

Теорія і історія держави і права

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Horielova Veronika

*Candidate of Legal Sciences, Associate Professor,
Associate Professor of Department of State Legal Sciences
University «КРОК»*

Горелова Вероніка Юрїївна

*кандидат юридичних наук, доцент,
доцент кафедри державно-правових дисциплін
Університет «КРОК»*

Горелова Вероника Юрьевна

*кандидат юридических наук, доцент,
доцент кафедры государственно-правовых дисциплин
Университет «КРОК»*

ORCID: 0000-0001-6536-2422

**THEORETICAL AND LEGAL CONCEPT OF MORAL BASIS IN THE
WORK OF LAW ENFORCEMENT AUTHORITIES**

**ТЕОРЕТИКО-ПРАВОВА КОНЦЕПЦІЯ МОРАЛЬНИХ ЗАСАД В
РОБОТІ ПРАВООХОРОННИХ ОРГАНІВ**

**ТЕОРЕТИКО-ПРАВОВАЯ КОНЦЕПЦИЯ МОРАЛЬНЫХ УСТОЕВ В
РАБОТЕ ПРАВООХРАНИТЕЛЬНЫХ ОРГАНОВ**

Summary. The article examines the conceptual provisions of moral principles in the work of law enforcement officials. This issue is very relevant, because modern society puts forward "increased" requirements for the "moral face" of law enforcement agencies, in connection with which national legislation is undergoing constant tectonic shifts. The social importance of morality in the law enforcement sphere and the degree of their moral responsibility is extremely

growing in the current conditions of comprehensive transformation of the information society. In our opinion, the real moral face of law enforcement agencies is a reflection of the legal and mental state of society, on which it depends whether it will tolerate imitation of high morals of law enforcement officials or not. Immorality always breeds cruelty, insensitivity, corruption, inspires the creation of any evil, is a consequence of all problems for state stability and threats to security in society, because it is the immorality of those who guard the right to protection and defence against arbitrariness undermines democratic institutions and values, faith in justice and calls into question the rule of law. The article examines the moral and legal provisions of national legislation and international acts on the established moral principles in the activities of law enforcement agencies. The article reveals that the moral and legal concept of a police officer (as well as another law enforcement officer) includes a combination of four moral vectors: behaviour in society; treatment of a detainee; interaction with the public and other state bodies; relationships with colleagues. Examining the basic "moral guidelines" of the defender of law and order, it is established that the category of "dignity" is the highest level of morality of law enforcement officials, the content of which absorbs all the necessary moral virtues and qualities of this profession. Dignity at the same time means fitness for the profession, compliance with its purpose as a set of moral, ideological and professional qualities: humanism, legality, objectivity, impartiality, justice, loyalty, loyalty to the state, tolerance. It is noted that the conceptual provisions of moral principles in the work of law enforcement officials, provided by law, become chaotic and do not have a stable hierarchy, which would provide the order and place of different moral values. There is only a certain dynamism in response to specific forms of immoral, requiring legal coordination in a particular historical period of development of society. The article proposes to single out and combine moral norms into certain groups

(depending on the nature of the relationship) and to define in each certain characteristic provisions and rules.

Key words: morality, law enforcement agencies, moral principles, society, law.

Анотація. В статті досліджуються концептуальні положення моральних засад в роботі посадових осіб правоохоронних органів. Дане питання є вельми актуальним, оскільки сучасне суспільство висуває «підвищені» вимоги до «морального обличчя» правоохоронних органів, у зв'язку з чим національне законодавство зазнає постійних тектонічних зрушень. Соціальна вагомість моралі у правоохоронній сфері та міра їх моральної відповідальності надзвичайно зростає за нинішніх умов всебічної трансформації інформаційного суспільства. На наш погляд, дійсне моральне обличчя правоохоронних органів - це віддзеркалення правового та психічного стану суспільства, саме від якого залежить, чи буде воно терпіти імітацію високої моралі посадових осіб правоохоронних органів, чи ні. Аморальність завжди породжує жорстокість, нечуйність, корупцією, надихає на створення будь-якого зла, є наслідком всіх проблем для державної стабільності та загроз для безпеки у суспільстві, адже саме аморальність тих, хто стоїть на варті право охорони та захисту людини від свавілля підриває демократичні інститути та цінності, віру у справедливість та ставить під сумніви проголошення принципу верховенства права. В статті досліджені морально-правові положення національного законодавства та міжнародних актів щодо встановлених моральних засад в діяльності правоохоронних органів. В статті виявлено, що моральна-правова концепція поліцейського (рівно як і іншого правоохоронця) включає в себе поєднання чотирьох моральних векторів: поведінка в суспільстві; поводження із затриманою особою; взаємодія із громадськістю та

іншими державними органами; стосунки з колегами. Досліджуючи основні «моральні орієнтири» захисника правопорядку, встановлено, що категорія «гідність» є найвищою ланкою моральності посадових осіб правоохоронних органів, зміст якої поглинає всі необхідні дані професії моральні чесноти та якості. Гідність одночасно означає придатність до професії, відповідності своєму призначенню як сукупність моральних, світоглядних та професійних якостей: гуманізму, законності, об'єктивності, неупередженості, справедливості, лояльності, вірності державі, толерантності. Відмічено, що концептуальні положення моральних засад в роботі посадових осіб правоохоронних органів, що забезпечуються законодавством, набувають хаотичного характеру та не мають сталої ієрархії, яка б передбачала порядок та місце різних моральних цінностей. Відмічається лише певна динамічність в реагуванні на конкретні форми аморального, що потребують правового узгодження в конкретному історичному періоді розвитку суспільства. В статті запропоновано виділити та поєднати моральні норми в певні групи (в залежності від характеру відносин) та означити в кожній певні характерні положення та правила.

Ключові слова: мораль, правоохоронні органи, моральні засади, суспільство, право.

Анотація. В статье исследуются концептуальные положения моральных принципов в работе должностных лиц правоохранительных органов. Данный вопрос является весьма актуальным, поскольку современное общество предъявляет «повышенные» требования к «моральному облику» правоохранительных органов, в связи с чем, национальное законодательство подвергается постоянным тектоническим сдвигам. Социальная значимость морали в правоохранительной сфере и степень моральной ответственности

чрезвычайно возрастает в нынешних условиях всесторонней трансформации информационного общества. На наш взгляд, действительно моральный облик правоохранительных органов - это отражение правового и психического состояния общества, именно от которого зависит, будет ли оно терпеть имитацию высокой морали должностных лиц правоохранительных органов, или нет. Аморальность всегда порождает жестокость, бесчувственность, коррупцию, вдохновляет на создание любого зла, является следствием всех проблем для государственной стабильности и угроз безопасности в обществе, ведь именно аморальность тех, кто стоит на страже охраны права и защиты человека от произвола подрывает демократические институты и ценности, веру в справедливость и ставит под сомнение провозглашенный принцип верховенства права. В статье исследованы морально-правовые положения национального законодательства и международных актов относительно установленных моральных принципов в деятельности правоохранительных органов. В статье выявлено, что нравственная-правовая концепция полицейского (равно как и любого другого правоохранителя) включает в себя сочетание четырех моральных векторов: поведение в обществе; обращения с задержанной лицом; взаимодействие с общественностью и другими государственными органами; отношения с коллегами. Исследуя основные «нравственные ориентиры» защитника правопорядка, установлено, что категория «достоинство» является наивысшей звеном нравственности должностных лиц правоохранительных органов, содержание которой поглощает все необходимые данной профессии нравственные принципы и качества. Достоинство одновременно означает пригодность к профессии, соответствие своему назначению, как совокупность нравственных, мировоззренческих и профессиональных качеств: гуманизма, законности, объективности, беспристрастности,

справедливости, лояльности, верности государству, толерантности. Отмечено, что концептуальные положения моральных принципов в работе должностных лиц правоохранительных органов, которые обеспечиваются законодательством, приобретают хаотический характер и не имеют постоянной иерархии, которая предусматривала бы порядок и место различных моральных ценностей. Отмечается лишь определенная динамичность в реагировании на конкретные формы аморального поведения, требующих правового согласования в конкретном историческом периоде развития общества. В статье предложено выделить и объединить моральные нормы в определенные группы (в зависимости от характера отношений) и обозначить в каждой определенные характерные положения и правила

Ключевые слова: *мораль, правоохранительные органы, моральные основы, общество, право.*

Formulation of the problem. The issue of the "moral face" of law enforcement agencies has recently become relevant not only in Ukraine but also in many civilized countries. The low morality of a law enforcement officer negatively affects the authority of the state and trust in state bodies. That is why the problem of observance of moral principles in law enforcement agencies is constantly discussed. The complexity of this issue is because the rule of law brings to the fore the individual (his rights, freedoms and legitimate interests) and it is the provision of these rights and freedoms determines the content of law enforcement, where at the same time a high risk of errors combined with physical force.

Analysis of recent research and publications. Scientists devoted their works to the issue of ethical behavior of law enforcement officers. O.M. Bandurka [1], V.O. Lozovy, O.V. Petrishin [2], A.I. Berendiev [3], etc.

Part of the general problem has not been solved previously. In modern conditions of society development, issues of law and morality are focused, first of all, in the space of ensuring law and order. Much less attention is paid to the issue of the moral foundations of law enforcement. At the same time, the isolation of the problem of the content of the moral principles of law enforcement agencies, in our opinion, is caused by the peculiarities of the law enforcement activity itself, which requires additional research.

Formulating the goals of the article. To determine the main content of the moral principles on which the activities of law enforcement agencies of Ukraine are based.

Presentation of the main research material. Modern national society is undergoing tectonic shifts in all spheres of human existence. These transformational processes give rise to new spaces such as "information space", "risk space", "globalist culture" and so on. A certain challenge for the modern system of law enforcement is not only the problem of conceptualizing national transformations, but also the production of new approaches to ethical understanding and the construction of appropriate relations in this area. The experience of the European Community projects new semantic nuances and interpretations of morality, which are synthesized into national moral and legal paradigms. The social importance of the moral sphere, as well as the degree of moral responsibility of law enforcement officials, is growing tremendously in the current conditions of transformation of society. In our opinion, The real moral face of law enforcement agencies is a reflection of the mental state of society, on which it depends whether it will tolerate the imitation of high morals in law enforcement officials or not. A positive solution to the problem of negative experience of "immoral reflection" of law enforcement officials is seen in the possibilities of open information space and a combination of such factors in general - cultural and professional and personal.

Immorality always breeds cruelty, corruption, inspires the creation of any evil, is the result of all problems for state stability and threats to security in society, because it is the immorality of those who guard the right to protect and defend against arbitrariness undermines democratic institutions and values. belief in justice and calls into question the proclamation of the rule of law.

Recognizing the importance of morality, the European Community emphasizes that each State must uphold the moral qualities of its officials, encourage their integrity, honesty and responsibility, and in particular apply within its institutional and legal systems moral codes or standards of conduct for their proper, conscientious and proper observance. own functions (Article 8) [4]. A public office, as defined in national law, is a position endowed with trust, which implies an obligation to act in the interests of the state. Accordingly, the International Code of Conduct for Public Officials emphasizes that every public office should: be trusted with an obligation to act in the interests of the state; be endowed with absolute devotion to the state interests of their country, which are represented by democratic institutions of power. And public officials must: perform their duties and functions competently, efficiently and in accordance with laws or administrative regulations and with full integrity; be attentive, fair and impartial in the performance of their functions and, in particular, in their relations with the public; under no circumstances give any undue advantage to any group of persons or individual; not to discriminate against any group of persons or individual; not to abuse his own powers and the power given to him; act in good faith; not to use their official position for unjustified personal gain or personal and financial benefit for their families; not to take part in any agreements, not to occupy any position, not to perform any functions and not to have any financial, commercial or other similar interests that are incompatible with their position, functions, responsibilities or their performance; to report in cases of conflict of interest; not to use the information obtained in the performance of official duties in their own interests; after resigning from their

official positions not to abuse their former official position; not to seek or receive directly or indirectly any gifts or other signs of attention that may affect the performance of their functions, performance of their duties and decision-making [5]. The provisions of these international documents are to some extent reproduced in the legislation of Ukraine. According to the Rules of Ethical Conduct for Police Officers [6], moral requirements are designed to correct the conduct of police officers, which should ensure quality police service for the benefit of society by ensuring the protection of human rights and freedoms, combating crime, maintaining public safety and order based on universal values. Accordingly, the moral and legal concept of the police officer includes a combination of four vectors:

- behaviour in society (control over feelings and emotions, personal likes or dislikes, concealment of hostility, bad mood or manifestations of friendly feelings, the duty of neat appearance and established clothing, compliance with the rules of business speech, avoiding the use of profanity, concealment of chest badge (token), being in the service while intoxicated, in a state of narcotic or toxic intoxication, use of tobacco products during the direct performance of official duties and in an unspecified place, etc.);
- treatment of the detainee (human attitude and respect for the detainee and his rights, control over feelings and emotions);
- interaction with the public and other state bodies (prohibition of disclosure and use of restricted information, prohibition of granting any privileges or restrictions, manifestations of disrespect or attachment to political, religious associations, ethnic or social groups, the prohibition of application of restrictions or granting of benefits by the property status of persons, the prohibition of the use of official powers for political or personal purposes, the requirement for statements or remarks in a polite and convincing form, etc.);

- relations with colleagues (observance of subordination, friendliness to colleagues, respect for the elderly, prohibition of assistance to colleagues or incitement or tolerance of any form of torture, or cruel, inhuman or degrading treatment, use of official connections or powers for personal purposes, etc.).

The mentioned Rules, although they have certain shortcomings, nevertheless clearly indicate the voluntary assumption of the duty of a militiaman to serve honestly and to stand for the protection of law and order not only from the position of received powers (position of force), but also from the position of higher moral content. own official activity. Current national legislation establishes the moral basis in Rulesx behaviour and professional ethics of ordinary and senior police officers of Ukraine, according to which the "basis of the morale" of police officers are universal values, which are designed to ensure awareness of the involvement of law enforcement in the "noble cause of law enforcement, history of internal affairs, achievements, achievements, successes of previous generations". It is stated that the main "moral guidelines" of the defender of law and order are: conscience, professional duty, honour (manifested in a set of qualities such as well-deserved reputation, good name, personal authority, loyalty to duty, the word and accepted moral commitment) and dignity (represents the unity of moral spirit and high moral qualities, their formation and support in himself and other people) [7]. It follows that the category of "dignity" is the highest level of morality of law enforcement officials, the content of which absorbs all the necessary moral virtues and qualities of this profession. Dignity at the same time means fitness for the profession, compliance with its purpose as a set of moral, ideological and professional qualities: humanism, legality, objectivity, impartiality, justice, loyalty, loyalty to the state, tolerance.

Recently, corruption is seen as one of the biggest obstacles to the normal development of Ukrainian society, and this is contrary to the category of

"dignity" of law enforcement. This also applies to such frequent negative manifestations as illegal treatment of a person, dissemination of personal information during the pre-trial investigation of the case, disrespect for the person, etc. Also, the specifics of moral relations in law enforcement agencies related to the following points: moral rules to the innocent and the convicted person; to the suspect who resists and the suspect who comes into contact; to a person against whom public or covert investigative actions are conducted and a person who erroneously "falls into account" in cases of such actions, etc. Thus, moral norms can be identified and combined into certain groups (depending on the nature of the relationship), where in each group will be defined inherent in it certain moral provisions.

Conclusions. Thus, the conceptual provisions of moral principles in the work of law enforcement officials, provided by law, become chaotic and do not have a stable hierarchy that would provide for the order and place of different moral values. There is only a certain dynamism in response to specific forms of immorality that require legal coordination in a particular historical period of society.

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