



## FUNDAMENTAL PRINCIPLES OF LAW IN THE LEGAL SYSTEM OF MODERN NATIONAL AND INTERNATIONAL LAW

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### ABSTRACT

The fast development of international legal relations puts forward more and more requirements to legal regulation, which should be flexible and effective to achieve the goals of the modern international community. However, the current globalization processes in the international legal order have not only positive but negative consequences, which contributes to the necessity for the comprehensive analysis of the international legal system in the context of globalization. The study aims to examine the problem of defining the concept and nature of basic principles as the basis for the protection of human rights in the modern legal civilization space. In the study, the number of common law methods, general scientific and special scientific methods were used. The leading method of the study was a comparative legal method that allowed to compare principles of international law and other norms of international law, their place in the system of international law with the allocation of general and special interaction. As the



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result of the study, we characterized the main features of the basic principles as the basic rules of regulation of legal relations, analyzed the role of principles as fundamental principles of functioning of the international community, and substantiated the basic role of principles in the legal regulation of human rights. The study also determines the sources of the enshrinement of the basic principles of international law and its customary origin.

**Keywords:** globalization, fundamental norms of international law, human rights, international community, legal regulation.

### 1 INTRODUCTION

New trends in World Social Development, which were reflected at the end of the XX - beginning of the XXI century, have set a number of important theoretical and practical tasks for international legal science, the effective solution of which will largely determine the choice of a strategic direction for the further development of human civilization. The most important of these tasks, in our opinion, is today to determine the meaningful characteristics of a future world order based on the rule of law, as well as to create the necessary mechanisms and procedures for its construction and functioning. Of particular importance for the functioning of the new world order are the general principles of modern international law as the foundation of the system of international law. In the modern conditions of intensive development of relations of international legal character more and more requirements are put forward to legal regulation which should be flexible, and accordingly effective, for achievement of the purposes and tasks facing the modern international community. The principles of international law are fixed both in their own international legal system and can be borrowed from national law, and international law recognizes the common principles found by mankind as a common borderless property. The relevant question here is: what is the modern concept of the principles of international law and do they meet the global needs of Legal Regulation?

The modern global world is once again at a tipping point. The current global human-centered international law has entered the era of democratic-liberal, living, evolutionarily conditioned law, which is born in the relations themselves, which are constantly evolving, developing and changing. These processes require their own understanding and



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theoretical and legal analysis. It is principles as a natural legal phenomenon by their nature and nature that can act and compete with other modern regulators as progressive, stable and flexible norms that meet the needs of modern international legal relations. The generally recognized principles of law, which are increasingly being addressed by international justice bodies, play a special role in this process. The need for such treatment is explained by the expansion of the range of issues and disputes that modern subjects of international law address to the courts. As the practice of International Justice shows, the principles of justice, equality, non-discrimination, evolutionary interpretation, proportionality and the rule of law are increasingly used in dispute resolution. The practice of applying the principles of national legal systems is expanding, provided that they are adapted to the conditions of the international legal order.

The current globalization processes contribute to the renewal of both national legal systems and the entire international system as a whole. At the same time, the changes that are taking place give not only positive, but also negative consequences, which determines the relevance of analyzing the problems of transformation, primarily the international legal system in the context of globalization and finding ways to solve the problems that arise as a result. In this regard, the question arises: Can the principles of international law in the process of their influence on law, legal awareness, lawmaking and law enforcement somehow contribute to the solution of international legal problems? In order to avoid the negative consequences of globalization changes in the legal sphere, it is necessary to ensure the harmonious development of national legal systems of states in changing conditions by balancing the principles of international law as a result of the stabilizing function.

It is difficult to overestimate the importance of generally recognized principles of law. The principles of law are a legacy of humanity that has no state borders, a legacy that has come a long way: from individual customs to enshrined in national legislation of most modern countries and international instruments. It is the principles that reflect the social changes that occur in the development of society. Throughout the history of the existence and relationship of international and domestic law, the principles of law have



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played the greatest role in their interaction. General principles of law arise in parallel in international and domestic law. National and foreign doctrine has repeatedly stated that general principles of law influence the formation of norms of international public, international private or supranational law in general. Despite the existing research on the history of the principles of international law, the question of their formation and development, the impact on international relations requires rethinking from modern scientific positions.

It is well known that international law is a multifaceted phenomenon, it is permeated by the most general, basic ideas, that is, the principles that are its legal basis for achieving goals, connect it with public life, determine its nature, orientation and essential properties, without their perfect understanding it is impossible to comprehend the international legal system in general. One of the attempts to answer this question was a scientific study, which attempted to comprehensively explore the complex legal nature of such a multifaceted and at the same time the fundamental phenomenon of international law as principles and justifies the relevance and progressive growth of their role as basic rules of law, including international law. One of the attempts to answer this questions is this research, which attempts to comprehensively investigate the complex legal nature and mechanism of functioning of such a multifaceted and at the same time fundamental phenomenon of the science of international law as principles and justify the relevance and progressive growth of their role as basic norms of modern national and international law.

The versatility of the principle of international law as a legal phenomenon implies the need to use the principle of methodological pluralism in the study of its essence and the use of common law methods, as international law is part of a single legal matter. The main method of this study is, first of all, the comparative law method, which compares the general principles of international law and principles of international law, principles of international law and other norms of international law, their place in the system of international law with the allocation of general and special interaction. Comparative-historical and comparative-political methods, the method of the specific analysis of the object of research were used as an auxiliary. For an objective analysis of the subject of



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research, a number of general scientific and special scientific methods were used. A socio-normative approach, through which research is based on the social aspects of the existence of international law, which today is the main focus of human-centrism.

Normativism in this case consists in purifying the principles of international law from the concepts of political, ethical, sociological and ideological elements that is, studying their purely formal side. The normativist method assumes a hierarchical structure of norms, where at the top of this pyramid is the main norm (the basic principles are laid down in it), which is the source of validity of all other norms. Although this direction separates the principles from the real picture of law, it is important for the problem of the basic principles of international law, since they are the main norm, the criterion for the legality and effectiveness of the international legal order. The dialectical method allowed to characterize the general principles of international law as a multilevel concept, which is formed under the influence of various processes (social, moral, legal, economic, political), to characterize them as a socio-legal category combining legal and non-legal elements, anthropocentrism's content, the interests of social groups, individuals and international society in general.

The sociological approach allowed us to look at the principles as an independent social phenomenon, a social fact, because law studies only formal law (established by the state), that is, the current legislation. By contrasting living law with formal law, we have expanded the object of study from purely legal texts to legal norms of reality (the internal order of people). On the basis of an axiological approach, the nature of the general principles of international law is revealed. Using the logical method, the multidimensional nature and multiplicity of definitions of the concept of general principles of international law are generalized, and the main criteria for the existence of the principle of international law are determined. No less valuable in the context of this research was the communicative method, in particular the principle of fair fulfillment of obligations requires the study of important facts or context, the choice of values relevant to these facts, giving transactions social qualities that are the result of international communication.

The method of psychological analysis considers the principles as a psychological



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reality, which is enshrined in them, which allows a deeper understanding of their meaning, taking into account their psychological content. The method of critical legal research essentially seeks to expose international law, considering it to be inconsistent with reality and a disguised policy, as norms and principles are unresolved conflicts that cannot be properly answered in litigation. Judicial decisions cannot be objective, because it is impossible to completely get rid of prejudices, preferences or other subjective and psychological factors, which are why based on the interpretation of the same principle, quite different conclusions are possible. However, in our opinion, it is the nature of the principles that allows them to be interpreted according to the specific circumstances of the case, which is an opportunity to achieve objectivity and fairness.

The problem of the basic principles of international law in the system of modern international legal regulation and regulation at the national level remains relevant throughout the history of law, including international law. There are many discussions in the doctrine of international law, which in no way diminish the relevance of the research topic, but on the contrary, confirm the invariability of the advanced role of principles in regulating international legal relations and in the integrity and fundamentality of international law. In particular, general theoretical aspects of the problem of principles of law became the subject of the doctoral research of Ukrainian scientist-theorist A. Kolodiy (1998), as well as the works of S. Pohrebniak (2008), O. Uvarova (2012). The works of L. Halenskaia (1995), O. Lutkova (2004), L. Novykova (2004), A. Smbatian (2012), V. Butkevych (2005), O. Butkevych (2013), O. Zadorozhnii (2015), O. Merezko (2002), and others are devoted to special research in the field of international public law. Numerous developments in the field of multifaceted aspects of the principles of international law can be found in Western doctrine. Special studies of the principles of international law were conducted by J. Brownlie (2008), H. Kelsen (1967), H. Lauterpacht (2002), H. Lawrence (1910), and S. Murphy (2006). Some aspects of the principles can be found in works of W. Degan (1997), R. Kolb (2006), M. Panezi (2007), M. Virally (1968) devoted to the problem of sources of international law. A large number of works by Western scholars are



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devoted to the role of general principles of law in international law, in particular F. Raimondo (2008), J. Fitzmaurice (1975), J. Gaja (2013), J. Lammers (1980).

### **2 DEFINITION OF THE CONCEPT OF PRINCIPLES OF INTERNATIONAL LAW AND SOURCES OF ITS ENSHRINING**

As is known, the system-forming factor in the existence of the system of international law is its principles, which act as a material carrier of the rules of structural organization of the system of international law, are a reflection of the objective conditions of this set of legal norms. Principles are external catalysts for combining international legal norms in the field and institutions, and at the same time guarantors of the internal unity of the system of international law as a whole, as a concentrated essence and meaningful direction of international legal regulation. Principles are the fundamental norms of international law, which establish the foundations of the modern system of international relations and international law, which contribute to the normal functioning and development of these systems. Fixing the main thing in international relations and in law, the basic principles are the most generalized rules that express the essence of international law in a concentrated form. Forming the main content of international law, its principles reflect all its characteristics, perfectly reveal the place of international law in the social life of mankind and its development.

Doctrinal differences in deciding the definition of principles of international law are causing ambiguity vision scientists to the content of this category, as mentioned above. However, all discussions, in general, are reduced to two main problems. First: whether the concept of principles of international law covers the category of generally recognized principles of law, and hence the question of the effect of the principles of domestic law in the international arena. Second, pushing to the background the problem of general principles of law in international law, scholars usually talk only about the concept, essence, and characteristics of the generally recognized basic principles of international law



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enshrined in the UN (sometimes called the principles of international relations). Equally important is the need to formulate the concept of the principle of international law as a legal category, which would take into account the specifics of a special category of norms and principles in international law, not limited to the concept of generally accepted basic principles of international law, known as the Ten Commandments of international law coexistence of humanity. Of course, these discussions are as eternal as the phenomenon itself. Derivation of systematized knowledge acquired over millennia, as we can see, is relevant and urgent at the same time.

It should be noted that the concept of principles of international law can be used in a broad (taking into account generally accepted principles of law), and in a narrow (purely international legal system principles) sense. The principles of international law are norms of international law, although there is a statement about the principles as a source of international law. Thus, the principles have acquired the characteristic features of the norms of international law, but specific, such that have special features inherent only in the principles.

The formation of modern international law constantly requires that the general principles of international law be textually expressed in international treaties at various levels (in particular, at the supranational level on the example of the EU). Since Art. 38 of the UN Charter (UN General Assembly, 1945) does not provide for the principles of international law as a source of law, and n "c" refers to general principles of law, it is possible to interpret such normative consolidation as confirmation that the principles of international law, as special to general principles, are norms that can be reflected in any of the sources enshrined in Art. 38 and not provided for in it (decisions of international bodies and organizations). Similarly, W. Degan's (1997) *jus gentium* is a part of Roman law with some general principles of law, which today are a specific source of modern international law. Principles of law (international or domestic) are a type of rules, which, according to O. Lutkova (2004), can be fixed in the following forms: written (in the wording of Article 38 of the Statute - "international convention") or unwritten (in the wording of Article 38 of the Statute) - "international custom"), but not the type of source of



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international law." However, we argue that the principles of international law can be objectified in other modern sources of international law, including those not enshrined in the list of Art. 38 of the Charter of the UN Security Council (UN General Assembly, 1945).

In the doctrine of international law, the discussion of the concept of the source of international law still remains open. So, several points regarding this discussion are important for our research. First of all, the normative concept of sources of international law is not sufficiently developed, so theory and doctrine prevail here, where the concept of the source is rather metaphorical, and usually generally rejected or replaced by other concepts, including "normative process", "methods of law formation", since the source is where the formation of the norm of international law begins. In the modern doctrine of international law, three meanings of the concept of the source of international law are most common: formal, material, and cognitive. In the latter sense, a source is understood as documents and materials that allow you to deduce or formulate a norm of international law in the process of cognition. However, the first two values are important for us. Formal sources are legal procedures, methods of creation, which make the norms binding, while material sources serve as proof of their existence and determine their actual content. In this context, we can consider the thesis that the principles of international law are a formal source for all norms of international law, but not in the meaning of the source, but as a criterion of legitimacy in the process of international law formation. This opinion can be traced in the normative concept of sources of international law, which provides for the existence of a basic fundamental norm, from which other norms of international law derive; and in the concept of natural law, according to which "basic rights in international law constitute the extreme minimum necessary norms for the existence of legal relations between subjects of international law (for example, rules: *pacta sunt servanda*, responsibility for the offense committed, the right to protect their rights against the violator and others) (Yeykhelman et al., 2004).

Natural law principles are now considered general principles of law and in international law are recognized as a source of international law, but the principles of international law are norms of international law, which have a special character - they are



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a criterion of legitimacy and legitimacy in international law formation. Therefore, our research should be based on the international legal doctrine of norms and sources of international law and the general theory of law on the norms-principles in law, so that they can be distinguished from other norms of international law. Forming the main content of international law, the general principles reflect all its properties and functions. This means that: a) they are normative-regulatory, universal, obligatory, objectively conditioned, historical and ideological-political categories; b) their social function - regulation and protection of international public relations; c) they are an independent legal category, have distinguishing features from all others. These features include the obligation and unconditionality, the concentrated reflection of the most important laws of the international community. The principles of law bring uniformity to the entire system of international norms and the international systems in general, ensure the unity of legal regulation of international relations.

### **3 CORRELATION BETWEEN THE SYSTEM OF PRINCIPLES OF INTERNATIONAL LAW AND FUNCTIONING OF THE INTERNATIONAL COMMUNITY**

The principles of international law lead to action and synchronize the entire mechanism of international legal regulation, and are a criterion for the legitimacy of the action of all subjects of international law. Our task is to analyze the characteristic features of the system of principles of international law and derive on their basis the definition of the concept - the principles of international law. The first and historically confirmed feature is the objective conditionality of the laws of development of the most important, vital international relations. From the first origins of international law, the principles were formed as a consequence of the objective development of the most important social relations, as a result of social practice. Taken together, only the principles of international law as a whole can form a qualitative vision of the current state of international law, its most important properties, essence and content of international law. From the



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epistemological point of view, the category of principles is closely related to the categories of regularity, nature, and sometimes philosophers see the law of the existence of an object under the concept of principle. Such features are also inherent in the principles of international law.

The principles of international law are a system of the most general rules that govern the behavior of subjects in a generalized form, and therefore are concentrated governing content and purpose of international law. Although the principles provide for specific rules of conduct and specific rights and obligations, their general content allows international law to take on a dynamic character. They are binding on all subjects of international law, provided that the latter are competent to exercise the legal capacity, capacity or tort required by a particular principle. On the basis of this formulation of the rights and obligations of subjects of international law, the general principles, as a rule, are specified (in terms of subjects, rights, obligations, legal facts, etc.) in other international legal acts. Based on the principles of modern international law, the theory and practice of evolutionary "living" interpretation is developed and approved. In addition, the principles carry out their functions both in law-making and law-enforcement processes, they can directly regulate international relations, and may be the basis for subsequent law-making as a guiding principle for interpretation. The main difference between the principles of international law and the general principles of law is here, they contain specific rights and obligations for subjects of international law and can directly act as a regulator of international relations.

A unique opportunity and, at the same time, a characteristic of the principles of international law is the combination of the elements of stability, programme and vanguard of legal regulation. The stability of the principles is confirmed by historical conditionality and social practice, while the programme element is manifested in the affirmation, in the sense of principle, of the important objectives necessary to achieve. The task of the principles is to bring specific norms up to the level of real relations, and having reached them, to develop further. Thus, the principles of the law of war have achieved the goal of humanizing military relations and developed into the principles of humanitarian law. The



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principles not only state the current state of international relations, but also determine the main directions of their development, that is, they formulate a development program for the future. The principles of international law are legally enshrined in its basic principles, which are normative in nature and are determined mainly in international customs, treaties and other sources of international law. Such a feature of the principles was adopted from the norms of international law, but the key here is not normative, but first of all the positioning of the principle as norms of the highest order. These principles differ from other principles-ideas, principles-slogans, which have no legal form.

The importance of general principles of law cannot be overemphasized. Principles are the historical and cultural heritage of humanity. Individual customs of our ancestors ("do not kill, do not steal" and others) gradually turned into universal rules of cohabitation, fixed in the main international legal documents, and today have become a universal, international heritage, which is the legal basis on which relations are based at all levels of cohabitation-at the National, International, supranational levels. The principles are also the basis for improving the institutions and norms of the branches of both national (including private international) and international law. The principles serve as a means to eliminate gaps in law and are aimed at ensuring the implementation of the right. Principles are an imprint of social changes occurring in the process of human development, so the latter are of paramount importance in regulating social relations. So, principles are the ideological, historical, cultural, social and legal basis of the international legal system.

Modern civilization retains consistency in the relatively humane ideas of the past and is based on a theoretical basis that has found its consolidation in international legal documents and in the national legislation of most legal systems of the world. The importance of general principles of law, both at the national and international levels, cannot be overemphasized. The application of general principles of law is aimed at eliminating conflicts of international legal norms and eliminating gaps in international law, ensuring "avant-garde" legal regulation in the event of the emergence of new subjects of international law or new areas of international cooperation. It is also worth noting the special role of international justice bodies in this activity. The principles serve as guidelines



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for the formation and implementation of norms. It can be considered that the basic principles form the political, moral and legal basis of the international legal system (Shestakov, 1981).

According to the Ukrainian theorist A.M. Kolodiy (1998), international and national legal development convincingly indicates that the improvement of legal formation, legal realization and law enforcement is possible only by organizing close interaction of legal and ethical norms, which creates a special spiritual atmosphere of respect for the rules and standards of behavior, value orientations of society, the state and people. From the very beginning, law was formed on the ideas of justice and morality, the so-called "Spirit of Law", which gradually in the process of development of law and the formation of a holistic system of law are formulated as its fundamental principles. The principle is a rule, the basis from which do not deviate (Dal, 2003).

Recently, the role of general principles of law as a fundamental positive legal and natural legal experience of mankind has been growing in international law. Disrespect, non-observance of general principles is a precondition for disrespect for the law in general, for legal nihilism and lawlessness both at the national and international, universal level. The principles are the result of a huge comparative work, which is why, based on the methodological and philosophical potential of legal scholars, international scholars create a conceptual and categorical apparatus, identifying and analyzing specific qualities inherent only in international law. General principles of law appear long before the emergence of the state, as a result of the social need for the development of human relations (Kolodiy, 1998), and have become the common property of mankind as a fundamental basis of national, international, and other legal systems. International law finds its principles in its own legal system can borrow principles in the national legal system or recognize common principles created by societies that are not limited by national-state borders.

The development of common legal ideas is not limited by state borders, and national affiliation or belonging to the legal system of the principle is also conditional. Thus, the principle (right) of property is the common legal heritage of mankind, because it arises



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long before the formation of statehood, and today is used to determine the legal status of an independent subject of international law - the state as a basis for the principle of sovereignty. I. Pokrovskiy (2001) rightly emphasizes that nationality is not a criterion of justice or expediency, or even vice versa, it is the fundamental principles of law that have become criteria for nationality. Public international law, like any other branch of law, including national, is based on common principles of law as a product of human civilization.

Today, the general principles of law are enshrined both at the international level (the Universal Declaration of Human Rights of 1948, the International Covenant of Civil and Political rights of 1966, the UN Charter of 1945, the Statute of the International Criminal Court of 1998, the Declaration of Principles of International Law of 1970, the European Convention on Human Rights of 1950, the Charter of the Council of Europe, the Charter of the EU on Fundamental Rights of 2000, the Constituent Treaties of the EU as amended by the Lisbon Treaty of 2007 and a number of other universal and regional ones international legal acts), and at the national level in the constitutions (Okunkova, 1997) or other fundamental acts of the countries of the world, in particular the principles of legality, legal equality, and the protection of human rights.

## **4 THE CUSTOMARY NATURE OF THE BASIC PRINCIPLES OF INTERNATIONAL LAW**

Most principles have a common origin, because custom is an experience tested by practice, and only social practice can prove to the foremost priority, regularity, essence, as the main characteristics of the principle-norm. The custom feature also indicates the natural-law nature of the principles of international law. Considering the principles of international law from the point of view of natural law, it would be easier to deal with a unified approach to understanding the content of natural law, but because of its ambiguity most researchers-apologists agree only "... that the value idea underlying the natural law



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understanding is a system of principles, rights, values, the existence of which does not depend on the will of the subjects” (Vasilenko, 1988), or “natural law expresses universal moral and ethical principles that are independent of national and cultural characteristics” (Merezhko, 2002). “The primary value of natural-law scholars is to identify those norms and principles that unite all people” (Merezhko, 2002).

Among the basic features of natural law that determine the nature, social nature of its forms and principles, it is worth noting the dual nature of natural law - objectively subjective. The objectivity of the principles of natural law is manifested in the fact that they arise and are implemented regardless of the will of the subjects of international law. Subjective feature is that such rights are belong to the subject, regardless of the will of other subjects, “they are objective because of the conditionality of their valid economic, social, national and other social relations. However, since the principles of law and the formal and legal sources, which are fixed them, are the result of deliberate willful activity, law-making, in this respect they are subjective” (Talalaev, 1959).

The principles of international law are vested with a similar subjective feature. The objectivity of the principles of international law is that they are born and formed impartially in the international coexistence of mankind, regardless of the will of the subjects of international law. To obtain a certain idea of the status of a fundamental principle of international law, a subjective criterion is required - a universal recognition of the principle by all subjects of international law. At the same time, the process of recognition of principles in international law (universal recognition) is also sociological and natural in nature, since recognition itself does not necessarily fixing a positive consolidation in law. Sufficient proof of the existence of a fundamental principle of international law is its application to such a role in international judicial practice.

The basis of natural law is not the norms of positive law, but the principles, ideals, requirements. At the center of attention of positive law is on the relationship that exists between the law, that created by the subjects, on the one hand and the objective ideas that exist regarding moral rights and obligations on the other. The natural and legal essence of the principles of international law through the prism of human rights was



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confirmed by K. Tanaka (1972), who stated that the basis of international law should be formed by the principles of human rights protection, which follow from the fact of the existence of human personalities and are legal norms in themselves, and not by virtue of their fixation in positive law. The general principles of international law are formed on the basis of current international customs and international treaties, and the general principles of law are based on the functioning of legal systems as normality. Thus, in the first and second cases, a natural-law source of the formation of principles is attested. Confirmation of this position is the opinion of the international law scientist J. Brierly (1958), who said, "... the treaty and custom oblige because such a need for a reasonable world, the principles of which are not dependent on the will of the state".

It is generally accepted that the principles of international law function only in interaction, are complex in nature, mutually reinforcing. While applying the principles, they have a different nature of obligation. Some are absolutely imperative, others allow the possibility of deviation from the rule by mutual agreement in accordance with the imperative principles and rules of international law. But together they form a coherent system, which is the basis and framework of all international law, guided by general principles. In this system, all principles are mutually agreed, specific and regional principles are subordinate to the universal, and within the subsystems the principles are the basis for all norms of international law at this level. Consequently, the principles of international law have the character of systemic governing norms, violations of which can lead to the destruction of the whole system of international law. In spite of the varying force of legal obligations, all principles are endowed with the nature of a special legal force which can be called higher or highest order. The general principles of law are the cementing framework that brings closer international law into line with national law, thus achieving the unity of all legal systems of humanity. Thus, the system-forming feature of the principles of international law also indicates the inseparable link between the generally recognized principles of international law and the general principles of law, as a holistic complex, which allows achieving the goals of international law through the legal support of national legal systems.



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The principles of general international law can be compared with the constitutional principles of the national legal system. They, as in the national system, can be general and branch, and comprehensively form the public order of the state, and at the international level they are called as the international public order. Therefore, universality cannot be a feature of the general principles of international law, if it is considered as an indication of the sphere of influence by subject criterion. For example, just as in domestic law, the principle of monogamy or polygamy of marriage constitutes an internal public order of the state, but in scope it is a branch principle; in international law, the principle of prohibiting the use or threat of force has its own subjective dimension in international security, but is part of international public policy. Therefore, the basic principles are more universal by subjective criterion and by subjective criterion, they apply to all subjects of international law. Although such a vision cannot be absolutized. In particular, the regional principle of territorial integrity (which is positively recognized within Europe), cannot be universal, but it is widely recognized around the world. Sometimes the principles of international law, which are considered as branch, must be respected by all subjects of international law because they are so fundamental to human personality and elemental humanity, that is, based on the generally recognized principle of law - humanity, and form the fundamental non-violent principles of international law. It is about, in particular, the principles of international humanitarian law as fixed in The Hague and Geneva Conventions. Thus, the principles of international law have their own specific sphere (subject) of regulation, but, because of the universality of recognition as a principle, they get features of fundamentality.

Thus, one can distinguish the following characteristic features of the norm-principle of international law:

- objectively determined norms governing the most vital necessary international relations of the current stage of international law development;
- rules that have a concentrated content that gives legal regulation the dynamic by combining elements of stability and programmability;
- the complex feature of the norm-principle gives the system of international



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law unity and stability, is the basis for the whole system of international law. Such complexity of principles of international law is characterized by their equality with each other and excludes any subordination or hierarchy;

- the generally recognized of norms is a consequence of a customary law nature and an inseparable link with the natural law nature;
- fundamentality of principles-norms - manifested in the preference (supremacy) over other norms of international law, these are norms of the highest rank in the system of international law;
- violations of the norms of international law must be regarded as an attempt on the integrity of international law as a united system of legal regulation of relations in the international community, since the violation of one of the principles entails violations of others, as a united system and basis of all international law.

Based on the features we have drawn up, we can propose the following definition of a principles-norm of international law. The principles of international law are the basis and generally recognized norms of international law, which directly regulate the most vital necessary relations between all subjects of international law, which is a complex form the basis for the legitimacy of the functioning of the whole system of international law.

The ambiguity of scholars' vision of the content of the principles of international law and their corresponding definition in doctrinal discussions can be reduced to two main directions. Firstly, it is the problem of covering generally recognized principles of law with the concept of principles of international law, and, secondly, the problem of limiting the category of principles of public international law to only ten basic principles of international law. These discussions are a confirmation of the relevance and urgency of its solution.

## 5 CONCLUSIONS

The general principles of international law, as the property of all mankind, are the result of the development of all legal systems of the world in its legal unity. These



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principles represent the unity of the general principles of international law, which are inherent only in the international legal system; general principles of law inherent in both national and international legal systems, as the ideological foundations of law; and common principles of national legal systems, which with certain comments can be applied to international legal relations.

Principles of international law are generally accepted norms of international law, characterized by multi-source formal certainty, which through a dual essence can both directly regulate the most important and vital relations between all subjects of international law, and in its complex are the basis of international lawmaking and law enforcement activities. If in national law the general principles of law are enshrined in the constitutions or codes or laws of the state, then in public international law such consolidation (recognition) occurs at the level of an international treaty or international custom, which raises the general principles of law to the rank of generally recognized principles of law. At the same time, the principles of national legal systems, from the point of view of the hierarchy of norms of the global legal system, are subordinated to both the general principles of the international system and the basic principles of international law.

One of the most important expressions of the principles of Western European legal culture in international law is the recognition of the principle of respect for human rights and freedoms as one of the fundamental, which is guaranteed by a number of principles, as the principle of proportionality of restrictions project in relations with the state, the principle of publicity, the principle of personal freedom (inadmissibility of arbitrary interference in a person's private life), the principle of inviolability of property rights (freedom of property), the principle of judicial protection of violated rights or interests, etc.

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