

REVIEWS

Mykyta Mandryka's Scientific Legacy in the Field of International Law: Ukrainian Institute of Sociology in Prague in the 1920s

The paper deals with one of the aspects of the scientific and educational activity of the Ukrainian Institute of Sociology in Prague, the Czech Republic. It is shown that the institute was a powerful promoter of Ukrainian science and education in emigration in Europe in the 1920s–1930s.

The institute's activity is observed through the lens of the scientific and teaching activity of the famous Ukrainian legal scholar Mykyta Ivanovich Mandryka (1886–1979) and his contribution to the development of the then pressing problems in international law. The problems that he investigated are still relevant today, including the correlation of right and morality in international law, compromise as an integral part of the mechanism of law and justice, protection of the rights of minorities, etc.

Special attention is paid not only to Mandryka's scientific and educational work but also to his public activity. The paper shows that Mandryka also explored the philosophy of common law. In his works, he elaborated on issues that are no less important and investigated by Ukrainian scientists today: adherence to the norms of international law by all civilized states, non-violence in conflict resolution, and compromise as a mechanism of law and justice.

After the defeat of the national liberation movements of the 1917–1920s, many leading Ukrainian scientists, especially sociologists, were forced to emigrate. They moved mainly to countries in Eastern Europe, where they started work on creating Ukrainian centers of research and education. In the challenging conditions of living in a foreign country, they continued their research into social humanitarian problems, including in the field of jurisprudence and law.

Ukrainian scholars played a major role in the research activities of the Ukrainian Institute of Sociology in Prague. Here the works of J. B. Turchin (2009), O. Suhobokova (2007), O. B. Dzhus (2012), and D. U. Vessels (Sudyn, 2013) are worth mentioning.

Special attention should be paid to the research of the esteemed legal scholar Mykyta Ivanovich Mandryka for his scientific, educational, and public activity

at the Prague institute. The Ukrainian Institute of Sociology in Prague was founded by Mykhailo Hrushevsky (Dzhus, 2016) and Mykyta Shapoval (NBUV, n.d.). Early in their efforts, they aimed to follow and study the findings of sociological researchers in the world and establish collaboration with leading European scientists. However, alongside the development of the institute, the scope of research problems expanded. The institute's responsibilities extended beyond dealing with problems related to research. A very important addition to the institute's activities was dissemination of information. Publishing research findings added to the institute's reputation; it also enriched the social life of the local Ukrainians and contributed to the social integration of Ukrainian emigrants in European countries. (Matyash, 2000)

Mykyta Ivanovich Mandryka was born on September 28, 1886, in Kyiv, Ukraine and died on August 20, 1979, in Winnipeg, Canada. He was one of the leading scientists and teachers of the Ukrainian Institute of Sociology in Prague (Chumachenko, 2018). In 1900, he started his studies in higher education at the University of St. Volodymyr, in Kyiv, and in 1922–1925 continued the studies at Sofia University in Bulgaria.

Since 1917, he was a member of Ukrainian Central Rada. Between 1919 and 1921, he carried out diplomatic missions on behalf of the government of the Ukrainian People's Republic in the Far East—the Republic of China, the Japanese empire, the Democratic Republic of Georgia, and the Ottoman Empire.

In 1925, Mandryka moved to Czechoslovakia, the Ukrainian Free University in Prague. He obtained the academic standing of doctor of law in 1927. After habilitation in universities in Western Europe and Ibero-America, he attained the second highest academic degree, habilitate doctorate, which corresponds to Ukrainian academic degree of the doctor of sciences. Subsequently, he served as an associate professor, teaching international law and general legal disciplines.

His doctoral research investigated national minorities in international law (*Natsionalni menshosti v mizhnarodn'omu pravi*, Mandryka, 1925) and his habilitation report discussed the history of consular institutes (*Istoriia konsul'skoho prava i instytutiv*, 1927). At a scientific convention in Prague, he delivered a paper titled 'International law and political freedom' (Mandryka, 1973).

During his stay in Prague, Mandryka was a member and a lecturer of the Ukrainian Institute of Sociology, serving also as its academic secretary and one of the editors of the institute's scientific journal *Supilstvo* ('Society'). His main

research subject was public antagonisms and their influence on the historical process.

In 1928–1929, Mykyta Mandryka migrated with his wife to Canada, where they settled permanently. In Canada, he was assigned the responsibility of organizing a Ukrainian university. Instead, he organized a higher educational university course of 12 lectures, and held lectures all over Canada.

He authored and published several works on history and economic policy, the most important of which is *The Theory of Economic Democracy / Teoriia hospodars'koï demokratiï*, a collection of his public lectures delivered during 1930 in Winnipeg. These lectures were translated into the English language with manuscript rights and were recommended to political figures by the Canadian parliament (Mandryka, 1934).

Mykyta Mandryka also wrote poetry, which he believed was his main calling and considered his poetic legacy his most important personal contribution to Ukrainian culture.

As an expert in the field of law and rights, Mandryka studied the issue of the rights of national minorities. He was particularly interested in the complex correlation of legal rights and morality in international law. He discussed these problems in the article on national minorities in international law (Mandryka, 1925), and on contemporary international rights, their substitutes and political arbitrariness.

Mandryka's (1925) article on national minorities in international law is especially important in understanding the merit of his scientific legacy. In this work of great scientific insight, he examines the situation of the rights of national minorities. In the introduction to the article, he provides a historical retrospective review of the issue of defending the rights of national minorities in international law.

He argues that the idea of defending the rights of national minorities dates back to the 16th century. The Treaty of Passau in 1552, the Treaty of Augsburg in 1556, and other significant historical events mark the early recognition of minorities' rights in religious life on an international scale. As a general international norm, the concept of minorities' rights was united and formulated in the Peace of Westphalia, signed in 1648. Above all, it confirmed the protection of all agreements which had been previously signed regarding the rights associated with the emerging trend in Christianity—the Reformation. This marked the beginning of recognizing the right to conscience for all their nationals by their respective states. As the Peace Treaties of Westphalia are generally regarded as the

beginning of the development of modern international law, Mandryka concludes that the treaty on freedom of religion as an international practice is the starting point for the norms of international law.

Furthermore, he notes that the first signs related to the rights of national (ethnic) minorities were mentioned in the Act of Vienna of 1815, in the promises given to Poland. Mandryka argues that the concept of nationality was not yet recognized at the beginning of the 19th century. Regarding Poland, the Act of Vienna divided the state into three: the people with their long-standing national culture, stable historical development, and strong national aristocracy.

The year 1914 marked a new era in the national issue and, at the same time, a new stage in the development of the concept of rights of national minorities. Mandryka further studied the national question in individual states and international life before the war of 1914–1918. The internationally recognized legal protection of the rights of minorities was initially founded on the idea of nationality. However, the freedom of conscience remained as a component within the broader concept of national freedom and national rights. At the end of the article, Mandryka arrives at the conclusion that unless national minorities attain the rights of legal persons recognized under international law, they do not have a normal legal status. A precedence of this was already set by the German and Polish minorities in Silesia.

States, regardless of whether they are foreign, indifferent, or often hostile, have a legal opportunity to protect the interests of the minorities in international legal organizations (e.g., the League of Nations and the International Court). Establishing a normal legal position of minorities will invigorate the new norms in the international law. Mandryka argues that the formation of a dedicated international body focused on the rights of minorities—for example, a department at the League of Nations—with a corresponding participation of representatives of minorities, will be crucial for defending their rights and interests in operation within domestic and international law.

Mandryka's scientific research into the issues of the rights for national minorities has not lost its urgency and importance, as documents of international law today vividly testify.

In the modern world, where an overwhelming majority of states are multinational, with various ethnic peculiarities, cultural identities and historical memories, there exists an urgent need to establish an international mechanism for defending

national minorities against assimilation, discrimination, and pursuit of the dominant majority. Signs of increasing international tension can be observed in practically all the regions of the present-day world. (Borodinov, 2001)

At the 95th session of the Council of Europe, on November 10, 1994, the Committee of Ministers accepted a Framework Convention for the Protection of National Minorities, aimed at safeguarding the rights of the latter (European Commission, 1995). In the historical context, the Framework Convention became the first legally obligatory, multilateral international document, devoted directly to the protection of national minorities in all spheres of public life.

Mandryka's other article, discussing the general issues in international law, is titled 'Modern international right, its substitutes and political arbitrariness' (Mandryka, 1927). In the article, he addresses such problems as social compromise, the ethical baseline as a minimum of social justice, ethical issues in international law, and the hierarchical structure in the institutes of contemporary international law. The author concludes that a legal norm is a compromise between two or more conflicting interests. Furthermore, he notes that this compromise of conflicting interests, as a legal norm, corresponds to and is based on fundamental social ethics.

Contemporary legal scholars, while elaborating on the issue of compromise in the sphere of legal right, claim that compromise holds a particular value as a special legal means in the system of legal activity. Underestimating this negatively influences the effectiveness of the mechanism of applying legal rights. This practice hinders the action of progressive laws, and thus prevents realization of positive transformations in the society (Nekyha, 2013).

To sum up these conclusions, Mandryka states that "a legal norm, while not an ethical minimum, must necessarily encompass a moment of ethical minimum, or, in other words, there must be an element of ethical minimum in the composition of every legal norm" (Mandryka, 1927). However, the author pays attention to the fact that ethics is actually a movable construct of diverse human groups, divided along lines of class, religion, ideology, etc.

Contemporary researchers specify that nineteenth-century international law was under the influence of universalism and globalization of human rights. Addressing the new challenges requires establishing a truly fair system of legal relations grounded in moral principles, aiming to overcome the monopoly of individual states (Nekyha, 2013).

Having demonstrated the violation of norms of international law with specific examples, Mandryka concludes that an element of ethical minimum in international law must be obligatory. Ethical minimum in international law is nothing other than social justice. Mandryka specifies that, at the time when the 1919 peace treaty was signed *de facto* and *de jure*, international law contained binding regulations in relation to organizing the civil life of a country's population. On the ruins of the old state power, destroyed by wars and revolutions, these legal norms included prohibition of violence in the establishment of new state power, the right for self-determination of people and tribes, the right for revolution, plebiscite, and optation. The application of legal acts which do not correspond to these principles and legally binding regulations of the international law is a sheer display of political arbitrariness or substitutes of law and rights.

Furthermore, Mandryka examines the following issues: adherence to legal norms of right during the dissolution of the Austro-Hungarian Empire, the Treaty of Saint-Germain, which was a fabrication of Austria-Hungary's legal continuity, the disregard of legal norms, and a fiction of political stability in most recent international law.

Having carefully considered these questions, he cites the words of the German representative at the Versailles Conference, who said that the world that cannot be protected by law and right will always get new and dangerous bursts of resistance and nobody will be able to ensure their implementation. Summarizing, Mandryka writes that the field of positive international law has an important responsibility not only to register political acts and how they are formulated but also to expose their legal essence, to cleanse the progression of law and order in public culture of harmful substitutes and arbitrary application.

Mandryka insists that it is ultimately important for the doctrine of positive international law to ascertain the impressive development of contemporary positive international right on the one hand, and, on the other hand, as is unique for this moment of stabilization, the decline of the concept of right and its foundations in international law and the acts of contemporary political leaders in Europe. This dissonance has been widely discussed by today's scholars (Shyrokovska-Murash, 2020). We can see how relevant these words are today.

In addition to his research, Mandryka was involved in teaching. Oksana Dzhus (2019) mentions in her work 'Professional training of young people in the Ukrainian diaspora in the Ukrainian Institute of Sociology' that the teachers and lecturers at the Ukrainian Free University were exclusively Ukrainian

professionals, dedicated to the interests of Ukrainian society. Among them were Ukrainian public figures and prominent scientists, such as Mykyta Mandryka. (Dzhus, 2019) According to the data provided by Volodymyr Troshchynskyi (2019), at the beginning of 1929, there were 600 students, aged 15 to 45, from Galicia, Bucovina, and Transcarpathia enrolled in the courses of the Ukrainian Free University.

The founders of the Ukrainian Institute of Sociology paid much attention and attached great value to educational work among these Ukrainians whose education had been interrupted due to emigration. Mykyta Shapoval acknowledged the important historical role of the institute for educating Ukrainians. “Only through the scientific organization of thoughts of peasants and workers will Ukraine be able to achieve liberation... for 40 million Ukrainians, armed with science, will do what cannons alone will not be able to do” (*‘Z khroniky...’*, 1927).

Studies at the university were carried out using printed educational materials (lectures and accompanying sets of tasks and exercises). Students independently studied them at home at their convenience. For the period from January 1, 1928 to May 1931, the institute printed 110 lecture expositions (constituting 1,200 pages in dense writing) and distributed 300 copies of each among the students. Notably, one of these copies was Mykyta Mandryka’s lecture on national rights.

It can be asserted that the Ukrainian Free University stands out as a truly unique phenomenon. It is the first Ukrainian educational establishment to provide out-of-class learning. The value and significance of the university in distributing knowledge, professional training, and patriotic education among young workers and the wider Ukrainian national community cannot be overstated. The value of this experience has gained even greater importance in the current stage of Ukraine’s development, marked by the forced emigration of millions of Ukrainians due to Russia’s war against Ukraine.

This review of Mandryka’s scientific legacy offers an opportunity to learn about his perspective on such important issues of international law as the legal protection of national minorities. The philosophical aspects of ethics and morality, compromise and nonviolence in his legacy resonate with the present-day situation in the world. These ideals deserve to be active norms of international law and implemented in practice. One could argue, without exaggeration, that Mandryka foresaw the establishment of the legal law of right and order in the contemporary European Union.

It is necessary to highlight that in his scientific research, Mandryka touches upon very important problems of international law that continue to be relevant today. Mandryka's appeal to adhere to internationally previously approved legal norms, primarily the prevention of violence in resolving international conflicts, resonates deeply in our turbulent times.

The recent full-scale war, started by the Russian Federation against Ukraine, blatantly violated the rules governing warfare, which have been established in many international documents. Russia's actions breach humanitarian rights concerning systems of energy supply, in the field of ecological safety, and critical infrastructure. While the Russian authorities position themselves as defenders of conservative Orthodox values, they have resorted to their disgraceful practice of damaging and destroying religious buildings in Ukraine. Ukrainians feel this loss particularly deeply, as many of these structures are famous ancient historical and architectural monuments.

International laws concerning warfare strictly prohibit the seizure of enemy property, except in cases of military necessity, or authorized confiscation of communal or private property. With the beginning of Russia's full-scale encroachment on Ukraine, the country's territory suffers from destruction of civilian infrastructure, residential buildings, schools, hospitals, commercial centers, etc.

Another gross violation of international humanitarian law is the damage caused by the deliberate destruction of cultural heritage. The Russian Federation cynically destroys Ukrainian museums, which has a devastating effect, resulting in the tragic loss of monuments of antiquity and unique artistic works. (NISS, 2022) These actions, taking place before our eyes, are what Mykyta Mandryka characterized as political self-will and arbitrariness.

The significance and value of Mandryka's legacy lie in his conceptualization of humanitarian norms in international law, such as nonviolence, correlation of rights and morality, and compromise in dispute resolution. At the time when the world grapples with so much violence and discord, his appeal that these norms should not only be formulated, adopted and signed, but universally followed and observed, remains profoundly valid.

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