare the state of siege on their own capacity.

§3 – The declaration of the state of siege is to be announced with drum beat and bugle-call, notice to local authorities as well as printed notices in public places without delay. The revocation of the state of siege is to be announced by notice to the local authorities and public notices.

§4 – All executive powers demise to the military commander with the declaration of the state of siege. The civilian and municipal authorities are bound to follow decrees and orders of the military commanders.

The military commanders are personally accountable for their respective orders.

§5 – If it is deemed necessary to suspend the articles 5, 6, 7, 27, 28, 29, 30, and 36 of the constitutional charter, individually or as a whole, temporally and district-wise, a public notice as described viz. §3 is required.

The suspension of the mentioned articles is only permissible for districts in which the state of siege has been declared, and only for the duration of its declaration.

§6 – For the duration of the state of siege all military personnel is subject to the laws enacted for the state of war. They are also subject to §8 and §9 of this law.

§7 – In places and districts under the state of siege the local military commander exercises the military jurisdiction over all military personnel.

He also has the right to confirm all martial law verdicts. Exempted from this prerogative are in peace time death sentences, which are subject to confirmation by the commanding general of the province.

Regarding the handling of minor military offences, the provisions of the military penal code remain in force.

§8 – If a person commits intentional arson, intentionally endeavours to bring about a flood, commits an armed attack with weapons or dangerous articles on the armed forces or representatives of military or civilian authorities shall be sentenced to death.

If there are mitigating circumstances the death sentence can be commuted to 10 or 20 years of penal servitude.

§9 – If a person, in a district or place in which the state of siege is declared, endeavours to:

- a) make false statements regarding the numbers, marching directions, or alleged successes of the enemy or insurgents, which are likely to mislead the civil and military authorities, or
- b) break a decree or prohibition issued by the military commander in the interest of the public security, or incites others to do so, or
- c) incite others – successfully or without success – to the felonies of insurgency, resistance, liberation of prisoners, or other offences viz. §8, or
- d) incite military personnel to the felony of insubordination or breaches of military discipline, shall be – if the laws do not provide a more severe punishment – sentenced to 1 year of penal servitude.

§10 – If article 7 of the constitutional charter is suspended, the established courts martial are responsible for the investigation and prosecution the felonies of high treason, treason, murder, insurgency, resistance, destruction of railways and telegraphs, liberation of prisoners, mutiny, robbery, looting, ransom, incitement to insubordination, and the offences under §8 and §9 in so far as the aforementioned offences are committed after the declaration of the state of siege.

High treason and treason are – until a penal code for the whole monarchy is enacted – defined in accordance to the §§ 75 and 106 of the Rhenish penal code all offences and felonies against the domestic and foreign security of the state.

If the suspension of § 7 is in peace time not ordered by the State Ministry, the proceedings and sentences of courts martial are suspended until the State Ministry confirms them.

§11 – Courts martial consist of five members, of which two have to be judges of the local civilian courts of law and three military officers appointed by the local commanders. The appointed officers should at least hold the rank of captain. If no sufficient numbers of high-ranking officers are available, the next lower ranking officers are to be co-opted.

If in a besieged fortress no civilian judges are present, the local commander can replace them by members of the municipal council. Is no civilian judge present in a fortress, at least an auditor is always member of the court martial.

The number of courts martial depends on the necessities of the commanding generals in which the state of siege is declared. The size of the circuit is defined by the commanding general.

§12 – Courts martial are presided by a judge. The presiding judge is responsible to ensure that the civilian and military members of the court who are no professional judges themselves are instructed and sworn in on the impartial, legal, and conscientious conduct of the trial.

The commanding general appoints an auditor or officer as a reporter. The reporter is obliged to control the application of the law and to facilitate the finding the truth. The reporter has no vote in the trial.

A civil servant appointed by the military commander serves as court writer.

§13 – The proceedings before courts martial shall be conducted as follows:

1. The proceedings is to be held in presence and public; the public can be excluded by a public declaration if it is in the interest of the public good.
2. The defendant has the right to a legal counsel. If he does not choose a barrister and the offence is likely to be punished with more than one year of penal servitude, the president of the court will provide him with one ex officio.
3. The court reporter reads out the charges brought forward against the defendant. The defendant is then asked to explain himself. The presentations of the other bodies of evidence follows. The court reporter presents the results of the parole evidence and the provisions of the law, the last statement is made by the defendant and his legal counsel. The verdict is decided by majority decision of the court after immediate non-public deliberation and is handed-down to the defendant immediately.
4. The court can pass a sentence according to the law, acquit the defendant or refer the case to an ordinary court of law. Acquitted defendants are to be immediately released from custody. The referral to an ordinary court of law is chosen if the court martial declares itself not competent, in such case the custody is either to be prolonged or suspended by the court.
5. The verdict – which includes the day of the trial, the names of the judges, the summary statement of the defendant, the summary of the reviewed evidence, and the legal basis of the verdict – is to be signed by all judges and the court writer.
6. There is no appeal to decisions of the court martial. The death sentences are subject to confirmation by the commanding military officer viz. §7, and peace time by the commanding general of the province.
7. All sentences with the exception of the death penalty are to be executed within 24 hours after the rendition of the sentence. Death penalties are to be executed with 24 hours of their confirmation.

8. Death sentences are executed by firing squad. Death sentences not executed after the revocation of the state of siege, are commuted by an ordinary court of law into the equivalent punishment of the same felony under civilian jurisdiction.

§14 – The courts martial cease their activity after the state of siege is revoked.

§15 – After the revocation of the state of siege all passed sentences and bodies of evidence and proceedings are to be transferred to the ordinary courts of law. The ordinary courts of law will hear all unresolved proceedings and will pass sentences according to the ordinary laws except for those offences created under §9.

§16 – Also in cases of war and insurgency in which the state of siege is not declared, the State Ministry can suspend the articles 5, 6, 27, 28, 29, 30, and 36 of the constitutional charter, individually or as a whole, for certain defined districts.

§17 – The chambers of parliament are to be informed immediately respectively at their next convention about the suspension of the articles viz. §5 or viz. §16.

§18 – All laws and decrees with contradicting provisions are hereby revoked.

(Source: Preußische Gesetzsammlung 1851, p. 451, translation by André Keil)

2. Law regarding the Detention and Restriction of Presence on Basis of the State of War and State of Siege of 4 December 1916 (Protective Custody Law)

(Gesetz betreffend die Verhaftung und Aufenthaltsbeschränkung auf Grund des Kriegszustandes und des Belagerungszustandes vom 4. Dezember 1916)

Great Headquarter, 4 December 1916

We Wilhelm, by the grace of god German Emperor, King of Prussia etc.

decree in the name of the Empire, after receiving consent of Reichstag and Federal Council what follows:

§1 - Detention or restriction of presence by the executive power on the basis of the state of war and siege are only permitted if they are necessary to avert dangers for the security of the empire.

§2 - The warrant is to be issued in written form and to be given to notice to the detainee immediately during or after the arrest. A written copy is to be issued if demanded. The reasons for the detention are to be stated in the warrant.

§3 - Every detainee has the right to appeal against his detention at the Imperial Military Court [*Reichsmilitärgericht*]. Detainees have to be informed about this possibility when

the warrant is issued. The Imperial Military Court decides about appeals with a staff of four judges and three military members.

The Imperial Military Court can order an oral proceeding. It is obliged to do so, if the detainee demands it. The detainee can be interrogated by a judge or his deputy.

§4 - The detainee has to be interrogated at latest one day after his arrest by a judge regarding whether and if so what objections against his detention are raised.

§5 - A warrant is to be revoked if the reasons and purpose of the detention have become obsolete, or after three months after the date of arrest have passed.

A new warrant for the continuation of the detention after a period of three months can only be ordered after the renewed examination of the circumstances. For this purpose a decision by the Imperial Military Court is necessary even if no appeal has been made.

§6 - §116 of the code of criminal procedure applies to the execution of the detention.

§7 - The detainee has the right to a legal counsel. The provisions of §§137 para. 2 and §§138 of the code of criminal procedure apply here.

§8 - The judge in whose circuit the arrest has been made or in which the detainee is present, can provide the detainee with a legal counsel ex officio. A legal counsel has to be provided if the detainee demands it after a period of two weeks of detention. The detainee has to be informed about this right during his interrogation. The appointment of a legal counsel is obsolete if the detainee chooses his own legal advisor.

§9 - The defence barrister has the right to see the occurring files regarding the detention. Written and oral communication between detainee and legal counsel is admitted.

§10 - The legal counsel of a detainee and her husband are to be admitted as amices curiae and are to be heard if demanded.

§11 - The provisions of §§2 to 5 and §§7 to 10 of this law are also to be applied to restrictions of presence.

§12 - A detention under this law is offsettable against other prison sentences.

§13 - If the Imperial Military Court revokes the detention because its reasons and circumstances were not given for its declaration and continuation, the detainee is entitled to compensation.

The Imperial Military Court can award claims for compensation also in cases, in which it did not revoke the detention or restriction of presence itself.

The claim for compensation arises against the Empire, if the detention was ordered by a military commander or imperial civil servant. In all other cases the claim arises against the federal state of which a civil servant ordered the arrest. As for the rest, the provisions of the Imperial Law of 14 July 1904 apply to the claim of compensation and its proceeding. The necessary guidelines for its execution are issued by the Federal Council.

(Source: Gesetz, betreffend die Verhaftung und Aufenthaltsbeschränkung auf Grund des Kriegszustandes und des Belagerungszustandes vom 4. Dezember 1916.“ Reichs-Gesetzblatt, p. 1329, translation: André Keil)

3. The Defence of the Realm Consolidation Act, 1914

(5 Geo. 5, c. 8).

An Act to consolidate and amend the Defence of the Realm Acts.

[27th November, 1914.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1.

(1) His Majesty in Council has power during the continuance of the present war to issue regulations for securing the public safety and the defence of the realm, and as to the powers and duties for that purpose of the Admiralty and Army Council and of the members of His Majesty's forces and other persons acting in his behalf; and may by such regulations authorise the trial by courts-martial, or in the case of minor offences by courts of summary jurisdiction, and punishment of persons committing offences against the regulations and in particular against any of the provisions of such regulations designed —

- (a) to prevent persons communicating with the enemy or obtaining information for that purpose or any purpose calculated to jeopardise the success of the operations of any of His Majesty's forces or the forces of his allies or to assist the enemy; or
- (b) to secure the safety of His Majesty's forces and ships and the safety of any means of communication and of railways, ports, and harbours; or
- (c) to prevent the spread of false reports or reports likely to cause disaffection to His Majesty or to interfere with the success of His Majesty's forces by land or sea or to prejudice His Majesty's relations with foreign powers ; or
- (d) to secure the navigation of vessels in accordance with directions given by or under the authority of the Admiralty ; or
- (e) otherwise to prevent assistance being given to the enemy or the successful prosecution of the war being endangered.

(2) Any such regulations may provide for the suspension of any restrictions on the acquisition or user of land, or the exercise of the power of making byelaws, or any other power under the Defence Acts, 1842 to 1875, or the Military Lands Acts, 1891 to 1903, and any such regulations or any orders made thereunder affecting the pilotage of vessels may supersede any enactment, order, charter, byelaw, regulation or provision as to pilotage.

(3) It shall be lawful for the Admiralty or Army Council —

(a) to require that there shall be placed at their disposal the whole or any part of the output of any factory or workshop in which arms, ammunition, or warlike stores or equipment, or any articles required for the production thereof, are manufactured

(b) to take possession of and use for the purpose of His Majesty's naval or military service any such factory or workshop or any plant thereof;

and regulations under this Act may be made accordingly.

(4) For the purpose of the trial of a person for an offence under the regulations by court-martial and the punishment thereof, the person may be proceeded against and dealt with as if he were a person subject to military law and had on active service committed an offence under section five of the Army Act:

Provided that where it is proved that the offence is committed with the intention of assisting the enemy a person convicted of such an offence by a court-martial shall be liable to suffer death.

(5) For the purpose of the trial of a person for an offence under the regulations by a court of summary jurisdiction and the punishment thereof, the offence shall be deemed to have been committed either at the place in which the same actually was committed or in any place in which the offender may be, and the maximum penalty which may be inflicted shall be imprisonment with or without hard labour for a term of six months or a fine of one hundred pounds, or both such imprisonment and fine ; section seventeen of the Summary Jurisdiction Act, 1879, shall not apply to charges of offences against the regulations, but any person aggrieved by a conviction of a court of summary jurisdiction may appeal in England to a court of quarter sessions, and in Scotland under and in terms of the Summary Jurisdiction (Scotland) Acts; and in Ireland in manner provided by the Summary Jurisdiction (Ireland) Acts.

(6) The regulations may authorise a court-martial or court of summary jurisdiction, in addition to any other punishment, to order the forfeiture of any goods in respect of which an offence against the regulations has been committed.

2.

(1) This Act may be cited as the Defence of the Realm Consolidation Act, 1914.

(2) The Defence of the Realm Act, 1914, and the Defence of the Realm (No. 2) Act, 1914, are hereby repealed, but nothing in this repeal shall affect any Orders in Council made thereunder, and all such Orders in Council shall, until altered or revoked by an Order in Council under this Act, continue in force and have effect as if made under this Act.

(Source: *Defence of the Realm Manual*, 28 February 1918 [London: HMSO, 1918], pp. 1-5)

4. The Defence of the Realm (Amendment) Act, 1915

(5 Geo. 5, c. 34).

An Act to amend the Defence of the Realm Consolidation Act, 1914. [16th March 1915.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

(1) Any offence against any regulations made under the Defence of the Realm Consolidation Act, 1914, which is triable by court martial may, instead of being tried by a court martial, be tried by a civil court with a jury, and when so tried the offence shall be deemed to be a felony punishable with the like punishment as might have been inflicted if the offence had been tried by court martial.

(2) Where a person, being a British subject(a) but not being a person subject to the Naval Discipline Act or to military law, is alleged to be guilty of an offence against any regulations made under the Defence of the Realm Consolidation Act, 1914, he shall be entitled, within six clear days from the time when the general nature of the charge is communicated to him, to claim to be tried by a civil court with a jury instead of being tried by court martial, and where such a claim is made in manner provided by regulations under the last-mentioned Act the offence shall not be tried by court martial

Provided that this subsection shall not apply where the offence is tried before a court of summary jurisdiction:

Provided also that before the trial of any person to whom this section applies, and as soon as practicable after arrest, the general nature of the charge shall be communicated to him in writing and notice in writing shall at the same time be given, in a form provided by regulations under the said Act, of his rights under this section.

(3) In addition and without prejudice to any powers which a court may possess to order the exclusion of the public from any proceedings, if, in the course of the trial of a person for a felony under this section, application is made by the prosecution, in the interests of national safety, that all or any portion of the public should be excluded during any part of the hearing, the court may make an order to that effect, but the passing of sentence shall in any case take place in public.

(4) The Vexatious Indictments Act, 1859, as amended by any subsequent enactment shall apply to a felony under this section as if it were included among the offences mentioned in section one of that Act, but a felony under this section shall not be triable by a court of quarter sessions.

(5) For the purpose of the trial of a person for a felony under this section the offence shall be deemed to have been committed either at the place in which the same actually was committed or in any place in the United Kingdom in which the offender may be found or to which he may be brought for the purpose of speedy trial.

(6) An indictment under this section shall not be deemed void or defective by reason that the facts or matters alleged in the indictment for the felony amount in law to treason; and if the facts or matters proved at the trial of any person indicted for any felony under this section amount in law to treason, the person shall not by reason thereof be entitled to be acquitted of such felony; but no person tried for such felony shall be afterwards prosecuted for treason upon the same facts.

(7) In the event of invasion or other special military emergency arising out of the present war. His Majesty may by Proclamation forthwith suspend the operation of this section, either generally or as respects any area specified in the Proclamation, without prejudice, however, to any proceedings under this section which may be then pending in any civil court.

(8) The expression "British subject" in this section include a woman who has married an alien but who before the marriage was a British subject.

(9) In the application of this section to Scotland "a civil court with a jury" means the High Court of Justiciary, and subsection (4) shall not apply.

(10) This section shall apply in the case of offences committed and persons arrested before as well as after the passing of this Act.

2. In Ireland a person charged with an offence against any regulations made under the Defence of the Realm Consolidation Act, 1914, before a court martial shall not, nor shall the wife or husband, as the case may be, of a person so charged, be a competent witness, whether the person so charged is charged severally or jointly with any other person.

3. This Act may be cited as the Defence of the Realm (Amendment) Act, 1915.

(Source: Defence of the Realm Manual, 28 February 1918 [London: HMSO, 1918], pp. 5-8)

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