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## THE PECULIARITIES OF RELATIONSHIP BETWEEN MORAL AND LAW IN MILITARY ACTIVITY IN THE CONTEXT OF NATIONAL SECURITY OF UKRAINE

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### SUMMARY

The article is devoted to the analysis of features of relationship between law and morality in military activity, which essentially influences on worldview formation, moral and legal consciousness (self-consciousness) of the servicemen, their moral and legal socialization. The author's methodological approach to consideration of dialectics of general and special in relationship between law and morality in military activity, according to its specificity and forms is offered even in the conditions of conducting hybrid war. Investigating features of interrelation of law and moral in the military sphere, the author emphasizes that significantly effect on condition of law and moral regulation of behavior of the military personnel according to system of moral standards and of law and moral regulation of behavior of the military personnel according to system of moral standards and general documents in the areas of defense and national security of Ukraine.

**Key words:** morality, law, interrelation, general, special, military activity, law and moral regulation.

## ОСОБЕННОСТИ ВЗАИМОСВЯЗИ МОРАЛИ И ПРАВА В ВОИНСКОЙ ДЕЯТЕЛЬНОСТИ В КОНТЕКСТЕ НАЦИОНАЛЬНОЙ БЕЗОПАСНОСТИ УКРАИНЫ

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### АННОТАЦИЯ

Статья посвящена анализу особенностей взаимосвязи морали и права в воинской деятельности, которая существенно влияет на формирование мировоззрения, морального и правового сознания (самосознания) военнослужащих, их морально-правовую социализацию. Предложен авторский методологический подход к рассмотрению диалектики общего и особенного во взаимосвязи морали и права в воинской деятельности с учетом особенностей и видов, в том числе и в условиях ведения гибридной войны. Исследуя особенности взаимосвязи морали и права в воинской сфере, автор подчеркивает, что она существенно влияет на состояние морально-правового регулирования деятельности и поведения военнослужащих в соответствии с системой моральных норм и нормативно-правовых актов в сфере обороны и национальной безопасности Украины.

**Ключевые слова:** мораль, право, взаимосвязь, общее, особенное, воинская деятельность, морально-правовое регулирование.

**Introduction.** An important area of reforming of Armed Forces of Ukraine in modern conditions of European integration and cooperation with NATO is effective law and moral regulation of activity and behavior of the military personnel. Theoretical and methodological foundation of the regulating influence is represented relationship law and morality in military sphere, which appears as many-sized process, and determined by multifaceted military activity and needs of Ukrainian society in the personality of the motherland defender.

**Relevance of research.** Further ensure of national security of the state isn't possible without reforming of Armed Forces of Ukraine (AFU), which are characterized by a certain number of staff, the quantitative and qualitative characteristic of weapon

and military equipment, the level of strategic, task force, moral and legal and psychological preparation of officers and degree of learning, politeness and moral and psychological persistence of military personnel. High alert and the fighting ability find the definition in the unity of physical and spiritual elements of army. The latter's role considerably rises in the conditions of hybrid war.

**Previously unsettled problem constituent.** The problem of relationship between moral and legal in military activity in a domestic and western scientific discourse are considered in interdisciplinary and philosophical, legal, psycho-pedagogical, sociological, political studios. This problem has long been a major focus of attention of many scien-

tists: V. Abramova, E. Afonina, M. Variya, A. Zachepy, S. Skurikhina, B. Kaverina, M. Mayevskogo, V. Mandrageli, M. Trebina, H. Appel, A. Lasas, J.H. Payton and many others. Almost all researchers pay attention to lack of works, which open process of interrelation of morality and law in military activity, its complexity, inconsistency and peculiarity. Paying tribute to the theoretical and practical importance of the previous scientific knowledge it is necessary to recognize that problems of interrelation of morality and law in the military sphere hasn't become a subject of philosophical and legal analysis yet and it is considered fragmentary without taking into account today's reality which are determinants as in military activity and interrelation's process.



**Main purpose of the article.** The purpose and task of the article is the determination of features of relationship between moral and legal, which is largely influenced by specific kind of activity, namely military activity, which inherent essential features in the conditions of contemporary Ukraine and its Armed Forces.

**Results.** In analyzing the relationship between moral and legal in military activity eurointegration questions of Ukraine needed special attention, which have begun to take international and legal definiteness since EU has headed for “expansion on East”. The new course provided, that the countries, which apply for membership in the united Europe have to pass a number of transformations, which did possible adaptations to the norms and standards of the EU. Only successful implementation by candidates’ countries of all conditions granted the right for membership in the EU. Such practice received the name “Europeanization” in scientific literature. The most laconic and at the same time comprehensive definition of this phenomenon is given F. Schimelpfenning and U. Sedelmayer. [1, p. 12].

Relationship between the EU as the political and economic commonwealth and NATO as the military block is covered in H. Appel’s [2] and A. Lasas’s [3] researches. A place of Ukraine in new system of the European safety is a subject of analysis of T. Bukkvol [4]. The particular interest is scientific works where the authors open essence and the content of negative external influences. V. Vakulych proves that the process of globalization causes a number of negative influences for purely political and cultural character [5]. The tendencies of de-sovereignization of modern states are noticed in the researches by V. Smolyanuk, especially need to strengthen of military power of Ukraine and improvement of strategy of patriotic behavior [6; 7]. The problem of summarize the main methodological principles of improvement of moral and legal regulation activity and behavior of military personnel at the present stage of reforming of Armed Forces of Ukraine is being inadequately addressed.

Difficulty of feature of the relationship of law and morality in military activity is in many respects caused by its particularity, which are defined by army organization, special character of each type in the performance condition of educational and military mission. The objective character of the relationship morality and law

is the basis of legal education in Armed Forces of Ukraine. This is illustrated by experience of military management at all levels. The results of sociological studies show that 87.9% indicated a need for moral and legal behavior regulation of servicemen. Moreover, 78.5 of respondents consider that in practice requires appropriate methods and practical recommendations regarding use of moral standards at application of legal educational tools of servicemen. At the same time the question: “Do you have knowledge of the specifics of the relationship of morality and law in military activity?” 62.4% answered that they do not have such knowledge (most of them are management entities of company link). It generates insufficient effectiveness of moral and legal behavior regulation of the serviceman and their moral and legal education.

State program of reforming and development of Armed Forces of Ukraine (AFU) as a guarantor of its defense, sovereignty and territorial integrity, along with the military organizational aspects update a wide range of military and humanitarian problems whose solution should provide humanitarian and political security. The perception of fundamental changes in Armed Forces is largely due to the level of moral and legal consciousness and culture, spiritual formation, patriotic, moral and legal values. Expediency of essence research and substance in law and morality in military activity is shaped by system transformation of Ukrainian totalitarian social in civil society which is followed not only social and economic and political, but also a crisis of outlook and values; the available social reality which often negatively effect on behavior of servicemen; insolvency of present moral and legal educational system to respond to the changes adequately in style and form of soldier’s behavior, statements of new European norms concerning their rights, duties and restrictions; change the minds not only of regular and contract service, but who brings them up; increasing the number of believers among personnel and approval of institute chaplains in Armed Forces of Ukraine. The important of further improvement of moral and legal education of servicemen, effective work forms and work methods search which are provided high quality performance of educational and combat mission by them. Relationship between moral and law in military activity also military globalization actualize the problem, geopolitical challenge,

and the international terrorism, hybrid and information warfare which require the timely decision some of problems both in theoretical and in practical aspects, creation of effective system of moral and legal education in Armed Forces of Ukraine. This makes it possible to realize the instrumental function and power of the army more effectively. This conception was developed by the Anglo-American school of “political realism” D. Kethleen, H. Morgenthau etc. The famous American political scientist S. Huntington emphasized that the main purpose of officers in armed forces: 1) formation, equipment and combat training of the military personnel; 2) planning of operations; 3) realization of operation. It means control of operation and servicemen at the time of taking up the main function – use of force” [8, p. 13]. The same idea is clearly expressed and Z. Bzhezynskyi in his book “Grand Chessboard” [9, p. 40].

Reforming of Armed Force of Ukraine in the context of Euro-Atlantic integration, cooperation with NATO, military cooperation with other countries of the world, cancelling Ukrainian non-block status increases standards of moral and legal socialization of servicemen according to the criteria of Western Europe and the USA.

The latest events connected with annexation by Russia of the Crimea, carrying out Operation of united force (OUF) in the East of Ukraine revealed soft spots in the Ukrainian army activity, including moral and legal regulation activity and behavior of the servicemen. Considering the dialectic of general and special in the relationship between morality and law in military activities, it is important to understand that it has a significant impact on a specific type of activity, namely, military activity, which has significant features [11].

The first feature is that the basis of military activity is more spiritual, than the material incentives and motives. Military activity is not of a substantive and productive nature. Despite the fact that servicemen do not produce material values, their activities are socially significant. This follows from the Constitution of Ukraine, the Laws of Ukraine: “On the Armed Forces of Ukraine”, “On General Military Duty and Military Service”, “On Social and Legal Protection of Servicemen and their Family Members”, etc. In modern conditions, the serviceman of the Armed Forces of Ukraine is required not only to have legal knowledge, but also a high level of patriot-



ism and civic maturity, moral reliability, initiative and creativity.

The second feature is that military activity in modern conditions is characterized by an increase in the role of mental labor.

This feature is associated with an objective trend in the development of military affairs. And this, in turn, requires highly developed in the general cultural and technical respect of a person. The process of improvement and further development of the system "man is military equipment" leads to the introduction of complex computer technology and automated control systems.

The third feature describes the target social orientation of military activity. Analyzing social orientation, we must take into account that the objectives of military activities are specified through the connection of the soldier and the subject of his activity – military equipment and weapons. The attitude of a warrior to military equipment and weapons does not have a significant social meaning while the limits of technological, procedural aspects of activity are analyzed. Not only the old Cossack saber, but also the modern tank, aircraft, rocket are not in themselves moral or immoral objects. But, when analyzing the objects of military activity in their actual ties and functions performed – serving the cause of peace, protecting the state or invading war – the substantive activity becomes a bearer of social meaning. Military activities cannot be considered outside the state. The need for society to have and use of the army in specific circumstances became the basis for the emergence of military activity as an independent form of human activity. The purpose of military activity is that it is associated with the provision of socio-political services, ensuring the political interests and goals of the state. But for this purpose it is necessary to isolate the structural elements of the army, which is determined by its ability to fulfill its historical purpose and internal organization. In this context, the army is a set of groups interconnected by homogeneous, necessary and sufficient elements. The reason for the selection of classes of homogeneous, uniform elements in the army as subjects of military activity are: a) specific servicemen as individuals when they are included in military activities; b) functioning groups of servicemen: units, units of troops and types of armed forces; c) the army as a whole. In the study of the first class of elements, it should be remembered that the primary car-

rier of the quality of the army is a serviceman, included in a particular social group and in which he carries out certain military activities. For the primary element of the army, it is impossible to take a separate military servant outside his ties with society, the army, and other military personnel. Subjects of the second class of elements are characterized by the fact that they act as a coherent active subsystem of the army, which performs a certain group of functions and therefore features a specific behavior.

Both types of subjects of military activity and relations are products of the development of the army. They arise and develop within it, and outside of the connections with it, they cannot be understood and investigated. As a result of their interaction, the army, its subsystems receive a concrete reality. It functions and develops as a holistic organism. Separation of types of subjects of military activity allows determining their place and role in the army, to reveal the nature of social relations between them, and as a consequence makes it possible to take into account these features in the analysis of the relationship of morality and law in military activities.

Each type of activity is aimed at meeting the existing and emerging needs of servicemen, the army and society as a whole. These include different needs (material, spiritual, technical, etc.). Their satisfaction is needed to ensure armed struggle, coordinated work of personnel, support for constant readiness and high combat readiness of the armed forces, receiving and sending information, etc. Classification of relations between subjects and objects of military activity by its species is still insufficient to reveal their content. The very activities of subjects must also have a basis for division. These are the objects of military activity, which generate interconnection between actors. Therefore, the object of their relationship is the intermediary between the subjects of military activity (destruction of the enemy, delivery of means of combat damage, management of personnel and military equipment, transportation of facilities, etc.). Such military objects become carriers of the content of a particular type of relationship on which they are established. In this aspect, relations between actors act as the relationship of subjects about specific objects, their content. This gives an opportunity to study the various needs and interests of servicemen that arise in the process of functioning and development of the army

and the impact on the nature of the relationship of morality and law that ensures their satisfaction in the process of military activity. Separating from the whole set of needs, needs that are most significant at a certain stage of the army's existence, it is important to have an idea of the content of the relationship of morality and law. Moreover, the understanding of these processes suggests that each new stage in the development of the army can generate new specific, specific historical needs, and as a consequence, new features of the relationship of morality and law in military activities. The separation of activities characteristic of a specific sphere of activity of servicemen, classification of specialties of servicemen, performance of specific functions in the course of armed struggle (basic, auxiliary, maintenance functions, etc.) allows to determine the purpose, place and role of each type of military activity for the functioning and development of the army. The structure of activity of the subjects of military activity, which in turn contributes to the definition of a general and special relationship of morality and law.

A ground for the identification of classes of homogeneous elements is a specific way of carrying out military activities. It includes means to meet the needs of the army, the tools of military activity, their ability to operate and the means of realizing their capabilities within society.

Since the specific kind of needs corresponds to a particular means of satisfying them, the means themselves become a necessity for the army and society. Particular attention deserves the analysis of military activities in the performance of combat missions while operation of united forces.

Russian aggression against Ukraine, the fighting in the East of the country is actualized the attention of researchers to the relationship of morality and law in military activities in the context of the Anti-terrorist operation (ATO). This interconnection is determined by a number of factors, in particular, terrorism and the antiterrorist activity of the Armed Forces of Ukraine, the active use of counter-subversive social technologies by the enemy, which had a significant impact on the morale and psychological state of servicemen, a complex heterogeneous social structure of personnel (reservists, volunteers, Military personnel, contractors, mobilized, etc., in most of them from 27 to 60 years old), often hostile, of the local population to the Ukrainian warriors. Certain



tensions in social relations, both in society as a whole, and in the army in particular, relate to the liberation from mobilization of certain categories of citizens, the ability of wealthy, empowered citizens to avoid mobilization (virtually among the mobilized, there are no children of ministers, deputies and themselves).

Significant influence on the nature of the relationship of morality and law in military activity was institutionalized military-service relations in the ATO. Depending on the institutionalization of military-service relations among participants, formal and informal groups of military personnel are distinguished. If in the formal group the situation and behavior of the military are clearly regulated by military charters, and interpersonal relations are formed within the limits established officially, then the informal group has no clear organization, official elected positions, statuses, is not officially defined and the limit of the association. The order and it is based on traditions, relations of respect and authority. It has a peculiar moral code. It should be borne in mind that if in a peaceful time an informal group, as a rule, arises within a formal organization, then a new tendency appears in the OUF – a formal organization is formed on the basis of informal. It is especially characteristic of volunteer battalions (Aidar, Donbass, Azov, DUK, etc.). Often the basis of their emergence was, on the one hand, participation in the Eurovision 2013–2014, and, on the other hand, a criminal past. The experience of driving OUF has shown that some of the troops after the shots or direct vision of the wounds and deaths of their fellow countrymen was demoralized.

According to the research, in the daily activities of the troops mental disturbance is observed in 4–6% of the personnel, with the training of combat activities – from 15–20%, and during the battle, from 30 to 86% (depending on the intensity, the number of wounded and killed) [12, p. 62]. And here is the task before the commander to be able to quickly “assemble” the soldier and orient the battle.

Special influence on the nature of the relationship of morality and law in military activities in the ATO has the state of the relationship between the local population and the military in the places of their temporary deployment. The state of military discipline and offenses in the troops depend to a large extent on him. Previously, it was

thought that suicide, crime, drunkenness, drug addiction, harsh treatment with local residents, captives, robbery, desertion, and other deviations from social norms – these are the remnants of the past, and that there will be a moment in the development of society when they disappear altogether. But at the beginning of the twentieth century, French sociologist E. Dürkheim came to the conclusion that social deviations, including criminality, are phenomena that cannot be completely eliminated. That is, in any society there were, are and will be people, who through internal, external causes, or their interconnection, violate the social norms that are common in society. For society, it is important that social deviations do not take such a critical mass that would jeopardize its existence [13, p. 35–43].

Without a doubt, the phenomenon of social deviation is closely linked to the interconnection of morality and law, inherent in the Armed Forces of Ukraine, because the army is an integral part of the state and society and servicemen – the Ukrainian people. Therefore, all positive and negative tendencies of behavior and patterns, which inherent in society are fully manifested in the behavior of servicemen. In addition, the armed forces with a clear regulation of military service is a social institution with their specific social norms. In the army, the behavior of servicemen is regulated more rigorously, unlike other institutions of society. The degree of this regulation dramatically increases in the times of war. In this regard, servicemen are more likely to deviate from the norms, as the value-normative system of the armed forces leaves them lesser degree of freedom in choosing behavior. Therefore, the problem of law and order and military discipline remains relevant for the Armed Forces of Ukraine. Even more actual, as the real military practice shows becomes in the conditions of the OUF, in the conditions of the hybrid war. As can be seen from the analysis, military activity is multifaceted. It definitely effects the peculiarities of the relationship of morality and law in military activities, which also appears as a multi-faceted process.

**Conclusions.** Reforming the Armed Forces of Ukraine in modern conditions requires the availability of the appropriate legal and regulatory framework. The study of the real process of the relationship of morality and law in military activity shows that its specific features are determined: firstly, a concrete expression

of the objective conditionality of this process; and secondly, the specifics of the process of interconnection; and thirdly, the specific meaning of general, typical objectives of military activity.

The relationship between morality and law in military activities is objective and is the basis for organizing the process of moral and legal education of servicemen of the AFU.

#### References:

1. Шіммельфеннінг Ф. Європеїзація Центральної та Східної Європи / Ф. Шіммельфеннінг, У. Зедельмаєр. / пер. з англ. К.: Юніверс, 2010. 288с.
2. Apple H. Expansion of NATO and the European Union. N.Y.: Keck Strategic Studies, 2007. 129 p.
3. Lasas Ainius. European Union and NATO Expansion: Central and Eastern Europe. London: Palgrave Macmillan, 2010. 226 p.
4. Bukkvoll T. Ukraine and European Security. London: Royal Institute of International Affairs, 1997. 129 p.
5. Вакулич В.М. Компаративно-політичні виміри та глобалізаційні імперативні протидії міжнародному тероризмові: дис. д-ра політ. наук за спеціальністю: 23.00.04 «Політичні проблеми міжнародних систем та глобального розвитку». Інститут світової економіки і міжнародних відносин НАН України. К., 2007. 400 с.
6. Смолянук В.Ф. Десуверенізація сучасних держав: необхідність теоретичного осмислення. Вісник Національної юридичної академії України імені Ярослава Мудрого. Сер.: Філософія, філософія права, політологія, соціологія. 2014. № 1. С. 170–187.
7. Смолянук В.Ф. Духовна різниця України та Росії (на прикладі патріотичних стратегій). Науково-інформаційний вісник Академії національної безпеки. 2016. № 1–2. С. 116–130.
8. Хантингтон С. Солдат и государство: теория и политика гражданско-военных отношений. Социально-политические науки. 1991. № 9. С. 17–24.
9. Бжезинский З. Великая шахматная доска (Господство Америки и его геостратегические императивы) / пер. с англ. О.Ю. Уральская. М.: Международные отношения, 1999. 256 с.
10. Рафальський І. О. Національно-державне самовизначення України: внутрішні чинники та зовнішні впливи.



К.: ПiЕНД ім. І.Ф. Кураса НАН України; Ніжин: Видавець ПП Лисенко М.М., 2016. 480 с.

11. Загорка О.М. Элементы дослідження складних систем військового призначення / О.М. Загорка, С.П. Мосов, А.І. Сбитнев, П.І. Стужук. К.: НАОУ, 2005. – 100с.

12. Зеленков М.Ю. Морально-психологический фактор и обороноспособность страны. Военная мысль. 2000. № 2. С. 61–64.

13. Батмазов В.А. Основное направление укрепления воинской дисциплины и формирования здоровой атмосферы в воинских коллективах. Военная мысль. 2003. № 10. С. 35–43.

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## МЕСТО ЖИЛИЩНЫХ СУБСИДИЙ В СИСТЕМЕ ОРГАНИЗАЦИОННО-ПРАВОВЫХ ФОРМ СОЦИАЛЬНОГО ОБЕСПЕЧЕНИЯ НАСЕЛЕНИЯ

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#### АННОТАЦИЯ

В статье проводится исследование социальных льгот, в частности, жилищных субсидий как организационно-правовой формы социального обеспечения населения. Сделан вывод, что жилищные субсидии в системе организационно-правовых форм социального обеспечения населения занимают одно из весомых мест, так как их главное назначение – социальная поддержка определенных категорий граждан, временно оказавшихся в тяжелом экономическом положении. Отмечено, что сегодня государство уже делает определенные шаги в повышении адресности жилищных субсидий, хотя еще существуют определенные проблемы, в частности: а) нормативно-правовые акты содержат ряд проблемных моментов; б) главная цель правительства – поддержка малоимущего населения, выполняется не в полной мере; в) в результате повышения тарифов на оплату жилищно-коммунальных услуг население, даже используя субсидии, вынуждено платить огромные счета.

**Ключевые слова:** население, социальное обеспечение, льготы, жилищная субсидия, адресность.

## PLACE OF HOUSING SUBSIDIES IN THE SYSTEM OF ORGANIZATIONAL AND LEGAL FORMS OF SOCIAL SECURITY OF THE POPULATION

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#### SUMMARY

The article conducts a study of social benefits, in particular, housing subsidies as an organizational and legal form of social security for the population. It is concluded that housing subsidies in the system of organizational and legal forms of social welfare of the population occupy one of the most significant places, since their main purpose is social support for certain categories of citizens in difficult economic conditions. It is noted that today the state is already taking certain steps to improve the targeting of housing subsidies, although there are still certain problems, in particular: a) the regulatory and legal acts contain a number of issues; b) the main goal of the government is to support the poor, is not fully implemented; c) as a result of an increase in tariffs for housing and communal services, the population even using subsidies, has to pay huge bills.

**Key words:** population, social security, benefits, housing subsidy, targeting.

**Постановка проблемы.** Переход Украины к рыночным отношениям, обострив социальные проблемы, поставил в центр общественного мнения и государственной политики вопросы дальнейшего развития социальной защиты населения, основная цель которой заключается в обеспечении надлежащего уровня жизни членов общества, повышении их благосостояния, поддержке отдельных

категорий граждан в случае наступления социальных рисков (малообеспеченность, инвалидность, сиротство, бедность и т.д.), а также обеспечении социальной справедливости и социально-политической стабильности в стране.

Опыт развитых стран показывает, что нормальное параллельное функционирование рынка и надежной системы социальной защиты