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The Modern Concept of Moral and Morality

The scientific article is devoted to theoretical issues that arise in counteracting crimes against morals. Nowadays, changes are taking place in the legal protection of the fight against crime, which affects the regular practice of the work of law enforcement agencies. The perception and understanding of the person of various events occurring around them is under different influence, which may lead to corresponding changes in the worldview. In the presented work, the goal is to carry out a scientific analysis of the opinions expressed at different times by scientists regarding the concepts of moral and morals, with the subsequent disclosure of their own suggestion for their definition. The importance of the chosen topic is conditioned by the need to improve the conceptual foundations of the fight against crime, in particular in the area of combating crimes against morals, especially in light of recent statements regarding the decriminalization of activities related to the provision of sexual services. The author substantiates the position that in order to ensure the normal existence of a society and the common life of people in any community, awareness of such sustainable categories as good and evil, honor and dignity, conscience and justice must be preserved. In the scientific work, based on the results of the research, the conclusions are presented, as well as the author's vision for the further solution of the problem is illustrated. In the definition of the terms «moral» and «morals», a long evolutionary path has been passed that is reflected in the published thoughts of thinkers of different times, but despite this, discussions on their interpretation are not completed and there is no single unified approach to their understanding. The author substantiates the idea that the concepts of «moral» and «morals» are not the same and it is proposed to perceive moral in terms of sustainable and generally accepted spiritual and cultural values in society, and morals – in the aspect of the internal installation of a person to act in a certain way or refrain from concrete actions are guided by their own understanding. Disclosure materials can be used to substantiate the need for punishment for attacks on moral and morals, as well as for future research in this area.

Keywords: ethics; moral; morals; public morality; individual moral.

Problem statement. Nowadays, the perception and understanding of a person of different events occurring around him is under different influence, which may lead to corresponding changes in the worldview. However, in order to ensure the normal existence of a society and the common life of people in any community, it is necessary to keep awareness of such subcategories as good and evil, dignity, conscience and justice. All this is connected with the notion of moral and morals, the protection of which requires appropriate legislative support. At the same time, for the elaboration, subsequent adoption and application of the relevant legal rules, it is necessary to understand the interpretation of these terms.

Taking into account that today our national legislation does not explain how one should understand the moral and morals that are

under the protection of the state, it becomes urgent to conduct a study of the corresponding conceptual apparatus, the results of which could be used in the law-making process and human rights practice. This is justified by the goal we set for the implementation of scientific analysis of the opinions expressed at different times by scientists in relation to these terms, with the subsequent disclosure of their own offer for their definition.

Etymologically, the terms «ethics», «moral» and «morals», as remarked by S. Repetskiy, arose in different languages and at different times. During the use of these terms, the word «ethics» became a science of moral and morals, and the words «moral» and «morals» began to denote the subject of the study of ethics as a science, while in everyday use all these three words could be used as identical [1, p. 20–21]. Actually ethics are often called practical philosophy. As a term determined by Aristotle in the IV century BC, and in scientific terms, the concept refers to one of the three parts of philosophy, along with physics and logic. Later ethics is determined by the area of philosophical knowledge that studies human virtues, or the doctrine of morals, which explores the wisdom of life, in which people tried to understand what happiness is and how to achieve it [2, p. 12–13].

Great attention to the study of the problem of morality paid O. Drobnitsky, who writes, for the definition of these concepts, ancient scientists used terms that meet our definitions of virtues, justice, and dignity. Such a point of view was adhered to such well-known philosophers of antiquity as Aristotle and Plato, understanding with morality (morals) virtue (dignity), moral is caste-corporate character, and each state has its own particular specific virtue. The main disadvantage of the ancient notion of moral, he defines the fact that in its basis was not introduced the main determining moment, generic sign, clarifying the social purpose of moral – morals is before a clearly defined way of regulating the social activity of man. In the process of further development of philosophical and ethical thought, the idea of moral and morals changed radically. In the Middle Ages, the first attempts to highlight morals as a separate category, give it a clearer understanding. At this time, moral (as well as morals) already passes into a qualitatively new category: while in the ancient era, it was recognized by a clearly defined quality of the psyche or virtue, but now it seemed to be an explanation and justification of the divine existence [3, p. 32–38].

A. Shevchuk, notes that moral is not only a regulator of social relations, but also a hierarchical system of common values in society, which is the property of the primitive era. The principles of altruism, mercy, justice, equality and patriotism are built on the basis of the behavior of the first people, which accumulate a whole complex of moral values and feelings of the ancient people. Such

principles, values and feelings were an inalienable basis for the existence of the first people and became the key to the development of primitive civilization and its subsequent transformation into the subsequent more advanced epochs [4, p. 78].

One of the most significant achievements of English philosophy, according to A. Landina, is that moral is already acting as a field of requirements to human, which is an expression of its essential, true nature, in contrast to trains and inclinations. In addition, the problem of morals, the content of which lies in the fact that the mind reigned over direct feelings, so that people were guided by their true interests and suppressed in themselves genuine aspirations. It is the appearance of the term and the problem associated with it, raising the ethical thought of this period to a higher level [5, p. 26].

At the turn of the XVIII–XIX centuries in the European science there is an interesting trend. From a philosophical point of view, moral already appears in two different dimensions: as an area of the spirit (universal) and as an expression of a definite mode of behavior in society. It is the last understanding of moral that translates it from a purely philosophical area of research into a socio-historical one. In this tendency, as A. Landin, observes, the influence of Kant's ethical views was first and foremost [5, p. 28]. Before the philosophers of that time there is a problem: either moral – is an area exclusively personal judgments or moral – is a sphere of socially practically significant and socially deterministic behavior [3, p. 79]. Kant writes that moral is not limited to the internal mechanics of emotional impulses and human experiences, but has a normative character, that is, it forces a person into clearly defined actions and embodies the appetites for such actions in their content, and not in psychological form, emotional color, spirituality mood and so on [6, p. 307].

G. Hegel, one of the first stressed that moral can be understood in two planes, and also separated morals as an ethical category from moral, thereby pointing out that these two concepts, although closely interconnected, are not identical [5, p. 28]. He notes that moral is not just a specific social phenomenon that distinguishes man from the world of nature, but also a special phenomenon in the historical development of society, which differs from all other ways of streamlining social experience. Morals is defined as law or other institutional, organizational and corporate norms. It is characterized by the coincidence of social orders and the actual behavior of the bulk of people, as well as the general belief in the correctness of the established order, which is based on the simple fact of its existence [3, p. 80–85].

In the ethical science of the 19th and early 20th centuries, the relation between moral and morals was considered differently.

Scientists such as A. Westermarck, E. Durkheim, A. Sutherland and W. Sumner generally do not perceive the existence of these two concepts as different categories, continuing to identify them, realizing only certain norms and principles of behavior that are characteristic only for some local group. They also deny the general nature of moral norms [3, p. 94]. On the other hand, C. Whiteley and N. Cooper question the existence of two parties in the moral: social and personal. That is, moral is understood or only as a social phenomenon, where personal beliefs and motives did not play a significant role, or as a region of purely personal beliefs that are not related to the social ordering of the individual's behavior. Such a delineation of moral for individual and social is something like the opposition of moral and morals to Hegel: as with him, public morals is reduced to simpler morals, social norms, that is, customs, traditions, and morals (individual moral) is treated as something exclusively intrinsic and internal [3, p. 103]. Morals, in the understanding of G. Hegel, stands at a level higher than morality [7, p. 367].

A. Landina, points out that there is a problem of studying moral and morals in matters of their relationship and definition of legal categories. There were attempts to resolve these issues during the XX century, but there were no special studies in this field, namely, the notion of «moral» was taken by the majority of philosophical scientists. In addition, given the fact that in philosophy there is no universal definition of moral, the jurisprudence adopted the definition which is most suitable for jurisprudence [5, p. 31–32]. Moral is defined as a system of ethical norms, rules of conduct that have developed in society on the basis of traditional cultural and spiritual values, notions of goodness, honor, dignity, public duty, conscience, and justice [8, p. 9]. At the same time, public moral is understood as the views, ideas and rules that determine the behavior, spiritual and moral qualities necessary for a person in society, and the corresponding rules that determine the conditions of normal social life of people [9, p. 293]. O. Belyaeva, considering issues of public moral [10, p. 106–118], observes that relations and actions that are actually practiced in society and justified by the system of normative-value representations are considered a sphere of morals. Public moral is not opposed to morals: the latter is a moral aspect of social reality, which is under significant influence and outside of moral factors. Analyzing the content of the idea of social morals, O. Artemyeva, says that [11, p. 81–92]:

- it contains ideas about the orientation of public moral to the achievement of a common good;
- public moral «thinks» with quantities, for her an important criterion for the «majority»;

- institutional, reliance on establishment, which are organizationally and procedurally supported;
- subject and object of public morality can be separated;
- public moral admits collective condemnation;
- it is necessarily formalized and codified, at least in part.

V. Bachinin, differentiating these terms, gives them definitions that are similar in content. Moral is a set of norms and values that make it possible to realize, first and foremost, the representative and speaker of the interests of certain social communities – countries, nations, state formations, classes, and parties. Moral is a system of normative prescriptions of such universal values of being, as the life, freedom and dignity of every person, regardless of its belonging to any of the communities or position in the middle of the system of social hierarchy [12, p. 281–282].

On the other side, there are scientists who disagree with the position of the authors who completely identify moral and morals. Pointing to the foreign origin of these concepts, L. Krisin writes that moral (from the French morale and the Latin «moralis» – moral) is the rules of morals, as well as morals itself. The moral is that which concerns morality; high moral, conforming to the rules of morality; inner, spiritual [13, p. 454].

Moral, as A. Furman, notes, contains the values that determine the peculiarities of the spiritual development of all people, nation, ethnic group, etc. All components of moral and ethics and, above all, personal values, ask and shape the goals of the spiritual culture, the criteria for evaluating their own and the surrounding behavior, are in the role of the value-semantic core of the culture of society as a whole [14, p. 95].

O. Shalagin, defines morals as one of the most important and essential factors of social life, social development, which consists in the voluntary, self-organized harmonization of the feelings, aspirations and actions of the members of society with the feelings, aspirations and actions of citizens, their interests and virtues with inertias and virtues of all society as a whole [15, p. 217]. S. Repetsky, perceives morals as a sphere of social relations, which, on the basis of moral, determines the highest, universally accepted spiritual and cultural achievements of mankind, translating them into public consciousness and behavior as unshakable and generally accepted social ideals. He points to the social character of morality [1, p. 111]. A. Landina understands morals as the order of relations between people in society, established by the norms of moral. Given the above, it is not objected to the idea that moral, which is a set of (system) norms, establishes the order of relations in society on the basis of cultural and spiritual values, namely, goodness, honor, dignity, duty, conscience, justice and other. Then, morals is the order, the mode of coexistence

in society of all state bodies, officials, legal entities and citizens, which is established in accordance with the requirements of moral. She notes that morals in the general sense – is the order of relations between people that exists in society, subject to the rules of moral. Morals as the object of a criminal offense – is the order of relations between people, existing in society, subject to compliance with the norms of moral, which is protected by criminal law. It defines morals as an object of criminal law protection. Morals is the order of relations existing in society as a result of observance of norms of moral and is protected by criminal law [5, p. 34–35].

M. Ivanets and T. Petrova point out that public moral is a sphere of moral regulation that includes those adopted in this society and oriented towards the achievement of the common (collective) good of values, rules of behavior, their reflection in the minds of people and the corresponding behavioral standards (models behavior) formed on the basis of relevant values and norms, and also possesses means of collective condemnation of immoral actions of members of this society. In this rather broad sense, definitions along with values and rules of conduct are also referred to as obligatory elements of reflection of these values and norms in the consciousness of members of society and their corresponding behavioral standards. This definition is worked out within the framework of the proposed broad approach to the understanding of moral and law, and involves not only the values and norms, but elements of consciousness and practice (behavioral standards) as a certain system of norms, consciousness and human activity, into the structure of social moral. The protection of public moral should be considered all interconnected set of measures carried out in accordance with the requirements of the current legislation authorized by the state authorities and their officials to eliminate legally defined violations of public moral and the restoration of violated human rights and freedoms and society in general in this area. From the above definition, it follows that the protection of public moral should be spoken when the relevant violations of public moral have already occurred and measures should be taken to eliminate such violations and remedy the situation. When protecting public moral as a public law, and not just an ethical category, it is about social interests, their consistency and harmonization with personal interests [16].

V. Navrotsky, believes that morals is a public moral, since the term «morals», as a rule, is used in parallel with the term «moral». Moreover, the latter is understood as the appropriate rules of behavior of people in society, and morals – the spiritual qualities necessary for human life in society and the implementation of rules of moral. Morals is seen as the social relations that are formed to ensure the behavior of people in society on the basis of generally

accepted rules of mutual respect, shyness, differentiation of the social and intimate aspects of life, respect for the values that confess other members of society, the upbringing of the younger generation in a spirit of respect for moral values of society. Morals, in his opinion, imply [17, p. 446]:

1) the existence of rules (first of all, illegal), which determine the requirements for the behavior of people in society, their spiritual and spiritual qualities;

2) the result of observance of such rules of conduct that do not cause a sense of shame in themselves and/or others.

We consider it necessary to note that the term «social moral», in contrast to «moral» and «morals», is defined by us as a legislator. Thus, Article 1 of the Law of Ukraine «On the Protection of Public Moral» states that public moral is a system of ethical norms, rules of conduct in society based on traditional spiritual and cultural values, notions of goodness, honor, dignity, public duty, conscience, justice.

The conducted research gives us the opportunity to reach certain conclusions. The notion of «moral» and «morals» arose even in ancient times and are closely linked both with each other and with the concept of «ethics». In defining these terms, there has been a long evolutionary path that is reflected in the published thoughts of thinkers of different times, but, nevertheless, today discussions about their interpretation are not completed and there is no single unified approach to their understanding. On the basis of a generalization of a wide range of suggestions on the interpretation of these terms, we suggest that the moral be perceived as a system of established and accepted spiritual and cultural values in a society formed on the understanding of good and evil, honor and dignity, personal responsibilities to the community, conscience and justice that form behavior of people. At the same time, in our opinion, morals is the internal intent of a person to act in a certain way or refrain from concrete actions guided by his own understanding of spiritual and cultural values, personal awareness of good and evil, honor and dignity, his duties to the community, conscience and justice. The definitions given by us do not in any way refute the statements of the venerable scientists regarding the problem of understanding moral and morals, but reflect the author's vision for understanding these concepts, which can serve as the basis for further scientific research in this direction.

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Сучасне поняття моралі та моральності

Розглянуто теоретичні аспекти протидії злочинам проти моральності, пов'язані, насамперед, з понятійним апаратом. Нині тривають зміни в правовому забезпеченні протидії злочинності, що позначаються на статтіях практики роботи правоохоронних органів. Визначено мету здійснення наукового аналізу висловлених у різні часи думок учених щодо понять моралі й моральності, сформульовано авторські пропозиції щодо їх тлумачення. Актуальність обраної теми зумовлена необхідністю вдосконалення концептуальних засад протидії злочинності, зокрема проти моральності, у контексті процесів декриміналізації діяльності, пов'язаної з наданням сексуальних послуг. Аргументовано позицію, згідно з якою для забезпечення нормального існування суспільства та спільного життя людей у будь-якій громаді слід забезпечувати усвідомлення таких категорій, як добро і зло, честь і гідність, совість і справедливість. Зазначене пов'язано з поняттям моралі та моральності, захист яких вимагає належного законодавчого забезпечення. Для розроблення, подальшого прийняття і застосування відповідних правових норм необхідно з'ясувати тлумачення цих термінів. Висвітлено специфіку сучасного понятійного апарату у сфері захисту моралі та протидії злочинам проти моральності. За результатами здійсненого дослідження сформульовано висновки, а також авторське бачення шляхів розв'язання проблеми. Дискусії щодо тлумачення аналізованих понять не є завершеними, оскільки немає уніфікованого підходу до їх розуміння. Автор обґрунтовує необхідність розмежування понять «мораль» і «моральність», пропонуючи мораль сприймати з позиції сталих та загальноприйнятих духовних і культурних цінностей у суспільстві, а моральність – у контексті внутрішньої установки людини діяти чи утриматися від конкретних дій, керуючись власним їх розумінням. Оприлюднені матеріали можуть бути використані для здійснення наукових досліджень проблематики покарання за посягання на мораль і моральність.

Ключові слова: етика; мораль; моральність; суспільна мораль; індивідуальна мораль.