

IMPLEMENTATION OF POST-CLASSICAL RATIONALITY IN THE MODERN DISCOURSE OF LEGAL PROTECTION OF SOCIAL MORALITY

Ruvyn Sergii

Annotation. *Modern Ukrainian society is at such a segment of world history that is called postmodern and post-industrial society, and therefore corresponds to a post-neoclassical type of rationality, which is characterized by non-linear development, self-organization and self-development, the transition to new models of relations, including state-legal ones sphere, especially when it comes to the development of democratic principles in local self-government and the structure of executive power, etc. For general jurisprudence, such approaches are considered promising, because they take into account random, probabilistic relationships along with cause-and-effect relationships. It is believed that the post-non-classical type of rationality “works” within the limits of the new (modern) development of science with a new way of knowing and the methodology of scientific research. At the same time, it is not only about science, but, in a broader sense, about the global transformation of the knowledge production system and the change in the ways of relating to society in the context of overcoming the “contemplative” nature of knowledge and giving it a praxeological focus with further inclusion in the conceptual field of post-classicism. Based on the peculiarities of post-non-classical rationality in social cognition, we will make an assumption about its threefold goal, which, in view of the above, consists in combining rational and logical possibilities in the studied phenomena and events with the intellectual and personal qualities of the researcher, including a wide range of “value orientations, existential experience, psychological characteristics, etc., that is, his understanding of social reality. Thus, it is substantiated that the weakness of state positions on the protection of public morality lies in the fact that, from the very beginning, a model of moral relations adequate to the requirements of the time was not formed, which would take into account the dynamics of social changes and find embodiment in legislation, state institutions, civil society, and was b a tool of social regulation, a criterion for assessing the vital activity of a person and society.*

Key words: *post-classical rationality, social morality, citizen, state, civil society, law enforcement agencies, legal relations, philosophy of law.*

In a fundamental study conducted by the Institute of Sociology of the National Academy of Sciences of Ukraine, regarding the transformation of Ukrainian society over thirty years, it is noted that during the entire existence of independent Ukraine, the most “urgent” issue for it was and remains the lagging of the legal sphere of society, the legal culture and consciousness of the population, the issue of justice from other spheres of the country’s social and political existence, in particular, such as the market economy and social structure, the establishment of the basic principles of electoral democracy, etc. This lag is labelled by the author of the study, V. Stepanenko, as a “lack of the rule of law”. He calls it a systemic problem of domestic socio-political development. The presence of such a problem, he notes, is recorded in many sociological surveys, the important indicators of which in relation to the legal sphere are either almost unchanged, or show slightly variable dynamics over ten-year distances of domestic social development [6, p. 249–258].

In particular, with regard to the study of indicators of the rule of law, which began in 2015 (the beginning of global comparative studies), after 5 years, that is, in 2020, Ukraine, as before, occupied the 72nd position among 128 countries of the world with a “moderate integral index of half-assed development

of the rule of law”, namely: from 0.48 in 2015 to 0.51 in 2020, where 1 means a strong commitment to its principles, and 0 means a weak underdeveloped legal state of the country [8]. The fact that the situation has not changed for a long time shows that the rule of law has not been ensured primarily through the accountability of the government and other social actors to the law; fair, clear, public and stable laws; open government, in particular the ways in which laws are made, administered and enforced, are accessible, fair and efficient; accessible and impartial resolution of disputes (in courts and mediation) – justice is provided in a timely manner by competent, ethical and independent representatives and neutrals who are accessible, have adequate resources and reflect the composition of the communities they serve [7]. If we proceed from the fact that the rule of law is a multidimensional sphere of the functioning of state institutions and social relations, then depending on the level of its development, we can generally judge the systemic indicator of the success of Ukraine’s reforms. And, on the contrary, the lack of rule of law may indicate incompleteness, incompleteness or significant institutional deformations of socio-political conditions or transformational processes in these countries (V. Stepanenko). In my opinion, this valid opinion of the researcher can be supplemented by another important feature that characterizes the rule of law, namely, the value content that is reflected in the public and individual consciousness through the conscious desire for justice.

In continuation of consideration of the advantages of post-non-classical rationality, it is worth outlining another important feature that concerns the understanding of man. In this context, it is customary to use the term “human dimension” to denote the special status of a person in the system, who is present in it not just as an observer, but as a carrier of cognitive actions and values that transform the world based on research results. Paying attention to this feature, for example, V. Styopin wrote about its transitional nature from classical to non-classical, and then to post-non-classical rationality, which is necessary for understanding the modern world (system) with the help of not only logical laws. The researcher noted that the mind “works” in these processes, and as a mediator, human activity is responsible for defining and developing new ways of understanding the world with the mind. The mind is “turned on” to the world, which develops together with activity, the formation of its new types, goals and means. Continuing this opinion, the Ukrainian researcher K. Reichert notes that in post-neoclassical rationality, in addition to ontological and epistemological factors, an axiological aspect additionally appears [9, p. 19–22]. It is appropriate to note that values, in turn, increase interest in morality, ethics, their connection with other manifestations and dimensions of human existence, cognition, etc. The American researcher L. Zagzebski also draws attention to the connection of the “intellectual component” with value and moral factors in social cognition. She describes this conflict by using as an example the characteristics of a specific person, indicating that his intellectual and moral virtues can include both an aspect of understanding and certain feelings, between which there is a deep connection. For example, the life of an honest person is characterized by the fact that it is important for him not only to speak the truth, but also to be careful in his judgments about what the truth is. You should not impose your opinion on others in this matter. It is enough to communicate it so that the listener(s) can accept it independently. Therefore, moral and intellectual virtues, the researcher concludes, are interconnected and form a single whole in a person (*in epistemological ethics, this approach is called value monism – author*) [10].

At most, the legal protection of public morality in Ukraine did not have and does not have a clear conceptual design today. In addition, it is controversial in view of the following. On the one hand, certain articles of the Law “On the Protection of Public Morality” correspond to the signs of legal moralism with the intention of using the law to strengthen public morality in the general interests, that is, society as a whole. On the other hand, the ideas of legal moralism do not find their final embodiment in it. The hesitation in this context is understandable, because, positioning itself as a democratic state, the latter cannot encroach on the rights and freedoms of citizens. But let’s agree that at the same time, the state must take care of the moral culture of the community, for which it is customary to adopt from the Ukrainian cultural tradition, an existentially cardocentric understanding of the world, the value of which is revealed through the perception of it not so much with the mind, but with the heart, as well as the inclusion of events, happening in it, to the existential of both collective and individual existence. Perhaps, in this context, it is necessary to refer to the concept of “anomic demoralization”, which reflects the psychological reaction of people to a social situation, when one system of norms and values that unites people into a community has been destroyed, and another has not yet been formed [5, p. 339–349].

It can be assumed that the absence of critical markers of anomie demoralization can be considered as an indicator of a relatively stable moral and psychological climate in the country, and therefore paternalism in this area should not be justified objectively. In our opinion, this corresponds to the essence of a democratic state, in which the main value is a person, his rights and freedoms.

Regarding the legal protection of social morality from the standpoint of post-non-classical rationality, an important requirement is precisely the recognition of social reality as dynamically and rapidly changing and "in which multifaceted phenomena, accidental and natural connections, etc., are intertwined, as well as the needs and interests of people - representative's different social groups" (M. Koziubra) [3, p. 3–8]. In our opinion, in interaction with law enforcement agencies, these needs and interests are accumulated by the concept of trust. In the aspect of studying legal relations, trust is one of the elements of the constitutional structure of society and the state. It is the fundamental basis of the interaction of law enforcement agencies with the population, the establishment of which will contribute to the improvement of the sense of security among citizens and the improvement of the efficiency of employees of internal affairs bodies in the performance of their duties to protect public order. Trust plays an important role in the development of civil society in the country, without which it is impossible to reliably ensure the internal and external security of Ukraine.

Trust has a great consolidating power, but, as A. Seligman writes, our world is characterized by signs of the "fading" of trust, which is quite "fragile" today. Despite the fact that it is a sought-after social phenomenon, the researcher notes, trust cannot be the only reliable foundation of communication in the public sphere. He warns that some trends are unfolding in postmodern society that may take us back to the past. It is about the formation of the foundations of mistrust due to the increased regulation of social and individual life based on new laws, sanctions, rules, etc. An American sociologist predicts the growth of mistrust in communication between people, and therefore, having no guarantees and taking risks in relations with others, we are more likely to "tend not to trust the other, than vice versa" [1].

Full trust "is characterized by a sober business understanding of someone else's way of acting." The formation of such trust simultaneously takes place in the rational and moral planes and has the following characteristics: "understanding respect" – "when trusting, we must understand and accept the "other" as he is", respect his pluses and minuses, "not impose our own views"; "self-emptying" - trust requires turning away from one's own "desires, interests and feelings", the recognition that everyone has their own truth, the arguments of which are worth accepting and understanding, and "the courage of trust" - because trust is always associated with risk, and the other must understand both what, by trusting, we risk (and what exactly), and the consequences of not justifying or betraying trust [2, p. 29–39].

Researchers V.F. Kokorskyi and O.I. Kokorska, while analyzing the values of modern Ukrainian society, proposed the idea of a transition from particularized to "generalized" trust as such a broad form of trust that could be used in relation to many different social situations, regardless of personal attitude to "another". Analyzing social relations in Ukraine, (2018) they concluded about trust as a factor affecting the stability of society, which is built on the basis of the "similarity" of those who are united by the concept of "we" and "their" as the basis of social solidarity and formation of "social capital" - networks of groups, associations, and unions that are created on a voluntary basis and contribute to the activation of individual involvement in the process of solving public issues [4, p. 97–101]. At the current stage, the role of trust/mistrust as a factor that significantly affects the outcome of interaction between law enforcement agencies and citizens is growing. There is a gradual transition from formal, traditional forms of work of law enforcement agencies to new partner-based, trust-based relations with citizens, which is increasingly becoming a sign of the times. The causes and manifestations of social immorality, a phenomenon that until recently could be considered widespread in Ukrainian society, are being overcome.

In addition, the researcher searched for reasons and ways to overcome social immorality, violating the logic and cause-and-effect relationship of the concepts "general" (which is social morality/immorality) and "individual" (morality/immorality of specific individuals). In my opinion, the causes of social immorality cannot be explained exclusively by "ignoring the principles of morality and humanity, honour and dignity in specific individuals who neglect the needs of their neighbours and society as a whole", and the reasons for its spread "by the extent of non-compliance with moral requirements by representatives of various power structures and institutions", which are characterized by dishonour, greed and venality.

In the end, in conclusion, I would like to note that on the basis of the conducted research, an assumption was made about the threefold goal of post-classical rationality in the legal protection of public morality within the framework of the transformation of Ukrainian society through the combination of rational-logical approaches with the intellectual and personal qualities of the researcher and on the basis of the recognition of dynamically changing reality. At most, the understanding of the legal protection of public morality by law enforcement agencies has been improved from the standpoint of recognizing social reality as dynamic and rapidly changing and in which multifaceted phenomena, random and natural connections, etc., are intertwined, as well as the needs and interests of people - representatives of various social groups.

References:

1. Bykova O. Fenomen doviry v filosofii Adama Selihmana [The phenomenon of trust in the philosophy of Adam Seligman]. URL: <https://cyberleninka.ru/article/n/fenomen-doveriya-v-filosofii-adama-seligmena/viewer>.
2. Chuiko G.V., Chaplak E.V. Mizhosobystisna dovira yak peredumova partnerskykh stosunkiv mizh liudmy [Interpersonal trust as a prerequisite for partnership relations between people]. *Psykhologichnyi zhurnal*. 2020. T. 6/1. P. 29–39.
3. Koziubra M.I. Pravoznavstvo, nauka, metodolohiia: evoliutsiia pidkhodiv do yikhnikh vzaiemozviazkiv [Jurisprudence, science, methodology: the evolution of approaches to their interrelationships]. *Naukovi zapysky NaUKMA. Yurydychni nauky*. 2018. T. 1. P. 3–8.
4. Kokorskyi V.F., Kokorska O.I. Heneralizovana dovira yak moralna tsinnist v systemi vartostei ukrainskoho suspilstva [Generalized trust as a moral value in the value system of Ukrainian society]. *Politychne zhyttia*. 2016. No 1-2. P. 97–101.
5. Paraschevin M. Anomiina demoralizovanist ukrainskoho suspilstva: stan, dynamika, hrupovi osoblyvosti [Anomic demoralization of Ukrainian society: state, dynamics, group characteristics]. *Ukrainske suspilstvo: monitorynh sotsialnykh zmin. 30 rokiv nezalezhnosti*. 2021. Vol. 8 (22). P. 339–349.
6. Stepanenko V. Verkhovenstvo prava i pravova kultura v suspilno-politychnii transformatsii Ukrainy [The rule of law and legal culture in the socio-political transformation of Ukraine]. *Ukrainske suspilstvo: monitorynh sotsialnykh zmin. 30 rokiv nezalezhnosti*. 2021. Vol. 8 (22). Kyiv: Instytut sotsiologii NAN Ukrainy, 2021. 620 p.
7. The World Justice Project. Rule of Law Index (2020). URL: <https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2020>.
8. The World Justice Project. Rule of Law Index (2021). URL: <https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2021>.
9. Reihart K. Lohika ta (post)(ne)klasychna ratsionalnist [Logic and (post)(non)classical rationality]. *Intehratyvna antropolohiia*. 2015. No 2 (26). P. 19–22. URL: http://files.odmu.edu.ua/anthropology/2015/02/a152_19.pdf.
10. Zagzebski L. *Virtues of the Mind: An Inquiry into the Nature of Virtue and the Ethical Foundations of Knowledge*. Cambridge University Press. Kindle Edition, 1996. 384 p.

Sergii Ruvin,

*Graduate student of the Department of Theory and History of State and Law,
Khmelnytsky University of Management and Law named after Leonid Yuzkov*