

UDC (УДК) 347.777  
JEL Classification: K10; K23

**Ковалів Мирослав Володимирович,**

кандидат юридичних наук, професор,  
завідувач кафедри  
адміністративно-правових дисциплін  
Львівського державного університету внутрішніх справ  
(Львів, Україна)  
e-mail: mkovaliv@ukr.net  
ORCID ID: 0000-0002-9730-8401

**Кузьо Любов Іванівна,**

кандидат психологічних наук, доцент,  
доцент кафедри іноземних мов  
та культури фахового мовлення  
Львівського державного університету внутрішніх справ  
(Львів, Україна)  
e-mail: Kuzo\_Lyubov@i.ua  
ORCID ID: 0000-0003-1554-3262

## **ПРАВОВИЙ ЗАХИСТ СУСПІЛЬНОЇ МОРАЛІ В ІНФОРМАЦІЙНІЙ СФЕРІ**

**Анотація.** Розглянуто питання правового захисту суспільної моралі в інформаційній сфері. Проаналізовано право та мораль як дві рівнозначні категорії, що впливають на формування держави і суспільства. Розглянуто принципи захисту суспільної моралі в інформаційному суспільстві. Розкрито суб'єкти управління у сфері правового захисту суспільної моралі, їх систему, компетенцію. Обґрунтовано, що право та мораль – це дві рівнозначні категорії, які впливають на формування держави, утвердження певних цінностей для розвитку суспільства. Вони постійно перебувають у взаємодії і доповнюють одне одного.

Проаналізовано головні положення формування правових і моральних норм у сучасному інформаційному суспільстві та сформульовано основи їх взаємодії. Право та мораль – це дві взаємодоповнювальні ціннісно-нормативні системи, за допомогою яких здійснюється регулювання суспільного життя. Право в інформаційному суспільстві є державним регулятором, а мораль ґрунтується виключно на внутрішньопсихологічних засадах свідомості та не має обов'язкових зовнішніх виявів. Основними та першочерговими завданнями механізму правового регулювання захисту норм суспільної моралі є захист, охорона та відновлення порушених прав, а також формування високої правової культури правосвідомості громадян у суспільстві. Захист суспільної моралі може здійснюватися за допомогою правових засобів і засобів адміністративно-правового регулювання.

Наголошено, що держава в умовах розвитку інформаційного суспільства зобов'язана здійснювати комплексну державну політику в інформаційній галузі, з формуванням єдиної системи забезпечення захисту моральних засад суспільства, недопущення впливу негативної інформації на суспільну думку, запобігання пропаганди жорстокості та насильства, поширення інформаційної продукції, що має негативний вплив на суспільну мораль.

**Ключові поняття:** правовий захист, суспільна мораль, інформаційні технології, принципи, громадський контроль, суб'єкти захисту.

**Kovaliv Myroslav,**

PhD (Law), Professor,  
Head of the Department of Administrative-Legal Disciplines,  
Lviv State University of Internal Affairs  
(Lviv, Ukraine)  
e-mail: mkovaliv@ukr.net  
ORCID ID: 0000-0002-9730-8401

**Kuzo Liubov,**

PhD (Psychology), Associate Professor,  
Associate Professor of the Department of Foreign Languages  
and the Culture of Professional Communication,  
Lviv State University of Internal Affairs  
(Lviv, Ukraine)  
e-mail: Kuzo\_Lyubov@i.ua  
ORCID ID: 0000-0003-1554-3262

## LEGAL PROTECTION OF SOCIAL MORALITY IN THE INFORMATION SPHERE

**Abstract.** The article deals with the issue of legal protection of public morality in the information sphere. Law and morality are analyzed as two equal categories influencing the formation of the state and society. The principles of protection of public morality in the information society are considered. The subjects of management in the sphere of legal protection of public morality, their system and competence are under research. It is substantiated that law and morality are two equal categories that influence the formation of the state, affirmation of certain values for the development of society. They are constantly interacting and complementary.

The basic provisions of formation of legal and moral norms in the modern information society are analyzed and the basics of their interaction are formulated. Law and morality are two complementary value and normative systems through which the regulation of public life is carried out. Law in the information society acts as a state regulator, and morality is based solely on the intra-psychological foundations of consciousness and has no binding external manifestations. The main and primary tasks of the mechanism of legal regulation protection of the norms of public morality are the protection, security and restoration of violated rights, as well as the formation of a high legal culture of justice of citizens and in society. The protection of public morality can be exercised through legal and administrative means.

It is emphasized that in the conditions of development of information society the state is obliged to carry out a comprehensive state policy in the information sphere, with the formation of a unified system of ensuring the protection of moral principles of society, preventing the influence of negative information on public opinion, preventing the propaganda of cruelty and violence, disseminating information products that have negative impact on public morality.

**Key concepts:** legal protection, public morality, information technology, principles, public control, subjects of protection.

DOI 10.32518/2617-4162-2020-2-52-57

### Introduction

The rapid development and improvement of social and information processes in Ukraine today requires increased attention to understanding the level of social organization and the role of moral and legal values in the formation of a high-quality information society.

Amendments to the Law of Ukraine «On Protection of Public Morality» in 2015 helped to strengthen the control in the field of protection of public morality, and accordingly increased the attention of the state to its proper provision in the

form of providing financial support to the exercise of public control over compliance with the requirements of the legislation in the field of protection of public morality. However, with the development of modern electronic communication processes there is an urgent necessity to control the dissemination of information on social networks, Internet networks, which is able to influence human outlook, behavior and psyche, forming a tendency of negative consequences.

Studies of the protection of public morality in the information sphere have been par-

tially considered in the writings of such scientists as V. I. Aristova, V. A. Bitayev, V. D. Havlovskiy, I. A. Hetman-Pyatkovska, O. V. Hrytsak, M. H. Ivanets, R. A. Kalyuzhnyi, V. V. Kostytskyi, I. M. Kachur, N. B. Novytska, I. I. Prypkhan, O. P. Ryabchynska, V. M. Semykolenov, V. S. Tymbalyuk, V. Yavorskyi, O. H. Yarema and others.

The purpose of this article is to reveal the issue of legal protection of public morality in the information sphere.

### **1. Law and morality as the main regulators of public information relations**

Modern information technologies that occur in society bring about changes in the relations between different social groups and citizens in particular. Today, the theoretical understanding of the social morality of the current information society without the importance of modern information technologies is becoming impossible. It is only information technologies that provide the link between different social groups, between citizens, between citizens and authorities.

Law and morality are two equal categories that influence the formation of the state, the affirmation of certain values for the development of society. They are constantly interacting and complementary.

At all times, there has always been a debate over the assessment of regulatory impact of norms of morality and law on public processes; it has not lost its relevance in the information society as well. Exploring the essence of morality and law, it was established that they arise from a social need, their norms are always a fixation of what exists in society, and on this basis the development of how it should be. The main purpose of both the norms of morality and the rules of law is to maintain order in society and the state [1, p. 84].

Morality and law have much in common. Their main features are stated in the fact that both morality and law are part of the culture of society, are valuable forms of consciousness, have a normative content and serve as regulators of human behavior. The two institutions share a common goal of reconciling the interests of the individual and society, of protecting human rights and interests as the highest value and of promoting public order. The unity of morality and law is based on social and economic interests, culture of society, and people's aspirations for the ideals of freedom and justice. By the way, S. L. Frank noted at one time that human will and relations between individuals are subject to two different norms, namely, morality and rights [1, p. 121].

Morality brings together and harmonizes the general order with the individual identity of

the human. The main feature of morality is that its principles, rules and norms have a common meaning, their fulfillment is an intrinsic need of every person controlled by society.

Law is a system of compulsory rules of physical behavior – social norms established or sanctioned by the state, which express the will of the dominant part of a socially heterogeneous society, aimed at regulating social relations in accordance with this will, as well as to the social needs and is provided by the state.

In this case, sanctioning is the granting of a customary rule of conduct or moral standards of general obligation based at the decision of the relevant state bodies, which is provided by the coercive power of the state.

Law is an achievement of a certain level of culture in a society that should not have class law, criminal «law». In this way, the law is reduced to the rights, freedoms and duties of the individual and the citizen, to their equality, freedom and responsibility, to justice, enshrined in the current system of law and legislation. Law should also be seen as a cultural, human means of regulating social relations, protecting social values, and managing society through legal and public authorities. Law cannot be a means of suppressing and oppressing certain classes and social groups. It is a tool for the establishment and development of democracy, the strengthening of law and order. Law is a means of social compromise, a means of consolidating society, the people, the nation. In addition, the law remains on paper and cannot be law until it is realized by people, citizens of the state and society [2, p. 80].

Moral rules in law play a dual role. First, new legal norms are being developed and improved based on moral norms. Second, they act as a criterion for the quality of law and law enforcement. Traditional human values of goodness, truth, obligation, honor and dignity through the mediation of morality are enshrined in modern Ukrainian and international law. The degree of consolidation in the legislation of moral values is an indicator of the level of development of law and society. Thus, morality is the basis of humanism in public and state life, the basis of humanism in law [1, p. 211].

In the study of law and morality attention should be paid to their distinguishing features. Significant differences between law and morality can be found in the way they are formed. Thus, legal norms are formed by the state and reflect its legislative policy, and moral norms are formed by the society itself and depend on the notions of good and evil, corresponding to a certain stage of the historical development of society. In addition, in terms of expression, moral norms do not have

their fixation in special acts, they exist as the conviction of a certain person and society. The law has a clearly defined legislative form and is contained in established sources – the Constitution, codified legal acts, laws, governmental decrees, presidential decrees, etc. That is, the legal norm is established and provided by the state. Another difference is that the moral law is performed voluntarily, the person himself joins it. Law is juridical and contains a certain coercion, which consists in the need (regardless of the desire of the person) of its implementation. In case of violation of the law there exists a certain responsibility. In the case of violation of the moral law there comes public condemnation [1, p. 142].

Law and morality are two equal categories that influence the formation of the state, the affirmation of certain values for the development of society. They are constantly interacting and complementary.

Analyzing the basic provisions of the formation of legal and moral standards in today's information society, we can formulate the following bases of their interaction:

- law and morality are two complementary value-normative systems by which the regulation of public life is carried out;

- law in the information society acts as a state regulator, and morality is based solely on the intrinsic psychological principles of consciousness and has no binding external manifestations.

## **2. Principles of protection of public morality in the information society**

Principles are the basis for the implementation of legal rules, the key tenets on the basis of which any activity is carried out, powers are exercised, functions are performed.

The principles of law are not rarely called the core of legal matter. Therefore, the protection of public morality must be based on certain principles: the rule of law; humanism; respect for human rights and freedoms, honor and dignity; prohibition of censorship; creation of conditions for self-regulation in compliance with the norms of the legislation on protection of public morals; freedom of activity of mass media as well as non-interference of public authorities in their activities, etc.

According to A. F. Skakun's point of view, socio-legal mechanism for the protection of human rights and freedoms consists of a system of means and factors that provide the necessary conditions for respect for all fundamental human rights and freedoms that are derived from its dignity. The legal mechanism, however, is part of the social one and acts in unity with it. In order to exercise the rights and freedoms mentioned above, a social and

legal mechanism for their provision is in place. In general, the state regulation of social relations is ensured by means of a special state-legal mechanism, which consists, first, of organizational and structural formations, and secondly, of administrative and legal means of influencing the relations in this sphere [3, p. 254].

The mechanism of social and legal protection of human rights and freedoms is the unity of three components of the subsystems: the mechanism of implementation; security mechanism and protection mechanism. The mechanism of implementation of human rights includes measures that can create the conditions for the realization of human rights and freedoms. The mechanism of security of human rights includes measures for the prevention of offenses in order to confirm the legitimate behavior of a person. The mechanism of protection of human rights includes measures that lead to the restoration of violated rights by unlawful acts and liability of the person who committed these offenses [1, p. 217].

Therefore, the mechanism of protection, including public morality, involves the use of legal means. Legal regulation of Internet relations is specialized, and is aimed at regulating relations arising from the use of digital technologies on the Internet related to: ensuring the safety of the population and the state against threats on the Internet; ensuring the realization of citizens' rights when using digital technologies on the Internet by various means (normative, technical, international, regulatory, security, etc.) in order to organize and ensure balanced development [3, p. 152].

The main and priority tasks of the mechanism of legal regulation of protection of the norms of public morality include as follows: protection, security and restoration of violated rights, as well as the formation of a high legal culture of justice of citizens and in society.

The protection of public morality can be exercised through legal and administrative means. The concept of «protection of public morality» requires its defining as a coherent scientific category.

Considering the concept of «protection of public morality» it is necessary to note that it is connected not with the simple realization of the rights of citizens, but only with a certain offense or contestation of rights. Thus, this is a specified by legislative norms activity of state control and law enforcement agencies and their officials in restoration of the infringed right, termination of such violations, and creation of appropriate conditions for bringing perpetrators of unlawful actions to legal liability, by harming the rights and interests of citizens in the sphere of public morality.



### 3. Subjects of management in the sphere of legal protection of public morality

At the present stage of society development, the modern information society is stricken with information that has a detrimental effect and causes negative consequences. Legal regulation of Internet relations must be approached from a broader perspective. The process of regulation is aimed at a wide range of subjects of Internet relations (the state, its bodies, citizens, civil society institutions, etc.) [4, p. 152].

Analyzing the issues of protecting the public from the negative impact of information products, we should first of all pay attention to the system of public administration bodies of the state, which carry out their activities in this sphere.

In particular, various bodies of public administration, including the Office of the Prosecutor General of Ukraine, the National Council of Ukraine on Television and Radio Broadcasting, the National Committee of Ukraine on Television and Radio Broadcasting carry out the state supervision over compliance with the Law of Ukraine «On the Protection of Public Morality» [5] and the current legislation in the field of protection of public morality.

The Verkhovna Rada of Ukraine and the President of Ukraine also determine the state policy in the field of legal protection of public, legislative basis for its implementation.

Thus, a system of governing bodies has been established in Ukraine today. Its functions include the authority in the sphere of control over the observance of information legislation in the field of protection of public morality and the prevention of spreading of negative information on the public consciousness in order to avoid harmful consequences.

However, attention should be focused at the same time on the absence in the modern structure of subjects of protection of the norms of social morality of signs of systematicity: common purpose of activity of all components of a single system, subordination of tasks of each element of the system to a common purpose and goals, realization, in accordance with the general purpose, by each element of the system of its functions, the existence of an appropriate relationship between the elements of a single coordinate system. Each body, within its powers, performs measures to protect certain aspects of the protection of public morality of the state [6, p. 211]. Today, there is an urgent need in Ukraine to create a single, integrated system of subjects for the protection of public morality in the information industry, which should consist of common entities that exercise the relevant authority to protect public morals; special entities that will directly protect citizens and soci-

ety as a whole from the harmful effects of information products and members of the public – public organizations.

Indeed, today the state must realize that the formation of the spiritual and moral foundations of the information society cannot be fully realized without the active participation of society.

It is worth agreeing with D. Siryk that the participation of public associations in the management of public affairs allows to provide such essential characteristics of public authorities as publicity, openness, interaction with civil society, orientation to public support, prevention of conflicts, etc. Therefore, the involvement of the public in the process of public administration has always been considered by legal science as an important component of the legal status of a citizen, enabling him to act for the public good [7, p. 48].

These are public organizations that should prevent the moral degradation of modern Ukrainian society. Their activities should be aimed at the formation of certain national moral values. Due to this fact, the question of the role of the activity of public organizations in the complex system of protection of public morals becomes especially relevant today.

At the present stage of society development in modern Ukraine, according to the provisions of the basic international instruments, public organizations are created, which function as a kind of institution of civil society, which can shape and influence public opinion, promote moral values and condemn antimoral actions.

Public opinion is the complex of individuals' views on a problem that affects the interests of a particular group of people. It practically always takes a definite position on issues of interest to society and thus accumulates the «unwritten» laws of such a society. Public opinion takes place in society by instilling in individuals norms, rules of conduct in society, and nurturing respect for certain values. Therefore, public opinion is important for every person, every individual. And it is the factor of public opinion that often stops a person from committing certain actions and encourages conventional activities.

Ukraine is implementing a large-scale program of decentralization and reform of a multi-level system of public administration, including public service as one of the important components of modern governance, covering issues of legal protection of public morality in the information sphere. This process is part of a set of measures aimed at ensuring territorial purpose and sovereignty, Ukraine's accession to the EU, and civil society development, in which the implementation of the principle of transparency is one of the most fictitious means of solving these problems [8, p. 47].

## Conclusions

The state in the conditions of development of the information society is obliged to carry out a comprehensive state policy in the information sphere, with the formation of a unified system for ensuring the protection of moral principles of society, preventing the impact of negative information on public opinion, preventing the propaganda of cru-

elty and violence, disseminating information products with negative influence on public morality.

Law and morality are two equal categories that influence the formation of the state, the affirmation of certain values for the development of society. They are constantly interacting and complementary.

## Список використаних джерел

1. Загальна теорія держави і права : підручник / М. В. Цвік, В. Д. Ткаченко, Л. Л. Богачова та ін; за ред. М. В. Цвіка, В. Д. Ткаченка, О. В. Петришина. Х. : Право, 2002. 432 с.
2. Тарахонич Т. І. Праворозуміння як теоретичне підґрунтя дослідження правового регулювання. *Правова держава*. 2012. Вип. 21. С. 80–87.
3. Скакун О. Ф. Загальна теорія держави і права : підручник. Харків : Консум, 2001. 656 с.
4. Єсімов С., Бортник Н. Відносини в мережі Інтернет як об'єкт правового регулювання. *Вісник Національного університету «Львівська політехніка»*. Юридичні науки. 2019. Вип. 6. № 22. С. 147–153.
5. Про захист суспільної моралі : Закон України від 20 листопада 2003 р. № 3225. *Відомості Верховної Ради України*. 2004. № 14. Ст.192.
6. Новицька Н. Б. Захист суспільної моралі в умовах інформаційної трансформації суспільства : монографія. Дрогобич : Коло, 2016. 452 с.
7. Сірик Д. Організаційно-правові форми участі громадян у діяльності виконавчої влади. *Підприємництво, господарство і право*. 2018. № 9. С. 48–51.
8. Єсімов С. С., Бондаренко В. А. Транспарентність як принцип діяльності органів публічного управління в умовах використання інформаційних технологій. *Соціально-правові студії: науково-аналітичний журнал*. 2018. Вип. 1. С. 42–49.

## References

1. Tsvik, M. V., Tkachenko, V. D., & Bohachova L. L. ta in. (2002). Zahalna teoriia derzhavy i prava [General theory of state and law] / za red. M. V. Tsvika, V. D. Tkachenka, O. V. Petryshyna. Kh.: Pravo [in Ukr.].
2. Tarakhonych, T. I. (2012). Pravorozuminnia yak teoretychne pidgruntia doslidzhennia pravovoho rehuliuвання [Orthodoxy as a theoretical basis for the study of legal regulation]. *Pravova derzhava (Legal state)*, 21, 80–87 [in Ukr.].
3. Skakun, O. F. (2001). Zahalna teoriia derzhavy i prava [General theory of state and law]. Kharkiv: Konsum [in Ukr.].
4. Yesimov, S. & Bortnyk, N. (2019). Vidnosyny v merezhi Internet yak ob'iekt pravovoho rehuliuвання [Internet relations as an object of legal regulation]. *Visnyk Natsionalnoho universytetu «Lvivska politekhnik»*. *Yurydychni nauky (Bulletin of the National University «Lviv Polytechnic»*. *Legal sciences*), 6, 22, 147–153 [in Ukr.].
5. Pro zakhyst suspilnoi morali: Zakon Ukrainy vid 20 lystopada 2003 roku № 3225 [On Protection of Public Morality: Law of Ukraine of November 20, 2003 No. 3225]. *Vidomosti Verkhovnoi Rady Ukrainy (Information of the Verkhovna Rada of Ukraine)*, 14. St.192 [in Ukr.].
6. Novytska, N. B. (2016). Zakhyst suspilnoi morali v umovakh informatsiinoi transformatsii suspilstva [Protection of public morality in conditions of information transformation of society]. Drohobych: Kolo [in Ukr.].
7. Siryk, D. (2018). Orhanizatsiino-pravovi formy uchasti hromadian u diialnosti vykonavchoi vlady [Organizational and legal forms of citizen participation in the activity of the executive power]. *Pidpryiemnystvo, hospodarstvo i pravo (Entrepreneurship, economy and law)*, 9, 48–51 [in Ukr.].
8. Yesimov, S. S., & Bondarenko, V. A. (2018). Transparentnist yak pryntsyyp diialnosti orhaniv publicnogo upravlinnia v umovakh vykorystannia informatsiinykh tekhnolohii [Transparency as a principle of activity of public administration bodies in the conditions of the use of information technologies]. *Sotsialno-pravovi studii: nauково-analitychnyi zhurnal (Socio and legal studies: scientific-analytical journal)*, 1, 42–49 [in Ukr.].

Стаття: надійшла до редакції 31.03.2020  
прийнята до друку 29.05.2020

The article: is received 31.03.2020  
is accepted 29.05.2020