



WAYS OF MORAL INFLUENCE IN THE ELABORATION OF LEGAL NORMS

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Annotation. *Morality and law are still whole. Legal decisions based only on the formal application of "litterae legis" and adopted by psychologists isolated from the moral climate and society cannot be correct. In the overwhelming majority of cases, legal norms are voluntarily respected, they correspond to the moral ideas of what is right and wrong. Activities of law enforcement agencies in the prevention of crimes are based, first of all, on moral education and persuasion, on propaganda of principles, on moral requirements and ideals. Violation of any rule of law is considered an immoral act and attracts, in addition to legal responsibility and moral condemnation. Moreover, the morality of law is not only the moral validity of criminal procedural norms, but also the ethical impeccability of the very activities of those who carry out the investigation: the investigator, the prosecutor, the judge in the investigation and proof of crimes, because they are given such a weapon in the fight against crime as law.*

If progressive principles are proclaimed in the law, ideas about the need to respect human rights are declared, and law enforcement practices ignore these principles, this leads to the formation of an atmosphere of disrespect for the law in society.

Key words: *morality, justice, deontology, law, ethics*

Introduction

Morality is one of the forms of social consciousness, with social origin, the content of which is determined by specific historical conditions, spiritual and material factors.

Similarly, morality has properties common to all forms of social consciousness (religion, science, etc.) as follows:

- the socioeconomic status of the content;
- influence on the processes taking place in society;
- the interaction with other forms of social awareness.

Main text

A specific property of morality is *the imperative* (from the Latin imperative - to command) - the requirement of a certain behavior, the fulfillment of moral instructions.

In this context, we note that imperativeness has the following functions:

- coordinates the interests of the individual with the interests of society;
- affirms the priority of public interests;
- at the same time, it does not limit individual freedom (except for its negative manifestations).

Immanuel Kant (1724 - 1804) was the first to formulate the categorical imperative– the universal moral law: „...act only in accordance with such a maxim, guided by which, at the same time, you can will it to become a universal, a law.”[1, p.224]

A maxim is a subjective principle of an individual's will, his empirical reason for behavior. Or, categorical imperative:



- it is innate knowledge;
- requires that its requests be fulfilled unconditionally and voluntarily;
- appears to the maximum only when the reason for the action is the sense of duty;
- expresses the relationship between freedom of will and moral necessity.

What concerns *the function of regulating* morality, this is achieved through norms (rules, commandments, etc.), with the help of which morality:

- directs the activities of the people;
- reproduces social relations based on positive qualities (honesty, mutual assistance, etc.);
- correlates the moral qualities of an individual with the demands of society;
- transforms external motivations into an internal attitude of the individual, into a part of his spiritual world;
- creates moral bonds between generations of people.

If we talk about moral standards, they are of two types:

- prohibitions indicating unacceptable forms of behavior (do not steal, do not kill, etc.);
- models - desired behaviors (be kind, be honest).

We further note that the evaluative nature of morality consists in a person's self-esteem (evaluation of his actions, pains, experiences), in the assessment by other people and society of a person's behavior, his motives and compliance with moral standards. Thus, we are talking about such forms of evaluation as:

- approval, consent;
- censorship, disagreement.

As for ethical issues, these are those of the truth of *moral judgments and moral evaluations*. In this context, the objective criterion of truth in morality is the conformity of a person's (or a group's) activities with the interests of society.

Among the functions of morality we discuss the *educational function*, which consists of:

- forming moral attitudes, habits in a child, instilling moral prohibitions;
- self-education of an adult (throughout life), conscious choice of moral guidelines.

Thus, educational functions can be performed not only by people, but also by media, literature, art and the relationships between people around them.

Another function of morality is that of *value orientation*. Here morality plays a crucial role in the development of the individual, giving the moral orientation of the individual ("an attitude towards goodness").

The next function of morality is *communicative* and this:

- ritualizes human communication, creates its standards (etiquette, etc.);
- humanizes communication, increases the desire to make communication as pleasant as possible for all parties (emphasis on kindness in communication).

The cognitive function of morality presents a means of understanding the inner world of a person, provides him with ethical knowledge that helps him solve moral problems, manage his behavior, feelings, etc.

Another function of morality is *regulatory* (this is the most important function)



and consists in regulating the behavior of people and society as a whole by:

- restrictions on people's negative aspirations;
- self-regulation of the individual and the social environment;
- public relations management;
- the implementation of humanist moral norms, etc.

The regulatory function of "high morality" is a tendency, an aspiration. Real regulation is achieved through the synthesis of universal moral ideas and socially specific ideas. Or, morality regulates the behavior and relationships of people through the approval or censure of public opinion and the moral self-esteem of the individual.

As for the *humanizing function*, it is:

- the desire of morality to improve man;
- moral rules binding on all people, their equality

Carrying out the fundamental function of regulating the consciousness and behavior of people, the relations between them (relations between individuals, groups of individuals, individuals and society, etc.), the moral regulatory system includes:

- norms - regulations, rules of conduct, combined in a code. They, in turn, are divided into:
 - generally accepted reference samples (positive standards);
 - prohibitions, absolute prohibitions (whose general meaning is "do no harm"). Unlike positive norms ("be kind", etc.), absolute prohibitions leave no room for interpretation.

In this sense, moral standards indicate the limits of what is permissible. Or, a person's behavior is considered immoral if he ignores the norms and immoral if the person is not familiar with the norms, values (kindness, justice, etc.), which are:

- the content of moral standards;
- patterns of behavior, thought and experience recognized as moral guides.

In the same way, we claim that values, unlike norms, do not change over the centuries, constituting:

- a hierarchy in which the highest values and ideals can be identified (the highest goals of personal development);
- an important component of moral regulation, such as the question of the meaning of life;
- universal formulas of behavior (for example, the principle of love towards the neighbor).

Being *evaluative* (people's actions are approved or condemned) and *imperative* in nature, moral rules are presented (sometimes imposed) as patterns of behavior. Thus, morality correlates people's actual behavior, consciousness, and experiences with ideals, spiritual, and moral guidelines ("how things should be"). In this *context*, *human moral consciousness includes*:

- habits (automatically observed moral standards);
- reflection (thoughts);
- intuition (intuitive solutions in difficult situations);
- moral experiences.

If the moral consciousness and behavior of a person are correlated with the moral rules of society, with the foundations of past times (customs, traditions), then the moral



beliefs of that person may not only not coincide with the generally accepted ones, but even be opposite to them (in an immoral society, for example, in a fascist state). In this case, the person himself controls his actions and thinking (conscience), and moral standards are observed voluntarily, without external control.

Without exception, all spheres of society and human life, in which there are relations between subjects, are subject to moral regulation. Moral regulation, in turn, is based on public opinion (in evaluating human behavior, society fulfills the functions of conscience).

As for the *moral-law* relationship, these components are linked by:

- moral standards are established by law;
- the liberalization of morality implies the liberalization of the law;
- the interaction between morality and law (jury trial).

In the same way, the moral regulation of science, especially medicine, psychology, genetics (problems of euthanasia, cloning, etc.) is very important. Moral regulation is necessary even in the field of technology (the threat of unemployment due to the automation of production, etc.).

To discuss contradictions in morality, we will first mention the main properties of moral laws, which are:

- the objective meaning (norms, rules, etc.);
- the subjectivity of perception (morality as a person's personal position);
- the impersonality of moral laws.

So, if the society requires the individual to behave in accordance to its moral standards, and this society is based on immoral principles (fascist states, etc.), the respective one, being morally educated, opposes, guided by a subjective perception of reality as well as individual morality. In this statement we rely on the characteristic feature of morality, which supports the unity of human freedom, moral will and universality of moral laws.

The rules of morality are universal. In this sense, people's moral positions can reflect:

- historical conditions specific to the development of society;
- the living conditions of man in society;
- class, group interests, etc.

In the same sense, the moral positions of different people, social groups and communities can be diametrically opposed, which requires the formulation of universal requirements, which are:

- generally valid, containing foundations common to all moral positions;
- universal, manifesting differently, depending on the situation and specific to each person.

Compliance with moral rules guarantees a comfortable coexistence for a person with other members of society, but at the same time it can happen that:

- strict adherence to moral standards interferes with the achievement of a goal (for example, scrupulousness interferes with career development);
- vices to serve the benefit of society ("thirst for profit" is the engine of business);
- a good deed done for the sake of profit cannot be considered truly moral, because a deed is considered moral when it is done:



- without expectation of reward, disinterested,
 - without a pragmatic goal - "you do good for the sake of good";
- the only purpose of the moral act is the self-improvement of a person.

So a lack of interest in moral reasons apparently conflicts with practical expediency, while the humanist goal of morality is the betterment of people.

The moral education of a person is influenced by the *social environment* (social background, social group, etc.) and *public opinion*. For this reason, sometimes the moral norms of the environment become dogmatic and hypocritical. A person can come into conflict with his social environment from a universal moral position (as a representative of the whole world). And by conflicting with the group's positions, morality will serve as its moral unity.

Even if the reason for committing moral actions may be the expectation of approval from other people, from society as a whole, a person may commit moral actions contrary to public opinion, his own character, formed circumstances. Now, man acts morally without apparent reasons, by his own choice, completely freely.

To develop and argue the *law-moral* relationship, we will start from the following: as forms of social consciousness and social relations, morality and law have many similarities, because they fulfill a common social function, they are the most important means of regulating people's behavior in society and are normative in nature. Citizens follow these norms and principles, as a rule, voluntarily and consciously, and morality and law develop on the same basis of universal human values. Despite the fact that legal norms are officially proclaimed by the state, and moral norms live in the public consciousness, both morality and law represent detailed systems of behavioral rules, covering almost the entire set of social relations, expressing the will of certain social groups about what is right and proper. These norms are universal and apply to all members of society.

In addition, in addition to the fact that moral and legal requirements are united by their evaluative and imperative nature, and law and morality are a set of strictly defined, relatively stable norms of behavior, fixed in public consciousness, reflecting the socio-historical needs of society, however the spheres of moral and legal relations to a certain extent coincide. We are talking here not only about the fact that the subjects of some relations are people, social groups that simultaneously possess moral and legal consciousness, representing a certain integrity. It is also about the attitude towards the homeland, the state, one's own culture and that of other peoples, an attitude which is presented through moral requirements, norms, appreciations, on the one hand, and through law, legislation, codes, on the other hand. So we see that values such as patriotism, humanism, freedom, rights, justice, conscience act as moral-legal principles, and morality, even outside its sphere of relationships (friendship relationships, mutual assistance, love, compassion, etc.) has the widest field of action.

When characterizing law and morality, one must also take into account the counter-influence processes of law on morality and the fact that the reality of the prevailing morality depends to a large extent on how effective and real the legal laws are in a given society.

An important property of moral norms is their ability to penetrate into a variety of spheres of social relations, including economic, political, industrial, etc. This is



understandable, since moral norms are focused on the categories of goodness, honor, conscience, duty, dignity, responsibility, etc.

Morality and law are still whole. Legal decisions based only on the formal application of "litterae legis" and adopted in isolation from the moral and psychological climate in society cannot be correct. In the vast majority of cases, legal norms are voluntarily followed because they correspond to citizens' moral ideas about what is right and wrong. The activities of law enforcement agencies in the prevention of crimes are based, first of all, on moral education and persuasion, on the propagation of principles, on moral requirements and ideals. Violation of any rule of law is considered an immoral act and attracts, in addition to legal liability, moral condemnation. Moreover, the morality of law is not only the moral validity of criminal procedural norms, but also the ethical impeccability of the very activities of those who carry out the investigation: the investigator, the prosecutor, the judge in the investigation and proof of crimes, since they are given such a weapon in the fight against crime as law.

If progressive principles are proclaimed in the law, ideas about the need to respect human rights are declared, and the law enforcement practice ignores these principles, this leads to the formation of an atmosphere of disrespect for the law in society.

At the same time, law does not deal with an individual person, nor with his integrity, nor with those spiritual qualities that transform certain general social properties into individuality, into personality. In a certain case or type of social relationship, the right is addressed only to the unilaterality of a person, who acts in the form of a certain social role or function. Establishing social equality between people in terms of their mutual duties, claims and rights, in other words, taking into account the equality of all citizens before the law, establishing the possibility of action within predetermined limits, law starts from simplifying the concepts of man and relations between people.

Morality, on the contrary, deals in each case individually, with a particular person, with his integrative properties. From the moral point of view, people are compared in their specific properties. From the legal point of view, people are compared formally, by analogy with the nature of actions previously performed and their subsequent results.

Morality establishes the ideal scale of life and activity, it is oriented towards the perfect embodiment of norms, values and goals. Instead, law forms the opportune social coordinates of life, it starts from considerations of real realizability through the normative regulation of the necessary social order. This optimality is determined, on the one hand, by the understanding of the social necessity of a certain system of legal relations, and on the other hand, by real opportunities to ensure a full life for these legal relations. Figuratively speaking, morality descends from heaven and law begins on earth.

Morality, which is attractive to the individuum, is unthinkable without a holistic, integrative understanding of each specific social fact and action. For morality, the meaning of a specific situation, the choice of a solution, is in its originality, uniqueness. Instead, the law starts from considerations about what is typical, standard in real social life. This type of situation is generated not by the internal life of people, but by their external relations, which requires a precise definition of the limits of each subject's



activities. There is no other way to equate people in their relationships.

Legal responsibility, as opposed to moral responsibility, is always specifically defined, and the violation of a legal obligation entails the application of the sanctions established by law. The nature of illegal actions is assessed according to legal sanctions.

Moral sanctions, as a rule, are not formally recorded, they are expressed in moral language, moral principles, and therefore are less certain than legal ones.

Morality is, in principle, non-violent in nature and, unlike law, excludes direct coercion, is based on voluntariness, on the internal motivation of people's behavior and gives them a wide opportunity to choose. Therefore, moral norms are non-institutionalized. When public opinion lacks the capacity to be an effective regulator of social life, it quickly loses its constructive power and ceases to be a guarantor of morality. Behavioral cynicism, lack of culture and rudeness, indifference and hostility in relations between people, the formation of a counterculture, the rebellion of young people against the social framework and programs of active individual life, nihilism in relation to the norms of organization of society are real indicators that morality does not accept the social conditions of existence that are natural to him. Moral sanctions are guaranteed mainly by measures of spiritual and social influence, for example, by forming a sense of duty, appeal to a person's conscience, a feeling of shame for one's actions, etc.

The most important difference between morality and law concerns the way they impose their rules, the way they regulate human behavior.

Legal norms are strictly defined by law. Moral regulation is not based on law, decree, regulation, etc. but on the power of public opinion, the authority of social customs or the personal conviction of the individual. Moral sanctions are carried out through measures of spiritual influence, and not by individual persons endowed with any special power, but by the whole team, social group, society as a whole.

Summary and conclusions.

Thus, both law and morality have the capacity to penetrate into the most diverse areas of social life. Neither law nor morality is limited to an objectively separate sphere of social relations. They refer to the behavior of people in broad domains of their social interaction. Taking this into account, as well as taking into account the "universality" of morality, its "omnipresent", "all-pervasive" nature, we can conclude that it is impossible to distinguish between law and morality according to their fields of action. Hence the community, the close interplay of law and morality. The close connection between law and morality, determined by the unified connections of social relations, does not mean that in all historical conditions they "work" simultaneously, complementing and reinforcing each other. The real picture of the functioning of law and morality can only be revealed as a result of a specific historical analysis. Moral norms, as a rule, establish general principles of behavior; moreover, they are less specific, but the legal regulations are more specific, formalized and unambiguous. Thus, from a moral point of view, theft is condemned in general, but the law distinguishes between types of theft and establishes liability depending on the method of commission (robbery, robbery, theft) and its size.

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