

Теорія і історія держави і права

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**"PERSONAL MORALITY" AS A PHENOMENON OF RESPECT FOR
HUMAN RIGHTS AND FREEDOMS
«БЕЗОСОБИСТІСНА МОРАЛЬ» ЯК ФЕНОМЕН ДОТРИМАННЯ
ПРАВ І СВОБОД ЛЮДИНИ
«БЕЗЛИЧНОСТНАЯ МОРАЛЬ» КАК ФЕНОМЕН СОБЛЮДЕНИЯ
ПРАВ И СВОБОД ЧЕЛОВЕКА**

Summary. The article is devoted to the analysis of such a phenomenon as "impersonal morality" in the context of human rights and freedoms and emphasizes that it is "impersonal morality" that is becoming a mandatory element of it at the present stage of humanity. It is revealed that the current state of morality is in a state of personification and cognitive distortion, which indicates the impossibility of returning to a single "universal morality of mankind" and

therefore it makes sense to speak only of "impersonal morality" - written and regulated by moral precepts for certain groups of people certain activities (law enforcement officials, judges, lawyers, health workers, etc.) - where human rights violations are most likely.

Key words: *morality, impersonal morality, human rights, laws, the rule of law, government agencies.*

Анотація. *Стаття присвячена аналізу такого явища як «безособистісна мораль» в контексті прав і свобод людини. Тільки в правовій державі норми права відповідають моральним засадам суспільства. Саме з моральних постулатів бере джерело та черпає своє натхнення концепція прав людини, розвиток якої відбувається протягом тривалого часу. Наголошується на тому, що саме «безособистісна мораль» стає обов'язковим елементом на сучасному етапі людства. Виявлено, що сучасний стан моралі перебуває у стані уособлення та когнітивного викривлення, що свідчить про неможливість звернення до єдиної «загальної моралі людства» і тому є сенс говорити лише про «безособистісну мораль» - писані та врегульовані законом моральні приписи для певних груп осіб, пов'язаних певним ланцюгом суспільного значення або певного роду діяльності (посадові особи правоохоронних органів, судді, адвокати, медичні працівники, журналісти тощо) – там, де найбільш ймовірні випадки порушення прав людини. Становлення безособистісної моралі, на наш погляд, передбачає дослідження її у двох аспектах: внутрішньому та зовнішньому. Внутрішній аспект безособистісної моралі стосується процедури стосовно прийняття рішень про відповідність особи певному виду бажаної суспільної діяльності, а отже визначає ймовірну корисність цієї особи для суспільства. Зовнішній аспект – це система виховання та навчання особи, що у підсумку має компенсувати або корегувати особисту мораль. Якщо ж виходити з того, що всі люди рівні в правах, то це обумовлює перехід від мети досягнення особистого щастя до завдання*

забезпечення суспільного блага. Феномен категорії «безособистісна мораль» розкривається в наступних положеннях: це по-суті це «моральна повинність» окремих суспільно-значимих груп осіб, яка не залежить від особистих поглядів (особистої моралі) окремої людини; вона закріплена в правових нормах які накладають певні зобов'язання та слугують незмінним мірилом належної поведінки визначеного кола осіб; є універсальною, спеціально - адресованою, комунікативною, породженою наявною розгалуженістю у розумінні добра і зла у суспільстві.

Ключові слова: мораль, безособистісна мораль, права людини, закони, правова держава, державні органи.

Анотація. Стаття посвячена аналізу такого явлення як «безособистісна мораль» в контексте прав и свобод человека. Только в правовом государстве нормы права соответствуют моральным принципам общества. Именно из моральных постулатов берет источник и черпает свое вдохновение концепция прав человека, развитие которой происходит в течение длительного времени. Подчеркивается, что именно «безличностная мораль» становится обязательным элементом на современном этапе человечества. Выявлено, что современное состояние морали находится в состоянии олицетворение и когнитивного искажения, свидетельствует о невозможности обращения к единой «общей морали человечества» и поэтому есть смысл говорить только о «безличной морали» - писаные и урегулированы законом моральные предписания для определенных групп лиц, эт "связанных определенным целью общественного значения или определенного рода деятельности (должностные лица правоохранительных органов, судьи, адвокаты, медицинские работники, журналисты и т.д.) - там, где наиболее вероятные случаи нарушения прав человека. Становление безличностной морали, на наш взгляд, предполагает исследование ее в двух аспектах: внутреннем и внешнем. Внутренний аспект безличностной морали

касается процедуры по принятию решений о соответствии лица определенному виду желаемой общественной деятельности, а следовательно определяет вероятную полезность этого лица для общества. Внешний аспект - это система воспитания и обучения лица, в итоге должен компенсировать или корректировать личную мораль. Если же исходить из того, что все люди равны в правах, то это обуславливает переход от цели достижения личного счастья в задачу обеспечения общественного блага. Феномен категории «безличностная мораль» раскрывается в следующих положениях: это по сути это «моральная обязанность» отдельных общественно значимых групп лиц, не зависит от личных взглядов (личной морали) отдельного человека, она закреплена в правовых нормах которые накладывают определенные обязательства "вязание и служат неизменным мерилom должного поведения определенного круга лиц; является универсальной, специально - адресованной, коммуникативной, порожденной имеющейся разветвленности в понимании добра и зла в обществе.

Ключевые слова: *мораль, безличностная мораль, права человека, законы, правовое государство, государственные органы.*

Formulation of the problem. There is no doubt that in a state governed by the rule of law, the rules of law correspond to the moral principles of society. If human rights are formed by states, then morality is a phenomenon that is constantly on the move, reflecting at every historical stage of people's ideas about good, evil, justice, honour, truth, and so on. Public morality must be considered as an integral part of human rights and freedoms because the latter follows directly from the former. After all, it is from moral postulates that the concept of human rights, which has been developing for a long time, takes its source and draws its inspiration. At the same time, the question of impersonal morality has been studied only by philosophers, sociologists, psychologists, and so on. In the legal

literature, this question is not raised, or is raised only in fragments, without the available analysis, which is considered incorrect.

Analysis of recent research and publications. The idea that morality is an integral category of the rule of law can be traced in the works of Aristotle, Plato, T. Hobbes, Montesquieu, J. Locke, J.-J. Rousseau, T. Jefferson and other thinkers.

The works of researchers of the modern period are the works of philosophers, sociologists, psychologists: A.M. McIntyre, M. Halbwax, David O. Brink A. Fuchs, whose research concerns morality.

Part of the general problem has not been solved previously. The Constitution of Ukraine enshrines that Ukraine is an independent, social and legal state, whose policy goal is to create conditions that ensure a dignified human life [1, Article 1]. This provision of the Basic Law fully applies to all bodies and officials of the state, law enforcement agencies, judges, medical workers, lawyers, etc. whose duty is to care for social and legal justice, because it is to these segments of society people turn in their distress, needing help and counting on their high moral qualities. However, so far in the domestic scientific literature does not reflect the concept of impersonal morality in the context of human rights and freedoms, which.

Formulating the goals of the article. In this article, the author aims to emphasize the problem and the need for further study of impersonal morality in the context of human rights and freedoms.

Presentation of the main research material. It is impossible to study the rule of law without morality and vice versa because of the very concept of "moral law" implies the existence of the rule of law. Only in a state governed by the rule of law does it make sense to study the morality that should be contained in the legislation of the country, because the very process of forming the rule of law is a process of people's reaction to immoral (cruel) rule, as a result of which the state is subject to moral law. persons of state bodies, law enforcement bodies, lawyers,

judges, medical workers, etc. act on the basis of legality and in accordance with moral precepts. Thus, the rule of law is a universal ideal of coexistence, in which morality and human rights and freedoms are intertwined to the maximum extent, and which is fully responsible for its own actions before the person.

The idea that morality is an integral category of the rule of law can be traced back to the works of ancient thinkers and has not lost its significance in later centuries. For example, W-W. Rousseau in his work "Social Contract" pointed out that the rights and freedoms of the individual will be fully guaranteed only if the law becomes a popular expression of will, and the government will be subject to this law. According to his theory, the freedom of the individual and the morality of the law is possible only in a free, legal state, where the rights and freedoms of man and citizen are fulfilled [2]. Thus, the idea remains relevant for all times: the observance of human rights and freedoms is the implementation of such a legal order in which human dependence is provided only by laws that are as just and moral as the laws of nature itself. There is no doubt.

Thus, the goal of the rule of law in the adoption of laws should be to achieve the most useful and safe human environment, which will be based on the laws of morality and, consequently, justice. No wonder, there is a fair statement that the law must be a justified individual in order to become law because only then the will of the state becomes the general will of the people. Examining human rights and freedoms, it should be emphasized that in a state governed by the rule of law, its bodies and certain self-employed officials must be subject to certain "moral" restrictions, which they must not violate even by law. Such moral restrictions in the rule of law are carried out in order to recognize the inalienable, inviolable, inviolable rights of the individual, determine the general morality and justice of human coexistence. So, Since the second half of the twentieth century, Western societies have formed a strong belief that the rule of law must comply with certain moral principles: justice, freedom, and humanism. These principles are reflected in the constitutions and international acts on which the law should be based as a

universally binding social regulator, which testifies to the recognition of the principles of legal certainty, proportionality and good faith.

We can say that the supporters of Marxism came quite close in their work to the understanding of impersonal morality, arguing that "people build their history, but they do not build it as they please, under circumstances that they did not choose, and which are directly available, and passed from the past. However, in order to remain consistent in their reasoning, and to stay away from their non-moral ideas, K. Marx adds: "the traditions of all dead generations weigh, like horror, over the minds of the living" [3, p. 119] which is very difficult to agree on, because history deals with the past deprived of "living memory", and its traditions alone will not be able to bear the emotional burden if the living these historical traditions do not inspire the moral need to maintain them.

Impersonal morality is closely linked to the concept of justice. Everyone always has a sense of justice and an eternal desire for it. The very idea of justice creates one of the main principles of law and is crucial in recognizing it as a regulator of social relations and due to the historically achieved cultural level of society. Accordingly, the content of any legal act must comply with the principle of fairness. But if the personal concept of justice in each person has its own, then the general justice determines the existence of certain guarantees of procedural rights of the individual and, above all, guarantees for the protection of any violated right. The task of the rule of law and the main purpose of its existence concerns the realization of public moral interests of people. Thus, the rule of law guarantees human rights and freedoms.

Impersonal morality in a state governed by the rule of law must realize the equality of participants in legal relations because moral principles are always reduced to respect for human dignity, without which it is impossible to build a foundation for the humanistic direction of public and state life. In other words, a person can be considered an individual when he achieves independence in his activities and social organization and being under the influence of laws falls under

a bilateral set of rights and responsibilities. From the above, it can be noted that in a state governed by the rule of law has the right to life construction "the will of the people - the law of morality." Fulfilling the will of the people in the interests of society as a whole, the rule of law eliminates various contradictions and negative situations. Government agencies, the bar, medical professionals - all these entities are called to serve society. Through such "service" the will of the people is achieved.

The affirmation of moral principles actually forms the basis of the UN Universal Declaration of Human Rights and Freedoms, adopted after the not immoral but over the immoral World War. This document for the first time at the international level proclaimed the foundations of the moral attitude to man, which becomes his right [4]. It should be noted that on the basis of the Declaration in the vast majority of countries adopted their own constitutions and corresponding declarations, despite the cultural differences of countries, the specifics of traditions and religions. As an example: the Universal Islamic Declaration of Human Rights (1981) [5], the Cairo Declaration of Human Rights in Islam (1990) [6], the Arab Charter of Man (1994) [7].

However, despite such positive trends, in modern society, there are no guarantees or rational ways to moral consent in society. There can be no such ways also because in modern society there are no opportunities and ways to establish a clear hierarchy of preferences among moral requirements: everyone has their own truth. "Everyone has their own morality", which begins with the level of personal choice of behaviour in free space, the boundaries of which are specified only by legal norms. Recently, the individual choice of a person of "moral foundations" prevails agreed in certain social groups "moral attributes". The same neglected state of morality is observed all over the world, and those remnants of moral values are reminiscent of a once-existing culture in which it is "not fashionable" to believe and accept. By changing the inner world of man through distorted notions of good and evil, people build new conditions for their

existence. Yes, those manifestations of the human psyche that were once considered immoral are now protected by law. We can say that the era of cognitive distortion of morality has come - that is, a gradual and constant deviation from moral principles, which is manifested in the behaviour and thinking of individuals. These failures are due to several reasons: prejudices, stereotypes, inability to analyze information, indifference.

Today, each person asks himself the question "why should I do just that and what will happen to me if I do things my way"? And really, is it possible to make a person love to self-sacrifice, to bear his professional burden not only within the law but also morally? If the ancient man knew that for the evil, immoral action of the Lord's punishment awaits him, then the need to obey the earthly law, which does not contradict the divine law, there was no doubt. What is it like today, when man is detached from the law of God, actually deprived of memory and open to committing all kinds of lawlessness? We completely agree with the opinion of scientists on this issue, because neither analytical philosophy nor phenomenological tradition can help to establish order in the world of morality and science [8, p.7], especially when morality is "fictional". devoid of memory (because history is perceived only as academic) and is not based on the dogmas of faith. We can say that morality is in chaos, in constant motion - almost as well as legal norms, which often change. Thus, morality in the legal system today is "neutral morality" - the product of legal loyalty and tolerance, which was the result of the final erosion of the integrity of moral postulates that have been formed over the centuries.

Today it is virtually impossible to bring humanity to a "common morality" that would appeal to all and be close to everyone, and therefore there is a need to organize within the legal prescriptions for certain groups of professions moral codes - impersonal morality - written and regulated moral precepts for certain groups of persons connected by a certain chain of social significance or a certain kind of activity. In our opinion, impersonal morality is the only way to coordinate

the moral actions of certain categories of persons, in order to protect human rights and interests, physical and mental health, because only such a legal model, unlike personal morality, has a duty to act in a certain way.

Without personal morality has a clear structure and requirements that are not only inherent in a particular profession, a certain group of people, but also a requirement of society to them and thus, representatives of certain activities (and we are talking only about those professional areas where rights are often violated human) do not ask themselves the question "why should I do so?" or "why can't I do it differently?"

Without personal morality, each activity has the same and different features, and it is clear that we will not be able to offer concepts of impersonal morality, say, for doctors or lawyers, identical to those that existed for their profession in ancient documents. liked), but it is necessary to avoid "superficial morality" and be careful about such a phenomenon as "moral pluralism" in the study without personal morality, because, again, we will return to a state of disorder.

Without personal morality requires the creation of social preconditions for communicative interaction, political, legal and organizational support. The formation of impersonal morality involves the study of it in two aspects: internal and external. The internal aspect without personal morality concerns the procedure for making decisions about the suitability of a person for a certain type of desired social activity and therefore determines the likely usefulness of this person for society. The external aspect is a system of education and training of a person, which in the end should compensate or adjust personal morality. If we assume that all people are equal in rights, then this leads to a transition from the goal of achieving personal happiness to the task of ensuring the public good. The principle of usefulness is addressed to each person.

Conclusions

Thus, we can conclude that the phenomenon of the category of "impersonal morality" opens in the following provisions:

1. Impersonal morality is a phenomenon of modern times, but in fact, it is a "moral duty" of certain socially significant groups of people, which does not depend on the personal views (personal morality) of an individual.

2. Impersonal morality is enshrined in legal norms that impose certain obligations and serve as an invariable measure of the proper conduct of a certain group of persons.

3. Impersonal morality is universal, specially - addressed, communicative, generated by the existing ramifications in the understanding of good and evil in society.

4. Impersonal morality permeates all international acts concerning human rights and freedoms, as well as legal acts of national legislation.

Thus, there is a question of the need to enshrine at the legislative level the requirements of impersonal morality for law enforcement officers, judges, lawyers, health professionals, etc., as well as appropriate sanctions for non-compliance, because only in this way we will approach the ideal of coexistence.

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