

UDC 371.1.8

DOI <https://doi.org/10.30970/PPS.2023.49.29>

FEATURES OF THE INTERACTION OF LAW AND MORALITY IN MODERN INTERNATIONAL RELATIONS

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The relevance of the issue of the interaction of law and morality in modern international relations is determined by a number of challenges facing the world community today. Solving many problems requires international cooperation based on legal norms and moral values. In particular, the issue of human rights protection, the resolution of war and peace, the spread of local and regional conflicts, the threat of terrorism and cybercrime, as well as the issue of the responsibility of countries to international organizations and compliance with the norms of international law.

The problem of the relationship between morality and law is analyzed, such issues as: moral principles and values of international law, the moral factor in the lawful and unlawful behavior of subjects of international law, the relation between international morality and power, international legal morality, war and intercivilizational conflicts are highlighted. It is argued that law and morality are two interrelated concepts that influence the decision-making process and behavior in modern international relations. In general, international law and international morality differ from the point of view of forms, methods, means and possibilities of regulating the system of international relations. Legal regulation involves the use of means of coercion (international court, military, political and economic sanctions, exclusion from members of intergovernmental organizations, etc.), and moral regulation involves the use of world public opinion (sometimes its influence on the subject of international relations can be more effective than the action of international rights). However, this does not cancel their unity and interaction as the most important regulator of the system of international relations and, at the same time, requires a deep understanding of their specific features. This is especially important in the conditions of world development in the direction of global integration.

Key words: morality, international law, moral principles, values of international law, international relations.

Today, the world faces complex challenges and tasks related, in particular, to the global nature of a number of problems (such as climate change, pandemics, poverty, and others), which also have a moral component, local and regional conflicts, low efficiency of some international organizations, non-compliance with international agreements and obligations, etc. The issue of preserving global peace and the problem of arms trade, ensuring human rights and encroaching on the territorial integrity of states under the pretext of protecting citizens, settling problems by international organizations in some countries by military means, as well as the dominance of superpowers in international relations are particularly acute. Solving these problems requires a balance between legal norms and moral values, joint efforts and a deep moral obligation to take measures that contribute to the common good.

Law and morality are two distinct but interrelated concepts that influence the decision-making process and behavior in modern international relations. Legal frameworks determine norms and regulate the behavior of states and other participants in foreign policy relations,

while morality reflects a system of values and ethical beliefs that determine the behavior of people and society in general.

The interaction of law and morality in society is a complex and multifaceted process. Actively influencing morality, law contributes to its deeper rooting in society, at the same time, under the influence of moral requirements, law is constantly enriched, its role as a social regulator of social relations grows.

Law and morality have a common purpose for them – it is an influence on the behavior of subjects; the functioning of law and morality is not objectively limited by a certain sphere of social relations, they operate in a single field of social relations; law and morality have a common functional purpose, they form standards of behavior, value-normative orientation of society; they are characterized by structural unity, since they form their own systems, which include social relations, social consciousness and norms, law and morality are based on the commonality of socio-economic interests, society's culture, people's commitment to the ideals of freedom and justice, they have a single spiritual nature, a single core value is justice.

Morality and law complement each other. Legal norms serve and should serve as guides of morality, to consolidate and protect the moral foundations of society. The power of laws increases a hundredfold if they are based not only on power, but also on public morality. The legal system of a state-organized society enshrines moral requirements that are vital for the entire society. The legislative power, in its work on improving the law, takes into account the state of social morality, the ethical culture of the population, proceeds from the fact that the law must be ethical, laws must be fair and humane.

With the help of law, the state strives to establish progressive moral standards in the minds of citizens, the entire population, and fights injustice, evil, and vices. In turn, morality affects the legal life of society, the development of law, and together with it contributes to the strengthening of public order.

The question of the relationship between law and morality always emerges with the greatest urgency in periods of intensification of crisis phenomena, when society is undergoing a serious transformation in almost all spheres of social life. The modern world system is dynamically transforming along a complex trajectory: the role of states, intergovernmental and non-governmental organizations, transnational corporations and other actors in the international arena is undergoing significant changes. Therefore, the evaluation of the modern world order from a moral standpoint and the identification of prospects for its future development require scientists to search for new methods and approaches in the study of international legal reality. In general, the interaction of international law and morality, their dialectic unity is not exhausted by the commonality of the basic principles of behavior of international subjects. This unity is based on: a) their genetic commonality (that is, the commonality of social foundations of origin, due to a special type of social relations); b) their functional commonality is the commonality of their normative and valuable nature (both law and morality are mandatory rules of behavior that receive the role of a legal rule and a moral obligation and responsibility for its violation [7]). These rules reflect the current level of development of the international system and human civilization as a whole.

Law and morality are social regulators, the structural and functional characteristics of which are revealed through the concept of normativity, which is inseparable from the social activity of people, their social relations and existence. Social norms arise from the objective need of social systems for self-regulation, maintaining stability and order; the norm arises in the process of human activity, which is objectively determined by the method of production; the norm is inseparable from exchange relations, the nature of which is also determined by the method of production and distribution; material and spiritual goods, which are the object of exchange relations, are not arbitrary, but given by the existing economic and socio-cultural conditions [12, p. 15].

Discovering the issue of the interaction of law and morality, most jurists are of the opinion that everything regulated by law is somehow subject to moral evaluation. The position of P. E. Nedbailo was different, who believed that “there were such spheres of social relations, the regulation of which was morally indifferent due to the fact that they did not require a moral assessment, where only legal influence was sufficient. These included, for example, the procedure for inspecting the scene of the incident, rules for keeping court protocols, notarization of documents, procedural terms, terms for convening Council sessions, many management actions, etc.” [13, p. 2–33].

It is also necessary to take into account that morality and legal unity do not mean the identity of international law and international morality. In some principles, legal elements survive (for example, in the principle of sovereign equality of states, the principle of inviolability of borders and territorial integrity), and in others, on the contrary, moral elements (for example, in the principle of cooperation, the principle of respect for human rights, the principle of equality). The content and nature of international theories, in particular their moral orientation, were applied by international scientists of various scientific fields in their own time. Thus, representatives of the school of political idealism expressed their belief in the possibility of ending wars and armed conflicts through legal regulation, democratization of international relations, and their “moralization”. According to the representatives of the school of political realism, the international activity of states is based on the desire to increase their power. The realist theory of the theory of international relations focuses mainly on the study of such qualities of politics as intelligence, will, practical results, and not their moralistic judgments and devotion to abstract moral principles [4, p. 46–47]. Therefore, scientists note that moral and legal unity means only the identity of their ideological content. Within the framework of the stipulated unity, morality and law are characterized by significant differences, which the subjects of international relations must take into account when analyzing the role they play in the regulation of international relations.

Legal norms have a fixed and institutional nature. They are prescribed in relevant statutes, agreements, international treaties and other documents. International law is closely related to state institutions and international organizations (UN, Council of Europe, regional organizations, etc.). Depending on the context, the term “international law” can be used in relation to any of four slightly different concepts or a certain combination of them: positive international law – a set of special kind of agreements (treaties, conventions, declarations, protocols) concluded by states; customary international law – constitutes an unwritten account of rules of conduct that are followed by informal consent; principles of international law underlying positive and customary international law; theory of international law [9, p. 239–240]. Thus, the system of international law covers such elements as legal consciousness, legal relations, and legal institutions.

Law and morality as social regulators also invariably deal with the problems of the individual's free will and his responsibility for his own actions. “Freedom of will” is how this problem is traditionally defined, which is important for clarifying a person's attitude to the outside world, his orientation in the sphere of morality and law. In the legal sphere, freedom of will is the ability and opportunity of a person to make their own choices and behave in accordance with personal interests and goals, provided that certain rights are exercised, obligations are fulfilled, and responsibility is taken. Such a choice is always made under the influence of an indefinite number of factors (material and immaterial), incomplete knowledge of which manifests itself in this situation as a real limitation of behavior. As for the determining nature of the influence of such factors, it is conditioned by: “first, the objective possibilities of the process of satisfying individual needs and interests; secondly, the official requirements of the current legal act; thirdly, the requirements of morality, public order and the common good” [14, p. 10].

At the same time, it should be taken into account that morality consists in unwavering adherence to ideals, norms and values. Politics itself, and international politics in particular, is characterized by such a constant as "interest" and not "ideal". This determines the need for constant changes in the political course of the state, the implementation of which is oriented towards the realization of an interest, but not of an ideal. Hence the simple and instrumental criterion for assessing the degree of morality (or not) of foreign policy: a course that meets the interests of the country is moral [8, p. 61–85]. In this contest, it should be noted that, in particular, geopolitical approaches in the study of international relations are completely immoral, because within the framework of these directions, emphasis is placed on geographical, not ethical factors of world politics [6, p. 17–26]. Therefore, participants of international relations are guided by those moral norms that have developed in the process of international communication. These norms are based on universal patterns of behavior and interaction in the international arena, which were developed in the course of human history. In addition, in the process of drafting and development of norms of international morality, such a social institution as science plays a major role.

International morality and international law also differ in their spheres of action: moral norms have an all-encompassing character, while law has a limited sphere of action at any particular moment. However, in many cases, international relations are regulated by both legal and moral norms (for example, military aggression is a violation not only of generally accepted international legal norms, but also a moral crime). In general, moral norms are broader and more flexible in their content than legal norms:

- firstly, moral and legal norms are closely related to the value system developed in a certain social community. This community itself determines the choice of means to satisfy its needs and interests. But in order for these means to be adequate and guarantee the achievement of the set goal, they must be consistent with mandatory patterns of behavior in the system of international relations, which are defined as moral or permissible in a specific situation.

- secondly, the degree of consistency of the subject's behavior with them depends on their success in the system of international relations and determines not only the predictability of their actions, but also the dynamic balance of the international system itself;

- thirdly, not all universal links of behavior can be formalized in international legal norms. A much larger part of them is fixed in the norm of international morality;

- fourthly, each ethnic, territorial or functional community has its own specific patterns of behavior and its own value systems that do not come under the influence of international law and morality;

- fifth, if moral norms allow and even provide for the transformation of such rules and norms taking into account one's own patterns of behavior and values, then this is contraindicated for legal norms. They are only calculated on the external behavior of the subject, are mainly rational in nature, their boundaries are clearly defined and aimed at achieving the standards of such behavior [3, p. 231].

International law and international morality differ from the point of view of forms, methods, means and possibilities of regulating the system of international relations. Legal regulation involves the use of coercive means (international court, military, political and economic sanctions, exclusion from members of intergovernmental organizations, etc.), and moral regulation involves the use of world public opinion (sometimes its influence on the subject of international relations can be more effective than the action of international rights). It should be noted that the specificity of international law is that, unlike domestic legislation, its norms are, as a rule, of a recommendatory nature [5, p. 193–194]. Along with this, in the history of international law, there are cases of mandatory and violent application of the norms of this law, but they always create

problematic situations (for example, the application of UN international law to Iraq and Yugoslavia in the 1990s of the 20th century) [10, p. 265–335].

Law is a mirror of human nature. It contains everything that is in a person – rational and irrational, that which elevates a person above himself and lowly, social and spiritual, and much, much more. Law is connected by causal relationships with both society and man. In the nature of the latter, there must be original proformas, primary phenomena or archetypes of those normative and value constructions that determine its moral and legal behavior. If social and legal norms did not correspond to human nature, they would never be able to establish themselves in the anthroposociosphere. When people create, reproduce, strengthen or, on the contrary, destroy the socio-legal reality, doing it consciously or unconsciously, they definitely proceed from the givens of their human nature, rely on their own forces in being. They simply cannot act differently and rely on something else.

International legal life is a complex social phenomenon. Therefore, in the real world, the universal principles of international law, in which the most important norms of international morality are enshrined, may in some cases contradict each other. For example, the universal principle of international law – the equality and self-determination of peoples – may contradict another principle – the territorial integrity of the state. The geopolitical ambitions of states are often accompanied by the use of moral principles enshrined in the norms of international law as a screen to cover the selfish interests of the ruling elites of the leading states. Most often, this concerns the ideals of protection of human rights and freedoms, which the leading states, in particular the USA, in the past – the USSR, and today – Russia, use to expand the spheres of geopolitical influence.

The information society with its advantages and disadvantages has brought new challenges to international life. One of the consequences of the mass use of the Internet was the appearance in international relations of a new type of inequality among states – "digital inequality", which means inequality in access to new information technologies. At the same time, in order to limit the spread of antisocial and immoral information, the question of legal regulation of the Internet at the international level arose. The principle of state control over content and restriction of information containing war propaganda, incitement to genocide, child pornography or other crimes against humanity has received worldwide recognition [15].

Researchers distinguish three groups in the system of basic principles of international law: the first one – formulates provisions on the equality of subjects of international relations; the second one – includes such principles as the inviolability of borders, non-interference in internal affairs, territorial integrity; the third one – directs the subjects of international relations to refrain from using force or the threat of force, peaceful settlement of disputes, respect for human rights. The mentioned principles in many aspects determine the degree of morality of a particular action of an international subject. There is a certain limit of morality, which requires each international subject to be guided by the need to preserve peace, because in war, universal human norms and rights are violated the most. Therefore, the activities of the subjects of international relations with the settlement of armed conflicts are carried out in two directions: 1) moral condemnation of war and violence through the formation of world public opinion; 2) organization of effective measures for the humiliation of current and prevention of new armed conflicts.

Norms and principles of international law and morality depend on the circumstances in which their regulatory function is carried out, and these are the place (the social environment that surrounds the international subject), time (a certain moment of the definition of universally recognized international principles), and situations (possibility of realizing moral values with the help of economic, technical and social means). Each subject of international relations in his

activity faces a tough dilemma, from which to proceed in solving any problem in the sphere of cooperation or conflict: from the generally recognized principles of international morality and law, or from the point of view of one's own national interests. If one starts from the principles of international morality, it can lead to a narrowing of the national interest, and if one starts exclusively from national interests, then due to their subjectivity, the principles of international law and morality can be violated. In any case, the absolutization of both the principles of international morality and the national interest can lead to negative consequences in the process of interaction between subjects of international relations.

In order to establish cooperation, on the one hand, and to prevent possible international conflicts, the moral requirements of others must be taken into account in their actions. The ethics of international relations today will demand from them: dependence on the certainty of goals and interests; refusal to be categorical in choosing goals; constant correlation of one's actions with universal moral requirements; observance of generally recognized norms of international law; reliance on the interests of members of the international community [3, p. 246].

Thus, today the world faces global problems that also have a moral component. Solving these problems requires a balance between legal norms and moral values. Law and morality are two distinct but interrelated concepts that influence the decision-making process and behavior in modern international relations. Morality and law complement each other. Legal norms serve and should serve as guides of morality, to consolidate and protect the moral foundations of society. The power of laws increases a hundredfold if they are based not only on power, but also on public, morality. The legal system of a state-organized society enshrines moral requirements that are vital for the entire society. Law and morality as social regulators also invariably deal with the problems of the free will of the individual and his responsibility for his own actions. International morality and international law also differ in their spheres of action: moral norms have an all-encompassing character, while law has a limited sphere of action at any particular moment. At the same time, in many cases, international relations are regulated simultaneously by both legal and moral norms. Each subject of international relations in their activity faces a tough dilemma, from which to proceed in solving any problem in the sphere of cooperation or conflict: from the generally recognized principles of international morality and law, or from the point of view of one's own national interests.

Therefore, differences in international legal and moral norms can serve as a source of contradictions between them. However, this does not cancel their unity and interaction as the most important regulator of the system of international relations and, at the same time, requires a deep understanding of their specific features. This is especially important in the conditions of world development in the direction of global integration.

References

1. Мальський М.З. Теорія міжнародних відносин / М.З. Мальський, М.М. Мацяк. – Львів: ЛНУ ім. І.Франка, 2002. – 392.
2. Los-Nowak T. Stosunki miedzynarodowe. Teorie – system – uncztynicy. – Wroclaw: Wydawnictwo Wroclawskiego, 2006. – 361 s.
3. Цимбалістий В.Ф. Теорія міжнародних відносин: навч. посібник / В.Ф. Цимбалістий. -2-ге вид., доп. Та випр.. – Львів: «Новий світ – 2000», 2005. – 324 с.
4. Кучеренко І.М. Політична етика в міжнародних відносинах / І.М. Кучеренко // Традиції та інновація в теорії міжнародних відносин; матер. міжвідом. наук.-теорет конф. – К.: Інститут світової економіки і міжнародних відносин НАН України, 2005. – С. 46–48.
5. Mingst K. Podstawy stosunkow miedzynarodowych. – Warszawa: Wydawnictwo naukowe PWN, 2006. – 357 s.

6. Геополітика. Військово-політичні аспекти. – Львів: Львівський інститут сухопутних військ, 2008. – 343 с.
7. Цимбалістий В. Взаємодія права і моралі у міжнародних відносинах/ В. Цимбалістий // Вісник Технологічного університету Поділля. – Хмельницький, 2001. – № 3. – Ч. 2. – С. 27–38.
8. Stosunki międzynarodowe polityczne / Praca zbiorowa pod red. W. Malendowskiego i Cz. Mojsiewicza. – Poznan: Wydawnictwo Fundacji Humaniora, 1997. – 378 s.
9. Енциклопедія політичної думки / пер. з англ. – К.: Дух і літера, 2010. – 472 с.
10. Міжнародні відносини і зовнішня політика (1980-2000 роки): підручник / Л.Ф. Гайдуків, В.Г. Кремень, Л.В. Губерський та ін.. – К.: Либідь, 2001. – 624 с.
11. Політологічний енциклопедичний словник / упоряд. В.П. Горбатенко. – 2-ге вид., доп. і перероб. – К.: Генеза, 2004. – 436 с.
12. Крисяк Ю.П. Мораль і право: проблеми співвідношення / Науковий вісник Ужгородського національного університету, URL: <https://dspace.uzhnu.edu.ua/jspui/bitstream/lib/16943/1/%D0%9C%D0%BE%D1%80%D0%B0%D0%BB%D1%8C%20%D1%96%20%D0%BF%D1%80%D0%B2%D0%BE%20%D0%BF%D1%80%D0%BE%D0%B1%D0%BB%D0%B5%D0%BC%D0%B8%20%D1%81%D0%BF%D1%96%D0%B2%D0%B2%D1%96%D0%B4%D0%BD%D0%BE%D1%88%D0%B5%D0%BD%D0%BD%D1%8F.pdf>
13. Доротюк О.Г. Особливості застосування правових норм у працях П.О.Недбайла. / Теорія та історія держави і права. Філософія права. URL: http://kul.kiev.ua/images/chasop/2010_1/50.pdf
14. Європейська соціальна політика і моделі соціального партнерства: навчально-методичний посібник / Н.Г. Діденко, І.Я. Тодоров, О.Р. Чугріна, О.К. Міхеєва; за заг. ред. Н.Г. Діденко. – Донецьк: ДонДУУ, 2011. – 219 с. – С. 4–27.
15. Сердюк І. Взаємодія права та моралі в умовах інформаційного суспільства: філософсько-правовий дискурс: дис. ... канд. юрид. наук : 12.00.12. І. Сердюк. Київ, 2018. URL: <http://elar.naiu.kiev.ua/bitstream>.

ОСОБЛИВОСТІ ВЗАЄМОДІЇ ПРАВА І МОРАЛІ У СУЧАСНИХ МІЖНАРОДНИХ ВІДНОСИНАХ

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Актуальність питання взаємодії права та моралі у сучасних міжнародних відносинах визначаються низкою викликів, що стоять сьогодні перед світовим співтовариством. Вирішення багатьох проблем вимагає міжнародної співпраці на основі правових норм та моральних цінностей. Зокрема, питання захисту прав людини, вирішення питання війни та миру, поширення локальних й регіональних конфліктів, загрози тероризму та кіберзлочинність, а також питання відповідальності національних держав перед міжнародними організаціями та дотримання норм міжнародного права.

Аналізується проблема співвідношення моралі та права, висвітлюється такі питання як: моральні принципи та цінності міжнародного права, моральний фактор у правомірній та неправомірній поведінці суб'єктів міжнародного права, співвідношення міжнародної моралі та влади, міжнародно-правова мораль, війна та міжцивілізаційні конфлікти. Стверджується, що право і мораль представляють собою дві взаємопов'язані концепції, які впливають на процес ухвалення рішень і поведінку у сучасних міжнародних відносинах. Узагальнено, що міжнародне право

і міжнародна мораль відрізняються з точки зору форм, методів, засобів і можливостей регулювання системи міжнародних відносин. Правове регулювання передбачає використання засобів примусу (міжнародний суд, військові, політичні і економічні санкції, виключення із членів міжурядових організацій тощо), а моральне – використання світової громадської думки (деколи її вплив на суб'єкта міжнародних відносин може виявитися більш результативним, ніж дія міжнародного права). Однак це не скасовує їх єдності і взаємодії як найважливішого регулятора системи міжнародних відносин і, разом з тим, вимагає глибокого розуміння особливостей, які їм властиві. Це особливо важливо в умовах розвитку світу в напрямку глобальної інтеграції

Ключові слова: мораль, міжнародне право, моральні принципи, цінності міжнародного права, міжнародні відносини.