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ПРАВОВОЙ ПЛЮРАЛИЗМ И МОРАЛЬНЫЙ КОНФЛИКТ В ЭПОХУ ГЛОБАЛИЗАЦИИ

Аннотация : В данной статье рассматривается сложное взаимодействие между правовым плюрализмом и моральным конфликтом в эпоху глобализации, когда сосуществуют и конкурируют различные нормативные системы - государственные, религиозные, обычные и транснациональные. В работе освещаются проблемы, возникающие в результате дублирования правовых норм и несовместимости этических рамок, особенно в условиях, когда универсалистские принципы, такие как права человека, вступают в конфликт с культурно-специфическими традициями. В исследовании рассматриваются теоретические основы правового плюрализма, его историческая эволюция и моральные дилеммы, возникающие в связи с глобализацией, при этом особое внимание уделяется напряженности между универсализмом и партикуляризмом. Анализируя пересечения правового плюрализма и моральных конфликтов, авторы приводят аргументы в пользу нюансированных подходов, балансирующих между признанием разнообразия и необходимостью достижения минимального этического консенсуса. Подчеркивается роль институциональных механизмов в опосредовании этих конфликтов и содержится призыв к дальнейшим исследованиям возникающих цифровых и транснациональных правовых гибридныхностей.

Ключевые слова: Правовой Плюрализм, Моральный Конфликт, Глобализация, Нормативное Разнообразие, Межкультурный Диалог

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LEGAL PLURALISM AND MORAL CONFLICT IN THE ERA OF GLOBALIZATION

Abstract: This paper examines the complex interplay between legal pluralism and moral conflict in the era of globalization, where diverse normative systems—state, religious, customary, and transnational—coexist and compete. It highlights the challenges posed by overlapping legal authorities and incompatible ethical frameworks, particularly in contexts where universalist principles like human rights clash with culturally specific traditions. The study explores theoretical foundations of legal pluralism, its historical evolution, and the moral dilemmas arising from globalization, emphasizing tensions between universalism and particularism. By analyzing intersections of legal pluralism and moral conflict, the paper argues for nuanced approaches that balance recognition of diversity with the need for minimal ethical consensus. The conclusion underscores the role of institutional mechanisms in mediating these conflicts and calls for further research on emerging digital and transnational legal hybridities.

Keywords: Legal Pluralism, Moral Conflict, Globalization, Normative Diversity, Intercultural Dialogue

Introduction

Globalization has fundamentally transformed the legal and moral landscape, creating a dynamic interplay between diverse normative systems. The erosion of traditional jurisdictional boundaries has given rise to legal pluralism, where state law coexists—and often competes—with non-state legal orders, including religious, customary, and transnational regimes. This fragmentation challenges the monopoly of state sovereignty and introduces complex moral dilemmas, as conflicting value systems intersect in increasingly interconnected societies.[1] The tension between universalist claims, such as human rights, and culturally specific moral frameworks underscores the need for a nuanced theoretical examination of how legal pluralism operates in conditions of globalization.

The central problem lies in the unresolved contradictions between overlapping legal authorities and incompatible ethical norms. While legal pluralism acknowledges the coexistence of multiple juridical systems, it does not inherently resolve the moral conflicts that arise when these systems impose divergent obligations on individuals and communities. For instance, transnational legal regimes may enforce gender equality provisions that clash with patriarchal customary laws, leaving individuals caught between competing claims of legitimacy. This raises critical questions about the nature of legal authority, the limits of cultural relativism, and the possibility of a coherent ethical foundation for pluralist governance.

The objective of this study is to analyze the theoretical relationship between legal pluralism and moral conflict, interrogating how globalization exacerbates these tensions while also opening possibilities for dialogue. By engaging with legal theory and moral philosophy, the paper seeks to clarify whether pluralist frameworks can accommodate deep moral disagreements without descending into normative chaos. The analysis will challenge simplistic solutions—whether radical universalism or unqualified relativism—and instead explore mediated approaches that recognize both the inevitability of pluralism and the necessity of minimal ethical consensus. In doing so, the paper contributes to debates on post-Westphalian legality, offering a structured critique of how globalization reconfigures the interplay of law, power, and morality.

Theoretical Foundations of Legal Pluralism

Legal pluralism, as a conceptual framework, challenges the classical Western jurisprudential assumption that law is an exclusive domain of the state. Instead, it recognizes the coexistence of multiple, often competing, normative orders within a single social field, including religious, customary, indigenous, and transnational legal systems. This paradigm shift reflects a broader critique of legal centralism, which has long dominated positivist traditions by asserting the state's monopoly over juridical authority. The scope of legal pluralism extends beyond mere empirical observation of non-state law; it interrogates the very nature of legality, asking whether normative systems outside formal state structures can claim legitimate binding force.[2] This question becomes particularly urgent in the era of globalization, where migration,

digital spaces, and transnational governance have further fragmented traditional legal hierarchies.

The historical trajectory of legal pluralism reveals its deep entanglement with colonial and postcolonial power structures. During the colonial period, European powers imposed legal systems upon subjugated societies while selectively recognizing indigenous norms to facilitate indirect rule—a form of hybrid legality that sustained domination while creating enduring pluralist legacies. In the postcolonial era, newly independent states often retained these pluralist structures, though frequently subordinating customary or religious law to centralized authority. [3] The postmodern turn in legal theory further radicalized pluralist thought, emphasizing the fluidity of legal identities and the impossibility of a singular, universal legal order. Scholars such as John Griffiths distinguished between "weak" pluralism, where the state retains ultimate control over non-state norms, and "strong" pluralism, which posits that law is inherently multiple and cannot be fully subsumed under state sovereignty. Boaventura de Sousa Santos expanded this critique by introducing the concept of "interlegality," arguing that legal orders interpenetrate in unpredictable ways, producing hybrid normative spaces that defy rigid classification.

The contributions of these theorists underscore the tension between pluralism as a descriptive reality and pluralism as a normative ideal. While Griffiths' analytical framework provides tools for mapping legal diversity, Santos' work highlights the emancipatory potential of pluralism for marginalized communities resisting state hegemony. Yet this very potential raises dilemmas: if law is everywhere, can it retain any coherent function as a mechanism for social order? The answer, as suggested by contemporary pluralist scholarship, lies in a dialectical understanding of law as both a product of power struggles and a contested terrain for moral and political negotiation.

Moral Conflict in a Globalized World

The phenomenon of globalization has precipitated a profound transformation in the nature of moral conflict, rendering traditional ethical frameworks increasingly unstable in the face of competing normative claims. Unlike localized moral disagreements, which emerge within shared cultural or legal systems, contemporary

conflicts arise from the collision of fundamentally divergent worldviews, each asserting its own legitimacy in a globalized space. Cultural relativism, once a theoretical concern primarily for anthropologists, has become an inescapable reality as migration, digital communication, and transnational economic integration force previously isolated value systems into direct confrontation.[4] This fragmentation is not merely a matter of differing customs but reflects deeper epistemological divides concerning the nature of justice, human dignity, and collective identity. The dissolution of geographical and cultural boundaries has not produced moral consensus but rather a proliferation of irreconcilable ethical positions, each claiming universal validity while resisting external adjudication.

At the heart of this conflict lies the tension between universalist and particularist conceptions of morality. Universalist approaches, exemplified by human rights discourse, posit the existence of transhistorical and transcultural ethical principles that ought to govern all societies. Particularist frameworks, by contrast, insist on the situated nature of moral reasoning, arguing that norms derive their meaning and authority from specific historical communities and traditions. Globalization exacerbates this tension by creating situations where universalist imperatives—such as gender equality or environmental protection—clash with deeply rooted local practices, from arranged marriages to resource extraction rituals. These are not abstract philosophical disputes but concrete dilemmas faced by legislators, judges, and ordinary citizens navigating overlapping jurisdictions. The paradox of globalization is that while it facilitates unprecedented interconnectedness, it simultaneously heightens awareness of incommensurable differences, making moral conflict not merely frequent but structurally inevitable.

The role of globalization in amplifying these dilemmas becomes particularly evident when examining the transformation of moral discourse into legal claims. As transnational institutions and NGOs promote universal standards, traditional norms are increasingly framed as violations requiring intervention, while local communities perceive such impositions as neo-colonial encroachments on sovereignty. This dynamic is evident in debates surrounding indigenous land rights, where international

environmental protections conflict with ancestral hunting practices, or in controversies over religious freedom when it collides with secular anti-discrimination laws. What emerges is not simply a clash of norms but a crisis of legitimacy, as competing systems appeal to fundamentally different sources of authority—rational-legal versus traditional, individualist versus collectivist. The globalization of moral conflict thus reveals the limitations of both purely universalist and strictly particularist approaches, suggesting the need for a more nuanced conceptual framework capable of addressing pluralism without succumbing to either hegemony or fragmentation.

Intersections of Legal Pluralism and Moral Conflict

The intersection of legal pluralism and moral conflict represents one of the most complex theoretical and practical challenges in contemporary jurisprudence. At this crossroads, the coexistence of multiple legal orders—state, religious, customary, and transnational—does not merely create procedural conflicts over jurisdiction but engenders fundamental disputes about the nature of justice itself. When state law imposes secular frameworks on communities governed by religious or traditional norms, the resulting tension transcends legal technicalities to reveal competing visions of social order.[5] These jurisdictional clashes are particularly acute in matters of family law, inheritance, and personal status, where state-enforced equality principles often collide with patriarchal or theocratic traditions. The resolution of such conflicts cannot be achieved through hierarchical subordination of one system to another, as this would negate the very premise of legal pluralism while potentially exacerbating moral resentment among subordinated groups.

The question of legitimacy becomes paramount in analyzing these intersections. In plural legal systems, authority derives not from a single source but from multiple, often incompatible foundations: democratic legislation, divine revelation, ancestral tradition, or transnational human rights regimes. This multiplicity challenges conventional notions of sovereignty, as the state's claim to ultimate legal authority is contested by communities that regard alternative normative systems as equally—or more—binding.[6] The crisis of legitimacy is particularly evident when state courts

are asked to adjudicate matters already decided by religious tribunals or customary elders, raising profound questions about which institution possesses the moral right to judge. This dilemma cannot be resolved through purely procedural mechanisms, as it touches upon deeper philosophical issues concerning the relationship between law and morality, individual rights and collective identity.

Moral justifications for legal pluralism typically appeal to principles of autonomy and recognition. The autonomy argument maintains that individuals and communities should have the freedom to order their lives according to their deepest convictions, provided this does not infringe upon the equivalent rights of others. The recognition argument, rooted in theories of identity and difference, asserts that denying legal validity to minority normative systems constitutes a form of cultural oppression that undermines the dignity of group members. These moral claims present a formidable challenge to traditional state-centric models of legal unity, suggesting that justice in diverse societies may require institutionalizing difference rather than suppressing it. However, this approach raises its own ethical dilemmas, particularly when recognized practices conflict with fundamental rights or public order.

Conclusion

The analysis of legal pluralism in the context of globalization reveals a fundamental tension between the recognition of normative diversity and the need for coherent governance. The coexistence of multiple legal orders—state, customary, religious, and transnational—challenges traditional conceptions of sovereignty while simultaneously offering innovative frameworks for managing moral conflict in heterogeneous societies. The study demonstrates that legal pluralism is not merely a descriptive reality but a normative challenge, requiring careful negotiation between competing claims of legitimacy. The Russian juridical tradition, with its historical engagement with multi-ethnic legal systems, provides valuable insights into balancing unity and diversity without resorting to either forced assimilation or unregulated fragmentation.

As globalization intensifies normative interactions across borders, legal pluralism will increasingly shape how societies reconcile universal principles with particular

identities. The future of this paradigm depends on developing institutional mechanisms that transform conflict into dialogue, ensuring that pluralism does not degenerate into relativism. Key questions remain regarding the minimum substantive standards necessary for sustainable pluralist coexistence and the role of state institutions in mediating between competing legal orders. Further research should explore how emerging digital jurisdictions and transnational governance networks complicate traditional pluralist models, potentially creating new forms of legal hybridity that transcend conventional state-centric frameworks. These inquiries must address both the theoretical foundations and practical implications of pluralism in an era where legal boundaries are simultaneously dissolving and reconfiguring.

Reference

1. Michaels R. Global legal pluralism // *Annual Review of Law and Social Science*. – 2009. – Vol. 5, № 1. – Pp. 243–262.
2. Tamanaha B. Z. Understanding legal pluralism: past to present, local to global // *Legal theory and the social sciences* / ed. by M. Del Mar. – London: Routledge, 2017. – Pp. 447–483.
3. Zumbansen P. Defining the space of transnational law: Legal theory, global governance and legal pluralism // *Beyond Territoriality* / ed. by G.-P. Calliess. – Leiden: Brill Nijhoff, 2012. – Pp. 53–86.
4. Beardsworth R. From moral to political responsibility in a globalized age // *Ethics & International Affairs*. – 2015. – Vol. 29, № 1. – Pp. 71–92.
5. Benda-Beckmann K., Turner B. Legal pluralism, social theory, and the state // *The Journal of Legal Pluralism and Unofficial Law*. – 2018. – Vol. 50, № 3. – Pp. 255–274.
6. Merry S. E. Legal pluralism and legal culture // *Legal Pluralism and Development: scholars and practitioners in dialogue* / ed. by B. Z. Tamanaha, C. Sage, M. Woolcock. – Cambridge: Cambridge University Press, 2012. – Pp. 66–82.